

Truth-Seeking in Transitional Justice Context

A Policy Roadmap
for
NEPAL

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Research and Writing

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Nepal Peacebuilding Initiative

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Preface

In the context of transitional justice, truthseeking is not merely a legal and techno aspect of collecting facts about past events. It must be carried out with the aim of uncovering truth according to the political, social, and cultural context of the country concerned, delivering justice to victims, and achieving social transformation through reconciliation. When seeking truth, the focus should go beyond the legal truth to expose and address other truths related to structural violence, historical injustices, exclusion, and marginalization also. Only then can the goal of transitional justice-preventing the recurrence of conflict-be achieved.

In Nepal's social, cultural, and political context, the purpose of truth-seeking must primarily be guided by the aim of exposing past human rights violations and providing justice, acknowledgement, and recognition to victims. It should not be limited to identifying crimes and perpetrators, but rather strive to heal social divisions left unresolved by conflict, promote community reconciliation, and establish long-term peace. The guiding principles of this process must incorporate the wholeness and impartiality of truth, a victim-centered approach, respect for socio-cultural traditions and the promotion of national reconciliation and inclusion, let alone being politically interference free. In a diverse society affected by ethnic, gender, regional, and cultural inequalities, the truth-seeking process should not only ensure criminal accountability but also serve as an opportunity for forgiveness, compassion, and collective self-reflection. Only in this way can truth-seeking lay the foundation for real transformation and sustainable peace.

Although Nepal's transitional justice process has often been claimed to align with the country's archetype, the legal and institutional frameworks created for its implementation, along with past practices, however, do not substantiate that claim. The conflict that took place in Nepal from 1996 to 2006 was not merely political-it was deeply intertwined with social, cultural, and ethnic inequalities. Any post-conflict justice measures, therefore, must consider the nature and patterns of the conflict, as well as the ethnic and cultural backgrounds and social structures involved. This is inarguable, thus, that the transitional justice process in Nepal must comply with indigenous values, cultural norms, religious beliefs, and social

traditions. International experience also shows that transitional justice mechanisms are more effective when they are grounded in local realities, community practices, and religious and cultural sensitivities, rather than being imported models from other countries.

The third amendment to the Act, particularly the revision of the mandate of the Truth and Reconciliation Commission, has paved the way for truth-seeking in aforesaid manner. The amendment in the Act alone does not suffice for this purpose, however. Two major challenges remain: first, the lack of public trust in previously formed commissions; and second, the procedures, guidelines, and working modalities adopted by the Commissions so far have focused only on legal truth-seeking. It is essential, therefore, to ensure an effective truth-seeking process by building trust among victims and stakeholders from the very beginning of the Commission formation process and by formulating policies and regulations in line with the expanded mandate as envisioned by the latest amendment to the Act.

This policy paper has been written with the aim of outlining what the truthseeking process should look like within Nepal's context of transitional justice. It maps out why truthseeking is necessary, what it should aim to achieve, and how it should be carried out. In drafting this roadmap, the paper draws upon Nepal's culture and traditions, religious beliefs, past efforts, international best practices, and consultations with relevant stakeholders. The policy paper identifies the reasons why the transitional justice process remains incomplete, explores the scope of truthseeking based on the latest amendments to the 2014 Act on the Commission of Investigation on Enforced Disappearances and the Truth and Reconciliation Commission, and proposes methods, processes, and strategies for a way forward.

Special thanks are extended to the victims of the armed conflict, their families, human rights defenders, and other concerned individuals who provided invaluable inputs to it. A heartfelt gratitude is also expressed to the Secretary of the Ministry of Law, Justice and Parliamentary Affairs, Mr. Udayaraj Sapkota; Joint-Secretary Mr. Man Bahadur Aryal, the Secretary of the Truth and Reconciliation Commission, Mr. Alok Shrestha; the Secretary of the Commission of Investigation on Enforced Disappearances, Mr. Parashwar Dhungana; Joint-Secretary Ms. Pooja

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1. Prelude

The Communist Party of Nepal (Maoist) began its armed conflict on 13 February, which came to an end on 21 November 2006 with the signing of the Comprehensive Peace Accord. Due to the decade-long armed conflict, more than 13,000 people lost their lives, while over 1,300 persons were subjected to enforced disappearance. In addition, there were numerous incidents of human rights violations, including sexual violence, torture, abduction, assault and battery, mutilation, and displacement. The Peace Accord expressed a commitment to establish, through mutual agreement, a high-level Truth and Reconciliation Commission to investigate serious human rights violations and crimes against humanity committed during the armed conflict, and to create an environment of reconciliation in society. This provision was also included in Article 33 of Nepal's Interim Constitution of 2007. The Peace Accord further stated that "both sides agree to normalize the adverse situation created by the armed conflict so as to maintain peace in the society by providing relief and rehabilitation for those affected and displaced by the war." It also declared that "both sides commit to allowing displaced persons to voluntarily return to their ancestral or previous places of residence without political prejudice, to reconstruct infrastructure destroyed by the war, and to ensure dignified rehabilitation and reintegration of displaced persons into society." In addition, both the Peace Accord and the Interim Constitution incorporated provisions to provide relief to families of conflict victims, including those subjected to torture and enforced disappearance.

Despite the explicit provisions contained in the Peace Accord and the Interim Constitution, Commissions could not be formed for a long time due to various reasons. The Ordinance on the Enforced Disappearances Enquiry, Truth and Reconciliation Commission was first introduced in 2012, and the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act was promulgated later in 2014, and two separate Commissions were established: Enforced Disappearances Enquiry Commission (CIEDP) and the Truth and Reconciliation Commission (TRC). However, since the Act contained provisions-including the mandate of the Commissions-that allowed for amnesty even in cases of serious human rights violations, which were deemed inconsistent with

international standards, the Supreme Court's Special Bench, in the case filed against the Government of Nepal and the Council of Ministers by Suman Adhikari et.al., declared those provisions invalid and issued an order to amend the Act. As a result, the process halted. In 2022, the government initiated the process of amending the Act after holding extensive consultations with victims and other stakeholders. In August 2024, the Act was amended. This amendment paved the way for concluding Nepal's long-overdue transitional justice process. This policy paper seeks to present a roadmap on why truth-seeking is important, for what purposes, and how it should be carried out-based on the latest amendment to the 2014 Act on the Enforced Disappearances Enquiry, Truth and Reconciliation Commission, which has advanced Nepal's transitional justice process. In preparing this policy paper, experiences, lessons, and best practices of transitional justice from other countries, as well as past endeavors that Nepal has made so far, and suggestions received through consultations with conflict victims, civil society actors, and policymakers engaged in the field of transitional justice, have also been incorporated.

This policy paper primarily seeks to identify the reasons why the process has not yet been completed, to examine the areas of truth-seeking mandated by the amended Act, and to provide recommendations regarding the methods, procedures, and measures that should now be adopted to move the process forward. It is believed that this policy paper will be useful for the Government of Nepal, the TRC, the CIEDP, and the Special Court in executing their mandate. In addition, the policy paper aims to contribute in achieving a sustainable peace by ensuring victims' rights to truth, justice, and reparation.

The policy paper first discusses the concept of truth-seeking and highlights the legal framework that guarantees the right to know the truth. It then explores the relationship between the concept of transitional justice and truth-seeking. Likewise, it reviews truth-seeking practices in other countries as well as Nepal's own experiences. Finally, it points out the reasons why the methods, procedures, and investigations adopted in Nepal have not been effective, and presents a comprehensive roadmap for truth-seeking.

2. Concept of Truthseeking

A post-conflict society carries the legacy of violence and suffering. Without properly addressing this legacy, the rule of law, human rights, and democracy cannot be genuinely experienced. What determines the future of democracy, peace, stability, and social transformation is how a society understands its past and how it addresses it. Unless the reality of past atrocities, structural violence, and patterns of injustice—their nature, causes, and implications—is revealed, progressive social, economic, and political transformation is not possible. The truth about past events must be sought, therefore, in a post-conflict society, and the past must be examined accordingly in order to sketch a proper roadmap for the future.

The search for truth has long been a subject of philosophical inquiry. Aristotle has argued in his book, *Metaphysics*, that truth-seeking should be based on correspondence theory, while John Locke, in his 1689 publication *An Essay Concerning Human Understanding*, advanced the view that truth should be sought through empiricism. Similarly, William James, in 1907, presented the idea that truth should be sought on the basis of the pragmatic theory of truth. In addition, Michel Foucault, in his 1969 work *The Archaeology of Knowledge*, emphasized that truth must be analyzed within social and historical contexts.

Beyond philosophy, various religious discourses also have prescribed different methods of truth-seeking. In religious epistemology, truth is often examined in terms of its nature, the means of attaining it, and its relationship to human life—through rational inquiry, mystical experience, or connections with virtue and morality. For example, Hinduism describes *Bramha* as the ultimate truth, attainable through self-reflection and meditation. The *Bhagavad Gita* presents the realization of knowledge as a means of attaining truth, arguing that intellectual inquiry and spiritual contemplation are necessary for this pursuit.

In Nepali tradition, among the various philosophical schools, *Sāṅkhya philosophy* is one that interprets any event not as an independent occurrence but on the basis of cause–effect relations. Maharshi Kapil referred to this as *Satkāryavāda* (the doctrine of the pre-existence of the effect). According to this philosophy, no action arises independently; rather, there is always a definite cause behind it. This philosophy

believes that the action is understood merely as the manifestation or extension of its cause. In the context of post-conflict truth-seeking, if viewed through this philosophy, acts of violence during conflict are not independent events. Instead, they are the outcomes of long-term political exclusion, structural inequality, and impunity. *Satkāryavāda* suggests that truth-seeking should not be confined merely to the question of what happened, but should deeply investigate why it happened. In other words, such truth-seeking must not remain superficial but should address the root causes of conflict.

The central concept of Buddhist philosophy—*Pratītyasamutpāda* (the doctrine of dependent origination)—states: “*When this exists, that arises; when this ceases, that ceases.*” It shows that suffering and violence do not emerge from a single cause, but rather from interdependent conditions—ignorance (*avidyā*), craving (*trīṣṇā*), and attachment (*upādāna*). In a post-conflict society, this teaching reveals that violence is not merely the fault of individuals; rather, it is the outcome of state repression, rebel violence, and cycles of mistrust. Within Nepal’s transitional justice process, if truth-seeking is approached through the principle of *Pratītyasamutpāda*, the process can uncover not only individual accountability but also structural and relational causes. This broadens truth-seeking and directs it toward structural justice. It inspires inquiry aligned with the practice of *Vīpaśyanā* meditation—examining reality with critical awareness instead of blind faith—thus encouraging a deeper search for truth.

Islam defines truth as a fundamental attribute of Allah (Quran 2.2). In Islamic thought, reason is regarded as a complementary source of knowledge, and it is believed that truth can be discovered through direct experience. Christianity, on the other hand, connects truth with Christ. The Gospel records Jesus saying: “I am the truth, the way, and the life.”

Islam and Christianity view truth as rooted in divine authority, whereas Buddhism and Hinduism prioritize truth as realized through direct experiential understanding. Nevertheless, all these religions consider ethical conduct as the foundation for attaining truth. This practice of truth-seeking, originating in religious and philosophical reflection, has further evolved and found application in the context of transitional justice.

Truth-seeking can have various objectives and dimensions. One of its primary purposes is to establish the real truth of the conflict period and to determine common facts. Truth-seeking can be carried out through both judicial and non-judicial approaches. Judicial truth-seeking focuses on the search for evidence to ensure individual criminal accountability. In contrast, non-judicial truth-seeking examines the causes, circumstances, contexts, and structural backgrounds of conflict and human rights violations, thereby determining both individual and institutional responsibility. It provides a comprehensive historical account of past injustices and abuses. Thus, non-judicial truth-seeking has been found to establish truth in a manner that is broader and more distinct than the criminal justice system.

2.1. Meaning and Dimensions of Truth

There is no single, uniform perspective on how to define truth or what truth actually is. Although truth and fact may appear similar, they are distinct concepts. A fact is something observable and verifiable, whereas truth can also be experiential. The truth expressed by someone who has lived through a particular event is experiential truth, while the evidence accepted by a court to prove charges is legal truth. The collective understanding of a particular event within society is social truth.

In the context of truth-seeking, generally two dimensions of truth emerge. Micro-truth explains a specific event in detail, while macro-truth reveals the broader context, patterns, and relationships among events. To establish legal and social truth, both micro and macro truths must be investigated. Truth-seeking gives equal importance to judicial and non-judicial approaches. Initially, when only judicial truth was practiced, it established merely legal truth. But since the 1980s, non-judicial truth-seeking processes have been initiated to establish social truth, restorative truth, reparative truth, and in some cases even legal truth. These approaches are not competitors but rather complementary. Hence, in recent times, both judicial and non-judicial methods have been adopted in truth-seeking.

In post-conflict societies, individuals have their own interpretations of truth. This creates multiple dimensions and competing versions of truth. Such differences in understanding may lead society into further conflict. Truth is sought to

comprehend the past as a whole and to build uniformity or shared perspectives in that understanding.

Philosophers and political scientists have defined truth in various ways and suggested different processes and methods for its determination. The German philosopher, Jurgen Habermas, has divided truth into three types: factual truth, emotional truth, and truth expressed with honesty. Paying attention to all three aspects during truth-seeking can help commissions establish shared facts.

In the Nepali context, two important documents that outline the peace process—the Comprehensive Peace Accord and the Interim Constitution—aim to adopt a truth-seeking process that incorporates dimensions such as macro-truth, micro-truth, legal truth, and personal truth.

Macro-truth encompasses the overall aspects of conflict, while micro-truth uncovers facts related to specific incidents. Judicial truth is tested in court, whereas personal truth includes the experiences of victims and their families.

2.2. Objectives of Truthseeking

Truth-seeking may have social, legal, economic, and political objectives. Within truth-seeking, the aim is to identify the causes and effects of conflict and inform society about them, to document the causes and consequences of human rights violations during conflict, to identify victims and perpetrators, to pave the way for justice and reparations for victims, and to create an environment of reconciliation in society to achieve sustainable peace. Many studies related to truth-seeking processes have already confirmed this. The process of truth-seeking is intended to reveal the reality of past injustices and the historical cycle of violence. Recording what happened in the conflict, why it happened, how it happened, and who was responsible—and making this information available to concerned individuals and society as a whole—is the central focus of truth-seeking.

