

Rethinking Nepal’s Transitional Justice Process through a Feminist and Intersectional Lens

Shreya Parajuli 

Advocate, Nepal

Article Info.

Corresponding Author

Shreya Parajuli

Email

shreyaparajuli@gmail.com

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Abstract

Nepal’s transitional justice process, initiated after the 2006 Comprehensive Peace Accord, has been repeatedly hindered by political interference, legal ambiguity, and institutional inertia. Despite multiple cycles of the Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappeared Persons (CIEDP), the experiences of women—particularly victims of conflict-related sexual violence (CRSV), widows, and female ex-combatants—remain systematically excluded. This paper examines the gendered and intersectional failures of Nepal’s transitional justice framework through a feminist lens. It critiques the state’s reliance on patriarchal evidentiary norms, token participation, and structural silence, especially in how sexual violence, enforced disappearance, and reintegration are addressed. Drawing on victim testimonies, legal rulings, UN recommendations, and provincial consultations held in 2025, this paper argues that Nepal’s transitional justice must be fundamentally reimagined as a victim-centered, gender-responsive process. It concludes by offering concrete legal and institutional reforms to advance an inclusive and transformative model of justice.

Keywords: conflict-related sexual violence (CRSV), feminist legal critique, intersectionality, transitional justice

Introduction

Transitional justice refers to legal and institutional mechanisms to address serious human rights violations committed during the armed conflict (De Greiff, 2021). In the context of Nepal, these mechanisms are particularly relevant to addressing violations committed during the 1996 to 2006 armed conflict which was fought between the Communist Party of Nepal (Maoist) and the state (OHCHR, 2012). While it aims to ensure accountability, reparations, and reconciliation, in Nepal it has unfolded through a deeply politicized and patriarchal lens (Barma & Thapa, 2025, pp. 24–25). Dominant narratives about justice

often reflect male-centered understandings of conflict, obscuring the gendered and intersectional experiences of harm that women and other marginalized groups endured. Rather than centering victims’ needs, transitional justice institutions in Nepal have prioritized elite interests and legal formalism—relegating women’s voices, especially those of conflict-related sexual violence (CRSV) victims, widows, and disqualified combatants, to the margins of justice frameworks (OHCHR, 2012).

Nineteen years since the Comprehensive Peace Accord (2006) between the Government of Nepal (GON) and the Communist Party of Nepal

(CPN)-Maoist, Nepal's transitional justice process, despite institutional commitments, remains structurally ill-equipped to address gendered and intersectional harms embedded in post-conflict society. Despite the legal recognition of victims as individuals who have experienced serious harm, many women, particularly relatives of the forcibly disappeared, victims of sexual violence, and disqualified combatants, remain excluded from formal recognition and reparation processes (OHCHR, 2012). In this context, "harm" refers not only to direct violence and rights violations, but also to structural and symbolic forms of harm, including legal exclusion, entrenched inequality, impunity, stigma, and the long-term psychosocial and economic consequences of the state's prolonged failure to respond meaningfully to victims' needs. The Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappeared Persons (CIEDP), both established in 2015 under the Truth and Reconciliation Commission Act (TRC Act, 2014), have operated within frameworks shaped by political interference, legal ambiguity, and patriarchal exclusion (Barma & Thapa, 2025, pp. 20–21; Cottle & Thapa, 2017).

"Sometimes I feel like crying. Sometimes I feel revenge. But panic alone cannot resolve this issue. We were raped, tortured, and then told to stay silent. They used our bodies for their war and their politics. Now they tell us to forget."

– Prachi, 2024, p. 66.

These words, drawn from the testimony of a conflict victim, reflect the enduring pain and political abandonment experienced by hundreds of women in Nepal who endured CRSV. Devi Khadka's testimony, as both, a victim of CRSV and an activist, is not an isolated account; it reflects the broader systemic silencing of women's experiences within Nepal's post-conflict landscape. As Jacqueline Mutere, founder of Grace Agenda in Kenya, poignantly asked, "*Why should a fight be played out on my body?*" (ICTJ, 2022). Both voices underscore the urgent need to center women's experiences in transitional justice.

This article argues that justice processes must remain cognizant of the feminist lens. During the armed conflict, serious human rights abuses were committed by both, state security forces and Maoist combatants. In the post-conflict period, institutions like the TRC and CIEDP were tasked with addressing these violations. Yet nearly two decades later, fundamental issues remain unresolved—including the lack of prosecution for serious violations, the continued denial of legal recognition for victims of enforced disappearance (ICPED, 2006) and sexual violence, and inadequate reparations mechanisms (OHCHR, 2012, pp. 7–11; Bhandari, 2024). The process has often been criticized for lacking transparency and meaningful victim participation, particularly from women and marginalized groups. As a result, gendered power dynamics remain embedded within transitional justice mechanisms, sidelining the specific and intersectional harms experienced during the conflict. Within the broader landscape of conflict-related violations, marginalized castes, ethnic groups, and political minorities were disproportionately affected (OHCHR, 2012).

The judiciary's ambiguity to explicitly recognize and address gender-specific harms in armed conflict has further reinforced the marginalization of gender-based harms, resulting in epistemic exclusion and inadequate reparations. Examining through the feminist lens, this article exposes structural gaps and envisions a more inclusive transitional justice process in Nepal. Concepts like intersectionality, patriarchy, gendered violence, and epistemic injustice are not abstract theories—they explain the real barriers women face in accessing post-conflict justice. During and after the conflict, women's experiences were shaped by overlapping identities—ethnicity, caste, class, and political affiliation—all intersecting with gender to create complex forms of marginalization (Nepal et al., 2011). Dalit and Janajati women were disproportionately affected (Adhikari & Samford, 2013), due to intersectionality of caste, ethnicity, and gender. However, these layered and intersecting forms of harms were largely overlooked by the TRC and other mechanisms designed to address them (Robins, 2012).

