

Training on Transitional Justice

2011

This report summarises the presentations given and discussions held during the Transitional Justice Training programme facilitated by **World Vision Advocacy Forum** in close coordination with the United Nations Office of the High Commissioner for Human Rights in Nepal and the Ministry of Peace and Reconstruction. The training took place from 30 November to 3 December 2011 at Dhulikhel Lodge Resort, Dhulikhel in Kavrepalanchowk district, Nepal.

Contents

1. Introduction	4
2. Opening Ceremony	5
3. Day I: Session I: Nepal: The Truth and Reconciliation Commission and the Disappearances (Crime and Punishment) Draft Bills: Analysis of the Bills From a Human Rights Perspective. Presentation by Mr Govinda Sharma “Bandi”	5
4. Day I: Session II: History and Overview of Elements of Transitional Justice. Presentation by Mr Rabin Subedi, Advocate, Chakrabati Law College	6
5. Day I: Session III: Truth Seeking: The Emergence of a ‘Right to Know’ Culture; The Truth Commissions and Commissions of Inquiry in Post-Conflict Settings. Presentation by Mr Carlos Fernandez Torne, OHCHR-Nepal	7
6. Day I: Session IV: Nepal: Practicalities and Challenges for the Establishment of a Truth and Reconciliation Commission (TRC) and Commission of Inquiry on Disappearances (COI-D). Presentation by Mr Carlos Fernandez Torne, OHCHR-Nepal	8
7. Day II: Session I: Transitional Justice: Amnesty or Accountability? Presentation by Mr Dinesh Tripathi, Vice-Chair of WVAF	10
8. Day II: Session II: Witness Management: Approaches, Protective Measures and Witness Protection Programmes. Presentation by Ms Ranjana Thapa, OHCHR-Nepal	11
9. Day II: Session III: Replacing a Culture of Impunity With a Culture of Accountability and Rule of Law: Opportunities, Challenges and a Way Forward. Presentation by Ms Ranjana Thapa, OHCHR-Nepal	12
10. Day II: Session IV: Victims’ Satisfaction. Presentation by Ms Sudha Uprety, OHCHR-Nepal	13
11. Day II: Session V: Prospects of Transitional Justice: Guarantees of Non-Repetition, Vetting and Dismissals, Institutional Reform. Presentation by Mr Gopal Krishna Siwakoti PhD, INHURED International	14
12. Day III: Session I: Gender and Transitional Justice. Presentation by Ms Reshma Thapa, ICTJ	15
13. Day III: Session II: Government Efforts to Establish a Transitional Justice Mechanism: The Role of Government Agencies in the National Context. Presentation by Mr Sadhu Ram Sapkota, Joint Secretary, MoPR	17

14. Day III: Session III: The Role of Civil Society in Strengthening Transitional Justice Processes. Presentation by Mr Sadhu Ram Sapkota, Joint Secretary, MoPR	19
15. Closing Ceremony	19

Appendices

I.	Workshop Outline
II.	Participants' Names and Organisations
III.	Handouts for Session 1 – Nepal: The Truth and Reconciliation Commission and the Disappearances (Crime and Punishment) Draft Bills: Analysis of the Bills From a Human Rights Perspective
IV.	Handouts for Session 2 – History and Overview of Elements of Transitional Justice
V.	Handouts for Session 3 – Truth Seeking: The Emergence of a 'Right to Know' Culture; The Truth Commissions and Commissions of Inquiry in Post-Conflict Settings
VI.	Handouts for Session 4 – Nepal: Practicalities and Challenges for the Establishment of a Truth and Reconciliation Commission (TRC) and Commission of Inquiry on Disappearances (COI-D)
VII.	Handouts for Session 5 – Transitional Justice: Amnesty or Accountability?
VIII.	Handouts for Session 6 – Witness Management: Approaches, Protective Measures and Witness Protection Programmes
IX.	Handouts for Session 7 – Replacing a Culture of Impunity With a Culture of Accountability and Rule of Law: Opportunities, Challenges and a Way Forward
X.	Handouts for Session 8 – Victims' Satisfaction. Presentation by Ms Sudha Uprety, OHCHR-Nepal
XI.	Handouts for Session 9 – Prospects of Transitional Justice: Guarantees of Non-Repetition, Vetting and Dismissals, Institutional Reform
XII.	Handouts for Session 10 – Victims' Satisfaction
XIII.	Handouts for Session 11 – Government Efforts to Establish a Transitional Justice Mechanism: The Role of Government Agencies in the National Context
XIV.	Handouts for Session 12 – The Role of Civil Society in Strengthening Transitional Justice Processes

Training on Transitional Justice

Training Report

Introduction

This report summarises the presentations given and discussions held during the Transitional Justice Training programme facilitated by World Vision Advocacy Forum Nepal in close coordination with the United Nations Office of the High Commissioner for Human Rights in Nepal and the Ministry of Peace and Reconstruction. The training took place from 30 November to 3 December 2011 at Dhulikhel Lodge Resort, Dhulikhel in Kavrepalanchowk district, Nepal.

The overall objective of the training was to strengthen the understanding of participants in the transitional justice system.

The specific objectives of the training were to:

- a. prepare practitioners – such as senior staff and board members of CSOs, conflict victims and academics – in peace-building and transitional justice initiatives;
- b. enhance knowledge, understanding and skills on transitional justice, access to justice, the human rights situation in Nepal, peace building initiatives, and justice for conflict victims; and
- c. equip participants with the required knowledge to conceive, implement and engage with transitional justice policies and programmes which interact with peace-building strategies.

Resource persons / trainers were as follows:

- Mr Govinda Sharma “Bandi”
- Mr Rabin Subedi, Advocate for Chakrabati Law College
- Mr Carlos Fernandez Torne, OHCHR-Nepal
- Mr Dinesh Tripathi, Vice-Chair of WVAF
- Ms Ranjana Thapa, OHCHR-Nepal
- Ms Sudha Uprety, OHCHR-Nepal
- Mr Gopal Krishna Siwakoti PhD, INHURED International
- Ms Reshma Thapa, ICTJ
- Mr Sadhu Ram Sapkota, Joint Secretary, MoPR

Participants included senior staff and board members of CSOs, conflict victims and academics who wished to expand their knowledge in the interrelated fields of peace-building and transitional justice. The rapporteur was Mr Martin Punaks, with translation from Sita Gautam.

For more information about the rationale and format of the training, see Appendix I. For information about the participants, see Appendix II.

Acronyms

COI-D	Commission of Inquiry on Disappearances
CPA	Comprehensive Peace Agreement
GoN	Government of Nepal
CS	Civil Society

MoPR	Ministry of Peace and Reconstruction
NHRC	National Human Rights Commission
OHCHR-Nepal	Office of the High Commissioner for Human Rights, Nepal
TJ	Transitional Justice
TJRC	Transitional Justice Resource Centre
TRC	Truth and Reconciliation Committee
WVAF	World Vision Advocacy Forum

Opening Ceremony

Facilitated by Sita Gautam, WVAF; Nava Raj Adhikari, WVAF; and Dinesh Tripathi, WVAF

Ms Gautam, the Capacity Building and Training Officer at WVAF, welcomed the participants and invited them to briefly introduce themselves.