The purpose for which truth is sought depends on the social, cultural, economic, and political circumstances of the country concerned. However, most truth-seeking processes are found to be based on three main objectives:

1. Conflict-related events are usually contested and not easily accepted. Therefore, in the search for truth, it is considered appropriate to examine the historical, social, cultural, economic, and political contexts in which such events occurred. Accordingly, the mandate of truth-seeking processes is broadened.
2. The purpose of truth-seeking is to acknowledge, respect, protect, and empower victims and their families. The process should not treat victims merely as informants but as beneficiaries and partners. Only if the process ensures that their experiences and sufferings are genuinely recognized and respected can it become victim-centered.
3. Established truth must serve to support policy-making and inspire groups and institutions to change their behavior. Such truth establishment facilitates social and political transformation. Truth-seeking should identify the causes of human rights violations and abuses and propose measures to address them, helping prevent their recurrence in the future.

Another purpose of truth-seeking is social transformation. Transitional justice without social transformation is meaningless, as shown by the experiences of countries like South Africa and Sierra Leone. In South Africa, the slow progress of social transformation raised questions about the transitional justice process itself, while in Sierra Leone, criticism arose that the truth-seeking process failed to adequately address the root causes of conflict and did not sufficiently incorporate issues of good governance and political accountability. Nepal, learning from these experiences, has included the need to address the root causes of conflict in its latest legal amendments.

Truth-seeking can be carried out through both judicial and non-judicial means. Judicial processes, being complex and based on the standards of proof, cannot establish social truth. Therefore, since the 1980s, non-judicial mechanisms—namely truth commissions—have been used for truth-seeking. The inability of judicial bodies to effectively conduct truth-seeking can be seen in the example of the war crimes tribunals established by the United Nations for former Yugoslavia and Rwanda. These tribunals failed to meet the demands of justice or establish truth. On one hand, due to lack of resources, only a few dozen cases among hundreds of

thousands of serious crimes reached the courts. On the other hand, even in the majority of cases that did reach the tribunals, many perpetrators of serious crimes were acquitted due to lack of evidence. In reality, this had a negative impact on national reconciliation.

2.3. Theories of Truthseeking

There are no single or exclusive theories of truth-seeking. Based on different philosophical perspectives, truth has been defined through various theories such as the Correspondence Theory, the Coherence Theory, the Pragmatic Theory, the Constructive Theory, and the Minimalist Theory. Generally, truth-seeking processes broadly adopt three main theories: correspondence, coherence, and pragmatic.

The correspondence theory holds that truth is the accurate representation of reality. According to this theory, disclosure of facts or content that matches reality is considered truth. Facts that correspond to reality are defined as truth. If events align with objective evidence, then the reasons and processes behind conflict are established, which is truth under this theory. Thus, it expects a factual account of why the conflict occurred. The correspondence theory is considered highly effective in post-conflict truth-seeking, as it helps ensure the validity of material evidence and truth. It views truth not only as experiential but also as conceptual—an idea formed through reflection. However, because this theory relies mainly on empirical evidence, it cannot adequately address abstract or value-based truths.

Under the coherence theory, truth is defined as consistency with the whole system. It requires not only logical consistency but also mutual support among different elements within a coherent framework. Facts revealed by participants or informants selected through investigative methods are considered truth when they align with such a coherent system. When findings are compared against a coherent framework, they gain acceptance as truth.

The pragmatic theory is seen as bridging the gap between correspondence and coherence. Pragmatists argue that truth is obtained through practice and can only be tested by its results. Truth-seeking after violent conflict requires relatively extensive investigation. It involves gathering all perspectives on what happened,

even challenging interpretations previously dismissed as “false,” and re-confirming collected facts. This theory emphasizes searching, evaluating, and analyzing the factual expressions of specific conflict sites. It also includes critique of all perspectives, examining power relations, and assessing how continuous strategic resistance distorts individual viewpoints.

The *Nyaya Sutra*, composed by Maharshi Gautama in the 2nd century BC, outlines some fundamental elements of truth-seeking. Its first aphorism (1.1.1) discusses the bases of truth-seeking: *Pramāṇa* (means of valid knowledge), *Prameya* (objects of knowledge), and *Samśaya* (doubt).

Considered the backbone of truth-seeking, *Pramāṇa* (Means of Knowledge) recognizes four valid means: direct perception, inference, comparison, and testimony. These help distinguish true knowledge from falsehood. According to the *Nyaya Sutra*, direct observation, logical inference, analogy, and reliable testimony are all tools for reaching truth.

Prameya (Objects of Knowledge) refers to the subject matter being investigated. The *Nyaya Sutra* lists major objects such as soul, body, senses, mind, intellect, action, defects, rebirth, karma, suffering, and liberation. This keeps truth-seeking focused on concrete and clear subjects, avoiding vague philosophical speculation.

The *Nyaya Sutra* treats *Samśaya* (Doubt) not as weakness but as the starting point of inquiry. Doubt arises when an object or event can be understood in more than one way—for example, uncertainty about whether a distant object is a rope or a snake. Such doubt motivates the use of *pramāṇas*, ultimately leading to valid knowledge.

Thus, doubt–object–means of knowledge can be seen as a cycle. When doubt arises, the object of inquiry is defined, and then means of knowledge are applied to confirm truth. This method resembles modern research or judicial truth-seeking, as it emphasizes raising clear questions, defining subjects, and reaching evidence-based conclusions.

3. Legal Framework of the Right to Know the Truth

Victims of serious human rights violations and abuses in the past, their families, and other members of society at large have a recognized right to know the full and complete truth about past violations. In this regard, both international and national standards have been established.

3.1. International Law

Victims of serious violations of international human rights and humanitarian law, and their families, have the right to effective remedies. This includes the right to know the truth about the causes of violations and the identification of perpetrators.

International human rights law guarantees victims the right to effective remedies, which includes the right to access information and to follow due process. Article 19 of the Universal Declaration of Human Rights, the Second Optional Protocol of the Geneva Conventions, and the International Convention for the Protection of All Persons from Enforced Disappearance all ensure the right to know certain facts.

Similarly, in 2012, the United Nations General Assembly passed a resolution emphasizing the importance of recognizing the rights of victims of serious human rights and humanitarian law violations, their families, and society as a whole. It stressed the need to make efforts to fully uncover the truth, particularly under the right to truth, including knowing the causes and facts of violations, the circumstances of events, and the identity of perpetrators.

From these provisions, it is clear that the right to truth is not limited to victims and their families but extends to society, the nation, and the international community. The concept of publicizing truth includes exposing structures and patterns of abuse, honoring victims, educating future generations, and ensuring such crimes do not recur. Thus, the right to truth encompasses both individual and collective dimensions.

Many UN resolutions explicitly mention the right to truth. The UN General Assembly has stated that states have the duty to provide truthful information to victims of serious human rights violations, their families, and society at large. National practices also reflect this: countries like Guatemala and Brazil have legally guaranteed their citizens the right to truth. Guatemala's 1994 Peace Accord affirmed the right to truth, committed to preventing repetition of painful events, and strengthened democratization.

Under international law and comparative practice, states have the duty to provide information on:

- a) Causes of human rights violations
- b) Circumstances and conditions of violations
- c) Progress and results of investigations
- d) Identification of perpetrators
- e) Status and information about disappeared persons

3.2. Nepalese Law

Article 27 of Nepal's Constitution guarantees every citizen the right to request and receive information on matters of personal or public concern. Article 21 provides crime victims the right to information about the investigation and proceedings of their cases. Sub-article (2) of the same article ensures victims' right to justice, including social rehabilitation and compensation as provided by law.

Article 42(5) of the Constitution grants families of martyrs, families of the disappeared, democracy fighters, conflict victims, displaced persons, persons with disabilities, the injured, and other victims the right to justice and due respect, as well as prioritized opportunities in education, health, employment, housing, and social security. This shows that Nepal's transitional justice obligations are not only guided by the peace accord but also enshrined in the Constitution.

Additionally, Article 5.2.5 of the Peace Accord provides for the establishment of a Truth Commission, thereby recognizing the right to truth.

The Supreme Court of Nepal has also interpreted the right to truth in various cases, clarifying that individuals and society have the right to know the truth about human rights violations, especially serious ones such as enforced disappearances, extrajudicial killings, and torture. It has explained that this right has both individual and collective dimensions.

Based on the above legal provisions, victims of serious human rights violations, serious breaches of humanitarian law, and other crimes under international law—such as torture, extrajudicial killings, and enforced disappearances—along with their families, are entitled to the right to truth. Beyond this, the right to truth has a social dimension: society as a whole has the right to know the circumstances and contexts responsible for past atrocities, so that such crimes and practices do not recur in the future. In essence, the right to truth includes full disclosure of past events, their specific circumstances and causes, and the identities of those involved.

4. Transitional Justice and Truthseeking

Before discussing transitional justice, it is desirable to first examine the concept of justice itself. The definition of justice has varied across different periods of history. In his renowned work *The Republic*, Plato interprets justice not merely as a legal command but as a principle that maintains balance both within the soul of the individual and within the state. Plato advanced the idea that justice is not only a social or legal order but also a spiritual condition of the individual. In his view, justice is based on the inner harmony and discipline of the soul. For the creation of a just society, Plato argued that the three fundamental classes of the state—rulers, guardians, and producers—must each fulfill their respective duties without interfering in the roles of others. He further linked justice with divinity, asserting that the ultimate goal of justice and governance is to promote virtue and collective welfare.

Similarly, Aristotle's theory of justice is also known as the principle of *eudaimonia* (the good or flourishing life). According to him, justice is a value that enables human beings to live a virtuous life. Since humans are social beings, their

lives are connected to both personal and social well-being, and justice must therefore maintain coordination between the two.

Aristotle divided justice into two categories: general and specific. General Justice, he explained, means obeying the law and acting virtuously for the benefit of society, while Specific Justice ensures fairness in interpersonal relations.

Hindu and Buddhist perspectives, much like Plato's, regard justice as grounded in moral and cosmic balance. In both traditions, justice is embedded within dharma, which functions as a moral law sustaining social and cosmic harmony. According to these views, justice is not merely punishment or retribution but fulfilling one's duty and aligning with truth and righteousness. As Radhakrishnan noted, dharma is the "moral foundation" of social and political life. In Buddhism, justice is associated with compassion, interdependence, and the alleviation of suffering. The doctrines of the Four Noble Truths and *pratīyasamutpāda* (dependent origination) hold that injustice arises from ignorance and craving. The Buddhist concept of justice conveys the message that structural causes of suffering must be uprooted entirely. Whereas Plato's justice is embedded in a hierarchical structure based on reason and discipline, the Buddhist perspective is more egalitarian and restorative, seeking reconciliation and peace through compassion and loving-kindness. Thus, Plato viewed justice as a rational order, Hindu philosophy as a cosmic law rooted in dharma, and Buddhism as grounded in compassion and interdependence. All three traditions elevate justice beyond a mere legal concept, presenting it as a moral ideal that sustains balance and human welfare. These three schools of thought resonate with modern concepts of restorative and transformative justice, which form the foundation of transitional justice.

The concept of restorative justice is not limited to the principle of retributive justice alone. It seeks to provide reparation to victims, hold offenders meaningfully accountable, and reintegrate both victim and perpetrator into the community while addressing injustice or crime. Unlike the punitive model, restorative justice offers a participatory process where stakeholders can share and listen to stories, and collectively decide how healing and reconstruction can be achieved.

The United Nations Office on Drugs and Crime (UNODC) has defined restorative justice as "a way of responding to crime... that focuses primarily on

repairing the harm caused by wrongdoing and, wherever possible, restoring the well-being of all those involved.”

Accordingly, the concept of transitional justice is also consistent with the broader notion of justice. It refers to the measures and processes adopted to address past human rights violations. The Office of the United Nations High Commissioner for Human Rights (OHCHR) defines transitional justice as measures established in post-conflict contexts to address the legacy of past human rights abuses, resolve root causes of conflict, facilitate transition toward democratic governance, deliver justice, ensure accountability for violations of human rights and humanitarian law, and prevent recurrence of such abuses. Its objectives include uncovering the truth, holding perpetrators accountable, providing effective remedies to victims, promoting reconciliation, and reforming governance systems to prevent future atrocities. Transitional justice measures thus help establish the foundations necessary for democratic order in post-conflict societies.

The United Nations further defines transitional justice as judicial and non-judicial measures adopted by states to address human rights violations and atrocities committed during conflict. Nepal’s Supreme Court has also clarified that this process includes uncovering facts, prosecuting perpetrators of serious human rights violations, ensuring reparation for harm suffered by victims, and instituting necessary policy and structural reforms to prevent recurrence of such incidents.

Transitional justice incorporates nearly all major principles of justice. It is guided by the concepts of retributive justice, restorative justice, reparative justice, social justice, and transformative justice.

In retributive justice, punishment is central, and strict legal principles of evidence are applied. Within restorative justice, the broader impacts of crime are addressed, and especially the dignity of the victim is restored by creating an environment in which the offender acknowledges the wrongdoing, thereby providing both parties with an opportunity to experience justice. In this model, the perpetrator is required to compensate for the harm caused. Reparative justice aims to address the causes and consequences of human rights violations and abuses suffered by victims. Similarly, transformative justice focuses on structural, social,

economic, legal, and political conditions, with the goal of achieving social transformation.

Transitional justice also seeks to ensure social justice. It involves identifying measures necessary to end social discrimination and is motivated by the objective of creating conditions in which all individuals have equal access to economic, social, and political rights.

To internalize the above concepts of justice, it is essential to address the circumstances, causes, and objective conditions that obstruct their implementation. Truth-seeking must be carried out for this very purpose. In this sense, justice is impossible without the establishment of truth. Unlike the legal conception of justice, truth-seeking conducted from the perspective of social justice alone can provide practical assurance of these legal concepts. Therefore, transitional justice measures embrace not only retributive justice but also other principles of justice, establishing reparation as a right of victims. Moreover, transitional justice includes other elements such as respecting the suffering endured by victims, creating an environment of knowledge to acknowledge, repairing damaged social relations, fostering sustainable peace and reconciliation within society, and identifying and eliminating the root causes of past conflicts and structural violence. For this reason, the concept of transformative justice has been placed at the center of truth-seeking.