Patriarchal leadership in transitional justice institutions, often tied to political elites, has reinforced evidentiary standards rooted in male-centric notions of victimhood and credibility that dismiss the lived experiences of women (Aguirre & Pietropaoli, 2008; Selim, 2014). Enforced disappearance had gendered impacts: women whose husbands were forcibly disappeared are not legally recognized as widows, rendering them invisible in law and policy. As a result, they are denied rights to inheritance, remarriage, and struggle to acquire citizenship for their children (Robins, 2014). These gendered dimensions are often excluded from formal processes, reflecting how patriarchal norms of justice determine whose suffering is acknowledged.

Moreover, epistemic injustice has silenced many women's voices. They are disbelieved, stigmatized, or excluded from decision-making. Women who suffered social ostracism due to their perceived affiliation with Maoist groups remain unrecognized by formal justice institutions (Risal, 2020). Mainstream transitional justice in Nepal lacks gender-sensitivity and has yet to meaningfully engage with the gendered and intersectional dimensions of harm. Chinkin and Charlesworth (2006) argue that post-conflict systems often exclude women from institutional design and fail to account for their agency during peacebuilding—a critique clearly applicable in Nepal. A transformative justice process should go beyond legal proceedings to address structural inequalities, centering women's experiences, recognizing diverse harms, and ensuring inclusive participation.

The gendered aspects of Nepal's conflict have often been overlooked. Sexual violence was strategically deployed during the war, yet these abuses have rarely been acknowledged or addressed (OHCHR, 2012, p. 14). Women—including civilians, armed police, and Maoist combatants—were subjected to CRSV, but their experiences remain insufficiently addressed in the transitional justice process (OHCHR, 2012, p. 168).

This article examines how legal categorizations, evidentiary burdens, and institutional neglect have both historically

contributed to and continue to sustain structural violence within Nepal's transitional justice landscape. Drawing on testimonies, court rulings, and civil society reports, it focuses on women combatants, widows, and other marginalized groups. A feminist and inclusive perspective is used to interrogate the narrow framing of truth, justice, and accountability, often excluding those whose suffering falls outside dominant narratives. It focuses on three key issues: the legal and institutional neglect of sexual violence, the gendered impact of enforced disappearance, and the “*invisibilized*” processes of reintegration, urging a rethinking of transitional justice that centers victims' voices and challenges symbolic reforms.

International jurisprudence provides precedent for such an approach. In *Prosecutor v. Akayesu* (ICTR, 1998), the tribunal established that rape and sexual violence can constitute genocide and crimes against humanity—shifting the paradigm from viewing sexual violence as incidental, to recognizing it as a deliberate weapon of war. Similarly, the International Criminal Tribunal for the Former Yugoslavia (ICTY) convicted individuals for CRSV as war crimes and crimes against humanity (ICTY Statute, 1993). These rulings built a foundation for feminist engagement in transitional justice (DCAF, 2005). Building on these global precedents, Nepal's legal reforms echo this recognition but continue to fall short in practice, especially in ensuring gender-responsive and victim-centered justice.

Globally, transitional justice mechanisms also reflect institutional exclusions that disenfranchise women's experiences (Lockett, 2008). In Sierra Leone, while the Truth and Reconciliation Commission acknowledged widespread CRSV, female victims who were combatants or associated with armed groups were largely denied or excluded from Disarmament, Demobilization, and Reintegration (DDR) and reparations because the system focused on male fighters with weapons and ignored women's gendered non-combatant roles, with further stigma and fear of further abuse keeping many from participating (Sesay & Suma, 2009, pp. 5–6).

Women forced into marriage or exploited as “*camp followers*” were similarly denied access to DDR programs. In Colombia, over 35,000 people were reported as victims of CRSV, yet stigma and weak institutional response persisted (Reuters, 2023).

This article uses a feminist and qualitative approach to understand how Nepal’s transitional justice process has responded to conflict-related sexual violence and the gendered impact of enforced disappearance. The research is based on an analysis of legal documents, court decisions, government policies, and reports by human rights organizations. consultations were held with victims of sexual violence (INSEC & UPR Info, 2025), along with a personal communication with the current Chairperson of the Truth and Reconciliation Commission in 25 June 2025 to understand both lived experiences and institutional perspectives. This material was reviewed through a feminist lens to examine how existing structures exclude or ignore the voices and needs of conflict-affected women. This approach helps show how laws, institutions, and power dynamics shape justice outcomes in unequal ways.

Conflict-Related Sexual Violence

CRSV includes acts such as rape, sexual slavery, forced prostitution, forced pregnancy, and other comparable harms recognized under international law as crimes against humanity and war crimes (Rome Statute, 1998, Art. 7(1)(g)). These acts are not isolated or incidental but are often used systematically to assert control, degrade individuals and communities, and reinforce patriarchal dominance (UNIS, 2017; Risal, 2020; OHCHR, 2012). In Nepal, both state and non-state actors used CRSV as a deliberate strategy during the conflict, disproportionately targeting women and girls and leaving victims to face long-term trauma, stigma, and institutional neglect.