Mr Adhikari, the Executive Director of WVAF, gave a short introduction to the workshop and the themes which would be covered. He explained that the TJRC had been established to assist Nepal in meeting its commitments towards TJ for the victims of the conflict. This has happened in the context of the CPA in 2006 and GoN's decision to establish a TRC and COI-D. The TJRC has been supported by the United Nations Peace Building Fund and the OHCHR-Nepal.

Mr Tripathi gave a welcoming speech as Vice-Chair of WVAF. He argued that it is important to be victim-centred during this period of post-conflict transition in Nepal, and consider the trauma that victims have suffered. He argued for the need for the right to truth, reparations for victims, and legal reforms to prevent a repeat of the crimes committed. There needs to be accountability for those who committed crimes during the conflict. We must overcome the system of impunity in Nepal and seek justice for those who have been victims of crimes.

Day I: Session I: Nepal: The Truth and Reconciliation Commission and the Disappearances (Crime and Punishment) Draft Bills: Analysis of the Bills From a Human Rights Perspective

Presentation by Mr Govinda Sharma "Bandi"

Mr Sharma began the session by asking participants what they understood by TJ. He talked about the need to learn from the example of other countries that have undergone conflict and later moved into a period of TJ. TJ is about finding ways to give justice to the victims of conflict.

Mr Sharma explained that most confusion in relation to TJ is between three related terms – 'justice', 'justice in transition' and 'transitional justice' – all of these have different meanings which he briefly discussed. An important element in ending any conflict is to provide justice to the victims, because it is only through justice that a further cycle of conflict can be prevented. TJ however is slightly different from a general concept of justice. A general concept of justice is based on decisions of the courts, whereas TJ has a wider remit to ensure that victims believe and feel that justice has been dealt with fairly and completely, so

that a cycle of conflict does not begin again. Formal standards of TJ need to be kept to ensure this happens.

TJ justice is often guided by cultural values of the society in which it is being implemented. Whilst one part of TJ is a formal legal process, another aspect is less formal and is concerned with investigation and debate about the crimes which occurred against victims and how to move forward from this point towards a fully democratic and peaceful society. Leading this process will be the role of the TRC. The TRC will be a political body and not a judicial one, because investigating the 'truth' is not a judicial process in this instance. The TRC will inform the judicial process including making recommendations for prosecutions and reparations. In the draft TRC bill there are some quasi-judicial elements, but Mr Sharma stated that he personally did not believe that these were sensible because they confuse the role of the TRC with the judicial system. It is the role of the Supreme Court to establish guilt and prosecute, and not the role of the TRC. He also argued that it was good that certain grave crimes – such as rape, murder in custody and disappearances – will not be granted amnesty. Overall he argued that the draft TRC Bill has been well drafted, but the real question which is yet to be answered is how the TRC will be implemented.

Day I: Session II: History and Overview of Elements of Transitional Justice Presentation by Mr Rabin Subedi, Advocate, Chakrabati Law College

Mr Subedi explained that TJ is different from regular justice. TJ works hand in hand with political reconstruction, although this requires compromises in justice to ensure political reconstruction. Mr Subedi explained that this would be the subject of his debate. Some participants agreed that compromises have to be made to ensure political reconstruction, whereas others felt that complete justice is a necessary precondition for political reconstruction and development. However, concern was shown that the political parties are currently failing to enact effective political reconstruction, and there was a belief that the need for reconciliation and TJ can also be used as an excuse for the failure to move forward the political reconstruction agenda. In this context, the two issues of TJ and political reconstruction can be used to undermine each other.

Mr Subedi asked participants about the conflict between the concepts of 'amnesty' verses 'prosecution of perpetrators'. One participant expressed the view that until there is accurate data regarding crimes committed during the conflict it is hard to determine how to move forward in this debate. Mr Subedi agreed that the lack of data about victims is a considerable problem and better investigation of conflict-related crimes is still required.

Mr Subedi then talked about criminal justice and transitional justice, and argued that regular criminal justice is not effective in dealing with the issues of a post-conflict society, and therefore both are needed. Although he admitted that this is a highly debated issue amongst legal experts.

In criminal justice we just punish the offenders; it is criminal oriented justice. Whereas TJ is about understanding the context, circumstances and consequences of crimes; it is victim-oriented justice.

Mr Subedi explained the concept of TJ as being about: addressing past gross human rights violations to move towards reconciliation and sustainable peace; restoring social belief, trust

and social life; strengthening democracy, rule of law and individual rights; and building confidence in punishing those who were involved in atrocities during conflicts. This is much more than what would happen in criminal justice. He argued that promoting victims' justice, compensation and reconciliation after conflict are challenging issues and can be difficult to achieve. However, it is very important to ensure TJ, otherwise the lack of justice can cause social unrest and damage the potential to rebuild peace and a well-functioning state.

Mr Subedi talked about the historical background to TJ which can be traced back as far as Greece in the 4th century BC, although it developed much further after the French Revolution in the early 19th century. He also discussed TJ in: Europe following World War II (Nuremberg Trials); in Greece and Latin American in the 1970s and 1980s following military dictatorships; and in South Africa following the end of apartheid. He explained how TJ has moved from a militaristic approach to civilian approach. However, whilst it is useful to understand the past, he emphasized focussing on the present, and in the context of Nepal, we have to develop TJ systems which meet the needs of our post-conflict situation today.

He then discussed different elements of TJ. TRCs can be military or non-military and can be considered judicial bodies. Other important elements include criminal proceedings, reparations, vetting, reconciliation measures and institutional reforms. Reparations may include compensation, commitments not to repeat such crimes, and measures to improve the psychological wellbeing of victims. Vetting is concerned with prosecuted perpetrators being prevented from taking positions of responsibility in the future. Reconciliation measures may include reintegration into society of accused perpetrators. Institutional reforms are a vital element of TJ and are to do with re-establishing the rule of law.

Mr Subedi then discussed the current mechanisms for TJ in Nepal. These include legal mechanisms (Interim constitution, CPA, TRC and COI-D) and institutional mechanisms (courts, NHRC and MoPR). One of the problems at the moment in Nepal is that it is not clear in law what is considered an 'individual crime' and what is a 'political crime', ie, whether it is the individual or armed group of which they are a member which is responsible for the crime.

