# Fairness and Efficiency in Reparations to Conflict Affected Persons: A Joint Project of OHCHR and IOM

# funded by the UN Peace Fund in Nepal

# An Evaluation Report

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## Abbreviations:

CDO : Chief District Officer

CoID : Commission of Inquiry on Disappeared Persons

CPA : Comprehensive Peace Agreement

IRP : Interim Relief Program

IOM : International Organization of Migration

ICTJ : International Committee on Transitional Justice

ICJ : International Commission of Jurists

LPC : Local Peace Committee

MoPR : Ministry of Peace and Reconstruction

MoHA : Ministry of Home Affairs

MoD : Ministry of Defense

MoF : Ministry of Finance

MWCSW : Ministry of Women, Children and Social Welfare

NHRC : National Human Rights Commission

NPTF : National Peace Trust Fund

OAG : Office of the Attorney General

OHCHR- Nepal : High Commissioner for Human Rights in Nepal

PMC : Project Management Committee

PCG : Project Consultative Group

SOP : Standard Operating Procedure

TOR : Terms of References

TRC : Truth and Reconciliation Commission

UNPF : United Nations Peace Fund

UN Reparation Guidelines : United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violation of International humanitarian Law

WB : World Bank

## Executive Summary

The current transitional context in Nepal has a long history. In many ways it started with the democratic challenges to King Tribhuvan’s rule in the early 1950’s. Nepali leaders, taking their cue from a newly independent India, began a struggle to forge a democratic form of government. The next 60 decades saw the King retaking power, experiments with democratic rule, two Jana Andolans and a war fought by the Maoists for equality and transformation. The peace agreement signed on 21 November 2006 laid the foundation for the current phase of this long transition from monarchy to a new form of governance. The more than 5 years since have seen continued political struggle between pro-democracy forces led by Nepal Congress and the Maoists who promised change and transformation, inclusion and equality. A string of consecutive governments and repeated deadlock in drafting a new constitution are proxy indicators of this ongoing political struggle, at times rendering the peace process to a far-off ideal. Commitments made during the heyday of peacemaking seem to be forgotten or at best a low priority, including the two major transitional justice mechanisms, a truth and reconciliation commission and a counterpart commission to delve into the truth of disappeared people

At the time when the Bills were tabled in early 2010, the United Nations Peace Building Fund (UNPBF) through the UN Peace Fund for Nepal (UNPFN), acted in support to advance transitional justice mechanisms. The project “Fairness and Efficiency in Reparations to Conflict Affected Persons” was designed as a joint project with OHCHR taking the lead to draft a reparations policy compliant with international norms and standards and grounded in the Nepal context, and IOM establishing effective and transparent mechanisms to provide reparations to the victims of the armed conflict. The project was launched in May 2010 and completed in December 2011.The overall goal of the project was to strengthen transitional justice efforts in support of the GoN efforts and thereby advance the overall peace process. In support of this a reparations policy, compliant with international norms and standards and effective and transparent structures and procedures were developed for a future reparations program.

The emphasis to support transitional justice in Nepal comes from a growing global awareness of the link between durable peace and the society’s efforts and success to address serious conflict related violations committed in the context of the war. Sliding back into cycles of violence or the emergence of serious socio-economic problems are very likely if the trauma, truth and accountability for atrocities are not dealt with through a state sponsored process. The CPA made strong commitments to tackle aspects of transitional justice, and refer specifically to effective remedy, compensation and reparation for victims, with a commitment that these atrocities will not be repeated. The subsequent Interim Constitution confirms many of these commitments and was drafted in the same spirit.

Nepal is signatory to a number of international instruments related to transitional justice and therefore has to take up the required commitments. A key aspect of this project is to develop products that conform to international standards. For this purpose the “*UN* *Basic Principles and Guidelines on the Right to a Remedy and Reparation*[[3]](#footnote-3) was used by the project as a standard. Equally important and in line with international standards was the efforts to place victims at the centre as the principle beneficiaries of any reparations policy and program.