In truthseeking, it is necessary to establish facts relevant to all concepts of justice. For example, to end impunity, serious crimes must be prosecuted; therefore, in investigating such grave offenses, it is necessary to identify and preserve evidence that establishes the crime. For restorative justice, truthseeking must collect facts related to the causes, circumstances, context, and impacts of violations of victims' rights, and design plans and procedures accordingly. Likewise, only if the truthseeking process adopts measures that identify the causes of structural violence and conflict can the objectives of transformative justice be fulfilled.

4.1. Truth and Justice

In the context of transitional justice, the establishment of truth means uncovering the causes of past events through a truth commission and acknowledging those causes. The process of establishing truth helps create an authentic historical record and provides victims with a platform to reveal their actual experiences. Likewise, through fair hearings, those involved in violations and abuses are held accountable, and victims are provided with reparation for the suffering they endured—matters that fall under the domain of justice.

The assurance of justice helps restore the dignity of victims and rebuild trust in state institutions. Thus, in transitional justice processes, truth and justice are complementary. Truth commissions remain active in uncovering facts and amplifying victims' voices, while criminal prosecutions contribute to holding perpetrators of serious crimes accountable. Both truth and justice, therefore, are considered essential to prevent the recurrence of misconduct in the future and to foster an environment of reconciliation within society.

4.2. Truth and Reparation

Reparation is a comprehensive program of measures adopted to ensure remedy and justice, including compensation, for victims of human rights violations who have suffered injustice. It encompasses the restoration and rehabilitation of victims, their families, and communities; compensation for physical, mental, economic, social, and cultural harm endured; acknowledgement and satisfaction; and guarantees of non-repetition of past human rights violations and abuses.

For reparation, the truth-seeking process must expand access to the necessary resources, structures, and distribution mechanisms. At a minimum, reparation may include the following components:

Monetary: Compensation payments, restitution of property, or financial assistance.

Symbolic: Public apologies, memorials, or commemorative markers.

Collective (Community-based): Investment in affected communities, such as reconstruction of infrastructure, memorialization, and improved access to education and healthcare.

4.3. Truth and Reconciliation

The human mind generally cannot forget pain and suffering. For this reason, revenge often appears as a natural tendency. If it is not properly addressed, there remains the possibility of renewed violence in society. Reconciliation, therefore, provides the motivation to reform society in such a way that violence based on revenge does not recur.

Reconciliation is a complex and dynamic process, one that may involve confronting various contradictions and challenges. It emphasizes that pain and injustice should not be forgotten, while also discussing the necessity of forgiveness. Looking at history, truth commissions and other formal mechanisms have played an important role in achieving reconciliation with truth. Thus, the disclosure of truth is considered a crucial precondition for the success of reconciliation, and in transitional justice processes, truth-seeking is given special importance.

Truth-seeking is a prerequisite for reconciliation. Reconciliation also reveals truth, because before reconciliation takes place, the perpetrator acknowledges wrongdoing before the victim, discloses the events, and offers an apology. Through compromise, reconciliation builds an environment of cooperation and trust for the future. On the one hand, it does not regard any party involved in conflict as entirely guilty or entirely innocent; on the other hand, even when guilt is evident, it facilitates the preservation of social harmony.

Like truth, reconciliation also has both individual and collective dimensions. At the individual level, reconciliation between victim and perpetrator restores shattered relationships between the two parties. At the collective level, reconciliation helps repair damaged social relations. Conflict, violence, and abuses are often fueled by various factors, and in some cases, such factors may involve the full or partial consent of certain social groups. Collective reconciliation can serve to address such circumstances.

4.4. Truth and Institutional Reform

Truth-seeking helps identify systemic weaknesses within state mechanisms and rebuild public trust in the state. It particularly exposes shortcomings in governance systems, gaps in the law, problems in education policy, and flaws in security policy, thereby assisting institutions to become capable, impartial, transparent, efficient, and accountable. In addition, truth-seeking makes public institutions and officials accountable for their actions and steers the state toward good governance. Only institutions that pursue and internalize truth can earn public confidence.

Truth-seeking also uncovers hidden corruption, incompetence, and injustice within institutions. In a post-conflict society, changes in institutional conduct, behavior, and working practices are considered essential. Without identifying the real causes of institutional weaknesses and practices—such as corruption, nepotism, favoritism, authoritarianism, and opaque decision-making processes—institutional reform is not possible.

5. Role of the Truth Commissions on Truthseeking: Comparative Practices

5.1. Argentina

In Argentina, during the period of military rule, in what became known as the “Dirty War” (*La Guerra Sucia*) (1976–1983), widespread human rights violations—including enforced disappearances—were carried out. To investigate these violations, President Raúl Alfonsín in 1983 established the *Comisión Nacional sobre la Desaparición de Personas* [National Commission on the Disappearance of Persons (CONADEP)]. This commission in Argentina was formed as a direct response to public demands for truth about atrocities and for guarantees of justice. It played a crucial role in establishing the truth regarding cases of disappearance, torture, rape, and murder.

The purpose of the Argentine Commission on the Disappearance of Persons (CONADEP) was to investigate incidents of enforced disappearance, document cases of torture, murder, and other human rights violations, collect testimonies from victims and their families to prepare an official record, identify perpetrators and hold them accountable, and assist victims and their families in pursuit of truth and justice.

For the search of disappeared persons, the commission adopted a systematic, multi-dimensional, and evidence-based methodology grounded in authentic testimonies. In addition to documenting incidents, the commission also aimed to establish truth and take appropriate steps toward the pursuit of justice. The methodology and procedures adopted by the commission included the following:

- **Testimony Collection:** The commission made significant efforts to collect testimonies from the families and friends of the disappeared, as well as from survivors. Testimonies were also gathered from victims of torture and abduction. Furthermore, through special interviews, the commission documented the experiences of survivors and their families.
- **Review of Documents and Evidence:** The commission paid particular attention to the review of documentary evidence during its investigations. This included detailed examination of secret military and police records,

official government documents, and correspondence of involved officials, as well as other legal and administrative documents that could provide additional information.

- **Testimony Verification:** A process of factual evaluation was adopted to verify the authenticity of documentary evidence. This helped to filter out false information and fabricated accounts, while cross-checking different testimonies obtained from various sources to establish the actual fact of events.
- **List and Database of the Disappeared:** Details of disappeared persons—such as name, occupation, residence, and gender—were collected and organized into a systematic electronic archive. This facilitated confirmation of the identities of the disappeared and other important aspects related to the incidents.
- **Investigation of Disappearance Locations:** Secret detention and torture sites were inspected to determine where individuals were held, how torture was inflicted, and how killings were carried out. In some cases, such sites were reconstructed, and victims’ families were interviewed to provide further accounts, which assisted in behavioral and pattern analysis.
- **Collaboration with Human Rights Organizations:** In addition to cooperating with organizations active in the field of human rights to disseminate accurate information internationally, the commission worked with groups such as the *Las Madres de Plaza de Mayo* and *Las Abuelas de Plaza de Mayo* to strengthen and make more effective the pursuit of truth and justice.
- **Creation of Public Records:** Incorporating the results of its investigations and collected evidence, the commission published the report *Nunca Más* (“Never Again”), which was made public to help stakeholders seek truth and gain factual knowledge about the events. Although the actual number of victims was estimated between 10,000 and 30,000, the commission’s report documented 8,960 cases. These data described systematic practices in which individuals were secretly detained under orders of senior military officials, events were concealed after detention, and detainees were subjected to

torture. This report was not only significant for Argentina but also became an important document in the global human rights movement.

- **Judicial Actions:** By identifying perpetrators and initiating prosecutions, the commission worked with government bodies to ensure accountability and legal action against those responsible.

Despite not adopting the method of public hearings, the commission collected more than 7,000 testimonies, including around 1,500 from survivors. In addition, the commission made important recommendations to provide reparations to families of the disappeared, amounting to three billion U.S. dollars. Beyond recommending reparations, the commission also emphasized the need for continued investigation into cases of disappearance, prosecution where necessary, judicial reforms, and the promotion of human rights education.

5.2. El Salvador

In 1991, under the mediation of the United Nations, the peace agreement in El Salvador was negotiated which included the establishment of a Truth Commission. This was the first instance in which the United Nations itself was directly involved in the creation of such a commission. The Truth Commission was mandated to investigate serious human rights violations committed during the civil war in El Salvador between 1989 and 1992, and to provide legal, political, and administrative recommendations. The commission analyzed the impact of the serious human rights violations on both El Salvador and the international community. It also analyzed the long-standing effects of structural violence, inequality, and discrimination prevalent in El Salvador. Since the peace agreement explicitly stated that the commission would not function as a judicial body, it adopted a non-judicial method of establishing truth.

The leftist movement that began in El Salvador during the 1970s aimed to end military rule. The government, in turn, received international support to suppress communists, while the coalition of communist groups—later organized as the Farabundo Martí National Liberation Front (FMLN)—waged guerrilla warfare with assistance from Cuba and Russia. Nevertheless, the conflict was regarded as an internal armed conflict. As atrocities escalated on both sides, the international

community intervened, and in 1992, a peace agreement was signed under UN auspices. This agreement also envisioned a non-judicial Truth Commission. The commission was tasked with investigating abuses, documenting atrocities, ensuring accountability of perpetrators, identifying victims, restoring their rights and dignity, and providing legal recommendations to guarantee justice in the future.

According to the commission's report published in 1993, the conflict resulted in more than 75,000 deaths and over 8,000 cases of disappearances. Of the 22,000 cases documented, more than 60 percent were extrajudicial killings, 25 percent were forced disappearances, and 20 percent were related to torture. The report further noted that 85 percent of the atrocities were committed by state forces, remaining carried out by rebel groups.

In its investigations, the Truth Commission did not examine every single incident but instead selected cases of grave nature that had serious social impact, particularly those targeting specific groups or marginalized communities. It analyzed the economic, social, political, and psychological causes and consequences behind such incidents. Testimonies of victims, witnesses, and directly involved individuals were collected, while site inspections, records, and evidence were treated as primary sources. Reports from organizations, judicial archives, and media accounts were used to corroborate findings.

To ensure credibility, the commission classified evidence into three levels—solid, valuable, and sufficient. Facts lacking sufficient evidence were excluded from conclusions. In its report, the commission recommended victim identification and compensation, listed perpetrators of atrocities, and advised dismissal of both military and civilian officials involved. However, it did not recommend prosecutions due to weak legal framework. Although the military rejected the report, the commission succeeded in exposing El Salvador's painful history and laid the foundation for social reconciliation and sustainable peace.

5.3. Cambodia

In 2001, the National Assembly of Cambodia passed a law establishing the “Extraordinary Chambers in the Courts of Cambodia (ECCC).” These chambers are informally known as the Khmer Rouge Tribunal. Subsequently, in 2003, the Cambodian government and the United Nations reached an agreement regarding matters such as the appointment of judges to the tribunal. In accordance with this agreement, the 2004 amendment to the law provided for two categories of judges: Cambodian judges (four, including the president) and international judges (three).

The primary objective of this tribunal was to bring senior leaders and those most responsible for genocide, war crimes, and crimes against humanity committed during the Khmer Rouge regime (1975–1979) to justice. Approximately two million people died during that period.

For nearly two decades after the end of the conflict, there was little formal discussion about truth-seeking concerning human rights violations and atrocities committed under the Khmer Rouge regime. However, after the regime’s collapse in 1998, Cambodians began to show interest in addressing the past. The government even consulted South Africa’s Bishop Desmond Tutu to explore the possibility of establishing a Truth Commission. This indicates that efforts were made to establish a truth and reconciliation commission to investigate Khmer Rouge-era abuses, though such a commission was never formally created.

The Documentation Center of Cambodia (DC-Cam) played a crucial role in collecting and preserving evidence of crimes committed during the Khmer Rouge regime. It has published a monthly magazine, *Searching for the Truth*, which provides information to the public.

During its sixteen years of operation, the ECCC convicted three major figures:

1. Kaing Guek Eav (known as Duch), head of the Tuol Sleng prison, accused of torturing and killing thousands.
2. Nuon Chea, the second-highest leader of the Khmer Rouge party, convicted of crimes against humanity.
3. Khieu Samphan, head of state during the Khmer Rouge regime, also convicted of crimes against humanity.

These cases played a significant role in giving Cambodians a sense of justice.

In its truth-seeking process, the ECCC undertook several key activities:

- **Research and Documentation:** The tribunal conducted extensive investigations into human rights violations and atrocities committed during the Khmer Rouge era. It collected witness testimonies and relevant documents, creating a historical record that clarified events and provided a basis for justice.
- **Public Hearings:** The tribunal organized public hearings to ensure transparency. Victims and Cambodian citizens were given opportunities to participate. These hearings allowed victims to share their pain and experiences, and helped expose facts about atrocities. Hearings were open to all individuals over 18, including foreign nationals. To encourage attendance, the tribunal provided free transportation (buses) for Cambodian groups to visit the court. Through such measures, the tribunal sought to enhance transparency, educate the public, promote national reconciliation, and involve Cambodians in the judicial process.
- **Victim Participation:** Victims were granted rights to participate in the tribunal's proceedings, including filing complaints, presenting evidence, and giving testimony. They were invited to share experiences, which contributed to a broader understanding of Khmer Rouge atrocities. This participation empowered victims and acknowledged their suffering.
- **Public Awareness and Education:** The tribunal conducted various programs to inform Cambodians about its work and to raise awareness of Khmer Rouge-era events. These initiatives promoted national reconciliation and helped prevent future atrocities. Activities included study tours, video screenings, and school lectures to spread awareness about the court's work and historical context. The tribunal also provided information about its resources and procedures, thereby strengthening public understanding of judicial processes and transitional justice. Media outlets were granted access to hearings, helping disseminate information about trials to audiences nationwide.

5.4. Columbia

The Commission for the Clarification of Truth, Coexistence, and Non-Recurrence—known as the Colombian Truth Commission—was established in 2016 following the peace agreement between the Government of Colombia and the Revolutionary Armed Forces of Colombia (FARC). The Commission’s primary mandate was to investigate and clarify human rights violations and atrocities committed during Colombia’s internal armed conflict.