Day I: Session III: Truth Seeking: The Emergence of a 'Right to Know' Culture; The Truth Commissions and Commissions of Inquiry in Post-Conflict Settings Presentation by Mr Carlos Fernandez Torne, OHCHR-Nepal

Mr Torne explained that his session was to do with 'why the truth matters' and the practical elements of what truth is and how it can be found out. Participants shared their views on why truth matters. Truth matters to victims and families; it assists in the healing process and brings closure to suffering; it helps to restore dignity; it resolves practical problems such as land rights and inheritance; it stands as a safeguard against impunity; it helps us understand the causes of conflict and prevents future conflict; it facilitates rehabilitation and reconciliation; and it is necessary for transparency, accountability and humane governance. Mr Torne gave examples to illustrate these reasons.

Mr Torne explained the origins of 'the right to truth'. It can be traced back to International Humanitarian Law and the Geneva Protocol. The International Committee of the Red Cross (ICRC) claim that the right to truth is norm of customary international law. The disappearances that occurred in Latin America in the 1970s and 'the right to truth' became

the object of increasing attention from international and regional human rights bodies. He talked about the role of the Mothers of Plaza de Mayo in Argentina in the 1970s and 1980s and how 'the right to truth' is closely connected to disappearances, but how it has increasingly also become connected to killings and torture.

'The right to truth' is an emerging principle of international law. It obliges states to provide information to victims, families and society about human rights violations. It requires the state to preserve information for public memory. 'Knowing the truth' includes knowing: the identity of the perpetrators; the circumstances and facts related to the violations; the progress and results of investigations; the fate and whereabouts of victims; and the causes which led to the abuses. He strongly emphasized the need to investigate why particular circumstances may have happened – for example exploring whether caste-based discrimination played a part in Nepal's conflict – so that abuses can be prevented from happening again. This is a key part of 'knowing the truth'

'The right to truth' applies to enforced disappearances and other human rights violations. Furthermore, the right is inalienable and autonomous; everyone has the right and it does not depend on particular circumstances. Irrespective of legal proceedings, the victims and their families still have the right to know the truth. Furthermore, 'the right to truth' is linked to the right to a remedy, including effective investigation and reparation. 'The right to truth' is not subject to limitations, so even if an individual is granted amnesty, this does not impair the victims and their families' rights to access the truth. 'The right to truth' also applies to society and groups in society, and the state has a duty to preserve archives and records so that this can happen.

Mr Torne discussed issues related to how truth can be pursued through criminal justice and truth seeking measures. Truth seeking measures can be very powerful, for example he quoted recent events in Bahrain with the resignation of the President. He explained that it is not always possible to hold criminal trials and they do not always satisfy the victims' right to truth. However, the state is obliged to provide the truth regardless of whether trials take place or not. Non-judicial steps to expose the truth include truth commissions, exhumations and searches for missing persons, freedom of information laws, freedom of expression and expressions of remembrance such as memorials and museums and other symbolic reparations.

Mr Torne briefly discussed how the Inter-American Court on Human Rights has been very important in upholding the right to truth to victims, as well as other international laws and policies. He finished by stressing that the International Convention for the Protection of All Persons from Enforced Disappearances is the first treaty to make the right to truth enforceable, and is therefore very important.

Day I: Session IV: Nepal: Practicalities and Challenges for the Establishment of a Truth and Reconciliation Commission (TRC) and Commission of Inquiry on Disappearances (COI-D)
Presentation by Mr Carlos Fernandez Torne, OHCHR-Nepal

Mr Torne explained how the possibility of establishing two commissions at the same time is a real challenge for Nepal. He explained that he could only talk about the functions of the commissions based only on the draft Bills which have currently been tabled by Parliament.

The function of the COI-D is based on Act 15 of the Disappearances (Crime and Punishment) Act, 2066, which provides for the COI-D to: establish the truth by conducting investigations into disappeared persons; to determine persons found to be guilty in an act of disappearance; and to make recommendations with regard to reparations to be provided to the disappeared person or his or her family.

The function of the TRC is based on Art 3 of the TRC bill which provides for the Commission to: investigate the truth of incidents of serious violation of human rights, and about the persons involved in these incidents during the course of armed conflict; to create a conducive environment for reconciliation in society; and to recommend reparations for the victims.

Mr Torne explained that it could be dangerous for Nepal to establish two commissions simultaneously. He considered how the two commissions will relate to each other. For example, the TRC bill states that the TRC will not look into any matters already being looked into by the COI-D, but the two commissions can exchange information. Meanwhile the COI-D bill says nothing about the TRC, other than stating that once the COI-D has been established, no other commission can look into disappearances.

Mr Torne considered what will happen once the Bills have been passed. He explained that the Bills do not explain how the recommendation committees will appoint members of the commissions. In other countries good practice shows that it would be beneficial to have a consultative process ensuring a fair balance in the representation of ethnic groups, gender and political views.

Mr Torne considered what will happen once the commissioners have been appointed. He considered the typical operational phases of a commission. During the preparatory phase the following will need to be carried out: adopt a work plan; administrative and financial issues such as raising funds and budgeting; undertaking preliminary background research, including collecting existing documentation; and designing a methodology such as installing a database, designing an outreach campaign and establishing a witness protection program. With regards the Commission Bills, they discuss the following issues in the preparatory stage: personnel, resources and materials, and the protection of witnesses and other persons. The Bills don't explain when these things will happen. The TRC and COI-D will have to be coordinated during these preparatory phases to share information and resources etc. There is a danger that they could end up in competition.

During the operational phase the Commissions will need to: take statements from victims, enter data into the database, conduct research and investigation, hold public hearings, provide public outreach and communications, and write a report and make recommendations. The task of taking statements from victims, witnesses and perpetrators was discussed, paying particular attention to how this should work in practice. The importance of entering data into databases was also discussed as this will allow for analysis of information and conclusions reached into the number of victims and other data and trends. Similarly, the practicalities of investigation methods and research methods were

discussed. Public hearings will be a key part of the commissions' role as they provide a chance for victims and survivors to tell their story, and for their suffering to be acknowledged. Finally, public outreach will be an important part of both commissions, explaining their roles. This will happen through the media, civil society, IEC materials etc.

The report and recommendations of the commissions will recommend the need for further investigation, actions against those who are guilty (but the commissions will *not* prosecute), legal and legislative reforms, reparations for victims, and follow up measures. Mr Torne made the point that the commissions will only provide general information on the trends and overall estimates of victims of the conflict, with perhaps a few detailed case studies. It will not provide detailed information on what happened in each and every case. This can be disappointing for victims. In the final phase, the TRC and COI-D will need to coordinate to present unified statements and support each other's recommendations for action. This is very important to avoid contradictions or the risk of undermining each other. Mr Torne also briefly discussed the closure phase and the final report, which needs to be made available in accessible formats.

Day II: Session I: Transitional Justice: Amnesty or Accountability?

Presentation by Mr Dinesh Tripathi, Vice-Chair of WVAF

Mr Tripathi explained that there has been a long running debate about peace and justice, and whether one is possible without the other. He argued that we do need justice and accountability to achieve peace. He explained the Nepali courts have agreed not to investigate certain cases of abuse during the conflict and have stated that this will be the role of the TRC when it is established. But the question is whether the TRC can suspend the regular justice system. These are difficult questions to answer.

