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# Wartime Violence and Post-conflict Situation: The Nepalese Experience

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## Abstract

*The end of the war is about the restoration of peace, law and order, and respect for human rights including improvement of the socio-economic situation of the country. Providing justice to the victims of war in the post-conflict situation is very challenging. It may take years to recover wounds of war victims. The attempt of conflict settlement mostly depends upon the will and skill of the government. Unlike this, the Nepalese government is not so far rigorously engaged for justice delivery to the wartime victims. Even after the resolution of conflict, there are many tough political agendas and many serious issues to address. Furthermore, the country was witnessing total restructuring from base to the superstructure. Still, minor ethnic skirmishes in the Terai region of the country were broken out. Many dissatisfied and disgruntled groups raised different types of voices of dissonance. As a result, the government had to act with prudence to tackle those issues. In the government's involvement in addressing those issues like pragmatic challenges of restructuring, ethnic upsurge and Madhesi movement, less attention was given by the government to work for redressing, allaying and soothing the lingering vestige of a war crime, trauma and pangs of displacement. Even in the transitional phase, none of the strong redemptive measures were taken to cope with the lingering impact of wartime crime, traumatic onslaught and the prolonged effect of getting exposed to violence in the past. Due to the political instability in the country and lack of political consensus between major political parties, less attention has been paid to people's sufferings and pains. Psychosocial rehabilitation has been a neglected issue in post-conflict reconstruction. People have gone through multiple aspects of war violence impacts, displacement, and traumatic experiences in the post-conflict context.*

## Introduction

There have never been societies without conflict. Conflicts have become relatively common in recent years and they erupt for several reasons including ideological differences, and social and economic inequalities too. Whatever the reason, conflicts always have an enormous impact on civilians.<sup>1</sup> Poor and developing countries have been found more vulnerable to violent conflicts due to inequality in distribution of opportunities and inadequate service delivery system, injustice to identities and beliefs,

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<sup>1</sup> Kishor Sharma, 'Development Policy, Inequity and Civil War in Nepal', vol. 18, no. 4, *Journal of International Development*, 2006, p.554.

ineffective governance and administration, inefficient socio-political transformation and so on.<sup>2</sup>

The present global scenario shows that the civilian populations, who no longer involve in hostilities, do suffer most from the consequences of armed conflict especially in non-international armed conflict. Normally, civilians are the target of attacks in armed conflicts. Under these circumstances, protecting people caught up in armed conflict and other situations of violence is very challenging. Significant improvements have occurred in recent years in response to protection crises nonetheless the systematic and indiscriminate attack against civilian population causes an immense civilian death and injury. Civilians are abused in many ways in all types of armed conflicts. They are often forced to leave their homes as a result of war, which leads to the loss of livelihood, opportunities and more.<sup>3</sup>

In context of Nepal, hundreds of thousands of people were uprooted by violent armed conflict. Majority of population had been forced to leave their homes as a result of armed conflict, human rights and humanitarian law violations, and forced displacement, respectively. People underwent through painful experiences during wartime, as the area became an intensive battle zone. The plight of those people poses a challenge with significant humanitarian dimension. The end of the armed conflict in 2006 contributed in to the decline of the war and to the initiation of healing wounds of victims. It also initiated rehabilitation processes that helped a large number of people, who were displaced from their homes, to return back.

Conflict resolution must be understood in the broadest sense. It is not only the end of conflict and its root causes but also the putting the societies in its natural condition of peace, law and order. Only the resolution of conflict does not mean the restoration of lost peace, order, security and return of displaced people to their previous professions and occupations. Even after the successful negotiation between warring parties, lots of things like socio-political, economical and psychological qualities of people yet remain to be improved. In the post war scenarios, psychological problems of war victims need to be addressed adequately. Victims should be convinced that they are secure enough to return to their daily activities. Furthermore, they ought to be convinced that access to justice, normal order, administration and natural functioning of societal mechanism are also activated. In addition, they need to be ensured that there is no need to fear further of disruptive interference. Measures to upgrade the psychic and social confidence of war victims and victims of trauma range from counseling to interaction, guarantee of social order including security, and healing of wounds of victims exposed to violence. In the midst of those pressing needs of counseling, advising, guaranteeing and instructing war victims for relocation and resettlement, the government had another type of priority. The government had to conduct election for constituent assembly.