To carry out its work, the Commission has adopted a victim-centered approach, prioritizing the documentation of victims’ experiences and testimonies. By adopting this methodology, the Commission seeks not only to acknowledge victims’ suffering but also to contribute to the restoration of their lost dignity.

The Commission collected information extensively through individual and collective testimonies, public hearings, and written reports. It has also engaged with the diaspora to include the experiences of victims forced to leave the country. To promote national dialogue and acknowledgment, the Commission has organized public hearings both within Colombia and abroad, with the aim of publishing its findings and recommendations. Recognizing the impact of the conflict on Colombians living overseas, the Commission has emphasized ensuring the participation of diaspora communities in its work.

The Colombian Truth Commission submitted its final report in 2022 which consists 23-volume document detailing out the country's internal armed conflict, identifies its causes and responsibilities, and provides recommendations for lasting peace. It's finding includes the conflict's devastating impact on victims, the role of structural factors like discrimination, and the interconnectedness of violence with issues such as drug trafficking and corruption. The report recommends transformative changes to areas like the armed forces, drug policy, and rural reform, and has become a foundational document for future peace efforts.

In addition to the above-mentioned methods, the Colombian Truth Commission adopted several important approaches to strengthen the effectiveness of its truth-seeking process:

- **Dialogue in native languages:** To capture the realities of diverse cultural and ethnic groups, consultations and dialogues were conducted in the mother tongues of Indigenous, Afro-Colombian, and rural communities.
- **Gender perspective:** Focused investigations into gender-based violence—particularly against women and LGBTQ+ persons—were carried out to promote gender justice and highlight the broader impact of the conflict.
- **Promotion of reconciliation:** Safe spaces were created to facilitate dialogue between victims and perpetrators, fostering reconciliation and contributing to a stronger and more cohesive post-conflict society.
- **Educational activities and public awareness:** Beyond publishing decisions and findings, the Commission organized educational programs and campaigns to raise awareness about the causes, impacts, experiences, and lessons of the conflict, with the expectation of preserving conflict-era history and truth for the long term.
- **Use of digital technology:** Digital platforms, video conferences, and online tools were extensively used to maintain contact with diaspora and rural communities, making the process more inclusive and far-reaching.
- **Coordination with local organizations:** Collaboration with community bodies, NGOs, and other peacebuilding organizations strengthened the truth-seeking process.
- **Declaration of a National Day of Accord:** The day of the peace agreement was commemorated as a special day to honor victims nationally and inform society about the experiences of the conflict.
- **Consultation with experts:** Historians, sociologists, human rights specialists, and conflict experts were consulted to ensure deep study, investigation, and analysis of conflict-era events and facts.

Thus, the methods and processes adopted by the Colombian Truth Commission have made significant contributions toward guiding Colombian society toward sustainable peace and social reconstruction.

5.5. Guatemala

Guatemala's truth commission (1994–1999) investigated systemic violence and human rights abuses during 1962–1996, conducting group interviews with roughly 7200 members of indigenous communities and applying forensic, historical, and anthropological methods. Owing to mandate limits, it focused on documenting patterns and structures of violence rather than naming individual perpetrators in its public report. The work of truth-seeking and forensic investigation has continued beyond the commission, frequently supported by databases and multidisciplinary analysis.

The CEH submitted its final report, titled *Guatemala: Memoria del Silencio* (*Memory of Silence*), in February 1999. Because its mandate prohibited naming individual perpetrators, the CEH focused on identifying institutional responsibility and mapping systemic patterns of violence, concluding that state security forces were responsible for the vast majority of documented abuses, including acts of genocide against Maya populations in several regions. The report offered a series of far-reaching recommendations, including security sector reform, judicial accountability for grave crimes, the establishment of a national reparations program, recognition and protection of Indigenous rights, and measures to promote historical memory and guarantee non-recurrence. Importantly, the process of truth-seeking did not end with the CEH's mandate. Subsequent years saw continued forensic investigations, community-led inquiries, and database-driven documentation, facilitated by civil society organizations, Indigenous groups, and international partners. These ongoing efforts have sustained the pursuit of truth, supported domestic prosecutions, and contributed to memorialization and reparative initiatives—making Guatemala's truth-seeking experience a significant example of how multidisciplinary methods can continue to illuminate the past long after a formal commission has completed its work.

5.6. South Africa

In 1995, South Africa enacted a law to promote reconciliation and national unity, thereby establishing the Truth and Reconciliation Commission (TRC). Although earlier truth commissions each had their own distinct features and

contributions, the South African TRC has been regarded as one of the most progressive. The TRC's report notes that it was inspired by the concepts of truth-seeking in Argentina and Chile, yet it was the first commission of its kind to be granted the authority to offer amnesty in exchange for truth-telling. The Commission's chairperson, Desmond Tutu, made "reconciliation" its central goal, with "amnesty" as the principal means of achieving it. Public hearings were adopted as an integral part of the South African truth process.

The Commission was mandated to document, investigate, and prepare a report with recommendations on serious human rights violations and atrocities committed on the basis of apartheid between 1960 and 1994. It was also authorized to recommend amnesty, reparations, and prosecutions. Furthermore, the Commission was specifically tasked with enabling victims, perpetrators, and the general public to participate in public hearings, where victims could narrate their suffering as stories, thereby engaging them in the reconciliation process.

In addition to this mandate, the South African TRC was entrusted with other responsibilities: first, to raise public awareness about its work, and second, to foster a collective and shared understanding among South Africans regarding the grave and structural human rights violations of the apartheid era.

To achieve these objectives, South Africa adopted four types of truth-seeking approaches:

1. **Factual or forensic truth** – truth that is verifiable and testable.
2. **Personal or narrative truth** – truth expressed through individual stories and testimonies.
3. **Social or dialogical truth** – truth emerging from interaction, discussion, and debate.
4. **Healing or restorative truth** – truth that helps restore dignity through acknowledgment of suffering.

Factual or forensic truth is testable and is used to confirm or refute personal or narrative accounts, relying on objective standards and procedures rather than subjective perspectives. The TRC did not formally define personal or narrative

truth, but it acknowledged and absorbed the testimonies and viewpoints of those who came forward, expressing gratitude for their participation.

The Commission viewed social truth as closely aligned with its process and goals. Judge Albie Sachs emphasized the importance of experiential truth, which arises from interaction, dialogue, and debate—commonly referred to as social truth. This form of truth underscores the importance of the process itself, ensuring that respect for humanity is not undermined.

Healing or restorative truth was applied in the context of maintaining human relationships, helping to restore victims' dignity through collective acknowledgment of suffering. However, the Commission faced the challenge of its limited mandate, which required it to focus primarily on individual violations rather than the broader, systemic violence caused by apartheid.

5.7. Peru

The Peruvian Truth Commission was mandated to investigate human rights violations and atrocities—including disappearances, killings, massacres, torture, and terrorism—committed during the two decades of violence (1980–2000). In fulfilling this mandate, the Commission prioritized public participation and adopted a voluntary, victim-centered process to pursue truth. Using both qualitative and quantitative methods, it documented and analyzed the patterns and causes of violence, focusing not only on individual responsibility but also on collective accountability.

For its investigations, the Commission relied primarily on voluntary testimonies from victims and witnesses, conducted public hearings, and recorded documentation provided by human rights organizations and government bodies. It extended its reach especially to rural and marginalized communities, which had suffered the greatest human rights violations. However, the Commission was not granted the authority to issue subpoenas for testimony or evidence. This lack of subpoena power, combined with limited resources and deep social divisions, posed significant challenges to the Commission's work, making the truth-seeking process during the conflict particularly difficult.

The principal methods adopted by the Peruvian Truth Commission were as follows:

- **Public Hearings:** Voluntary, non-advocacy hearings were conducted and broadcast publicly, ensuring transparency and broad participation in the Commission’s investigations.
- **Collection of Testimonies:** Oral and written statements were gathered from victims, witnesses, and representatives of civil society regarding human rights violations and atrocities during the conflict. Reports from human rights organizations and publicly available government documents were also used as reference materials.
- **Research and Analysis:** Investigations focused on crimes such as disappearances, killings, and gender-based violence. This included extensive consultations (e.g., with military and political leaders), as well as mapping and analyzing the geography, ethnicity, and nature of violence.
- **Statistical Sampling Methods:** In cases with incomplete data, statistical techniques were applied to estimate the number of victims and to determine the accountability of responsible groups.
- **Forensic Investigations:** To obtain evidence of violations and provide relief to victims’ families, the Commission carried out exhumations of mass graves. However, due to limited resources, this work could not be expanded extensively.
- **Outreach and Communication:** Public awareness campaigns, television broadcasts, and published reports were used to raise awareness about truth-seeking and to involve as many citizens as possible in the process.

5.8. Liberia

As a result of the 2003 peace agreement in Liberia, the Truth and Reconciliation Commission (TRC) was established under the Truth and Reconciliation Commission Act of 2005. The Commission began its work in 2006 and submitted its final report in 2009. Its mandate was to investigate human rights violations committed during the civil war from 1989 to 2003, to promote reconciliation in society, and to recommend reparations for victims.

For the purpose of truth-seeking, the Commission identified four dimensions of truth:

1. Objective or factual truth
2. Personal or historical truth
3. Social or dialogical truth
4. Healing and restorative truth

Objective or factual truth refers to the public and official acknowledgment of what occurred during the specified period (in Liberia's case, 1979–2003). The Liberian TRC sought to collect information and evidence on human rights abuses, identify perpetrators through public and private hearings, and gather witness testimonies.

However, due to operational, administrative, and resource-related problems, the Commission struggled to begin its search for objective truth effectively. It failed to establish a proper administrative secretariat or prepare a detailed work plan. In the absence of clear standards, commissioners themselves managed most administrative and supervisory activities. As a result, many tasks remained incomplete, while others were carried out ineffectively or controversially. Although the Commission attempted to publicize its mandate and programs outside the capital, these efforts were insufficient. Frequent turnover of senior staff and delays in budgetary and financial disbursements further obstructed its work.

Despite its slow start, the Liberian TRC eventually laid a clear foundation for documenting the history of the conflict. It doubled its efforts to raise awareness in Monrovia and 15 districts through campaigns, using cultural, religious, and sporting activities as outreach tools. The Commission maintained generally good relations with print and broadcast media, though its publicity mainly targeted Liberia's elite. Local radio stations were used to reach communities outside the capital.

In addition to ambitious meeting schedules, the TRC conducted hearings on human rights abuses both publicly and privately. Public hearings were open to all and broadcast on radio and television, with materials archived in the Commission's library. A website was developed in collaboration with the Georgia Institute of Technology, enabling individuals inside Liberia and abroad to submit formal

statements online, upload audio-visual materials, and participate in discussions. Public hearings were held not only in Liberia's 15 districts but also in the United States, Burundi (Bujumbura), and Ghana. Private hearings were conducted to ensure witness security, dignity, and minority protection.

Women were included in large numbers in hearings and testimony. Although the process was generally well-organized, not all hearings ran smoothly. Between July and October 2008, the Commission organized thematic hearings in Monrovia, California, on 14 specific subjects, concluding with a national reconciliation conference in November. These subjects included women, children and youth, contemporary conflict history, prosecutions, historical review, external actors, economic crimes, religion, traditional and cultural aspects, education and public service, the judiciary and legislature, student movements, and labor unions. In addition to hearings, a broad survey of human rights violations was conducted.

More than 200 individuals were trained to collect testimonies from victims, perpetrators, and witnesses. These trained personnel gathered approximately 16,000 statements nationwide. Compared to Sierra Leone's TRC, Liberia's Commission collected thousands more testimonies. An additional 2,000–3,000 statements were collected from Liberian diaspora communities in West Africa and the United States. The Liberian TRC was the first of its kind to systematically include diaspora communities in its process despite limited resources, thanks to cooperation with human rights advocates. The collected facts and figures demonstrated that Liberians wanted to see and hear solutions to their problems, and Commission officials encouraged citizens to come forward and testify.

Coding of collected statements was carried out with technical assistance from the Western NGO BENETECH, and a database was created for report writing. This database became a valuable resource for researchers studying the Liberian conflict. In cooperation with foreign partners, the Commission also aimed to conduct survey-based research and map patterns of human rights violations during the conflict. A special investigative unit was established to examine specific cases of victimization. This unit focused on 20–24 so-called "window cases" involving serious human rights violations and planned to investigate thematic issues considered significant in Liberia's conflict history. The unit faced challenges due to

its heavy responsibilities but carried out hearings and case management on these thematic issues.

Although some prominent figures of the Liberian conflict appeared before the Commission, others did not. It was believed that powerful individuals from the executive, legislature, and judiciary also needed to participate to prove that no one was above the law and to ensure comprehensive truth-seeking. In August 2008, several leading political figures—including former State Council Minister *Oscar JaryeeQuiah*, politician *Dr. Togba_NahTipoteh*, former Chief Justice Counselor *CheaCheapoo*, and former Senator of *Grand Kru County*, *BlamoNelson*—planned to testify before the Commission. President Ellen Johnson Sirleaf initially indicated she would testify but later expressed uncertainty. Observers believed that breaking Liberia’s long-standing culture of impunity required the cooperation of powerful individuals, which was essential for the success of the truth-seeking process.

The Commission was granted subpoena powers to summon witnesses. For example, rebel leader Prince Yormie Johnson was summoned to testify in institutional hearings on serious human rights violations. However, rather than relying solely on subpoenas, the Commission hoped that voluntary participation by key figures in the conflict would provide moral motivation for hearings, with the possibility of reduced prosecution or punishment serving as an incentive.

5.9. Haiti

In Haiti, as a result of various initiatives mediated by the United Nations and other international bodies to manage political transition, and through an executive order issued by President Jean-Bertrand Aristide, the Truth and Justice Commission was established in 1994. Thus, the Haitian Truth and Justice Commission was created not by detailed legislation but by presidential executive order.

The Commission was mandated to investigate serious human rights violations committed during the period of political instability (military rule) between 1991 and 1994, following the coup that ousted President Aristide and before his return to power. Its tasks included examining abuses, hearing witnesses, identifying perpetrators, and recommending justice and reparations for victims.