While the TRC and the CIEDP were tasked with addressing serious human rights violations, CRSV victims remain largely invisible within these processes (TRC, 2023). The state has repeatedly failed to acknowledge the systemic nature of CRSV, instead framing such violence as isolated incidents perpetrated by rogue individuals. Reliable

data remains scarce, due to fear of retaliation, social stigma, and the absence of disaggregated, gender-sensitive documentation (HRJC, 2023). Legal and institutional frameworks have provided no safe avenues for redress, leaving most victims unsupported and unrecognized.

Testimonies gathered by human rights organizations highlight how sexual violence served multiple purposes: as punishment for suspected Maoist sympathies, a tactic to intimidate families, a means to extract information, and a mechanism to reinforce patriarchal discipline by branding women as dishonorable (INSEC, 2024b). Beyond physical harm, these acts inflicted lasting social trauma, breaking community cohesion, and shamed victims into silence. As a result, the experiences of CRSV victims have been structurally disqualified from transitional justice mechanisms, rendered legally invisible by systems that privilege publicly verifiable harm over embodied, gendered suffering.

The case of Devi Khadka, a former Maoist commander abducted by state forces at seventeen, exemplifies the weaponization of CRSV and the state’s persistent failure to deliver justice. She was abducted at the age of seventeen by state actors. Devi endured repeated rape and torture while in military custody. Upon her release, her own political party pressured her to speak publicly about her trauma, instrumentalizing her trauma for political reconciliation. She later recalled being forced to forgive her perpetrators on a public platform under threats to her daughter’s safety. In the documentary *Devi: The Undefeated* (Al Jazeera English, 2024), she states: “*I fought against patriarchy during war and for equality during peace. But now I am lost on the path I chose myself.*” Other testimonies in the film recount being raped in detention, giving birth from such violence, or being assaulted in front of family members. “*I have no wealth, no honor, not even a name left,*” shared a victim illustrating how gender, caste, and class intersect to deepen harm. These narratives capture the intersectional harm CRSV victims experience, as caste, gender, class, and political affiliation intersect to magnify harm.

Despite judicial recognition that CRSV constitutes a grave human rights violation, legal provisions remain insufficient. Until 2008, rape

complaints had to be filed within 35 days (National Code, 1963), a limit declared unconstitutional (*Sapana Pradhan Malla v. Nepal Government*, 2008). Though later extended to two years, these timelines remain inadequate for victims coping with trauma, stigma, and fear of retaliation. Moreover, the law excludes several forms of CRSV recognized under international law, such as sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, genital mutilation, and enforced nudity. Critical forms of sexual violence recognized under international law—such as sexual slavery, forced sterilization, and enforced nudity—remain uncodified in domestic law.

The TRC Act, 2014, as amended in 2024, nominally classified rape and other serious sexual violence as “serious violations of human rights” (§ 2(j1)) and prohibited amnesty for these crimes. However, they failed to clearly define this standard. As a result, less visible forms of harm may still fall under “reconcilable” categories (§ 29(6)). The re-filling window of only three months introduced for CRSV complaints in 2024 was widely criticized as trauma-insensitive and exclusionary (Amnesty International, 2025).

Despite landmark rulings that rape cannot be amnestied—such as in *Suman Adhikari et al. v. Office of the Prime Minister and Council of Ministers* (2015)—courts continue to defer CRSV cases to the TRC or uphold rigid time limits, as seen in *AC v. District Police Office* (2019) and *Meera Dhungana v. Nepal Government* (2015). This selective application of transitional versus criminal justice mechanisms protects perpetrators while re-traumatizing victims. The *Suman Adhikari* decision clarified that serious crimes like enforced disappearance, torture, and rape cannot be covered by amnesty and must be prosecuted through the regular criminal justice system. Similarly, in *Govinda Prasad Sharma “Bandi” v. Attorney General* (2014), the Court reaffirmed this principle for grave violations but did not explicitly name sexual violence nor acknowledge its use as a tool to uphold systemic gender inequality. By framing these crimes solely as individual offenses, the Court overlooked the broader patriarchal structures that enable CRSV.

In practice, the system shifts between transitional and criminal justice to suit the state’s convenience, often avoiding genuine accountability. For example, in *AC v. District Police Office* (2019), despite allegations of rape by security forces, the Supreme Court focused on the statute of limitations and deferred the case to the TRC rather than allowing for direct prosecution. Similarly, in *Meera Dhungana v. Nepal Government* (2015), the Court upheld the strict 35-day reporting limit, disregarding the social stigma and fear that hinder timely complaints. Meanwhile, in *Bhagiram Chaudhary v. Government of Nepal* (2014), the police refused to register an FIR for enforced disappearance, citing exclusive TRC jurisdiction, even though the Court had mandated criminal proceedings. Taken together, these examples show how the state and the courts use either transitional justice or the regular criminal justice system selectively to protect perpetrators. Although the Supreme Court has declared that rape cannot be amnestied, it undermines this promise by applying rigid time limits and deferring cases to the TRC instead of demanding proper investigations and prosecutions. From a feminist perspective, this shifting approach reproduces the same patriarchal barriers that silenced victims and denies meaningful justice for CRSV.