The project encountered a number of challenges primarily emerging from a very fluid operating context. The promise of the early establishment of the TRC and CoID did not materialise and therefore the project documents had to be developed in the absence of an applied transitional framework, only using the Bills as guidance. In addition, from 2008 onwards the GoN had been implementing an interim relief and rehabilitation program for victims of the conflict posing an additional challenge with Commissions not formed yet but Interim Relief for conflict affected persons already under way. Successive governments led to frequent changes of the responsible Minister for MoPR with priorities changing as well. More internally the uneven appointment of staff between IOM and OHCHR resulted in the reparations program advancing ahead of the policy development. Also the somewhat unexpected ending of OHCHR mandate and subsequent rush to close program activities had an adverse effect on synchronised closure.

The challenges meant that the project had to adapt to the changed context. With no commission as anticipated, no reparations programme implemented by the GoN and therefore no districts in which to test the systems and processes that were developed the project had to find a way to remain relevant and obtain its objectives. A convergence of interests was found between the MoPR ESES project, sponsored as part of the World Bank EPSP program and IOM. This led to an adaption of the original project with IOM switching to test procedures and outreach strategy in the 12 ESES pilot districts.

The project worked in close coordination with a range of actors in the Government, including the Ministry of Home Affairs, the Ministry of Health and Population, and the Ministry of Education, as well as civil society and other international organisations including Conflict Victims Society for Justice (CVSJ), Advocacy Forum (AF), International Centre for Transitional Justice (ICTJ), United Nations Development Program (UNDP), World Bank (WB), German International Cooperation (GIZ), The Carter Centre, International Commission of Jurist (ICJ), International Committee of the Red Cross (ICRC), UN Women, UNICEF and United Nations Populations Fund (UNFPA). The coordination of the project with a range of stakeholders helped to ensure that the victim’s needs were taken into consideration while drafting a reparations policy and procedures and processes for implementing the reparations policy.

Two sets of consultants were contracted to evaluate the project. For OHCHR two national consultants did a quick assessment of the policy aspect. IOM contracted and international consultant who were given the overall responsibility for compiling a single Evaluation Report

## A Frame for Reparations - Two Local Stories and International Standards

**Victim 1 Story– Truth & Justice**

“My husband was taken from our house by a group of men ordered by an important and high level political leader. Since that day I never saw my husband again and no-one has told me what happened. We all know he is dead. Justice - I can wait because it is complicated and a long process. What I cannot understand is why they do not tell me where he was buried. He is my husband, I have a right to know what happened, to know the truth”

**Victim 2 Story – Assistance and Compensation**

“My brother was the one who looked after me when I was a little boy. He made me finish my homework. He made sure I stay out of trouble. I’ve been struggling since he disappeared. I will accept government assistance for my loss but don’t you dare called it compensation. How can money compensate for blood?”

### How would reparations look like for the victims from our stories? Are the policies and programs described below responsive and sensitive to the urge from two of the many victims that have to be served and supported through political, government and donor decisions?

## International Standards

Over the past several decades a growing international consensus emerged with a substantial body of legal, human rights and peacebuilding knowledge evolved to confirm the obligations of the state and the rights of victims to remedy and reparation. See Annex A for a list of human rights and humanitarian treaties and conventions. For purposes of this evaluation “international standards” as contained in the UN *“Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law”[[4]](#footnote-4)*will be taken as the benchmark against which the deliverables will be assessed. See Annex B for extracts from the UN Basic Principles and Guidelines. Drawing from a comprehensive report published by ICTJ-Nepal[[5]](#footnote-5) the following serves as a summary of what can be termed “international standards” as applied to reparations.

*“The right to an effective remedy is well established in international law. Under the International Covenant on Civil and Political Rights, Nepal has an obligation to provide a remedy for violations of human rights. In the context of gross violations of human rights and serious violations of international law, the UN Basic Principles and Guidelines provide that the state is responsible for ensuring that victims of human rights violations enjoy an individual right to reparation.*

From the above it is evident that the international community places a heavy legal duty on the state to engage seriously with reparations requiring full and long-term political commitment, significant resources, building of institutional capacity, alignment of legal provisions and strong participation and outreach to victims, communities and the public at large. Perhaps even more important is the voice of the victims. Our two sample stories is a reminder that reparations are about people and that reparations in the final analysis is a call for the state to be moral, integrative and human. Politics and legality is necessary but healing, recovering, humanizing and reconciliation is at the heart of a reparations program and policy.