During this period, the Commission documented serious human rights violations and atrocities—including killings, torture, rape, and other violent acts—committed by government officials, security forces, and non-governmental groups. It collected testimonies from victims and witnesses and prepared detailed accounts of these events. The Commission interviewed approximately 6,000 individuals and studied and used all types of direct and indirect source materials relevant to the incidents for the purpose of truth-seeking.

The Commission also carried out exhumations of mass graves to collect forensic evidence. It adopted methods such as public hearings, documentation based on morgue records, and gathering as many witness statements as possible. Although it prepared periodic, thematic, and regional reports, it appears that the Commission was unable to publishing its final report.

After its investigations, the Commission did prepare a final report in 1995. This report identified victims and perpetrators of human rights violations and highlighted structural problems. It also included recommendations for justice, reparations, and restoration for victims, as well as measures to prevent such violations in the future. In addition, the Commission sought to establish historical truth in Haitian society, initiate reconciliation, and contribute to ending political instability and building a justice-based society.

Nevertheless, the implementation of the Commission's recommendations was extremely limited. Recommendations to prosecute perpetrators were not carried out. Proposals to provide financial compensation, reparations, and restoration for victims were not concretely implemented. Similarly, recommendations to reform the military and security institutions to prevent future violations saw only partial and limited institutional reforms, which were neither broad nor effective.

Due to political instability, weaknesses in the legal framework, governmental incapacity, and lack of resources, the recommendations could not be implemented. As a result, Haiti's Truth and Justice Commission is regarded as a failed commission.

Conclusion

According to the comparative study discussed above, one clear truth established from the initial phase of truth-seeking efforts in the 1980s is that past events can be addressed through truth-seeking even amidst cultural, political, social, and geographical diversity. Similarly, the second phase, i.e., the truth-seeking processes of the 1990s, demonstrated that it is also possible to ensure both collective and individual accountability for crimes committed in the past. Furthermore, the United Nations' guiding commentary on transitional justice, which emphasizes that truth-seeking must be transformative and must identify the structural causes of conflict and violations as well as those responsible, provides further confirmation that truth-seeking can contribute to the democratic transformation of society.

The comparative study also shows that in some countries—such as Argentina, Sierra Leone, and Timor-Leste—truth commissions have involved the police to facilitate criminal prosecutions during truth-seeking. In these countries, police were utilized for searches, seizures, and arrests in the course of criminal investigations. The rationale behind this was that police officers possessed expertise in criminal investigation, were familiar with the procedures applied in such investigations, and had knowledge of evidence collection and security.

However, some negative aspects of these practices have also been observed. For example, there is the possibility of conflicts of interest if police officers themselves were involved in human rights violations; involving police in investigations could undermine trust among victims and stakeholders, since the institutions to which they belonged were often accused of abuses; and because police organizations operate directly under government authority, there was a risk of political interference in investigations, raising questions about the independence of truth commissions.

Scholars of transitional justice have, therefore, suggested that when police are engaged in truth-seeking processes, they should be deployed in a non-partisan manner and remain under the effective control of the truth commission to ensure credibility and effectiveness.

6. Truthseeking: A Nepalese Experience

In Nepal, especially after 1990, matters of public concern have been investigated through the formation of commissions by the government, the courts, and parliament. In 1991, a commission was formed to investigate the cases of persons who had disappeared during the Panchayat system, and this body has been recognized as Nepal's first truth commission. Investigating nearly one hundred cases, the commission concluded that 35 individuals had disappeared. Although the names of those accused of human rights violations were identified in the report, they were not held accountable.

6.1. Truthseeking by Inquiry Commissions

A study conducted in 2012 found that among the 38 investigation commissions established in Nepal between 1990 and 2010, most were created to serve political purposes, but they failed to ensure accountability for serious crimes and human rights violations. The report reviewed three main types of commissions: investigation commissions formed by the Government of Nepal under the Investigation Commission Act, investigation committees formed by the Legislature–Parliament, and judicial inquiry committees established under orders of the Supreme Court.

Although the stated purpose of such commissions was to seek truth and ensure accountability, their recommendations were generally not implemented, and in some cases, the reports were not even made public. This situation reflects, on the one hand, a denial of victims' rights to truth, justice, and reparations, and on the other hand, it has contributed to the perpetuation of a culture of impunity.

Recognizing this reality, the Supreme Court of Nepal issued a mandamus order directing the government to draft separate legislation—beyond the Investigation Commission Act—for the establishment of a Truth Commission and a Commission on Disappearances.

6.2. Truthseeking Efforts by the CIEDP and TRC

On 11 May 2014, following the enactment of the Commission of Investigation on Enforced Disappeared Persons, Truth and Reconciliation Commission Act, the Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappeared Persons (CIEDP) were established on 8 February 2015. Initially, these commissions were given a two-year mandate, but their tenure was repeatedly extended, reaching nearly eight years in total.

During this period, the Truth and Reconciliation Commission collected **63,718 complaints** related to serious human rights violations committed during the armed conflict. When classified by the nature of incidents, the complaints included:

- Killings: **10,858**
- Abduction and hostage-taking: **4,316**
- Maiming and disability: **5,015**
- Physical and psychological torture: **19,874**
- Rape and sexual violence: **314**
- Property-related violations: **16,065**
- Displacement: **5,985**
- Disappearances: **108**
- Unspecified cases: **49**
- Other complaints: **1,134**

Similarly, the Commission of Investigation on Enforced Disappeared Persons collected a total of **3,288 complaints**. Among these:

- Complaints investigated and resolved: **746**
- Complaints forwarded to the TRC: **277**
- Complaints kept pending: **332**
- Complaints currently under investigation: **2,542**
- Complaints under preliminary investigation: **29**
- Complaints decided for detailed investigation: **2,513**
- Persons recorded as disappeared based on complaints: **2,557**

- Temporarily disappeared: **49**
- Fully disappeared: **2,508**
- Families provided with victim identity cards: **1,349**

6.3 Methods and Procedures Employed by the Commissions

Looking at the preliminary and detailed investigation procedures adopted by the Commission, it appears that the process is guided by the concept of criminal justice and is focused on establishing legal truth. It has not been able to distinguish between criminal justice and transitional justice.

Both commissions issued public notices calling for complaints, and such complaints were collected not only through their own offices but also through the Local Peace Committees in each district. Under preliminary investigation, the commissions adopted the policy of taking statements from victims and witnesses regarding the matters mentioned in the complaints and conducting on-site inspections.

While conducting detailed investigations, the TRC adopted methods such as summoning victims, witnesses, and alleged perpetrators; taking statements; obtaining records or documents from official bodies; identifying complaints; identifying alleged perpetrators; conducting searches and seizures; organizing identification parades; arranging physical and psychological examinations of victims; conducting scientific tests of evidence; excavating sites when necessary; conducting field studies, measurements, mapping, and damage assessments; and holding public hearings.

During detailed investigations, the CIEDP adopted procedures such as collecting detailed information about the disappeared persons (antemortem data), conducting on-site inspections of incidents, gathering additional information from individuals interviewed during preliminary investigations, consulting with victim communities and civil society, obtaining all types of information from governmental and non-governmental bodies, excavating sites and conducting searches and seizures if there was evidence that a disappeared person had been

killed and buried at a particular location. The detailed investigation also included establishing facts, identifying possible reasons for disappearance, understanding the patterns and nature of enforced disappearances, and identifying individuals, institutions, and organizations involved.

The TRC established Field Outpost at the High Court Government Attorney Offices in all seven provinces. For preliminary investigations, each office appointed two experts under the coordination of the Deputy Attorney General, forming a three-member team to conduct the initial inquiries. Across all seven offices, only 3,787 complaints underwent preliminary investigation.

Similarly, out of a total of 3,288 complaints received by the CIEDP, 2,515 complaints were approved for detailed investigation, and 28 were under preliminary investigation, making a total of 2,558 complaints under investigation.

Both commissions developed software for documenting complaints and related proceedings, and the process of entering all complaint details into the software is currently underway.

According to officials and staff who worked in the commissions, during preliminary investigations, victims wished to share their pain and emotions, making it difficult to record statements from more than 3–4 individuals per day. They also noted that the forms developed by the commission for documentation were insufficient to capture all necessary information.

6.4 Ineffectiveness of the Truthseeking: The Reasons

The analysis of the facts and data discussed above also shows that truth could not be uncovered through the actions of the commissions, even though one of the mandates given to the commissions was “*to investigate, seek the truth, and document incidents of human rights violations and serious human rights violations, and bring the actual facts before the public*” (Section 13(a) of the Commission on Investigation of Enforced Disappeared Persons, and Truth and Reconciliation Commission Act, 2014).

To determine procedures related to truth-seeking and investigation, the Commission formulated and implemented the *Truth and Reconciliation Commission*

Regulations, 2015 (Chapter 3: Provisions Related to Complaint Investigation), the *Truth and Reconciliation Commission's Complaint Investigation Procedures, 2016*, and the *Directive on Investigating Information Received by the Commission or Other Relevant Matters, 2016*. These legal instruments appear to emphasize more on criminal investigative procedures rather than truth-seeking procedures. From these provisions, it becomes clear that the lawmakers lacked conceptual clarity regarding what truth-seeking actually is, its importance in transitional justice, and how it differs from investigations conducted in the criminal justice system concerning specific offenses.

The *Truth and Reconciliation Commission Regulations, 2015* classify investigations into two stages—preliminary and detailed—and provide for the appointment of an investigation officer for detailed investigations. This arrangement shows that the procedures adopted for investigating complaints follow the criminal justice model. However, in the context of transitional justice, truth-seeking is different from investigations conducted in the criminal justice system regarding specific crimes; therefore, its procedures and processes must also be different. For this reason, the investigation procedures should have been designed to be victim-centered and aimed at uncovering the truth and presenting the actual facts to the public in accordance with the concept of transitional justice. This, however, does not appear to have been done. Thus, the absence of laws, regulations, and procedural frameworks designed from a truth-seeking perspective can be considered a major reason for the ineffectiveness of truth-seeking efforts.

Nevertheless, this does not mean that the legal provisions related to investigation failed to reveal any truth at all. The investigative procedures outlined in the Act, Regulations, and Directives have indeed uncovered some factual truths regarding incidents of serious human rights violations. However, these investigations cannot be considered effective. The following reasons appear to be responsible for the failure of truth-seeking in the investigations conducted so far.

6.4.1 Lack of Trust

The success of truth-seeking largely depends on the credibility of the process. When appointing officials to the previous commissions, consultations were not held

with stakeholders—especially victims and the wider civic community—and appointments were instead made on the basis of political power-sharing. As a result, an environment of trust could not be created. Victims and stakeholders did not have confidence in the commission’s performance, and the commission was unable to receive the expected cooperation from victims, civil society, and the international community. Even state institutions and the rebel side remained doubtful of the overall process, and the commission did not receive adequate cooperation in its work.

The Members of the Commissions, therefore must be selected transparently, based on clear criteria and through credible consultations with victims and all concerned parties. It is essential to identify individuals who are knowledgeable about transitional justice, possess high moral character, and have a respected public reputation, and request them to contribute to the process.

6.4.2 Poor Coordination

Although the peace agreement had envisioned the establishment of a TRC, two separate commissions were eventually formed to carry out work of the same nature due to an order of the Supreme Court. The mandates of the commissions could not clearly distinguish the thematic differences between the tasks assigned to each. There was also no meaningful provision regarding coordination and cooperation between the two commissions. As a result, a sense of competition developed between them. To the extent that even formal dialogue between the TRC and the CIEDP could not take place. In addition, the commissions were unable to establish dialogue and secure cooperation from various stakeholders, the Government of Nepal, victims, and political parties, nor could they obtain the necessary technical assistance for technical aspects of their work.

In order to make the commissions’ work effective and to complete it in a timely manner, a coordination mechanism, therefore, must be established that includes officials working at the policy level of the relevant stakeholders, with the purpose of facilitating and supporting the investigations. On matters of shared concern and interest, it would be desirable for the TRC and CIEDP to form joint investigation teams and work together.

6.4.3 No Defined Scope/Parameters for Truth-seeking

Before beginning the truth-seeking process, it is necessary to define and determine—based on the lessons learned from the experiences of various countries discussed above—what issues will be examined, for what purpose, and how the truth will be sought. While determining such scope, matters such as the scope of violations, geographical scope, institutional scope, scope of victims, procedural scope, legal and judicial boundaries, scope of reconciliation, and scope of amnesty must be considered.

Although guidelines and procedures were drafted, and many necessary elements related to complaint investigation were included, the commissions were unable to determine the scope of truthseeking. Instead, their objective appears to have been limited to investigating complaints and identifying grounds to verify those complaints. Even though the report of the CIEDP and the procedures and directives it formulated appear somewhat more practical than those of the TRC, the documents of both commissions show that neither was able to clearly define the scope of truthseeking.

As a result, the commissions remained uncertain about what to do and how to do it. The annulment of the amnesty provisions in the Act and the lack of amendments to those provisions did not create any legal obstacle for the commissions to conduct truth-seeking. The failure of truth-seeking, therefore, appears to be due more to conceptual ambiguity than to the Act itself.

6.4.4 Absence of an Effective Work Plan

To fulfill their mandate, the commissions should have prepared and implemented a work plan that included a clear program, the resources and timeframe required to complete the mandate, and a strategy to address potential challenges. Although some related matters were included in the Acts, Rules, Directives, and Procedures discussed above, the commissions did not prepare any

such structured document, nor is there any evidence that their activities were guided by such a plan.

6.4.5 Adoption of Truth-seeking Processes Guided Solely by Criminal Justice Perspectives

Studies discussed above have already shown that truth-seeking can be carried out through both judicial and non-judicial approaches, and that non-judicial truth-seeking mechanisms were adopted internationally only after judicial truth-seeking efforts failed in the 1980s. However, despite these experiences, the truth-seeking process in Nepal could not remain separate from the framework of judicial truth-seeking. We failed to learn from the shortcomings of the earlier Inquiry Commission, and even after enacting a separate law for truth-seeking, the approach adopted continued to follow the same path used for criminal accountability.

An analysis of the Acts, Rules, Directives, Procedures, and the forms included in the schedules for data collection also shows that truth-seeking was guided by a judicial perspective. This can be regarded as the primary weakness of the truth-seeking process.