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<sup>2</sup> Bishnu Pathak, *Politics of People's War and Human Rights in Nepal*, BIMPA Publication, Kathmandu, 2005, p. 237.

<sup>3</sup> Report of the Secretary-General, *On the Protection of Civilians in Armed Conflict*, UN Doc. S/2007/643, 2007, p. 2.

Maintaining political consensus for drafting and promulgating constitution was the top agenda on the priority list of the government. That is why the government paid little or no attention to this side.

This study focuses on the post-conflict situation of Nepal. The present postwar era has been marked by devastating socio-political instability. After peace consensus between the warring parties in 2006, people's interest in establishing 'political order' in war-torn societies and for the implementation of Nepalese constitution has been often shifted on elections. However, free and fair elections do not necessarily transform the society's deep-rooted political conflicts and social asymmetries.<sup>4</sup> Reconstruction after war is a long and difficult process. The end of the war is not the resolution of a conflict, but only the restoration of peace, law and order, respect for human rights including improvement of the socio-economic situation of the country count and amount. "Unless the inequalities and injustices, which have been the sources of conflict, are addressed, new cycles of violence are likely to occur".<sup>5</sup>

This paper aims to focus on the sense of anxiety that still penetrates on people's lives tormented by traumatic memories of decade long war of Nepal and persistent concerns about people's survival. The first section of the paper provides a brief description of the context of the decade long war of Nepal. People's experiences of decade long armed conflict are then examined followed by their post-conflict experiences. Post-conflict reconciliation will be discussed in fourth section while the final section is the conclusion of study which presents the summary of the entire study.

### Context of Armed Conflict in Nepal (1996-2006)

The decade long armed conflict formally began on 13<sup>th</sup> February, 1996 with attacks on various police posts of some hilly districts. In the war that lasted over ten years, more than 13,000 people were killed and thousands of people were displaced. In the early stages of war, the conflict was only confined to the some districts of Mid-western region of a country, but it steadily gained momentum, and had spread throughout the country.

After the promulgation of Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO), Maoist was declared a 'terrorist organization'.<sup>6</sup> At that time, the government officially deployed army to "disarm" the Maoist and the government suspended many rights of people provided by the constitution.<sup>7</sup> The deployed armies were only engaged in the district headquarters whereas majority of rural areas were still in the hand of Maoist.<sup>8</sup>

<sup>4</sup> Krishna Kumar, 'The Nature and Focus of International Assistance for Rebuilding War-Torn Societies', in Krishna Kumar (ed), *Rebuilding Societies after Civil War: Critical Roles for International Assistance*, Boulder, 1997, p. 2z.

<sup>5</sup> Geoff Harris & Neryl Lewis, 'Armed Conflict in Developing Countries: Extent, Nature and Causes,' in Geoff Harris (ed), *Recovery from Armed Conflict in Developing Countries: An Economic and Political Analysis*, London, 1999, p.32.

<sup>6</sup> Pathak (n 2), p.397.

<sup>7</sup> 'Caught in the Middle: Mounting Violations against Children in Nepal's Armed Conflict', *Watch List on Children and Armed Conflict*, January 2005, p.10.

<sup>8</sup> Human Rights Watch, 'Between a Rock and a Hard Place: Civilians Struggle to Survive in Nepal's Civil

After the first negotiation between warring parties dismissed on 23<sup>rd</sup> November, 2001, the armed conflict took a new height with both sides competing in gross and grave human rights violations. The casualty rates from the war increased rapidly.<sup>9</sup> From 2002, the Nepal Police (NP) and the Armed Police Force (APF) were placed under the 'Unified Command' of the RNA for counter insurgency operations.<sup>10</sup> On January 29, 2003, the government and the Maoist again agreed for ceasefire. But, this truce also collapsed due to the mutual mistrust. The government refused to agree to the key demands of Maoist i.e. an election to the constitution assembly and the abolition of Monarchy by a popular vote. On 27<sup>th</sup> August, 2003, Maoist unilaterally withdrew from the peace talks, shortly after the Doramba Massacre.<sup>11</sup>

The massacre in Doramba shocked the country. The facts were brutal. In that massacre, the army summarily executed 19 Maoist cadres after arresting them. They were all blindfolded and led to a remote hilly area where the bodies were found later.<sup>12</sup> The National Human Rights Commission (NHRC) reported that arrested Maoist cadres had been shot in the head.<sup>13</sup> The conflict continued and civilians were increasingly impacted. Maoist continued to demand support from civilians while the government's forces continued to attack alleged Maoist sympathizers to the Maoist.