## Operating Context

## Political Context

On 15 February 1951, King Tribhuvan and the leading members of the Nepali Congress returned to Kathmandu cheered by the people. On 18 February 1951, King Tribhuvan announced Nepal’s first steps to democracy with a historical proclamation. Thus starts Nepal’s transition – from monarchy to something more suitable to the people of the country. The next almost 6 decades experienced the ebb and flow of a power struggle between the King and democratic forces. Finally in April 2008 the 240 years of monarchical rule came to an end when the 601-member Constituent Assembly voted in favour of a federal republic. It took a war, two popular people’s uprisings and much more to reach this point.

The halting process towards peace thus comes with a history; a history that in many ways shapes the contours of the operating context of the period from 2006 onwards. Perhaps most prominent is a political culture honed through years of violent struggle. Change comes through violence, force and pressure and leadership are equally shaped and shaping this culture towards political violence. Talks and dialogue nevertheless continued both formally and informally but always under the shadow of force and often violence.

The end of the King herald in a new struggle – who and what will replace the monarchy? This essential question underlies much of the struggles that characterized the current phase of the transitional process. The Comprehensive Peace Agreement of November 2006 carefully circumvented this question as to raise it at that point of temporary unity would have been too much to bear for the fragile “coalition against a common enemy.” Instead the question lingered until the CA election of April 2008. The results upset the established power order - the Maoists emerged as victors at the cost of Nepali Congress, who since the early days carried the torch of democracy. The Maoists offered change and transformation, inclusion and recognition for the downtrodden and marginalized and vowed to draft a “peoples’ constitution.” The subsequent inability of political actors to form a unity government was a pre-cursor for what was to follow. The idea of “peace” increasingly got filtered through party ideological lenses and disagreements became the norm over the next four years of struggle for political dominance. The tactics from the parties became to obstruct and “peace” became increasingly elusive as energy, focus and time shifted to “who is in charge?” The powers that defeated the King turned inwards struggling with each other, and perhaps even more debilitating, divisions within parties came in the open, making progress to finalise the peace agreement very uncertain. Transitional milestones started to lag behind the schedule they set for themselves and timeframes adjusted almost as a matter of course to keep pace with the realities of power politics. Integration of Maoists combatants*,* transitional justice mechanisms such as the TRC and CoID and especially a new constitution became the proxy issues with the main question of what to follow the Monarchy remaining unanswered.

With lack of finality came uncertainty, delay and often unaccountability. Political and human rights activists recall the lack of political will to sincerely investigate and act on recommendations from past commissions.[[6]](#footnote-6) Mindsets and institutions are often seen as short-term and temporary, in fact “transitional,” and justifying significant investments became harder over time.

Within the bureaucracy a risk–free strategy made more sense and decisions and firm commitment was often hard to come by. The Ministry of Peace and Reconstruction tasked with administrating major aspects of the peace process forged ahead, hampered by often changing ministers who tend to steer the Ministry towards party political interests.[[7]](#footnote-7) The much touted High Level Peace Commission envisaged at the time of signing the CPA was quickly forgotten as the political momentum towards power accelerated. A new Ministry who at least initially lacked expertise in technical aspects of peace process, with no localized infra-structure to oversee many of the programs entrusted to it. This necessitated working through and with Ministries such as Home and Local Development, never an easy task. The promising Local Peace Committees developed very uneven across the country, struggling to access available funding, lacking facilitative capacity and uncertain as to the role they should play. In spite of such limitations in many cases LPCs became the preferred forum to ratify lists of conflict affected persons.

More generally poor infra-structure and pressure to provide much needed services remained a constant factor to manage for the many successive governments. For ordinary citizens this was even more of a bane, tolerating long hours of load shedding, queuing for petrol, running households without a reliable water supply or short supply of food and medicine in outlying areas. At times this boiled over into actions of civil disobedience but by and large the Nepali population showed remarkable tolerance for government lack of planning and service provision.

International donors equally had to adjust their expectations and time frames. They often found it hard to infuse technical support into the closed system of the government. The absence of institutional anchor points such as TRC, CoID and final decisions on integration and rehabilitation created a vacuum and technically useful documents drafted by experts often did not make much impact.