He defined TJ as a range of approaches that states use to address past human rights violations, and this includes judicial and non-judicial approaches. He explained some of the expectations and obligations which states must fulfil through TJ. He discussed whether states have the right to grant amnesty. He explained that Nepal is party of all four Geneva Conventions, and Article 3 is common amongst all these Conventions which concerns unlawful killing, torture cruel treatment etc in the case of war. Mr Tripathi believes that if a country does not abide by the Geneva Convention then it leads towards it becoming a failed state. Regardless of whether a country has ratified the Geneva Convention it should follow international law because otherwise it will lose its reputation and potential for support and assistance from other countries in a globalised world. Nepal did however break the Geneva Convention during the conflict, and due to a lack of political will this has not been properly addressed until now, both within Nepal and by the international community.

Mr Tripathi also discussed several other conventions and international laws:

- He explained that the Genocide Conventions and the Torture Conventions are binding on all states.
- He discussed the International Convention on Civil and Political Rights (ICCPR) and how Nepal has not taken the issues of torture seriously, even though the ICCPR forbids this under any circumstances.
- He discussed UN principles relevant to accountability and impunity in post-conflict situations, and how this forbids amnesty in cases of war crimes including torture.

Day II: Session II: Witness Management: Approaches, Protective Measures and Witness Protection Programmes

Presentation by Ms Ranjana Thapa, OHCHR-Nepal

Ms Thapa explained why witness protection is a necessary part of the TJ process. Where crimes have been committed and people have witnessed them, we need them to provide evidence in the pursuit of truth, and therefore it is essential that people are protected in order to provide this evidence. However, witness protection is just one part of witness management.

Ms Thapa talked about the moral and legal obligation for witnesses to provide information. There are two categories of witnesses: (i) fact witnesses and experts; and (ii) victims, vulnerable witnesses such as children, women and traumatised witnesses. All witnesses face dangers because of their cooperation. She discussed some of the international legal foundations for witness protection, such as the ICCPR, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power etc. In practice it is normally the role of security forces and police to protect victims, but in TJ settings often they are involved which makes this difficult. She described some of the principles for protecting witnesses, such as confidentiality, keeping them fully informed, handling information appropriately and considering their needs. Other aspects of witness management includes psycho social support, protective measures and ensuring safe and secure contact with witnesses. Some cases need to be handled particularly sensitively, such as women who have been raped.

The safety of witnesses is the responsibility of the investigators until formal hearings begin (operational protective measures) and from then on protective measures are subject to an order from the Commissioners (procedural protective measures). The focus of protection is on protecting the identity of people who have spoken to the Commission, ensuring that it is not widely known that they have been spoken to. This is especially important with victims of sexual violence. Ms Thapa went on to discuss security measures such as the importance of secure premises, information security, vetting of staff and use of safe houses and refuges. Similarly she discussed welfare support mechanisms for victims before, during and after contact, such as providing childcare facilities for mothers during interviews, or income support for loss of income during interview periods etc. Measures to protect witnesses can include law enforcement mechanisms, self protection (not talking to others about what you have said), and requesting protection from higher-level authorities if lower-level authorities are suspected of being complicit with perpetrators (target hardening).

Ms Thapa moved on to discuss the hearing phase. During this period, witnesses face fresh fears of having to face their accused, and thus they need additional protection and psychological support. There are a number of ways that witness' identities can be protected such as preventing face-to-face contact with defendants and limiting psychological stress. She also briefly discussed witness protection issues after hearings. Overall Ms Thapa stated that witness protection is a very complex and expensive task, and in some cases it is not always possible to provide everything that is ideally needed. A brief discussion was held about long-term protective support for victims in Nepal; Mrs Thapa said that she thought that after the dissolution of the TRC then responsibility for the protection of victims would probably be passed over to the NCHR.

Ms Thapa explained how the Interim Constitution carries some obligations for the state to protect victims under its indirect references to rights. However, there is generally an absence of a legal framework in Nepal to address issues of witness and victim protection. The law in Nepal is still punitive in its approach rather than persuasive, ie, threatening to punish witnesses for not testifying, rather than persuading them to testify. She briefly discussed several other laws in Nepal which provide some protection for witnesses, as well as the role of the NCHR. She also briefly discussed some proposed TJ laws, including the draft TRC and COI-D Bills, however, these bills do not spell out provisions to protect victims and witnesses. A short discussion was also held on the right to privacy of the accused perpetrators; Ms Thapa agreed that they should have the right to privacy prior to conviction, but if convicted, then they lose this right.

Day II: Session III: Replacing a Culture of Impunity With a Culture of Accountability and Rule of Law: Opportunities, Challenges and a Way Forward
Presentation by Ms Ranjana Thapa, OHCHR-Nepal

Ms Thapa explained that this session was about how impunity can be replaced by accountability and the rule of law. There was a brief discussion about what ‘impunity’ means. She explained that impunity means “impossibility, *de jure* or *de facto*, of bringing the perpetrators of violations to account”. This applies to criminal, civil, administrative or disciplinary proceedings. She went on to explain that accountability is about “holding individuals and organizations responsible (criminal as well as non-criminal) for their acts that violated human rights”. Accountability is important because it gives the victims the right to effective remedy through truth, justice and reparations.

Ms Thapa explained that it is the responsibility of the state to combat impunity through investigations into violations, prosecutions, remedies for victims, enforcing the right to know the truth and steps to prevent a recurrence of violations. In Nepal, however, thorough investigations have not yet happened. Whilst the state in Nepal has addressed criminal investigations, it has so far fallen to international agencies such as OHCHR to investigate crimes against humanity. She explained how prosecution initiatives are legal processes to hold criminally accountable those who have committed past abuses, and they involve investigation, prosecution, punishment of individuals for serious crimes under national and international law. Prosecution cases are indispensable to fulfil the obligations of the state, deter future crimes, satisfy demand of victims for justice, channel a desire for retribution, strengthen the culture and rule of law, avoid politicization of crime and promote societal values supporting human rights and accountability.

Ms Thapa went on to discuss issues of combating impunity in Nepal at the present time. She stated that human rights abuses and crimes in Nepal have become politicized, and political interference in crime is commonplace. At present there is a culture of impunity in Nepal. However, Ms Thapa said that Nepal has many opportunities to change this due to: having a strong and vibrant civil society; the evolving TJ process (TRC and COI-D); the ongoing constitution making process; ongoing legal reform (draft criminal and civil codes); a powerful judiciary and scope for judicial activism; national and international human rights protection mechanisms; and support from the international community, including a strong UN presence. However, there are still gaps and challenges such as: the unclear relationship between criminal justice and transitional justice; case withdrawals of human rights cases; a

culture of pardoning alleged abusers; the non-criminalization of gross violations; the politicization of crime and the criminalization of politics; the need for international human rights standards to be domesticated; the lack of capacity of law institutions; a divided civil society; the gap between political commitment and reality; the problem of military justice potentially becoming a 'way out' of transitional justice; the dangers of mob justice; questions over how to protect Human Rights Defenders; witness and victims' protection; and the implementation of judicial decisions.