6.4.6 Paper-Based, One-Sided Evidence Collection

International experience on truth-seeking shows that various methods have been used to uncover truth. For example, micro-truth, macro truth, narrative truth, social truth, restorative truth, forensic truth, and legal truth. To establish these different forms of truth, several tools and methods have been used—such as gathering personal truth or experiential narratives through interviews with victims and witnesses; establishing restorative and social truth through public hearings; and verifying personal truth through study reports as well as government and non-government records.

In Nepal, however, a task force commissioned for preliminary inquiry prepared initial reports based on statements from victims and witnesses and on available

documentary evidence. The fact that the Commission even made certain recommendations based on these preliminary reports suggests that truth-seeking was attempted solely on the basis of victim and witness statements. Although the regulations and procedures provide for taking statements from alleged perpetrators as well, such statements were not taken—or not taken adequately—during preliminary investigations.

Preliminary reports were prepared solely on the basis of one-sided statements from victims, and decisions were made on that basis to move cases into detailed investigation. When detailed investigations rely only on information provided by victims and witnesses, the Commission requires substantial resources, and facts that could have been verified during preliminary investigation end up being pushed into a lengthy and burdensome detailed investigation process, creating the risk of insufficient time. Truths that can be established during preliminary investigation do not require detailed investigation.

Truthseeking, therefore, must be conducted only after hearing from alleged perpetrators as well, and after studying reports and documents published by various bodies related to the incident, followed by an analysis of all perspectives.

6.4.7 Inaccessible and Unreliable Field Outposts

It is found that preliminary investigations were conducted by establishing Field Outposts within the Provincial High court Government Attorney Offices and forming task teams coordinated by the Deputy Attorney General. Since this additional responsibility could only be carried out by the Deputy Attorney General outside regular working hours, such a structure was unable to function effectively. Victims have repeatedly complained that establishing the commission's office within the Government Attorney Office made it difficult for them to access the office easily. Furthermore, because no full-time staff were appointed for this work, the office was not easily accessible. The fact that, out of more than ten thousand complaints were sent to Field Outposts only about three thousand and seven hundred underwent preliminary investigation confirms this.

6.4.8 Lack of Skilled Human Resources

Staffing was severely inadequate relative to caseload. Only 27 investigators were assigned to the provinces to handle 63,718 TRC complaints. Of 10,203 complaints sent for preliminary inquiry across seven provinces, just 3,787 (5.94%) were processed in roughly two years. At that pace, preliminary inquiries alone would take 15+ years—clear evidence of understaffing.

6.4.9 Impractical Approach to Truth-seeking

Comparative practices suggest that the truth seeking should prioritize patterns, nature, and gravity over investigating every single incident; it invites victim testimony and public acknowledgment and selects representative serious cases for prosecution. The TRC, however, appeared to aim at investigating all complaints without a priori prioritization criteria.

6.4.10 No Strategy to Address Contextual Challenges

The political parties involved in the armed conflict split and reunited multiple times. In such a situation, it is not reasonable to expect that only one particular party should bear responsibility or be accountable in the transitional justice process. As a result, the issue of who should assume responsibility has itself become problematic. There is no example anywhere of transitional justice being concluded solely through the bureaucracy, nor is Nepal in a position to present such an example. Due to the lack of capacity, credibility, and commitment, the truth-seeking process in Nepal has not been able to deliver the expected results. As investigations have not been completed on time, complexities have continued to grow.

Over time, the task of collecting evidence has become increasingly difficult. Because many victims have not experienced justice, some have suffered additional psychosocial problems, while others have died without ever experiencing justice. Since investigations of alleged perpetrators were not conducted in time, some

perpetrators have already been promoted, and others have died, making it impossible to document information. The unnecessary delays in the investigation process have undermined victims' right to live with dignity. This has eroded trust and confidence in the state. Such delays have negatively affected institutional reform efforts, and on the other hand, have increased the possibility of false claims being filed to seek benefits.

From the above analysis, it appears that the truth-seeking process currently adopted by the commissions cannot uncover the truth. Future commissions must, therefore, prepare a roadmap for truth-seeking based on past experiences, lessons learned, and practices adopted by other countries.

7. Roadmap for Truth-Seeking

The Commissions must first determine the purpose, objectives, and process of truth-seeking. Although the work carried out so far has laid the foundation for prosecution-oriented truth-seeking, the investigation process must also reflect the need to identify the underlying causes of the armed conflict, analyze the patterns and nature of human rights violations and the actions of the parties involved during the conflict, and explore measures necessary to prevent the recurrence of such violations in the future. Section 13(2)(a) of the Act also grants the Commission the authority to do so.

In order to develop a roadmap, the commissions, therefore, must prepare a preliminary plan, further define the mandate of truth-seeking, determine procedures for fact-collection and documentation, analyze the facts, and prepare reports. These tasks essentially require working through the following stages.

7.1. Preparatory Phase

Based on the experiences of various countries, this stage involves laying the foundation for truth-seeking. At this stage, the purpose, objectives, and process of truth-seeking must be defined, and the necessary structures and resources must be arranged. Although the Commission has prepared procedures and directives, these documents are largely influenced by a prosecution-oriented (judicial truth-seeking)

approach. Therefore, they require necessary amendments and revisions to enable truth-seeking in line with the additional mandates introduced in Sections 2, 13, and 29 of the Act.

Because Rules 10 and 11 of the Regulations provide for preliminary and detailed investigations of complaints, the procedures and directives drafted by the Commission appear to have been shaped accordingly. However, these procedural arrangements alone are insufficient to fulfill the expanded truth-seeking mandate introduced by the third amendment of the Act. Thus, in the preliminary stage, the Commission must further define this mandate within the context of its day-to-day work and establish a clear truth-seeking process.

In this phase, the following should be done:

- Consult with victims and other stakeholders;
- Determine the truth-seeking process based on opinions and suggestions received from stakeholders;
- Arrange necessary financial, technical, and human resources;
- Analyze risks and devise measures to minimize them;
- Prepare a schedule for tasks such as fact collection, analysis, report writing, and monitoring;
- Make the entire work plan prepared by the Commission public for the information of victims and stakeholders.

7.2. Fact-Collection Stage

Information, facts, and details for investigating incidents of human rights violations are obtained during this stage. Victims are provided with the opportunity to express their suffering and to share their experiences as part of this stage.

In this stage, the following should be done:

- Conduct interviews with victims and witnesses;
- Document their experiences and accounts;
- Engage in dialogue with the accused and, when necessary, arrange interviews;

- Analyze and review facts recorded, published, and broadcast by governmental, non-governmental, and media sources;
- Collect physical evidence, carry out exhumations, and conduct necessary forensic examinations;
- Organize public hearings and related activities under this stage.

In addition, the collected facts shall be studied to draw preliminary conclusions. Details of incidents, victims, and accused persons shall be prepared and systematically preserved. In cases where preliminary conclusions indicate involvement in serious crimes, the matter must be referred for further investigation to the Investigation Unit (related to serious human rights violations) in accordance with Section 31(A), Sub-Clause (g) of the Act.

7.3. Analysis Stage:

At this stage, the task of verifying the factual reliability of the information collected by the Commission is carried out.

In this stage, the following should be done:

- Identify the underlying causes of the past armed conflict;
- Prepare a historical record of excesses and abuses;
- Identify the systemic patterns of human rights violations;
- Identify the individuals, groups, or institutions involved in such violations;
- Recognize and analyze the social, cultural, political, and economic causes of conflict and human rights violations;
- Acknowledge the suffering endured by victims and ensure justice and reparation for them.

Further, the evidence collected shall be analyzed to establish criminal liability in cases of serious human rights violations. A framework for judicial proceedings against individuals involved in serious crimes shall be prepared. Measures for social and individual reconciliation shall be suggested to prevent recurrence of violations and to foster an environment of reconciliation. In incidents other than serious violations, facilitation between victims and perpetrators shall be carried out for the purpose of amnesty. A framework for reparations to be provided to victims shall be

prepared. Measures necessary for institutional reforms shall be identified and confirmed.

7.4. Reporting Period

In this stage of report writing, multidimensional aspects must be taken into consideration, because even if the Commission has conducted truth-seeking in the best and most realistic manner, there remains the risk that the entire process could be questioned if the conflicting parties, victims, and other stakeholders do not accept the report. The Commission, therefore, must clearly explain the methodology and sources used in report writing, adopt inclusive principles to clarify all patterns of human rights violations, hold regular discussions with victims and stakeholders to ensure that its recommendations are practical, realistic, and implementable, and treat all parties to the conflict equally. At this stage, the aim is to establish a common (shared) truth and to chart the path toward sustainable peace.

In this stage, the following should be done:

- Formally document incidents of human rights violations;
- Record the analysis of the causes, impacts, and the trends, nature, and gravity of past armed conflict and human rights violations;
- Expose the systemic patterns of human rights violations;
- Recommend holding accountable the individuals and institutions found responsible for human rights violations;
- Recommend prosecution of those guilty of serious human rights violations (*This can also be done during the fact collection and analysis stage*);
- Recommend amnesty in matters qualifying amnesty (*This can also be done during the fact collection and analysis stage*);
- Recommend measures to provide justice and reparations to victims (*This can also be done during the fact collection and analysis stage*);
- Recommend policy and institutional reforms necessary to prevent recurrence of human rights violations in the future.

8. Conclusion and Recommendations

The experiences of different countries discussed in this policy paper clearly show that there is no single definite or universal model of transitional justice. Earlier approaches to transitional justice were primarily focused on criminal prosecution. However, since such measures could not adequately address the structural and widespread violence of the past, the practice of establishing truth commissions began. These commissions, once formed, attempted to address the past by adopting measures and procedures suited to local contexts, cultures, traditions, and value systems.

From the experiences of other countries, it is evident that the nature of this process is largely determined by local contexts. These contexts include history, religion and culture, the nature of conflict, institutional capacity, and the relationship between victims and perpetrators. Therefore, different countries have adopted different approaches to address past human rights violations.

Nepal's social and cultural structure is rooted in Eastern philosophy. In particular, the philosophical traditions practiced within Sanatan Hinduism and Buddhism provide a strong foundation for shaping Nepal's perspective on justice and truth-seeking. Among the widely recognized philosophical bases in Nepal, Vatsyayana's *Nyaya Sutra*, the causality-based *Satkaryavada* of Samkhya philosophy, and the Buddhist doctrines of the Four Noble Truths, the Noble Eightfold Path, the Four Brahmaviharas, and *Pratityasamutpada* (dependent origination) are seen as playing a significant role. These perspectives not only guide spiritual life but also hold the potential to provide a theoretical foundation for social justice and truth-seeking.

The *Satkaryavada* of Samkhya philosophy advances the idea that no action arises independently, but always has a definite cause behind it. It suggests that events should be understood as part of a continuous chain of cause-and-effect relationships. Similarly, the Buddhist doctrine of *Pratityasamutpada* proposes that no event or suffering arises from a single cause alone, but rather from a collective process of interdependent causes. If Nepal's truth-seeking process is determined on the basis of these two perspectives, it will not only address immediate incidents or conflict-era crimes but also uncover the structural, historical, and social causes that

gave rise to those events. The third amendment to the Act on the Investigation of Disappeared Persons, Truth and Reconciliation Commission provides a basis for adopting this approach to truth-seeking.

If truth-seeking is carried out in this way, Nepal can be considered to have developed an original model. However, originality cannot be claimed merely by labeling the process as unique. Done properly, this approach offers Nepal the opportunity to connect transitional justice with local culture, while also serving as an exemplary model for other countries with similar conflicts and social contexts. If the truth-seeking process embraces the principles of causality and interdependence from Eastern philosophy, it can bring justice closer to the concept of transitional justice, moving beyond traditional notions of justice.

Therefore, to move this process forward effectively, it must be grounded in local religious and cultural values. In the context of Nepal, our society is deeply guided by Hindu and Buddhist traditions, which have embraced principles such as morality, the experience of suffering, punishment, forgiveness, and social reconciliation for thousands of years. Concepts like forgiveness, compassion, and karma are regarded not only as religious ideals but also as foundations of social conduct.

Hence, if Nepal's transitional justice process is developed on the basis of these values, only then can it truly be considered rooted in Nepalese originality—as has often been emphasized at the political level. Such a model would gain legitimacy not only from victims and perpetrators but also from society at large, thereby contributing to the establishment of sustainable peace.

Relying solely on the judicial truth model adopted so far risks leaving the process incomplete. This perspective prioritizes compassion toward victims, recognition of structural injustices, and long-term social reconciliation, thereby laying the foundation for accountability and sustainable peace.

Two important documents that outline Nepal's peace process—the Comprehensive Peace Accord and the Interim Constitution—appear to have intended, in the context of truth-seeking, to adopt a process that encompasses multiple dimensions of truth: macro truth, micro truth, legal truth, and personal

truth. Although such a broad scope for establishing truth was envisioned, the Investigation of Enforced Disappeared Persons, Truth and Reconciliation Commission Act, 2014, its Rules of 2015, and the procedures and directives formulated by the Commissions have been guided primarily by the notion of establishing judicial truth alone. As a result, Nepal's truth-seeking methods and processes are seen as inadequate in their entirety.

To address this gap, the latest amendment to the Act suggests that, in addition to learning from the experiences of other countries, it would be desirable to adopt the methods of truth-seeking discussed in justice philosophy—namely, the four means of proof: direct evidence, inference, analogy, and testimony—to distinguish truth from falsehood. In this way, by identifying the trends, nature, and gravity of human rights violations, as well as the underlying causes of armed conflict, the mandate for necessary policy, legal, and institutional reforms can be strengthened to ensure that such violations do not recur in the future. Accordingly, the Rules, procedures, and directives must also be revised and amended in line with this perspective. The subjects requiring such amendments have been identified in this policy paper and are mentioned in the recommendations section.

Furthermore, it has been found that past commissions failed to carry out truth-seeking because their structures were not credible, transparent, inclusive, or broadly acceptable. Therefore, to make the truth-seeking process effective and to fulfill the objectives set out in the Peace Accord, the Constitution, and the Act, the following issues need to be addressed.