Nepal’s obligations under international human rights and humanitarian law require it to treat CRSV as a grave violation. Under Article 7(1) (g) of the Rome Statute, acts such as rape, sexual slavery, enforced prostitution, and other forms of sexual violence constitute crimes against humanity and war crimes. In line with the Rome Statute, the ICCPR, and CEDAW General Recommendation No. 30, Nepal is legally bound to criminalize, investigate, and provide effective remedies for CRSV. In *Purna Maya v. Nepal* (HRC, 2017), the UN Human Rights Committee found that the 35-day statute of limitations for reporting rape in detention violated the right to an effective remedy under the ICCPR. The Committee recommended that Nepal abolish the 35-day limitation period, remove procedural and institutional barriers to filing complaints, and ensure victims’ access to justice. Similarly, in *Fulmati Nyaya v. Nepal* (HRC, 2019), the Committee held that even a one-year

limit was incompatible given the gravity of CRSV, urging Nepal to provide full reparations, including psychosocial support, compensation, and public acknowledgment of harm.

In *Raju Chapagai v. Nepal Government* (2015), the Court reaffirmed the obligation to align national laws with international human rights standards. The UN Human Rights Committee (HRC) similarly found that Nepal's 35-day limit for reporting sexual violence violated ICCPR Articles 2(3) and 7 by denying effective remedies (HRC, 2017). Although the 2017 Penal Code extended this limit to one year and later to two years, these durations remain insufficient for victims of conflict-related sexual violence (CRSV), who often face prolonged trauma, social stigma, and threats that delay reporting. In *Fulmati Nyaya v. Nepal* (HRC, 2019), the HRC held that even a one-year statute of limitations failed to reflect the severity of CRSV (HRC, 2019). These decisions called on Nepal to amend legal provisions, prosecute perpetrators, and provide comprehensive reparations, including psychological support, compensation, and public acknowledgment.

From a feminist perspective, Nepal's transitional justice mechanisms reproduce epistemic injustice by favoring male-centric evidentiary norms that dismiss embodied and narrative forms of truth (Aguirre & Pietropaoli, 2008; Selim, 2014). Legal recognition of CRSV as a form of torture remains absent, and the Torture Compensation Act (1996) has not been revised to meet international definitions under the UN Convention Against Torture and CEDAW General Recommendation No. 30 (OHCHR, 2008; CEDAW, 2013). Despite repeated calls from the National Human Rights Commission (NHRC) of Nepal and civil society groups, there has been no substantive reform.

Ultimately, CRSV remains structurally under-addressed in Nepal due to a confluence of legal ambiguity, evidentiary rigidity, and patriarchal institutional culture. The impunity afforded to perpetrators is not accidental—it reflects a deeper political unwillingness to engage with the gendered and collective nature of sexual violence. Without comprehensive reform that includes codification,

victim-centered procedures, and intersectional reparative justice, Nepal's transitional justice process will continue to reinforce the same exclusions it claims to redress (Human Right Justice Center, 2023; Amnesty International Nepal & Advocacy Forum–Nepal, 2023).

Disaggregation, Intersectionality, and the Politics of Visibility

Disaggregation is never a neutral or purely technical process. In the context of transitional justice, it functions as a gatekeeping tool, deciding whose suffering is eligible and whose is not. The absence of data disaggregated by gender, caste, ethnicity, geography, disability, and political affiliation, and their intersections is not an absence of oversight. Rather, it reflects deeper institutional biases about which forms of harm are worthy of recognition and whose experiences are allowed to shape justice processes.

Despite widespread and systematic CRSV during Nepal's armed conflict, the TRC received only 314 complaints, an implausibly low figure that speaks to deep stigma, social silencing, and lack of trust in institutions (HRJC, 2023; Barma & Thapa, 2025; Chapagai & Aryal, 2023). The Commission has yet to publish disaggregated data by caste, geography, age, or disability, further marginalizing those already structurally excluded.

The same erasures are evident in records of enforced disappearance. The CIEDP listed 2,557 cases but recorded only 204 women (CIEDP, 2025b); INSEC reported 101 women among 931 disappearances (INSEC, 2024a). Other official records are equally inconsistent: The Ministry of Peace and Reconstruction noted 1,493 cases (MoPR, 2025), the ICRC recorded 1,324 (ICRC, 2024), and the NHRC recorded 969 (NHRC, 2024). These disparities reveal how access to power and proximity to the state shape the visibility of harm. Most national datasets use binary gender categories and fail to account for intersecting identities such as caste or disability.

These patterns of omission are not isolated. Districts like Rolpa (725 affected women), Bardiya (511), Rukum (486), and Dang (435) report high numbers of women affected by conflict-

related violence, yet these experiences are rarely disaggregated by type of harm (INSEC, 2024a; INSEC, 2024b). The omission of sexual violence from most databases signals a systemic discomfort with naming and addressing certain violations. INSEC's Victim Profile Database, for instance, lists 15,027 victims of disappearance, killing, and disability—89 percent of them women—but does not reflect acts of rape, sexual abuse, or social stigma as separate categories (INSEC, 2024a).

Even when women are included in datasets, their suffering is often flattened into statistical codes. The categories used rarely capture indirect harm, protracted insecurity, or socio-legal exclusion. As D'Ignazio and Klein (2020) argue, data practices reflect existing power structures; what is recorded and what is ignored are never neutral decisions. The absence of disaggregated, intersectional data is not a bureaucratic flaw but a manifestation of epistemic injustice. What is documented and what is omitted reflects power hierarchies embedded in transitional justice mechanisms, reinforcing whose suffering is acknowledged and whose is erased (D'Ignazio & Klein, 2020).

This invisibility has visible material consequences. Many women have been denied interim relief or reparations because their experiences, including CRSV, forced displacement, or disappearances of their male relatives, do not fit dominant categories of “*legitimate*” harm. Legal and policy frameworks demand documentary evidence that many cannot access due to poverty, illiteracy, or trauma. Social norms further silence women, particularly around sexual violence and widowhood, making public testimony unsafe or impossible.