The participants discussed the difficult issues of political interference in justice in Nepal, as well as the lack of capacity and skills by law enforcement agencies to fulfil their roles. A view was expressed by a number of participants that civil society and the media can at times inappropriately damage the image of law enforcement agencies through their public criticism of their failure to prosecute alleged criminals, when in fact, in reality, law enforcement agencies are being unlawfully influenced by political parties. Differing views were expressed regarding the degree to which individuals working within law enforcement agencies can remain accountable to their positions and resist political interference.

Ms Thapa highlighted some of the possible ways forward. These included: the passage of the proper TJ framework and mechanisms consistent with international standards; judicial interpretation which promotes the right of the victim to truth, justice and reparations; capacity building for legal professionals; a constitutional and legislative framework promoting accountability and the rule of law; and the speedy adoption of a witness and victim protection program as a matter of urgency.

A final brief discussion was held around the potential threat of 'fake witnesses' which may be professionally hired by government agencies or other interest groups to distort the truth.

Day II: Session IV: Victims' Satisfaction

Presentation by Ms Sudha Uprety, OHCHR-Nepal

Ms Uprety explained that there are four pillars of TJ: (i) truth seeking; (ii) prosecution; (iii) reparations; and (iv) institutional reform. The term 'victims' satisfaction' is an important aspect of the wider area of reparations. Other aspects of reparations include: restitution, ie, taking victims back to the same position they were in before the abuses occurred, so far as possible; financial compensation; and rehabilitation, including legal assistance, medical support and citizens' facilities such as ration cards. There are no specific laws in Nepal at present regarding reparations and victims' satisfaction. However under the UN Basic Principles and Guidelines for Victims of Gross Violations of International Humanitarian Law (2005), 'victims' satisfaction' broadly ranges from measures aiming at a cessation of violations, to truth seeking, to the search for those disappeared, to the recovery and reburial of remains, to public apologies, to judicial and administrative sanctions, to commemoration and memorialisation and human rights training. As Nepal is a signatory to these Guidelines then these should apply in Nepal.

Victims satisfaction should include: (i) effective measures aimed at the cessation of continuing violations; (ii) verification of the facts and full public disclosure of the truth (to the extent that such disclosure does not cause further harm); (iii) the search for the whereabouts of the disappeared for the identities of the children abducted, and for the bodies of those

killed, and assistance in the recovery, identification and reburial of the bodies in accordance with the expressed or presumed wish of the victims, or the cultural practices of the families and communities; (iv) an official declaration or judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected to the victim; (v) a public apology, including an acknowledgement of the facts and acceptance of responsibility; (vi) judicial and administrative sanctions against persons liable for the violations; (vii) commemorations and tributes to the victims; and (viii) inclusion of an accurate account of the violations that occurred in international human rights law and international humanitarian law, as well as training and educational materials at all levels. A discussion took place about the role of governments in giving public apologies. Ms Uprety explained that the government in power in the present time is responsible for giving public pardons for past abuses, regardless of whether they were the government in power at the time of the abuses. The government is required to provide a public apology on behalf of the state. A discussion also took place around symbolic reparations through apologies and memorials of past wrongs on behalf of the state. Ms Uprety emphasised the significance of these in so far as monetary reparations are limited in terms of how far they restore victim's *status quo ante*. She gave the example of how the Government of Nepal has converted a community forest into a Peace Park. She also emphasised the importance of a gender component in symbolic reparations and gave the example of Ghana where the President specifically apologised to women and a monument was erected in honour of women. A detailed discussion then ensued about the practicalities of providing reparations to rape victims and the need for special provisions for women, as well as their husbands and children, to recover from such abuses. Ms Uprety explained that Nepal's Interim Relief Programme does not cover support packages for torture or rape victims.

Day II: Session V: Prospects of Transitional Justice: Guarantees of Non-Repetition, Vetting and Dismissals, Institutional Reform

Presentation by Mr Gopal Krishna Siwakoti PhD, INHURED International

Mr Siwakoti explained how gross human rights violations often occur in situations where a society is in transition. In post-conflict situations questions arise around how society can move forward from gross violations which have occurred. As well as raising difficult moral and legal questions about how to achieve this, it also raises economic questions about the costs of addressing these issues. However, society simply cannot move forward without addressing past violations. In some contexts political leaders have taken a middle ground of only partly addressing these issues, however, Mr Siwakoti argued that this is not sufficient. There has to be institutional reform to achieve full and complete TJ.

The mechanisms which will support Nepal to move forward include international human rights and humanitarian law, the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights and Serious Violations of International Human Rights, the Updated Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Poverty, and domestic instruments such as the Interim Constitution, CPA, and TJ mechanisms. It is important to recognise that these include both international and domestic mechanisms. This means that if the Nepali state does not address the past violations, victims can take their cases to an international level and ask for support.

Mr Siwakoti discussed the importance of vetting and dismissals during recruitment to positions of authority, or restructuring. Depending on the seriousness of the violations committed, guilty persons may receive disciplinary action, including demotions, through to dismissal and prosecution. This may involve civil action or legal action. However, the lack of any public display of punishment sends a clear message to the perpetrators that such actions are acceptable. Similarly, the failure to take action against perpetrators risks a further cycle of conflict and violence in the future. Vetting and dismissals therefore rebuild public trust through natural justice; it replaces an 'eye for an eye' approach with the rule of law, ie, warning-caution-suspension-punishment. The rationale for this is understanding (not vengeance), reparation (not retaliation) and kindness and humanity (not victimization); it is important the person made to leave his or her post understands this. It is vital that this process achieves stability and nationhood, whilst also addressing grievances and thereby achieving a required balance. So in practice not every individual guilty of violations should be dismissed, but only the individuals guilty of the most grievous offences; the punishment must be appropriate to the crime, and national stability must prevail.

The danger in Nepal at present is that both warring parties from the conflict are now in power; in essence, the violators are now united whilst the victims are now divided. Therefore there is little will by the warring parties to address their past violations. But it is essential that the truth is revealed, acknowledged and responsibilities accepted; this is the only way to restore dignity to the victims and for society to move forwards towards peace and democracy. A discussion ensued about the nature and compensation awarded towards victims and how financial compensation is only one part of this, full victims' satisfaction is necessary.

Mr Siwakoti discussed the importance of institutional reform to prevent a fresh cycle of violations occurring and promote accountability. Institutional reform involves vetting of personnel; structural reform to promote integrity, legitimacy and accountability; creating publically visible oversight bodies within state institutions to ensure accountability and civilian governance; transforming legal frameworks to ensure protection and promotion of human rights; disarmament, demobilization and reintegration of armed actors; and education and training programmes for public officials and employees on human rights standards.