8.1. Conceptual Clarity

Even among the officials, staff, and stakeholders of previous commissions, there were differing—and in some cases even competing—understandings of the objectives, goals, and the methods and processes to be adopted by the Truth Commission, due to the absence of a clear document explaining them. Therefore, conceptual clarity regarding the objectives, goals, and processes of truth-seeking is necessary first and foremost. Hence, it is relevant that the commissions to be formed now define the objectives, goals, and processes of truth-seeking and build a shared understanding. For this purpose, the following is advisable.

8.1.1. Determine the Objective and Goals of Truth-seeking

The preamble of the Act states that commissions shall be formed to investigate and inquire into incidents of serious human rights violations and crimes against humanity committed during the armed conflict, to bring the actual facts before the public, to promote reconciliation in society by fostering mutual goodwill and tolerance and thereby create an environment of sustainable peace and reconciliation, to arrange reparations for persons victimized by such incidents, and to recommend legal action against individuals involved in serious crimes related to those incidents.

Similarly, Section 13 of the Act further clarifies the matters mentioned in the preamble, directing the identification of the underlying causes of the armed conflict, recommending policy, legal, and institutional reforms necessary to ensure that human rights violations and serious violations do not recur in the future, vetting of individuals involved in serious human rights violations, confirming the identities of victims and perpetrators, initiating and facilitating reconciliation between victims and perpetrators, recommending reparations to be provided to victims or their family members, recommending legal action against perpetrators who are neither reconciled nor pardoned, and providing victims with identity cards and post-investigation information as prescribed.

From these provisions, it is evident that the core objectives of truth-seeking under the Act are based on the four pillars of transitional justice: establishing the truth, ensuring justice in cases of serious crimes, providing reparations to victims, and instituting reforms to prevent recurrence of violations in the future. Therefore, the Commission's truth-seeking activities must remain focused on these objectives and goals. For this purpose, the Commission should elaborate further on the mandate, develop a shared understanding, and disseminate it among stakeholders and the general public. Doing so will ensure that everyone is informed about the outcomes of the Commission and will help manage challenges arising from unrealistic expectations.

8.1.2. Operationalization

1. In the prevailing laws of Nepal, there is no definition of actions targeted against unarmed individuals or communities. Therefore, the Commission needs to provide an operational definition of the terms mentioned in the Act.

Provide an operational definition of actions targeted against unarmed individuals or communities.

2. In Chapter 12 of the Criminal Code, homicide is defined as intentional or committing, or causing to be committed, any act of killing. However, since this chapter does not define arbitrary killing, it appears necessary for the Commission to provide an operational definition of it.

Provide an operational definition, therefore, of intentional or arbitrary killings carried out by parties to the armed conflict, targeted against unarmed individuals or communities, whether deliberate or planned.

3. The Act has defined human rights violations and serious human rights violations by categorizing them into two groups. In doing so, human rights violations are broadly defined as any acts contrary to Nepalese law, international human rights law, or humanitarian law, except for serious human rights violations. This has significantly widened the scope of the Commission's truth-seeking mandate. Experiences from transitional justice processes in different countries show that the clearer and more limited the mandate of a commission, the more result-oriented it becomes. It is, therefore, desirable to define, in consultation with victims and stakeholders, which incidents should be included under the mandate described as "any acts contrary to international human rights or humanitarian law."

Provide an operational definition of any acts committed in violation of Nepalese law, international human rights law, or humanitarian law.

4. Although the Criminal Code defines rape, it does not provide a definition of serious sexual violence.

Provide an operational definition of serious sexual violence.

5. Although Section 167 of the Criminal Code defines torture, it does not provide a clear definition of inhuman act or cruel torture; therefore, it is necessary to establish an operational definition of this as well.

Provide an operational definition of inhuman or cruel torture.

6. Sub-section (1), Clause (A1) of Section 13 of the Act assigns the Commission the responsibility to analyze the trends, nature, and gravity of human rights violations and serious human rights violations. It is necessary, therefore, to determine the basis on which such analysis will be carried out.

Decide, prior to commencing truth-seeking work, how and on what basis the trends, nature, and gravity of violations will be analyzed.

7. Sub-section (1), Clause (A3) of Section 13 of the Act mandates the identification of the underlying causes of the armed conflict. Therefore, before commencing truth-seeking work, the Commissions need to determine on what basis, and through which methods and processes, the identification of the underlying causes of the conflict will be carried out.

Decide, prior to commencing truth-seeking work, how and on what basis the underlying causes of the armed conflict will be identified and analyzed.

8. Sub-section (1), Clause (B) of Section 13 of the Act assigns the Commission the responsibility of identifying perpetrators, while Clause (A) of the same sub-section entrusts it with the duty of making such verified facts public. However, the Act, its Rules, Directives, and Procedures do not specify the

process to be adopted or the burden of proof in identifying perpetrators. The question of identifying perpetrators is extremely complex and sensitive. Therefore, if clear standards regarding the burden of proof are not established, it may raise questions about the acceptability of the Commission's decisions.

Determine whether or not the principles of the criminal justice system—such as the doctrine of best and conclusive evidence and the concept of benefit of doubt—will apply in this process; whether or not hearings will be conducted prior to identifying perpetrators; and, if such hearings are held, whether or not the standards of fair trial will be applied.

8.2. Creating an Environment of Trust

Even after two successive commissions and eight years having passed, truth-seeking could not be accomplished, and the dissolution of those commissions appears to have been primarily due to a crisis of trust. Although the third amendment to the Act created an environment of trust, the attempt to form a commission for the third time has also been overshadowed by the same crisis of trust. Previously, there were allegations that commission officials were appointed through political power-sharing, and now the narrative is emerging that the third attempt at forming the commission also failed due to political interference. As a result, stakeholders' confidence in the transitional justice process has further weakened. It is essential, therefore, to build an environment of trust before commencing this process.

To create such an environment of trust, it is necessary to consult victims and stakeholders, establish clear criteria, and immediately restart the process of selecting commission officials transparently on the basis of those criteria. If efforts are not made to bring qualified, capable, and credible individuals into the commission, one cannot forget the bitter reality of the past, where suitable candidates refrained from applying and did not wish to become officials. Thus, unless the shortcomings and lessons of previous selection processes are reviewed and an environment of trust is built, there is a risk that the process will remain incomplete no matter how many

times the commission is formed. This process, therefore, should not move forward without first creating an environment of trust.

8.3. Establishment of Facilitation Mechanisms

Truth-seeking is a complex matter in itself. For this work, cooperation is required from all parties—including the state and the rebels—to provide the necessary information requested by the Commission and to appear when summoned to give testimony. In addition, adequate resources are equally necessary. In some cases, the government may also need to arrange cooperation and support from the international community.

This task may not be possible for the Commission to accomplish alone. Therefore, a strong support mechanism is needed to assist the Commission's work and to enable effective truth-seeking. Such a mechanism would help facilitate the Commission's proceedings, making them more effective and credible. Representatives of victim communities, experts, human rights defenders, policymakers, and other concerned stakeholders could be part of such a mechanism. It could identify areas of the Commission's work, provide recommendations, and offer consultation to the Truth and Reconciliation Commission and the Commission on the Investigation of Disappeared Persons on matters of truth-seeking that involve shared concerns and interests.

For example, in South Africa, the *Council of Churches* helped facilitate the work of the Truth Commission. Such mechanisms can also be established at the local level.

8.4. Formulation of Prosecution/Amnesty/Reconciliation-Related Policies

In Nepal's transitional justice process, while formulating a prosecution policy, it is necessary to consider not only legal questions but also moral, philosophical, and social contexts. Since Nepalese society is deeply rooted in religious and cultural values, attention must also be paid to how Hindu and Buddhist philosophical perspectives can make the policy more authentic and socially relevant.

In Hindu philosophy, justice and the system of punishment are found to be based on dharma. Texts such as the *Manusmriti* and the *Mahabharata* hold the view that crime (sin) can be addressed not only through punishment but also through moral reform. From this perspective, serious human rights violations must not go unpunished, because the essence of justice lies in the protection of dharma.

Buddhist philosophy regards crime not merely as an individual wrongdoing but also as the result of structural, social, and historical causes. Therefore, based on the Noble Eightfold Path—particularly right action, right livelihood, and right view—Buddhist thought emphasizes that prosecution policy should be victim-centered and reform-oriented. While punishment is inevitable in cases of serious crimes, Buddhist philosophy maintains that it should serve not as revenge but as a means of rehabilitation and restoring social balance. This allows Nepal’s tradition to harmonize both Hindu and Buddhist sentiments by maintaining a “balance between punishment and forgiveness.” A prosecution policy prepared in this way would align not only with legal but also with moral, cultural, and philosophical values, thereby guiding transitional justice toward lasting peace and reconciliation.

Although both Western and Eastern philosophies contain the concept of forgiveness, they are based on different perspectives. In Eastern philosophy, particularly Hindu and Buddhist traditions, forgiveness and repentance are seen as complementary. The Buddhist doctrines of *pratīyasamutpāda* (dependent origination) and *karuṇā* (compassion) encourage understanding crime or sin in relation to social, structural, and historical causes, suggesting that forgiveness and repentance can serve as tools for both individual and social reconciliation.

Similarly, Hindu philosophy, through its emphasis on moral rules and ethical conduct, holds that forgiveness begins with the offender’s voluntary repentance. It emphasizes self-purification by understanding and accepting responsibility for one’s actions, rather than merely asking for forgiveness.

In Western philosophy, forgiveness is generally viewed from the victim’s perspective, with the perpetrator’s confession regarded as the fundamental precondition. Without the perpetrator’s acknowledgment of guilt, forgiveness is considered impossible. Thus, in Western thought, justice and forgiveness are often confined to the context of legal and social discipline. In contrast, Eastern

philosophy considers the relationship between forgiveness and repentance to be multidimensional, and of great importance from philosophical, social, and moral perspectives. In a multicultural, multi-religious, and traditional society like Nepal, it appears relevant to base prosecution and amnesty policies on the Orient Paradigm.

8.4.1. Prosecution

In cases requiring prosecution, according to the provision of Section 29 of the Investigation of Enforced Disappearances, Truth and Reconciliation Commission Act, the Commission is obliged to submit to the Attorney General the circumstances, reasons, investigation report, and evidence under which prosecution be initiated. However, the Act appears silent on whether the Attorney General should prosecute solely on the basis of evidence collected by the Commission's truth-seeking investigation, or whether further investigation should also be conducted before prosecution. If a clear prosecution policy is not determined, uncertainty may arise later in the implementation of the Commission's recommendations. Therefore, for the purpose of implementing Section 29 of the Act, it seems necessary for the Commission to further define this matter.

Accordingly, while formulating the truth-seeking policy, it appears that the Commission must take into account the following four circumstances under which it should recommend prosecution.

1. Incidents of serious human rights violations as mentioned in Section 2 (j1) of the Commission's Act,
2. Incidents not falling under amnesty as per the requirement of Section 25 (1) of the Act,
3. Situations where the victim has not given free consent for reconciliation under Section 22 (1) of the Act,
4. Situations where the perpetrator has not fulfilled the conditions required for amnesty under Section 26 of the Act.

In relation to the above four circumstances, although the judicial truth-seeking procedures (which the Commission has currently adopted) may be useful in the truth-seeking process, they alone do not appear to be sufficient. For this purpose:

It seems appropriate for the Commission to seek the assistance of police officers who have acquired expertise in criminal investigation, are knowledgeable about procedures related to criminal investigation, and have experience in collecting evidence connected with forensic science. However, while taking such assistance from police officers, the Commission must establish standards and policies for mobilizing those personnel in a way that does not adversely affect the Commission's independence and credibility, and that avoids any conflict of interest. In addition, it appears necessary to separately determine the investigation procedures for incidents related to the aforementioned circumstances.

Further, the Commission must also be clear about the potential challenges that may arise while implementing its mandate regarding amnesty and prosecution. One such challenge appears to be that, in cases of human rights violations eligible for amnesty, statements made by perpetrators with the legitimate expectation of receiving amnesty could, if the conditions for amnesty are not fulfilled and prosecution is instead recommended, later be used as evidence against them. Therefore, it is desirable to formulate a clear policy on this matter as well.

8.4.2. Amnesty

Section 26 of the Act provides that the Truth and Reconciliation Commission may make recommendation to grant amnesty in cases other than incidents of serious human rights violations. This section also sets out the conditions and procedures for granting amnesty. Likewise, Chapter 6 of the Rules contains additional provisions related to amnesty. The provisions of the Act and Rules advance the concept of conditional amnesty, requiring that the perpetrator acknowledge the wrongdoing committed, offer a satisfactory apology, and make a commitment not to repeat such wrongdoing in the future. However, these requirements alone are not sufficient to complete such a complex process as amnesty.

A study of South Africa's amnesty policy and practice shows that priority was given to conditions such as the perpetrator making a full disclosure of the truth/facts in politically motivated incidents, and the act being consistent with political objectives. In contrast, Sierra Leone's amnesty policy granted pardon to combatants directly involved in war, while Rwanda's traditional Gacaca court system adopted a policy of reducing punishment or substituting imprisonment with community service if the offender admitted guilt and sought forgiveness. In Guatemala, Chile, and Liberia, although the truth commissions did not receive a mandate regarding amnesty, they relied on other existing legal provisions. From these practices, two types of amnesty policies can be observed: unconditional amnesty or general pardon, and conditional amnesty. South Africa's practice reflects conditional amnesty, while Liberia, Guatemala, and others provide examples of unconditional amnesty.

In the context of Nepal's transitional justice, it would be appropriate to adopt an approach that aligns with local religious and cultural traditions when formulating an amnesty policy. Both Hindu and Buddhist philosophies regard compassion, forgiveness, and reconciliation as fundamental values of human coexistence. In Hinduism, forgiveness is described as "Kshama veerasyabhushanam"—meaning "forgiveness is the ornament of the brave or courageous." In this sense, the person who grants forgiveness is considered great. Unlike Western traditions, in our tradition forgiveness is more about being given rather than being asked for. This provides a foundation for ending hostility, fostering reconciliation, and creating an environment of tolerance in society. Similarly, in Buddhist philosophy, the practice of compassion and loving-kindness, along with the cultivation of the Four Brahmaviharas and the Eightfold Path (right thought and right action), views amnesty not merely as exemption from punishment but as a means of achieving long-term peace and social reconciliation. In particular, the concept of Pratītyasamutpāda (dependent origination) sees wrongful acts not only as individual faults but also as outcomes of social, structural, and historical causes—a perspective that resonates with modern concepts of transitional justice. Therefore, in Nepal, an amnesty policy should not be constructed merely as a practice of exempting offenders from punishment, but rather as a mechanism to address victims' suffering, recognize structural injustices, and prioritize long-term social

rehabilitation. If done so, it can contribute to establishing sustainable peace in a multi-ethnic and multicultural society like Nepal.