Practical barriers further deepen these exclusions. Women in conflict-affected districts face bureaucratic delays, poverty, lack of transport, and long physical distances from justice institutions (The Voice, 2019). Social norms also discourage women from speaking out, particularly when stigma around sexual violence and widowhood remains strong.

In 2015, the Supreme Court in *Suman Adhikari et al. v. Office of the Prime Minister and*

Council of Ministers recognized that justice must extend to indirect and structurally marginalized victims. However, this has not translated into policy. Without disaggregated data that reflects the full range of victim experiences, transitional justice mechanisms risk reproducing the very exclusions they were meant to redress.

To ensure that transitional justice mechanisms do not reproduce existing exclusions, Nepal must institutionalize intersectional, disaggregated data collection and reporting standards across all commissions, databases, and reparation schemes. Without this shift, women, particularly from historically excluded communities, will continue to be left out of both recognition and redress.

Enforced Disappearance and Gendered Harm

While men make up the majority of reported victims of enforced disappearance in Nepal, this visibility masks both the underreporting of women's disappearances and the widespread erasure of gendered harm. Building on the previous discussion of how disaggregated data practices obscure gendered harm, this section argues that enforced disappearance is not a gender-neutral crime. Rather, it produces distinct and long-term consequences for women, whether as direct victims or as relatives of the forcibly disappeared, when experiences are often rendered invisible within truth-seeking and reparation mechanisms. It traces four interlinked dimensions of harm: legal invisibility, dispossession from land, economic vulnerability, and social stigma. Although men comprise the majority of those officially recorded as victims of enforced disappearances (CIEDP, 2025b; INSEC, 2024a), the harm it causes to women, both as direct victims and as those left behind, is neither incidental nor secondary. These harms include civic and legal exclusion, but also exposure to targeted sexual violence, enabled by the context of the disappearance.

Enforced disappearance at times creates conditions for gendered violence. In several cases, the disappearance or detention of male relatives created conditions in which women, especially those from marginalized communities,

were subjected to sexual violence by state actors, reflecting how disappearance operates within deeply entrenched gendered and caste-based power structures. Testimonies from conflict-affected areas show how women, although not always officially recorded among the disappeared, suffer direct and indirect violence linked to enforced disappearance. In Bardiya district, the OHCHR documented the cases of enforced disappearance of 18 Tharu women. Among them were two cousins, aged 16 and 18, who were detained at the Chisapani Barracks, and were raped repeatedly over three days. When released, they were told, "*All these things happened to you because of your father*" (OHCHR, 2008). In another case, a woman detained with her daughter recounted how her daughter was raped by an army captain; her bloodied clothes were later found at the site.

Similarly, in *Katwal v. Government of Nepal* (2006), whose disappearance and death in military custody formed one of Nepal's most significant legal rulings on enforced disappearance, further illustrates this continuum. After Mr. Katwal, a school headmaster, disappeared in December 2001, his wife persistently sought information regarding his whereabouts. In 2005, both his wife and daughter were arrested by the Royal Nepalese Army. His daughter was detained for six weeks, subjected to interrogation, and released upon payment of a bribe. His wife was detained for thirteen days, during which she was repeatedly beaten and interrogated. These abuses were never formally acknowledged in the transitional justice process. Although the Supreme Court confirmed Mr. Katwal's death in custody and ordered prosecution, no criminal accountability has been achieved. The family received only partial financial relief, lacking formal compensation, and Katwal's body was never returned. The Human Rights Committee underscored the gendered nature of the violations, holding the State responsible for both the victim's enforced disappearance and the inhumane treatment of his wife, and urged Nepal to investigate, prosecute, and provide reparations (HRC, 2015).

These accounts show that sexual violence was used to punish political affiliations, but also to

reinforce caste and gender hierarchies. While these accounts constitute clear instances of conflict-related sexual violence, they are inseparable from the mechanism of enforced disappearance, which placed women in state-controlled environments where such violations occurred and yet remain undocumented as part of that continuum of harm. Nepal's transitional justice bodies have failed to recognize sexual violence as part of a broader pattern of gendered and politicized harm. Testimonies remain siloed or excluded from official records. The 2024 amendment to the TRC Act acknowledges enforced disappearance as a serious violation (TRC Act, 2014, §2(j1)) but does not address the compounded legal and social harms faced by women.

Most truth-seeking mechanisms have focused narrowly on identifying and recording the disappeared, overlooking how the phenomenon affects those left behind, especially women. Truth commissions in other contexts have recognized family members as victims eligible for reparations, regardless of a formal declaration of death of the forcibly disappeared. Nepal's transitional justice process, however, has yet to ensure that access to reparations is not contingent on death certification and victim identity cards. This conditionality compounds legal and social exclusion, rendering women's suffering invisible under current frameworks of justice and redress of grievance (ICTJ, 2015).

Nepal's legal framework, built on patriarchal assumptions of familial structure, renders women's legal identity contingent upon a living male relative. As a result, without a formal declaration of death, women are denied widowed status and are excluded from critical rights including inheritance, land ownership, social benefits, and their children's citizenship claims (Robins, 2014). The inability to claim property or land not only limits economic survival but also excludes women from symbolic recognition as heads of affected households. Inheritance frameworks in Nepal, shaped by patrilineal norms, effectively sever women's claims in the absence of a legally recognized male relative. For many women, these exclusions translate into long-term

economic insecurity. Deprived of compensation, land, or legal protection, they are left to shoulder the financial burden of maintaining households, often while navigating stigma and bureaucratic dead ends (Luna, 2009). This vulnerability is particularly acute in rural districts where free legal aid and state services remain inaccessible.