Mr Siwakoti discussed the consequences for Nepal if the good practices he explained are not followed. Non-confessions and remorse leaves open the likelihood of wrongful acts to be repeated again or the unsatisfying *status quo* continuing. The challenges for Nepal are that these issues are highly sensitive as well as being politically sensational. They are also costly and time-consuming to resolve, and "time is the enemy of justice". In a polarized society such as Nepal there is a deficiency of credibility, courage and conviction in resolving these issues; battle fatigue syndrome is eroding social enthusiasm to move forwards. He argued that the way forward is to acknowledge victims as citizens and rights holders; build trust between all citizens and public institutions; take measures to assist the TJ process including promoting freedom of information, public information campaigns and citizens rights; and undertake verbal or symbolic reform measures such as memorials or public apologies. Ultimately the power of the pen must prevail.

Day III: Session I: Gender and Transitional Justice
Presentation by Ms Reshma Thapa, ICTJ

Ms Thapa explained that her presentation was about how to fill the gap between TJ and gender. She stated the four pillars of TJ: truth seeking, reparations, prosecution and institutional reform. In the context of truth seeking it is vital to see this through the perspective of women and children. She asked: does truth have a gender? Participants expressed the view that truth does not have a gender, but when seeking it, we have to see it through the perspective of gender. Ms Thapa expressed the view that there is so much discrimination against women, especially in rural areas of Nepal, that it is necessary to view truth with gender considerations. Whilst the same event may have taken place for both men and women, the consequences for each gender will be different. To understand these issues we need to explore the history of women, including their roles in society, the conditions they live in, and how they are treated in Nepali society. Through this understanding we can begin to uncover the consequences of the conflict for women. Ms Thapa explained that before the conflict women were often restricted to a domestic world within their homes. However, as a result of men leaving the home to fight, or because they disappeared or migrated, women were forced to take on more visible and responsible roles in their communities. Now in the post-conflict period women are expected to return to their previous domestic positions, but this is difficult after having had the experience of power. Similarly, post-conflict agreements, such as the CPA, were decided predominantly by men without the involvement of women, and without proper consideration of the issues which affect women. Therefore the danger is that in the TJ phase, women continue to be excluded, and if this happens it endangers the possibility of making a full transition to democracy and peace.

Ms Thapa examined truth commissions from a gender perspective. She has asked: how do gendered social norms and ideology manifest in truth commissions? In the drafting of the TRC Bill in Nepal there was only one woman involved out of a total of seven people. A discussion ensued regarding the wives of disappeared men being forced by Nepali law to accept that their husbands are dead after twelve years, meaning that they can inherit property etc; this however does not reveal the truth of what happened to their husbands, thus failing to provide full victim's satisfaction. Furthermore, because state policy provided financial compensation only for people declared dead, and not for people who have disappeared, women were forced to register their husbands dead, regardless of what had actually happened. Ms Thapa explained that the potential of the TRC is that it can provide knowledge to such women, and even if specific information about their husband's disappearance cannot be uncovered, at least it can acknowledge their suffering. She also talked about the direct suffering of women, such as women who were victims of sexual violence, and the need to differentiate between private and public truth telling. The TRC process is different from a legal court because it about victims being able to share their experiences and have them acknowledged, rather than having to prove guilt. The TRC has to engage with and respond to the harm endured by women both during the conflict and after the conflict.

Ms Thapa explored some of the harm which women may have experienced during the conflict. This includes: killings, disappearances; torture, bodily harm; rape, sexual violence; forced recruitment; curtailment of reproductive freedom; displacement; and economic loss. Ms Thapa stated that 81% of disappeared men were married, meaning that a woman suffered as a result of their disappearance. She said that sexual violence has not been

considered a serious crime in Nepal in the same way that rape is; whilst rape cannot be pardoned, sexual violence can.

Ms Thapa considered ways in which gender can be incorporated into the TJ process. In the formation of the TRC, consultations with women's groups, and defining gender-specific violations and patterns of abuse need to be incorporated into the TRC mandate. In South Africa, Guatemala and Peru, for example, the truth commissions included gender committees. Meanwhile, in Sierra Leone, Haiti and East Timor, a specific gender mandate was included. Ms Thapa argued that Nepal should include a gender mandate in its TRC. In operational terms, TRC staff need to be trained in how to handle gender sensitive issues, particularly in relation to the task of taking statements from female victims. Ms Thapa discussed the particular difficulties in taking statements from women who have been victims of rape.

A short video was shown about a street drama addressing difficulties that women face in the context of the conflict and post-conflict period. A discussion ensued regarding how difficult it is in practice for women to get their rightful benefits as a result of government bureaucracy and lack of cooperation. Ms Thapa agreed that it is practically very difficult for women victims to access reparations; the process is very complicated with little guidance from the government on how to navigate the bureaucracy to do this.

A final discussion ensued regarding ways to avoid violence against women reoccurring in Nepali society.

**Day III: Session II: Government Efforts to Establish a Transitional Justice Mechanism:
The Role of Government Agencies in the National Context
Presentation by Mr Sadhu Ram Sapkota, Joint Secretary, MoPR**

Mr Sapkota explained that he would be focussing on the practicalities of the TJ process rather than academic aspects of it. His aim was to come towards a common understanding of how to further the TJ agenda in the best interests of Nepal. We need to learn from other countries and decide which are the best ways forward for Nepal. He summarised progress made so far with regards the CPA and the TRC and COI-D Bills. He explained that he wanted to share his experiences of working in the MoPR.

More than 17,000 people were killed during the conflict, and more than 1,400 people were disappeared. As in other countries where conflict has occurred, it is not possible to prosecute all cases where violations and crimes have occurred. The regular justice system is simply unable to handle all these cases and this is why we require a TJ process. There has never been an example of a perfectly resolved case of a TJ, and furthermore, it is very hard to provide an absolute guarantee of non-repetition of conflict. We need a TJ process but we also need to think about Nepal's future development. The question now is: how can we satisfy the victims? But it is difficult to measure the victims' satisfaction levels. Financial compensation is enough for some, for others a guarantee of employment helps, but these reparations are not enough for all victims.

One participant stated that he himself was a conflict victim and had been made disabled during the conflict. However, he stated that he has since supported the people from the group which made him disabled and has been able to forgive and forget. He says he knows

the names of the perpetrators but has decided not to share them with the authorities as he believes this serves no useful purpose. He has learnt to move on. Mr Sapkota shared the example of Nelson Mandela who argued for the philosophy of forgive and forget so that society can move forwards. We talk of reparations, but in reality we cannot repair that which cannot be undone; we cannot return to the past.