An amnesty policy must be able to balance accountability (justice) and reconciliation. Otherwise, it may create tension in the Commission's work. In Nepal's context, since amnesty is included within the Commission's mandate, it is necessary to formulate a clear policy to maintain this balance. The amnesty policy must clarify the objectives, goals, and conditions of amnesty. The practices of other countries show that an amnesty policy should be victim-centered, ensuring victims' right to reparation, making perpetrators realize their wrongdoing, and pursuing accountability, while at the same time helping the process contribute to reconciliation and the establishment of sustainable peace in society.

8.4.3. Reconciliation

One of the important objectives of establishing a Truth Commission is to restore a divided society and shattered social relations. Therefore, the reconciliation process should not be limited to a single incident but must also aim to address historical injustices. South Africa's reconciliation policy sought to uncover the truth, promote national unity, and address the root causes of violence. For this purpose, the Commission encouraged dialogue and reduced feelings of revenge through public hearings. Similarly, Sierra Leone's Commission prioritized victims' voices, documented their experiences, and adopted measures of symbolic reparation, thereby laying the foundation for community reconciliation. In the same way, Guatemala's Commission documented historical injustices, inequalities, and the impacts of violence and atrocities, identified necessary reforms in state structures and governance styles, and promoted social reconciliation. Looking at Liberia's reconciliation experience, it identified corruption, social inequality, and discrimination as causes of conflict and adopted systemic reforms as a method of achieving social reconciliation.

When formulating a reconciliation policy, it is essential to take into account the prevailing religious and philosophical values. In Hindu philosophy, reconciliation and forgiveness are regarded as fundamental bases for lasting peace and coexistence

in society. According to the principles of righteousness and moral action, punishment alone is not a solution to crime; rather, the moral reform, self-purification, and rehabilitation of the perpetrator are considered the foundation of long-term reconciliation. From this perspective, reconciliation policy should not be confined only to victims and perpetrators but should also aim to restore broader social relations.

Buddhist philosophy views reconciliation through the principles of compassion, loving-kindness, and interdependence. It holds that conflict or violence is not merely an individual event but arises from social structures, historical causes, and relationships. Therefore, reconciliation is not limited to the individual level but depends on justice and restoration at the community, structural, and societal levels. In transitional justice, adopting this perspective can provide perpetrators with both punishment and opportunities for rehabilitation and reconciliation with society, ensure victims' dignity and security, and lay the foundation for long-term social peace.

Thus, a reconciliation policy inspired by both Hindu and Buddhist philosophies can provide original, context-appropriate, and effective guidance for establishing lasting peace and social tolerance. These experiences highlight that reconciliation policy must adopt a victim-centered approach; it should expose the causes of human rights violations through reconciliation; formally acknowledge and address historical injustices, discrimination, and inequality as sources of conflict; ensure reparation for harm; and aim to maintain social reconciliation and establish sustainable peace.

Nepal's legal framework and understanding regarding reconciliation appear to be influenced by an incident-focused and individual-centered approach. Although the third amendment to the Act set the objective of changing this perspective and concept, the provisions of the regulations, directives, and procedures were still formulated from the previous viewpoint. Therefore, it now seems necessary to prepare a separate reconciliation policy and accordingly amend and revise the regulations, directives, and procedures. In formulating such a reconciliation policy, concepts from Buddhist philosophy—namely the Four Brahmavihāras (loving-kindness, compassion, sympathetic joy, and equanimity)—can be adopted.

Nepali culture is based on community life, coexistence, and social reconciliation. Traditionally, local efforts for dispute resolution have relied on apology, repentance, forgiveness, and restoration as means of settling conflicts. If these methods are made inclusive and an environment is ensured where they do not reproduce social discrimination, then incorporating them into the formal transitional justice process could be beneficial.

8.5. Provision of Skilled Human Resources

Looking at the human resources previously available in the Commission, in addition to being insufficient, the lack of expertise in truth-seeking, the absence of motivation to work in the Commission, and the practice of frequent transfers have all been seen to negatively affect the work of truth-seeking. Therefore, the selection of necessary personnel for the Commission must be done in consultation with the Commission, and personnel assigned there without such consultation should not be mobilized.

Since truth-seeking is not like routine government work but rather a temporary, formal, and sensitive task, it is essential to attract personnel by providing special incentive allowances. In addition, human resource capacity must be developed through periodic refresher training on the objectives, goals, processes, and challenges of truth-seeking.

Since the work of truth-seeking must be carried out in collaboration with various stakeholders, experts, and human rights activists, a large number of human resources will be required. As such work cannot be completed solely with personnel assigned by the government, arrangements must be made so that the Commission can recruit the necessary staff through contractual appointments.

8.6. Formulation of Work Plan

To make the truth-seeking process systematic and effective, the Commission must prepare a detailed work plan. Such a plan should include, as discussed above, the preparatory stage (i.e., the initial stage), the stage of fact collection, the stage of analysis, and the stage of report writing. In doing so, the time, budget, and human resources required for each stage must be determined.

For example, Section 31A of the Act may include matters such as forming proposed units, preparing budgets, managing necessary resources, creating an environment of trust through consultations with stakeholders based on inclusive principles, and determining the procedures required for truth-seeking.

The purpose of factcollection is to investigate incidents related to human rights violations, to conduct inquiries aimed at identifying the causes of such incidents, and to gather information and facts that help assess the impacts of those violations. Therefore, while preparing the work plan, priority should be given to documenting the experiences, testimonies, and accounts of victims and witnesses; collecting records of studies, research, complaints, or cases under consideration in any institution or court concerning incidents of violations; conducting exhumations; adopting various methods of forensic testing; organizing public hearings to ascertain the underlying causes of conflict and the behavior of conflicting parties; carrying out thematic research on patterns of violations, reasons for failure to prevent violations, and structural violence and discriminatory practices existing in society; ensuring arrangements for the protection of witnesses and victims; and adopting a gender-sensitive and victim-centered truth-seeking process. Accordingly, the time, human resources, and budget required for these activities should also be included in the work plan.

8.7. Amendments Needed to Align Rules, Directives, and Procedures with the Revised Act

8.7.1. The third amendment to the Act on the Investigation of Enforced Disappearances, Truth and Reconciliation Commission has expanded the Commission's jurisdiction related to truth-seeking by adding Clause (a),

Clause (a1), and Clause (a2) to Sub-section (1) of Section 13. Likewise, the third amendment introduced Section 31A after Section 31, envisioning the establishment within the Commission of separate units for the purpose of truth-seeking: a Truth-seeking and Investigation Unit, a Serious Human Rights Violations Investigation Unit, and a Sexual Violence and Rape Investigation Unit. Through these new provisions, distinct concepts such as truth-seeking, truth investigation, and investigation of serious human rights violations have been incorporated as parts of a broader search for truth. Thus, it is clear that the amendment to the Act aims to pursue truth not only in its judicial dimension but also by encompassing other dimensions.

However, under Chapter 3 of the Rules of the Commission on the Investigation of Enforced Disappearances, 2015, and the Rules of the Truth and Reconciliation Commission, 2015, provisions related to complaint investigation are set out: Rule 10 provides for preliminary investigation, and Rule 11 provides for detailed investigation, with arrangements for appointing an investigating officer who is responsible for carrying out all necessary procedures related to truth-seeking. While these provisions may assist in establishing legal truth, they appear unable to address other dimensions of truth. Therefore, it is necessary to align the provisions under Chapter 3 of both sets of Rules with the third amendment. For this purpose, it is recommended that the provisions listed in the Rules be amended and revised accordingly.

8.7.1.1 In both Commissions' Rules, the term "preliminary investigation" should be replaced with the terminology "investigation and truth-seeking," and the term "detailed investigation" should be replaced with the terminology "investigation of incidents related to serious human rights violations."

8.7.1.2 In Rule 2 of the Rules of both Commissions, the terms "investigation," "truth-seeking," and "inquiry" should be separately defined, with their meaning and implications clearly specified.

8.7.1.3 Under truth-seeking, add provisions for factcollection and the documentation of statement taking from victims, informants, complainants, and stakeholders.

8.7.1.4 In Rule 11 of the Rules of both Commissions, the terminology “detailed investigation” should be replaced with “investigation of incidents related to serious human rights violations,” and this should be limited only to cases that cannot be granted amnesty and must be prosecuted.

8.7.1.5 In places where provisions for conducting truth investigations have been added, tools and methodology related to truth-seeking should also be incorporated.

8.7.1.6 In Rule 2 (a) of the Rules, the definition of “investigating officer” states: “It shall refer to the investigating officer appointed to conduct the investigation, and the term shall also denote subcommittees or task forces formed by the Commission for the purpose of investigation.” However, this definition does not appear to cover statement takers assigned by the Commission during truth-seeking to collect statements from witnesses, victims, or informants. Therefore, the definition should be expanded to include such persons, and the Rules should be amended accordingly.

8.7.1.7 In Rules 5, 7, and 9 of the Regulations, after the word “complaint,” the words “information or details” should be inserted.

8.7.1.8 By amending Rule 37 of the Rules of the Commission on the Investigation of Enforced Disappearances and Rule 41 of the Rules of the Truth and Reconciliation Commission, provisions related to public hearings should be arranged as specified below.

- To organize hearings properly and avoid possible tension, arrangements should be made so that during the hearing, any questions or comments are directed only toward the panel, not toward other participants.
- Hearings should be divided into two parts: case-specific hearings and institutional hearings. Under case-specific hearings, individuals who have suffered serious human rights violations should be given the opportunity to share their experiences, while institutional hearings should provide for the review of the roles of relevant institutions. For incidents related to gender-based violence, provisions should be made to ensure confidentiality and a safe environment, and victims and witnesses should be allowed to share their experiences in their mother tongue.

8.7.2. After Section 31 of the Act, the third amendment added Section 31A, which makes provisions for establishing within the Commission various separate units such as the Truth-seeking and Investigation Unit, the Reparation Unit, the Serious Human Rights Violations Investigation Unit, the Sexual Violence and Rape Investigation Unit, and the Victim Coordination Unit. The Act also stipulates that the work, duties, and mandates of these units shall be as determined. Therefore, the Rules must define the work, duties, and mandates of these units. In addition to the mandate provided in the Act, it appears desirable that the Truth-seeking and Investigation Unit be entrusted with the following tasks.

8.7.2.1. To investigate, seek the truth, and document incidents of human rights violations and serious human rights violations.

8.7.2.2. Analyze the patterns, nature, and gravity of violations and the actions of conflict parties.

8.7.2.3 Organize public hearings to establish truth on violations and serious violations.

8.7.2.4 Review all government reports submitted to date on conflict-era violations, and cross-check with victim/witness/informant accounts.

8.7.2.5 Identify underlying causes of conflict and violations and conduct studies/inquiries to recommend policy, legal, and institutional reforms that ensure non-recurrence.

8.7.3 Because the third amendment adds Section 13(6a) and (6b) (a one-time, three-month additional window for filing complaints), the Rules must set the process and requirements to implement this timeline.

8.7.4 Amend the coordination provision in Rule 12 to explicitly include local governments and provincial authorities.

8.7.5 To make truth-seeking gender-responsive, amend Rule 14(b) by removing “where available, a woman staff member” and instead require that interviews with victims of sexual violence must be conducted by women staff (with trauma-informed practice).

8.7.6 Amend Rule 15(3) to add “local government”, and require that when establishing outposts, the Commission coordinates with District Coordination Committees for effectiveness.

8.7.7 Merge Rules 23 and 24 to create a unified provision enabling provincial offices and district-level outposts.

8.7.8 Amend Rules 27 and 28 to add the phrase “other than serious human rights violations” (to delineate jurisdiction for amnesty/reconciliation vs. prosecution tracks).

8.7.9 Expand the reconciliation provision in Rule 28 to reflect the latest Section 26 of the Act (as amended).

8.7.10 In Rule 29, add the phrase “in cases of serious human rights violations, ineligible for amnesty, or where reconciliation is not possible.”

8.7.11 After “complaint” across Rule 30 and elsewhere, add “information or informant”.

8.7.12 Amend Rule 30(3) to add: “Where necessary for protection, the Commission may arrange for the identity or location change of such persons.”

8.7.13 Amend Rule 32 to remove the NPR 300,000 cap on compensation.

8.7.14 Align Rule 35 (amnesty) with the latest Section 26 of the Act.

8.7.15 Where the Act provides for provincial/district/local offices or mechanisms, add corresponding procedural provisions in the Rules.

8.7.16 Because earlier outposts embedded in High Government Attorney Offices under associate attorneys proved ineffective, add alternative arrangements for field presence/access.

8.7.17 Provide for mobilizing non-staff experts (forensics, data, mediation, psychosocial, gender, language) since staff alone are insufficient for truth-seeking and inquiry.

8.7.18 Allow accused persons to be interviewed contemporaneously with victims/witnesses (rather than only later at Commission appearance), to make proceedings more practical and effective.

8.7.19 Require review of reports already prepared by various bodies on selected conflict-era violations.

8.7.20 Mandate analysis of collected statements and reports to determine truth.

8.7.21 Provide that violations may be concluded via reconciliation (Section 22) or amnesty (Section 26) where appropriate.

8.7.22 Establish a Prosecution Unit (under Section 29) for cases where reconciliation or amnesty is not recommended and for serious human rights violations—to form task teams, investigate, report, and recommend referral to the Attorney General where prosecution is warranted.

8.7.23 Make training mandatory for all staff/contractors involved in statement-taking; issue a Statement-Taking Procedure, and disqualify untrained personnel from such work.

8.7.24 State that activities will be conducted orderly and effectively by adopting and implementing a work plan (cf. “carry out functions in an orderly and effective manner”).

8.7.25 Before formally commencing statement collection, conduct public awareness on the Commission’s truth-seeking functions and methods.