A 2024 INSEC study on the families of the disappeared found that among 108 families, thirty had not received victim identity cards, and ten had failed to secure citizenship for their children (INSEC, 2024b). These harms extend beyond individual women, shaping entire households and communities with intergenerational consequences for children born into legal and economic limbo. Such exclusions constitute not mere procedural oversights but an active denial of social and legal belonging.

Socially, families of the disappeared, especially women, face ostracization, stigma, and collective suspicion. In many communities, they are seen as "*problematic*" or politically suspect, particularly if the disappeared person was associated with the Maoists. This stigma reinforces social exclusion, silences claim to justice, and weakens community cohesion (INSEC, 2024b). Despite the promises of the Comprehensive Peace Accord, no one has been held criminally accountable in a civilian court for enforced disappearances in Nepal (OHCHR, 2012, p. 8). The state's failure to criminalize enforced disappearance domestically, combined with the lack of cooperation from security agencies and political inertia, has stalled justice processes. Commissions like the CIEDP have proven ineffective due to lack of independence, transparency, and prosecutorial power (WGEID, 2005; NHRC, 2008). Political interference and appointment of politically affiliated individuals have severely compromised the credibility of both commissions (Barma, 2025, p. 21; INSEC, 2024c).

Women who advocate for the truth and search for their disappeared relatives often face reprisal, stigma, or political labeling, especially if they are perceived to challenge dominant gender roles or political narratives. Women who traveled alone to seek justice were often labeled "*loose*" and stigmatized. Families of disappeared Maoist

combatants were cast as politically problematic and cut off from community support (ICTJ, 2013). CEDAW General Recommendation No. 30 affirms that such legal and social exclusions constitute structural discrimination (CEDAW, 2013). Yet transitional justice processes in Nepal remain unequipped to address these complexities. By ignoring the full range of harm, they reduce disappearance to a singular, momentary act rather than an enduring structure of violence.

A gender-sensitive approach requires rethinking truth-seeking not only as a process of identifying the disappeared but as one that addresses the structural gendered consequences for those left behind. As Zahedi and Heath (2023) note, women victims of enforced disappearance are often silenced by stigma, procedural barriers, and conditional access to reparations. Recognizing kin, i.e. familial claimants, familial claimants as victims in their own right, without requiring a declaration of death, is essential to avoid compounding trauma. Reparations, both material and symbolic, must reflect women's diverse realities, from economic dispossession to civic erasure.

Enforced disappearance is not just the removal of a person from the public sphere. It is a tactic that reverberates across generations, affecting women's legal status, social identity, and economic survival. When justice mechanisms ignore these interconnected harms, they fail to provide healing and instead reinforce existing inequalities.

Politicization of Transitional Justice in Nepal

Nepal's transitional justice process has consistently sidelined the specific experiences, needs, and voices of women. While publicly presented as inclusive, its design and implementation have been largely shaped by male-dominated perspectives and driven by political expediency (INSEC & UPR Info, 2025).

Like in many other post-conflict contexts, transitional justice mechanisms in Nepal, often adopt narrow definitions of victimhood that fail to capture the layered harms women face—particularly in relation to sexual violence, stigma, and social exclusion (Pauls, 2023; Kapur, 2015; Robins, 2012). These gender-specific harms are

frequently overshadowed by frameworks that assume a universal victim experience, privileging male combatants or male-coded narratives of suffering.

Despite the global institutionalization of transitional justice rhetoric, this discourse often loses its transformative edge in practice. As Hazan (2004, p. 19) notes, “*Transitional justice has become the new mantra of domestic and international politics since the end of the Cold War.*” Yet in Nepal, this rhetoric has repeatedly been co-opted as a tool for elite political compromise rather than a pathway to meaningful accountability. Transitional justice processes are rarely neutral; they are frequently shaped by political negotiations and unequal power structures that sideline the lived experiences of victims, particularly of women and structurally marginalized communities (Robins, 2012). Since the signing of the Comprehensive Peace Accord in 2006, Nepal’s transitional justice institutions—the TRC and CIEDP—have operated under political expediency rather than transformative justice, consistently prioritizing elite political bargains and state stabilization over the rights of victims (Greiff, 2021; Human Rights Watch, 2019; Robins, 2012).

Former Chief Justice and International Commission of Jurists (ICJ) Commissioner Kalyan Shrestha critically remarked in March 2024, “*If we pride ourselves on a homegrown transitional justice process, the billion-dollar question is: what does homegrown mean, if politics is placed above justice?*” (ICJ, 2024). His words resonate even more deeply in a context where women’s voices have been consistently sidelined—raising the question of whether this process can claim legitimacy if it fails to reflect the perspectives and needs of half the population. His comment underscores the ongoing tension between state-led political imperatives and victim-centered justice demands in Nepal.

Across its three institutional terms, the TRC has been repeatedly condemned by civil society, victims’ groups, and international observers. The first-term commissions, constituted in 2015, operated under a flawed legal framework that

ignored Supreme Court directives and international human rights obligations (ICJ, 2021). Despite receiving more than 60,000 complaints, the TRC failed to conduct a single full investigation (ICJ, 2021, p. 5). Rape and sexual violence victims were excluded from interim relief, and female staff were virtually absent in local peace committees (ICJ, 2021, pp. 3 -7).