In 2002, King Gyanendra dismissed the government headed by Sher Bahadur Deuba and dissolved the House of Parliament then ruled as chairman of the cabinet, which he filled with former Panchayat (royalist) leaders, from his father King Mahendra's time.

During the year 2004, the Maoist set up "Autonomous People's Governments" in their controlled areas. Some UN agencies and non-governmental organizations (NGOs) suspended or cancelled their projects as they were frequently forced with demands to register, pay taxes and submit staff list for approval. In response to the inability of the relatively democratic government to restore peace and order, king Gyanendra assumed total control over the government and declared 'state of emergency'.<sup>14</sup> Furthermore, the King's action added fuel to the conflict to reach in the new height.

On 3<sup>rd</sup> September, 2005, the Maoist unilaterally and unexpectedly declared a ceasefire. During ceasefire period, Maoist and alliance of seven political parties agreed to sign a 12-point understanding in Delhi (India). In early April in 2006, the Maoist

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War', vol.16, October 2004, p.11.

<sup>9</sup> Report of Secretary - General on the request of Nepal for United Nations Assistance in Support of its Peace Process, 9 January 2007, p.2.

<sup>10</sup> United Nations, Office of the High Commissioner for Human Rights in Nepal, *Investigation into Violation of International Humanitarian Law in the Context of Attacks and Clashes between the Communist Party of Nepal (Maoist) and Government Security Forces*, March 2006, p.5.

<sup>11</sup> Pathak (n 2), p.397.

<sup>12</sup> Bipin Adhikari, 'The Context of Conflict and Human Rights Violations in Nepal: Some Preliminary Observations' in Bipin Adhikari (ed), *Conflict, Human Rights and Peace Challenges before Nepal*, National Human Rights Commission, 2003, p. 34.

<sup>13</sup> Manjushree Thapa, 'Storm over Doramba', *Nepali Times*, available at <http://www.nepalitimes.com/issue/2003/10/10/Nation/4639>, accessed on 2 July 2019.

<sup>14</sup> *Watch List* (n 7), p.9.

and the alliance of seven Parties' launched a people movement to restore democracy. On 26<sup>th</sup> April, nationwide demonstrations were organized throughout the country that compelled king Gyanendra to capitulate. The series of event in Nepal set the example that authoritarian and autocratic rule was not at all accepted in the 21<sup>st</sup> century.<sup>15</sup>

In November 2006, the new government and the Maoist signed a comprehensive peace agreement and became ready to implement a peace process, establish a constituent assembly, draft new constitution, and establish an interim government. Both parties agreed to an arms management pact under UN supervision.

During the war, parties to the conflict had carried out acts of extreme violence, and human rights and International humanitarian law abuses had been common across the country having, increasingly, the civilians the major victims of the conflict.<sup>16</sup> The nature of the armed conflict in Nepal had created a terrible situation for civilians.

## Experiences of War

*"My husband was tied. I was necked. They asked if I knew about certain killings". Were you there? Did you help anyone? If you don't say the truth; they told me, "We have SLRs (self-loading rifles). After half an hour you will go to heaven. Two persons, one on my arms, another on my legs, took me and drowned (submerged) me, for half an hour, in the water pond. It was dirty water. Then they pulled me outside and started beating. First, legs parted; all privacy (gone). They used an iron rod; many times, I forget. I became unconscious. (Two days later) I became conscious. Slowly, I moved my hands. My whole body was covered in blood. My vest was stuck to my skin. I couldn't move my legs because of the swelling".<sup>17</sup>*

This is only an example which shows how people experienced the war. Parties to the war had disregarded humanity and had resorted to extreme and humiliating actions against people. The warring parties committed bloody murders through indiscriminate shooting and bombing, mass abduction, force recruitment, rape, extortion, unlawful killings, and forced displacement of people. People, especially those in heavily contested rural districts, had been exposed to a catalogue of abuses at the hands of warring parties. It was dangerous and difficult to travel from one place to another. In some cases, both the warring parties blocked the movement of people and goods during the day. In zones with low agricultural output, these constraints disrupted the opportunities for trade - a key livelihood opportunity for the rural poor.