Mr Sapkota briefly discussed some possible outcomes for the TJ process. He gave some examples from other countries. He considered the different types of courts which could be used to support the TJ process, both domestic courts and international courts. For example, in Timor-Leste in 1995 the domestic court system collapsed and the country had to rely on the international legal system. However, in Nepal our legal structures are fairly strong so we shouldn't anticipate the same problem occurring, but we do still need support from the international community. It is difficult in Nepal in so far as both warring parties are now in power, so finding a resolution has its challenges.

Mr Sapkota briefly discussed issues of reconciliation. He stressed the point that Nepal needs peace without impunity to achieve sustainable peace.

To measure levels of reparations, Mr Sapkota suggested the following indicators: statements of apology; the naming of streets in honour of victims; locating the remains of loved ones; creating dignified burial sites, and involving family members in the maintenance of graves; establishing rehabilitation centres; making credit available or directly funding targeted community reparations; and compensation. He also made the point that witness protection, specifically relocation and identity change, is difficult and expensive in the context of Nepal.

Mr Sapkota expressed the view that whilst reconciliation, reparations and institutional reform are possible, the MoPR is concerned about the practicalities of prosecutions. He said the Government are not certain how realistic prosecutions are. He stated that many of the crimes committed were politically motivated and therefore there is a view in Government that it may be difficult to prosecute the individuals involved. He clarified that there are two conflicting views on this within Government and the debate has not been resolved yet. He stated that he is personally of the view that some prosecutions in the case of serious violations are important, but there cannot be prosecutions in each and every case. Ultimately this is an issue for the politicians to decide.

Mr Sapkota shared some government data regarding the number of people killed, disappeared, kidnapped, widowed, civilian deaths, internally displaced families etc during the conflict. A discussion ensued regarding this.

Mr Sapkota discussed the legislative institutional mechanisms in Nepal regarding TJ. Mechanisms include the CPA as well as formation of the TRC and COI-D. Mr Sapkota briefly discussed the drafts Bills written to form the Commissions. These mechanisms are also guided by provisions within the Interim Constitution. However, what is not clear is how the Commissions will be formed and how they will operate. Mr Sapkota explained that the life of the Commissions will be relatively short and therefore there will be challenges in being able to process all the complaints and witness statements given to the Commission. He also explained how expensive the process will be and how Nepal will need to seek experts from outside of the country.

Day III: Session III: The Role of Civil Society in Strengthening the Transitional Justice Process

Presentation by Mr Sadhu Ram Sapkota, Joint Secretary, MoPR

The role of CS should be seen from several angles: victims, the state, and CS itself. There was some discussion amongst participants as to what is included within the term of CS. However, Mr Sapkota defined CS as all organisations working outside the scope of the government. Mr Sapkota argued that CS is an important force to educate the public about the TJ process and build their trust, help identify victims, support victims, advocate for new laws and play a part in recruiting Commissioners. He talked specifically about the role of CS in supporting the work of the Commissions, from establishing the Commissions, through to witness protection, through to distributing reports. He also argued that CS can play an important advocacy role, particularly in arguing for the Commissions to be inclusive and advocating for appropriate gender dimensions. CS can also create awareness of the Commissions and the TJ process. In short, Mr Sapkota argued that CS can support all aspects of the TJ process.

Mr Sapkota discussed how CS can support the role of the Government. He argued that the main role CS could play is in ensuring that the Government is accountable to the people and provides full information about the process. CS can also work directly with the government in helping gather witness statements and provide support for victims. CS can also play a role in ensuring that the Government follows international laws and guidelines.

Closing Ceremony

Facilitated by Ambi KC, Librarian at the TJRC

Chaired by Dr Tika Pokharel, Chair of WVAF

Chief Guest for the Programme, Mr Sadu Ram Sapkota, Joint Secretary of MoPR

Special Guest for the Programme, Prof Dr Ram Sharan Pathak, MPhil Coordinator, Faculty of Humanities and Social Sciences, Tribhuvan University, and Executive Member of WVAF

Guests for the Programme, Bagh Bir Mukhiya Kumal, General Secretary of WVAF; Ms Pratima Gurung, Executive Treasurer of WVAF; Mahendra Bikram Shah, Executive Member of WVAF; Dr Govinda Subedi, Faculty of Humanities and Social Sciences, Tribhuvan University; Subarna Newar, Executive Member of WVAF

Subarna Newar welcomed the guests to the closing ceremony. A male and female representative from amongst the participants then shared their positive views of the training and promised to disseminate their learning to a wider audience. Mr Ram Sharan Pathak, the Special Guest, then offered his closing remarks to the ceremony, which were very positive and encouraging. Dr Tika Pokharel, the Chair, and Mr Sadu Ram Sapkota, the Chief Guest, then awarded certificates to the participants. Mr Sadu Ram Sapkota, the Chief Guest, then offered his concluding remarks, in which he talked about the importance of civil society in the TJ process. Then Dr Tika Pokharel, the Chair, offered the final remarks which focussed on the important role which CS has to make in the TJ process. He stated that the most important task facing CS now is to become better organised to enable it to support the TJ process. He then thanked all the organisers and officially closed the programme

Appendix I – Workshop Outline

4 Days Training on Transitional Justice

1. **Name of the project :** Establishing and Running a Transitional Justice Resource Centre.
2. **Objectives of the project:**
 - To provide a learning and interaction platform for the civil society, academia, conflict victims and policy makers to debate on and discuss transitional justice.
 - To serve as a neutral and independent reference point for the transitional justice mechanisms.
3. **Name of the activity :** 4 days' Training on Transitional Justice
4. **Training period:** 30 November - 03 December 2011
5. **Number of participants:** 24 participants
6. **Training venue:** Dhulikhel Lodge Resort, Dhulikhel, Kavrepalanchowk district, Nepal.
7. **Organizer :** World Vision Advocacy Forum (WVAF) Nepal in close consultation with United Nations Office of the High Commissioner for Human Rights in Nepal (OHCHR-Nepal) and the Ministry of Peace and Reconstruction (MoPR).
8. **Rationale:** In the current conflict transformation phase, Nepal is faced with a lack of unity and political consensus. Enormous challenges remain in terms of Maoist combatants' integration into the national army, determining a state structure and drafting a new constitution. The major challenges of the peace process in Nepal include delays in forming transitional justice mechanisms such as Truth and Reconciliation Commission (TRC) and Commission of Inquiry on Disappearances (Col-D) to deal with past abuse and create a basis for peace and justice; top down peace process – no effective and meaningful civic engagement in the peace process; weak, fragile and inefficient law enforcement agencies; growing political disagreement over key political issues among major political actors; no effective peace process monitoring mechanism in place; widespread violation of national and international human rights law; culture of impunity; weak participation of women and people from marginalized communities in peace building effort etc.