The second-term commissions, reconstituted in 2020, again failed to establish legitimacy or deliver outcomes. Political parties continued to control appointments, and victims’ networks expressed frustration over the opaque processes and unfulfilled mandates (Human Rights Watch, 2018). In response to this continued stagnation, over 40 victims’ organizations convened to issue the 2022 Kathmandu Declaration, a collective statement reflecting the deep disillusionment with the transitional justice process. The declaration states: “*These commissions... 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... They are distributing purposeless identity cards... inflicting more pain on the victims under the pretext of collecting complaints, evidence and recording statements*” (Conflict Victims Common Platform, 2022, pp. 1–2).

In June 2025, the commissions were reconstituted for a third time. On 4 June 2025, new commissioners, including Chairperson Mahesh Thapa and commissioner Lila Devi Gadtaula, were appointed (TRC, 2025; CIEDP, 2025a) via a non-consultative, politically dominated process, without meaningful victim engagement (Bhatta, 2024; TRIAL International, 2022; Human Rights Watch, 2025).

Within 24 hours of their appointment, on 5 June 2025, the TRC issued a notice requiring CRSV victims to resubmit complaints with evidentiary documentation within three months—a move that faced public backlash (TRC, 2025; Kathmandu Post, 2025; Sharma, 2025). Amnesty International and multiple victim networks criticized the directive as retraumatizing and exclusionary, particularly for rural victims and those unable to access documentation following multiple decades (Amnesty International, 2025).

This evidentiary burden—especially in cases of sexual violence, where stigma and silence are pervasive—highlights a failure to adopt trauma-informed and gender-sensitive approaches. As Ni Aolain (2012) and OHCHR (2008) emphasize—lived experiences, testimony, and narrative truth are central to transitional justice, and insisting on rigid evidentiary standards decades later not only retraumatizes victims but perpetuates structural impunity.

In response, the Conflict Victims National Alliance issued a joint statement on 2 July 2025: “*Such practices demonstrate that the three term commissions remain unaccountable and unresponsive, continuing a pattern that prioritizes procedural form over meaningful justice*”—a justice that, for many women victims, remains structurally inaccessible due to institutional disregard for gender-specific harms (Kathmandu Post, 2025).

Earlier, on 16 May 2025, the Conflict Victims Society also denounced the appointments of commissioners as politically motivated and unrepresentative of historically excluded communities (Conflict Victims Society, 2025). These criticisms reflect growing frustration that the transitional justice paradigm continues to entrench exclusion rather than redress it.

While the 2024 amendments to the TRC Act attempted to address legal ambiguities by defining “*serious*” and “*non-serious*” human rights violations (e.g., rape, disappearance, torture), the reform process was itself non-participatory. Despite repeated recommendations from the NHRC and UN experts to restructure these commissions through inclusive and participatory procedures—particularly emphasizing the importance of engaging women victims and addressing gendered harms—these calls were largely ignored (NHRC, 2024; HRC, 2019, 2021; UN HRC, 2021). The legislation permits up to 75 percent sentencing reduction for “*serious violations of human rights*” (excluding rape and serious sexual violence), and allows mediation for amnesty based on victim consent for “*violation of human rights*” (TRC Act, 2014, §§ 22(1), 29(6)). These provisions fail to consider coercive social

pressures that can compromise the voluntariness of consent, especially for women (Human Rights Watch, 2019).

By 2023, the TRC had received only 314 complaints of sexual violence, a figure seen as grossly underrepresenting the true scale of violations (HRJC, 2023; Barma, 2025, pp. 23–24). A male-dominated institutional culture, limited outreach, stigma, and trauma-insensitive procedures have contributed to systematic underreporting and victim exclusion (INSEC, 2024b). These critiques reflect the systemic erasure of gendered harm, wherein victims of sexual violence remain structurally excluded, even when their suffering is formally acknowledged.

The legal mandate for gender inclusion, one woman commissioner and one woman on the recommendation committee—amounts to tokenism rather than transformative inclusion (TRC Act, 2014, §§ 5A, 11A). According to ICJ (2021), the TRC has failed to institutionalize gender-sensitive protocols or create space for women to shape the process through sustained participation (p. 13).

Chairperson Mahesh Thapa acknowledged in June 2025, “*Investigations of cases such as enforced disappearances and sexual violence take time due to evidentiary gaps, lack of forensic infrastructure, and difficulty in identifying perpetrators.*” He added, “*The state has an immediate obligation to ensure victims are not abandoned*” (M. Thapa, personal communication, June 25, 2025).

Despite these affirmations, the timing of the TRC’s decision to issue the CRSV notice has raised important questions about the balance between administrative urgency and procedural sensitivity. While the directive may have been intended to revitalize delayed processes, it highlights the importance of aligning institutional actions with trauma-informed, victim-centered approaches. The Commission must ensure that procedural decisions actively reflect its public commitment to support and protect victims.

To rebuild trust, the transitional justice process must center the long-term recovery and reintegration of victims. Reintegration should not

be reduced to short-term assistance or symbolic inclusion. Many victims—particularly women ex-combatants, victims of sexual violence, and families of the disappeared—require sustained psychosocial support, legal recognition, and livelihood sustenance programs (K.C., 2019). Reintegration frameworks in Nepal, including those under the DDR and United Nations Interagency Rehabilitation Programme (UNIRP), have historically excluded women who did not meet narrow definitions of combatant status, especially those returning with children, from inter-caste marriages, or with disabilities (UNMIN, 2009; Goswami, 2015). These limitations are not only programmatic oversights but reflect entrenched patriarchal norms that continue to shape post-conflict exclusion from reintegration and recovery process (Bhandari, 2015; Kapur, 2015).