In very rural remote areas, restriction on movement also interfered with the upkeep of water supply system and health services.<sup>18</sup> Poor people were probably worse off than

<sup>15</sup> ICRC, 'Annual Report', 2007, pp. 22-23.

<sup>16</sup> International Crisis Group, 'Nepal: Dangerous Plans for Village Militias', *ASIA Briefing*, Kathmandu/Brussels, 17 February 2004, p.1.

<sup>17</sup> See United Nations, Office of the High Commissioner for Human Rights in Nepal, 'Report of Investigation into arbitrary detention, torture and disappearances at Maharajung RNA barracks', Kathmandu, p.54, 2006, p.56.

<sup>18</sup> ICRC, 'Annual Report', 2004, p. 157.

they used to be before the conflict, especially those who remained in the disrupted areas. For those communities, not only vulnerability increased but also levels of insecurity were very high. The families were often caught between the warring parties during the hostilities. Those perceived to be collaborating with one side even under the coercion became the target of the other.<sup>19</sup> Many innocent people had been killed in the conflict in the name of insurgency and suppressing the insurgency. There were many examples in which security forces had killed innocent people blaming them of either being the Maoist or their supporters. Similarly, Maoist had also killed many innocent people alleging them to be the spies of the security forces. The adverse impact of the conflict was not limited to one level or sector. Farmers, teachers, students, law professionals, businessmen, journalists, photographers, political activists and others were also badly affected by the conflict. The security forces were alleged into a large scale of arbitrary arrests, detentions, disappearances, extra-judicial execution and torture including rape. Human rights defenders, lawyers including journalist had been arrested and tortured, killed or disappeared. The Maoist also had abducted civilians, including teachers and school children for the purpose of political indoctrination.

Violence and unrest had terribly affected the lifestyle of the whole nation. The conflict had exacerbated fear among the civilians especially people of a rural areas of the country. This conflict had left the bad impact on the lifestyle of the majority of people living especially in the rural areas.<sup>20</sup> The armed conflict affects all the citizens, more especially the weaker groups of the society like, women, children, elderly, indigenous and dalits (untouchables). During conflict, they lack adequate security, safety and protection.

The warring parties were active in hurting the dignity of people. People were sandwiched in the activities of them. Many people were killed, caught in crossfire, and victimized due to the indiscriminate attacks on civilian areas. Extrajudicial killing, serious atrocities, torture, disappearances, summary executions, maiming, arbitrary arrest and detention, sexual violence and child recruitment into the military and armed groups were very common during conflict. Such acts not only threatened the physical life but also played negatively in the psychological and social status of the people.

### **Impacts of Wartime Violence in Post-conflict Situation**

Because of the psychological aspects of the lingering vestige of trauma and war crime, and prolonged exposure to violence were largely ignored or sidelined, minor skirmishes, reluctance to return to normal life, psychic fear of further assault, anxiety attack, fondness for seclusion, mutual distrust, hopelessness and haunting sense of nightmare continued to damage the basic longing and life of victims. Resultantly, the attempt to maintain peace, human dignity, security and optimistic atmosphere were thwarted in the post-conflict era. Much has been written about the war in Nepal in one or another form, but the voices of victims of war are often absent from these accounts, and yet they are affected by the multiple aspects of trauma. The trauma due to the

<sup>19</sup> International Crisis Group, 'Nepal: Peace and Justice', Asia Report no. 184, 2010, p.17.

<sup>20</sup> Informal Sector Service Center (INSEC), *Human Right Year Book*, INSEC, Kathmandu, 2005, p.93.

atrocities from warring parties is a terrible legacy of decade long conflict. Conflict has created excessive social, economic, emotional and psychosocial stress associated with atrocities, loss of beloved, separation from family members and destruction of home and community.

*“...in the spring, the new birds start singing, the cloud comes up and the cuckoo starts singing. The mother has the feeling that “may be this cuckoo is my daughter who is still alive and has come to see me.” (Father of missing girl, Gorkha)<sup>21</sup>*

It seems that majority of people are still fighting to overcome the effects of war. Flashbacks, nightmares, social isolation, heightened aggression, and depression resulting from war still traumatize the survivals. Many people are still suffering from physical and psychological trauma. Nepal is still in a very critical stage regarding the post-conflict issues as hundreds and thousands of victims and their families are waiting for justice<sup>22</sup>. In past, people had gone through different waves of violence, displacement, and distress and at present they are passing through many traumatic experiences.