There was consensus between the Seven Party Alliance (SPA) members to entrust the Ministry of Peace and Reconstruction (MoPR) with the responsibility of formulating and implementing the Truth and Reconciliation vision, to set up TRC to probe into serious violation of human rights and crime against humanity and develop an atmosphere of reconciliation in society, and to set up Col-D to make public the whereabouts of disappeared persons. But, conflict victims as well as majority of people are skeptical about the speedy establishment of transitional justice mechanisms and dealing with historical injustices. The voice of victims to seek justice has often been ignored. To be meaningful, transitional justice in Nepal must involve not only truth telling but also judicial accountability of perpetrators, financial compensation, legal, educational and development support to victims and addressing root causes of the conflict. Therefore, the project has designed Training on Transitional Justice to capacitate the civil society, academia, and conflict victims.

9. Major objective of the training:

The overall objective of the training is to strengthen understanding of participants in transitional justice system

10. Profiles of candidates:

The training programme is primarily targeted at senior staff and Board Members of CSOs, conflict victims and academia who wish to undertake an intensive training course on cutting-edge development in the expanding and increasingly interrelated fields of peacebuilding and transitional justice.

11. Specific objectives of the training:

- d. Prepare practitioners such as senior staff and Board Members of CSOs, conflict victims and academia directly involved in peacebuilding and transitional justice initiatives
- e. Enhance knowledge, understanding and skills on transitional justice, access to justice, human rights situation in Nepal, peace building initiatives, and justice for conflict victims
- f. Equip participants with required knowledge to conceive, implement and engage with transitional justice policies and programmes that increasingly interact with peacebuilding strategies.

9. Methodologies: Structured lecture, group discussion/work, brain storming, question answer etc.

10. Medium of instruction: Mostly in English

11. Rapporteur: Mr. Martin Punaks, WVAF Associate

11. Trainer: Subject matter specialists jointly identified by MoPR, OHCHR-Nepal and WVAF

Contents of the Training

SN	Session	Start	End	Duration	RP/ Facilitator
30 November 2011					
	Departure to Dhulikhel from Tripureshwor, Kathmandu	16:00	17:30	90 minutes	WVAF Staff
	Opening Ceremony: <ul style="list-style-type: none"> ➤ Introduction of the participants ➤ Brief introduction about TJRC ➤ Objectives of the training ➤ Sharing of 4 days Training Schedule ➤ Opening Remarks 	18:00	19:30	90 minutes	Sita Gautam, Capacity Building Training Officer, WVAF/ Nava Raj Adhikari, Executive Director, WVAF
	Dinner	19:30	21:30	120 minutes	WVAF Staff
Day one: 01 December 2011					
	Breakfast	7:30	9:00	90 minutes	WVAF Support Staff
1	Nepal: The Truth and Reconciliation Commission and the Disappearances (Crime and Punishment) draft bills: analysis of the bills from a human rights perspective	9:00	10:30	90 Minutes	Mr. Govinda Sharma "Bandi"
	Tea break	10:30	10:45	15 minutes	WVAF Staff
2	<ul style="list-style-type: none"> • History and overview on elements of Transitional Justice (TJ) 	10:45	12:15	90 Minutes	Mr. Rabin Subedi

	Lunch	12:15	13:15	60 minutes	WVAF Staff
3	Truth-seeking: <ul style="list-style-type: none"> The emergence of a 'right to know' Truth Commissions and Commissions of Inquiry in post conflict settings 	13:15	14:45	90 minutes	Mr. Carlos Fernandez Torne, OHCHR-Nepal
	Tea break	14:45	15:00	15 minutes	WVAF Staff
4	Nepal: Practicalities and challenges for the establishment of the Commissions: The relationship between the two Commissions/ victims centered approaches/ investigation and research.	15:00	16:30	90 minutes	Mr. Carlos Fernandez Torne, OHCHR-Nepal
	Wrap-up for day one	16:30	17:00	30 minutes	WVAF Staff
	Dinner	19:00	21:00	120 minutes	WVAF Staff
Day two: 02 December 2011					
	Breakfast	7:30	9:00	90 minutes	WVAF Staff
5	Victim and witness protection	9:00	10:30	90 Minutes	Ms. Ranjana Thapa, OHCHR-Nepal
	Tea break	10:30	10:45	15 minutes	WVAF Staff
6	Accountability, prosecutions and TJ	10:45	12:15	90 Minutes	Ms. Ranjana Thapa, OHCHR-Nepal
	Lunch	12:15	13:15	60 minutes	WVAF Staff
7	Reparations: <ul style="list-style-type: none"> Material Reparations; Official Acknowledgment and Symbolic Reparations (memorials) 	13:15	14:45	90 minutes	Ms. Sudha Uprety, OHCHR-Nepal
	Tea break	14:45	15:00	15 minutes	WVAF Staff
8	Guarantees of non-repetition: <p>Vetting and dismissals;</p> <p>Institutional Reform</p>	15:00	16:30	90 minutes	Mr. Gopal Krishna Siwakoti
	Wrap-up for day two	16:30	17:00	30 minutes	WVAF Staff
	Dinner	19:00	21:00	120 minutes	WVAF Staff
Day three : 03 December 2011					
	Breakfast	7:30	9:00	90	WVAF Staff

				minutes	
9	Gender perspective in TJ	9:00	10:30	90 Minutes	Ms. Reshma Thapa, ICTJ
	Tea break	10:30	10:45	15 minutes	WVAF Staff
10	Nepalese context: Government efforts to establish TJ mechanism. The role of government agencies in the national context	10:45	12:15	90 Minutes	Mr. Sadhu Ram Sapkota, Joint-Secretary, MoPR
	Lunch	12:15	13:15	60 minutes	WVAF Staff
11	Role of civil society in strengthening TJ process	13:15	14:45	90 minutes	Mr. Sadhu Ram Sapkota, Joint-Secretary, MoPR
	Closing ceremony	14:45	15:30	45 minutes	Ambi K.C. Librarian, TJRC
	Hotel clearance	15:30	15:45	15 minutes	WVAF Staff
	Return to Kathmandu	15:45	17:00	75 Minutes	WVAF Staff

Appendix II – Names and Organisations of Participants

Name	Organisation
Ghanshyam Sapkota	CVSJ
Bikash Basnet	Advocacy Forum
Ganesh Bhandari	INSEC
Muna Upadhyaya	FWLD
Geeta Pradhan	WOREC
Soma Rai	NIWF
Mr. Dhruva Gautam	CWIN
MS Bishnu sharma	Freedom forum
Pankaj Kumar Karna	Pro Public
Pro. Ganesh Bhattarai	KSL
Mahendra Sharma	CDPS
Rajani Maharjan	NCARD
Shirjana Shrestha	WHR
Dinesh Tripathi	WVAF
Pratima Gurung	WVAF
Mahendra Bikram Shah	WVAF
Sudarshan K.C	WVAF
Nava Raj Adhikari	WVAF

Sita Gautam	WVAF
Dhirendra R.C	TJRC
Ambi K.C	TJRC
Bimish Gautam	TJRC
Anju Kayastha	Indigenous Ethnic Lawyer Council Nepal (IELCN) Aadibasi janajati lawyer asociation

Further appendices available in hard copy only