The path forward must involve building participatory, gender-equitable reintegration models that address both direct and indirect harms. Reintegration should be linked to broader social transformation efforts that affirm the dignity and citizenship of all conflict-affected individuals—not only through legal reforms, but through community engagement and inclusive policy design (Pauls, 2023; K.C., 2025).

Ultimately, the persistent ineffectiveness of Nepal's transitional justice institutions lies not merely in delays or administrative inefficiencies, but in their fundamental disconnect from the psychosocial, structural, and intersectional realities of victims (INSEC, 2024c). Reintegration policies have been fragmented, short-term, and blind to the compounded discrimination faced by women, CRSV victims, and families of the disappeared (K.C., 2025; Shrestha & Bleie, 2012; Pauls, 2023).

The credibility and impact of Nepal's transitional justice process will ultimately rest on its ability to move beyond symbolic gestures and respond to the lived realities of those most affected. A victim-centered transitional justice process in Nepal must reject elitist compromises in favor of structural accountability and gender-inclusive redressing. As Pauls (2023) and Kapur (2015) argue, any meaningful approach must be grounded in a feminist and victim-centered lens—one

that values narrative truth, ensures psychosocial healing, and incorporates inclusive reparations designed through sustained consultation. The promise of transitional justice in Nepal remains unfulfilled unless the process addresses the layers of injustice, including the marginalization of victims of conflict-related sexual violence (CRSV), the dominance of elite political agendas, and the persistent reliance on symbolic rather than substantive engagement.

Conclusion

Nepal's transitional justice process remains mired in structural inequities, patriarchal state structure, and elite political bargaining, despite nearly two decades having passed since the signing of the Comprehensive Peace Accord. While formally framed as inclusive and victim-centered, the process continues to sideline women and structurally marginalized communities. From opaque commission appointments to trauma-insensitive procedures, the process has not only failed to deliver justice but has compounded harm for many victims, particularly CRSV, widows, female ex-combatants, and families of the forcibly disappeared.

Across all three terms of the TRC and CIEDP, the persistent exclusion of women from meaningful participation reflects deeper structural failures. Legal and institutional frameworks have privileged male-coded violations and binary understandings of conflict, overlooking the complexity of gendered and intersectional experiences. Women whose husbands forcibly disappeared continue to be denied legal recognition in the absence of death certificates, precluding access to property, citizenship for their children, and reparations (Kapur, 2015; Robins, 2014; Zahedi & Heath, 2023). CRSV victims are retraumatized by requirements for documentary proof decades after an incident and by procedures that ignore international standards on confidentiality, dignity, and consent (OHCHR, 2008; HRC, 2017; Amnesty International, 2025).

The amended TRC Act of 2024, while excluding rape and enforced disappearance from amnesty, continues to fall short. It permits mediation

for other serious violations and lacks provisions on confidentiality, trauma-informed protocols, and support services (TRC Act, 2014, §§ 22(1), 29(6)). Repeated recommendations from the Office of the United Nations High Commissioner for Human Rights (OHCHR, 2022), the Committee on the Elimination of Discrimination against Women (CEDAW, 2013), and the Universal Periodic Review (UNHRC, 2021) have emphasized the need for gender-sensitive legal definitions, independent commissions, and institutional safeguards for victims. These demands were echoed during the 2025 UPR national consultations held at the provincial and central levels, where victims and civil society actors called for inclusive reparations, stronger accountability frameworks, and the systematic incorporation of victim perspectives into policy formulation (OHCHR, forthcoming).

Reintegration and rehabilitation frameworks have remained similarly exclusionary. The DDR process and the UNIRP failed to account for the realities of female ex-combatants and disabled returnees (Bhandari, 2015; K.C., 2025; Shrestha & Bleie, 2012). Many were excluded due to restrictive definitions of combatant status or penalized for their caste, marital status, or motherhood (Goswami, 2015; Lamichhane, 2014). This marginalization is not merely logistical; it reflects a systemic reluctance to center gender-based harm to the justice process.

Furthermore, consultation mechanisms have often been tokenistic. Women's victim networks and civil society actors have repeatedly demanded representation in policy making, reparations design, and institutional oversight (Robins, 2012; Bhandari, 2023). Yet, victim participation, despite consistent civil society engagement in transitional processes, has rarely moved beyond symbolic gestures (Miall, 2004). Even when consultations are conducted, as in the 2025 UPR preparation cycle, their inputs are not consistently reflected in legislative or programmatic frameworks (OHCHR, forthcoming; UN HRC, 2021).

To move forward, Nepal's transitional justice process must be fundamentally restructured. Legislation must be aligned with international standards on gender-based crimes

and enforced disappearance. Trauma-informed procedures, confidentiality protocols, and victim-centered mechanisms must be embedded across all institutions (Orentlicher, 2005). Commissions must include gender-balanced leadership and actively incorporate victims as participants in—not subjects of—the justice process. Reparations should reflect the lived realities of CRSV victims, widows, female ex-combatants, and persons with disabilities, through sustained access to psychosocial services, economic reintegration, and public acknowledgment of harm (INSEC & UPR Info, 2025). This requires disaggregated data collection, inclusive legal reform, and a shift in the institutional culture, away from elite negotiation and towards genuine accountability.

Ultimately, transitional justice in Nepal must be reimagined not as a means of political reconciliation but as a legal and moral obligation to those most affected by the conflict. Rethinking transitional justice through a feminist lens is not simply a normative aspiration—it is the only path toward building an inclusive, just, and accountable post-conflict society.

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