Majority of war time victims are psychologically and emotionally traumatized as they witnessed death and destruction of their beloved one and suffered from the effects of multiple deprivations of armed conflict. The psychological, emotional and social needs of war-traumatized population need to be taken into all aspects of reconstruction works in post-conflict context. But unfortunately, social and mental well-being of traumatized population has not been taken into account in reconciliation and reconstruction efforts. The pains and traumas of survivors of the conflict are never tried to be understood. Until and unless the pains of survivals are adequately addressed, the war will not be finished in real sense.

After the Comprehensive Peace Agreement between Maoist and the Government, many victims were hopeful for the justice. But, right after that period, the political situation sharply deteriorated and victims remained left affected in various forms. Still there is trend of migration to city area. People are reluctant to return back to their villages since their houses were destroyed in war, and land and property were grabbed. This event causes the children to be deprived from better education, and women are insulted. The destruction of schools, hospitals, roads and factories has traumatized the people in post-conflict situation and caused many mental problems.

The war left devastating impacts on children who have survived through these ordeals. The affected children are continuously traumatized by the loss of loved ones, repeated displacement, and disrupted school time. Children were grown up in an environment shaped by the fear of war which ultimately led them to be preoccupied with thoughts of violence and other psychosocial consequences.<sup>23</sup> Now, as they are youths, they are most vulnerable to the psychological effects of violence. They are compelled to undergo the

<sup>21</sup> ICRC, ‘Annual Report’, 2009.

<sup>22</sup> Carlos Fernandez Torne, ‘Transitional Justice Process in Nepal’, vol. 34, no. 1 & 2, *Informal*, 2014, p. 33.

<sup>23</sup> *Watch List* (n 7), p.22.



critical circumstances due to the very condition of violence like depressive reactions, aggressive behaviour and fear.

The impact of the war situation is more heartbreaking to women. Women frequently state violence that happened in their community particularly during the war period.

*“I get nightmares all the time. I see people coming and raping me. I am still afraid that something similar will happen again. The men who raped me live in a house close to mine. They could come at any time and intimidate me as they want to settle the case out of the court. I’ve been receiving threats from them that the same thing can happen to me if I do not settle the case out of the court.”<sup>24</sup>*

In most of the cases, women were raped in front of their families. However, nobody wants to share their experience they have gone through. They do not like to share their personal experience of sexual violence, particularly, given that the taboos and stigma associated with such topics in Nepalese society. Many survivors of rape are experiencing fear, anger, distress, stress, weakness, aggression, guilt, shame, and recurring nightmares that again lead them to mental trauma.

The elderly people are also affected badly. Many of them lost their young and other family members, who were only the hope in their old age, during the conflict. In villages, there are hardly any youth remaining to serve their parents. The villages remained empty of able bodied. The majority of population, who remained in the villages, were the elderly people along with widows, children, and disables. In such a situation, they were facing tremendous difficulties and worse life scenarios, which they never even thought of. In the absence of the able bodied, there is no support system to facilitate them in their old age. Psychologically they are in very critical situation.

Youths were equally affected by war. Their issues are still neglected in post-conflict era. They become vulnerable psychologically and emotionally. Due to the political instability, less attention has been given to generate employment to the unemployed population. As consequences, a large mass of youths are leaving country with the hope to earn money and this trend is in increasing order. However, they often express hardship and despair associated with these experiences.

While the negative impacts of conflict are rampant, the conflict also brought about few significant positive changes.

*“We are doing all the work that men used to do like ploughing the field, repairing the roof, cutting the firewood.”<sup>25</sup>*

In some cases, conflict served to empower women by enabling them to show that they have the ability and capacity to manage things they had never imagined before. At

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<sup>24</sup> Advocacy Forum & International Center for Transitional Justice, *Across the Lines : The Impact of Nepal’s Conflict on Women*, Advocacy Forum & International Center for Transitional Justice, Kathmandu, 2010, p. 60.

<sup>25</sup> Ibid, p. 33.

present, they find the changes in role that make them feel overwhelmed for their new responsibilities.

The impacts of war are poorly addressed in Nepal. The failure to address victims' needs can lead to emotional and behavioral problems. It also creates problem in the solidification of social justice and functional civil societies. Victims and those who suffered in the conflict still reiterate their concerns regarding the interim relief provided by the state and their general dissatisfaction with it. They stress that the truth should be uncovered about the harm that victims suffered through the conflict, and perpetrators should be punished.

### Post-conflict Reconciliation

After a decade long violent armed conflict, Nepal now remains engaged in post-conflict reconstruction as per CPA commitments. In 2014, the Government enacted the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act, 2014 to give Truth and Reconciliation Commission (TRC) and Commission of Investigation on Enforced Disappeared Persons (CIEDP) a mandate as a Transitional Justice mechanism to deal with cases of individuals who had committed atrocities in their communities during the period of armed conflict.

Many post-conflict countries have adopted transitional justice mechanism to bring peace, reconciliation and justice to their societies. Transitional justice has become the new technique of domestic and international politics since the end of the cold war; and the international community has become increasingly involved in peace building after mass violence. Transitional justice always seeks to address the root causes of conflicts; and it consists of both judicial and non judicial mechanism<sup>26</sup>. Instruments essential for truth excavation, prosecution process, reparation of the victims, reconstruction and legal as well as structural changes remain primary concerns of transitional justice.

Transitional justice mechanism tries to construct a sustainable peace. It involves prosecuting perpetrators, revealing the truth about past crimes, providing victims with reparations, reforming abusive institutions and promoting reconciliation.<sup>27</sup> For this, a comprehensive set of strategies is needed to deal with the events of the past while looking to the future to prevent a reappearance of conflict in the same society. Transitional justice strategies should be understood as an important component of peace building so far as they address the needs and grievances of victims, promote reconciliation, reform state institutions and reestablish the rule of law.<sup>28</sup>

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<sup>26</sup> Louise Arbour, 'Economic and social justice for societies in transition', vol. 40, *New York University Journal of International Law and Politics*, p.26, 2007, p.27.

<sup>27</sup> Krishna Jeevi Ghimire, 'Prosecution in Transitional Justice: A Discussion of the Nepali Context', vol. 5, no. 1, *NJA Law Journal*, 2011.

<sup>28</sup> Paul van Zyl, 'How Transitional Justice Processes Can Contribute to Peace building', Applied Knowledge Services, 2011 available at [http://www.regjeringen.no/nb/dep/ud/kampanjer/refleks/innsjill/menneskerettigheter/zyl\\_justice.html?id=534731](http://www.regjeringen.no/nb/dep/ud/kampanjer/refleks/innsjill/menneskerettigheter/zyl_justice.html?id=534731), accessed on 25 December 2011.

The Nepalese government seems reluctant to deal with all atrocities of armed conflict as that allows amnesty to the human rights and humanitarian law perpetrators; and the very matter has been a main concern to the international communities. Since the signing of the CPA, there was the tendency of analyzing transitional justice from with a narrow perspective and taking the small economic support provided by the state as Justice and reparation.<sup>29</sup>

Peace-building and reconstruction always urge on the reintegration of uprooted population of war torn societies.<sup>30</sup> The process of recovery will not complete until and unless the wounds of the victims are healed. It is necessary to address psychological trauma of victims to achieve the post-conflict state building objectives like peace, justice, economic prosperity, and livelihood security of the people. Government should sort out war's atrocities as soon as possible. If the government is reluctant to punish perpetrators of armed conflict-related human rights violations, it definitely constitutes a violation of the state's obligation to provide hope to already devastated population. Government should prosecute the perpetrators of the conflict on the basis of Truth and Reconciliation Commission and Commission of Investigation on Enforced Disappeared Persons. But unfortunately, the future and activities of these commissions seem highly uncertain. Act's intention behind forming Commission of Investigation of Disappeared is to look after the disappearance whereas TRC will look into the serious violations of human rights and IHL.

The amnesty has always been an issue of discussion in post-conflict situation in Nepal. Commissions have responsibility to prosecute grave violation of HR and IHL committed during the war but there seems dilemma to handle all those atrocities by the commissions. The question has been raised whether commissions can fulfill their duty to prosecute the perpetrators.

Right after the election of first Constitutional Assembly, many coalition governments came into existence resorting to an abject political instability in the country. Political parties engaged only to form the government in their favour that manifested their reluctance towards the suffering of war's victims. TRC and CIEDP are not performing their role up to the mark as mandated by Act. As the state failed to address the issues of grave human rights violations committed during the period of armed conflict, the victims of armed conflict became frustrated and started resorting to their own method to seek justice.<sup>31</sup> The state failed to address the demand of Nanda Prasad Adhikari to take action against Maoist cadres who killed his son in June 2004. Nanda Prasad Adhikari died on 22<sup>nd</sup> September, 2014 while staging fast-onto death at Bir Hospital after 333 days he began the fast.<sup>32</sup> In fact, in a post-conflict society, TRC and CIEDP need to play a vital role in rebuilding shattered social relations by establishing

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<sup>29</sup> INSEC (n 20), pp. 4-5.

<sup>30</sup> Anja Nygren, 'Violent Conflicts and Threatened Lives: Nicaraguan Experiences of Wartime Displacement and Postwar Distress', vol. 35, *Journal of Latin American Studies*, p. 367, 2003, p.393.

<sup>31</sup> INSEC (n 20), p.5.

<sup>32</sup> Ibid.

an accurate picture of the causes of a conflict. They also need to document abuses perpetrated during violent periods, attribute responsibility, encourage all sides in a conflict to engage in a dialogue about the past and thereby contribute to reconciliation and hopefully restore a peaceful society<sup>33</sup>.

In Nepal, the psychosocial rehabilitation has been a neglected issue in post-conflict context. Only little efforts have been given on the psychosocial impact of wartime violence and postwar instability on people's everyday lives.<sup>34</sup> The reparation to the victims of a conflict and psycho-social counseling to them are still major issues. Issues of reparation and reconstruction of the infrastructures are yet to be done whereas psycho-social counseling and reconciliation are not started properly. In 2013, Nepal's Ministry of Peace and Reconstruction formed guidelines for psycho-social counseling. Counseling is imperative for the survivors but also for their families. Access to those services has been denied to the survivors and their families, forcing them to live in fear and pain.<sup>35</sup>

Now onwards, people believe that the process of psychosocial rehabilitation has the potential to deliver true healing, reconciliation, and reconstruction. In post-conflict context, both the victims and perpetrators will have to stay in the same community. The case of Nepal is too complex to imagine that the problem can only be resolved by psycho-social counselling and rehabilitation. Most of the perpetrators are members of the same community where the victims belong. The process shall be based in trust as of interpersonal peace-building can be the appropriate post-conflict peace-building. Trust is important because it allows people in war-affected communities to engage in activities outside their primary social groups; such participation is essential in building and sustaining social cohesion.<sup>36</sup>

## Conclusion

Painful past, and the unfinished thoughts and feelings would endanger the new political and social structures. Only the commitment to address war time atrocities is not just enough. The past must be addressed to console present and to reach the better future. But, the post-conflict countries sometimes choose to ignore the past completely. This may arise with the aim not to reopen wounds for fear of endangering a fragile peace.

In Nepal, little attention has been paid to reconciliation and many rehabilitation programmes are only limited in documentation. Without ensuring transitional justice, neutralizing radicalized society, and promoting communal harmony and cooperation,

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<sup>33</sup> Toni Pfanner, 'Cooperation between Truth Commissions and the International Committee of the Red Cross', vol.88, *International Review of the Red Cross*, 2006.

<sup>34</sup> Linda Green, 'Fear as a Way of Life', vol. 9, *Cultural Anthropology* p.227, 1994, p.256.

<sup>35</sup> Mallika Aryal, 'Statute of denial', *Nepali Time* (October 2014) available at <http://nepalitimes.com/regular-columns/Interesting-Times/nepal-archaic-law-puts-deadlineon-reporting-sexual-crimes,368>, accessed on 3 July 2018.

<sup>36</sup> L. Hovil & J. R. Quinn, 'Peace first, justice later: Traditional justice in northern Uganda', Refugee Law Project working Paper no. 7, 2005.

it will be hard to achieve the post-conflict state building objectives. Attempts made for post-conflict reconstruction should include strategies for strengthening social activities, and protecting human rights. Possibilities regarding conflict resolution are essential to promote an atmosphere of co-operation and coalition-building between different actors, instead of resentment and revenge. Proper peace and reconciliation can only be realized by restoring the community's values. The emphasis on punishment for perpetrators and trust building among communal people make transitional justice mechanism appropriate for healing wounds of victims. A favourable outcome can only be achieved through the restoration of the basic building-blocks of relationships including trust and respect, among others.