On the edges marginal struggles for belonging, identity and recognition intensified as the CA elections came closer. The Madhesi uprisings of 2007 and 2008 was the most vivid demonstration of accelerating demands for inclusion but it is by far not limited to southern belt of the country. The inter-communal violence that drove many Pahadis away from the Terai underscored just how brittle communal relations are and how easy external forces and wider politics can destroy it. The subsequent rise of armed underground groups mixed survival, crime, greed and politics into a single brew making certain parts of the Terai unsafe and insecure for ordinary people. In the east the Limbuwans have long proclaimed a form of autonomy and regular agitations served as a constant reminder. In the west the Tharu people also found their voice, raising it in no uncertain terms when they felt their identity and culture is claimed as “Madesh.” The trend of seeking political association became a national theme – Newaris, Gurungs, Gorkhas, Tamangs - all claiming geographical “homelands” as ethnic states in a new federal constitution. The task of a new constitution is to weave a thread carving the country into separate units while binding a coherent unity from amongst the competing aspirations. Against a rising mood of militancy the risk is that last minute central level political deals may not be able to satisfy and justify the four-year wait for what people claim as belonging to them. In short, ethnic identity politics surfaced prominently as a new manifestation of power that will increasingly shape the future of Nepal on the road to a democratic federal country

In spite of the above political and governance challenges, Nepali leaders and people have proven themselves skillful and adept to last minute deals. Such deals are far less than optimal but it does get them over the immediate hurdle. Their spirit of self-help and their proud history of withstanding several external onslaughts will most likely pull them through once again. As of April 2012 leaders have shown they can apply a concerted effort to matters of constitution and government alike, finding space to cooperate within their well honed tendency to compete. The Supreme Court ruling of “no further extensions,” have been widely welcomed by the people and have also shown the court’s willingness to call political leaders to account.

The above political context is thus fraught with risk and uncertainty. Within these perpetually shifting context international organizations like IOM and the UN system more broadly is well advised to remain patient and principled. Nepalis respect strength but equally value friendships from those who stick with them through dark and uncertain times.

## Background to the Project

The impact of the above context on forward movement for transitional justice in Nepal is significant. While the political and legal frame for effective transitional measures were created at the signing of the CPA on 21 November 2006, and further embedded in the Interim Constitution of 15 January 2007, the reality was slow progress. The CPA specifically envisioned a Truth and Reconciliation Commission (TRC), with strong reference to a commitment towards investigation and relief for victims of torture and disappeared persons.[[8]](#footnote-8) A landmark ruling from the Supreme Court on 1 June 2007, created a legal basis in support of the rights of victims of disappeared persons. The ruling issued directive orders, *inter alia*, for the Government to enact legislation consistent with international law that would criminalise enforced disappearance, and establish a high level ‘Investigation Commission for Disappeared People’ for inquiry into past enforced disappearances. [[9]](#footnote-9) Following the court ruling, a three-member “High Level Investigation Commission on Disappeared Persons,” headed by an ex-Judge was appointed. The commission was highly criticized, and subsequently a new Bill was drafted. In February 2009, the Maoist government enacted the law by Executive Ordinance against political opposition. In spite of criticism the new law does criminalizes the acts of enforced disappearance, establishes a commission to investigate past cases from 1996 to 2006, and provides for prosecution of perpetrators and reparations for victims.

Bills on the Commission on Enforced Disappearance were introduced to Parliament on December 4, 2009 and the TRC on February 17, 2010. Various Prime Ministers and MoPR Ministers promised action to push the Bills through into law but until now this has not materialised. A recent development in early 2012 saw political parties recommending scrapping the two existing Bills and drafting a new Bill for the formation of one single commission that emphasizes reconciliation and an appeal to victims to forgive.[[10]](#footnote-10) This has raised serious objections from a number of quarters and with the urgent focus to complete the constitution before the 28 May deadline, uncertainty continues over the final form and content of one or two commissions.

Early on the government introduced an Interim Relief Program (IRP) to support conflict affected persons in certain designated categories. The structural capacity to administer such a program was vested in the Relief and Reparations Unit (RRU) headed by a Joint Secretary. In the districts the political actors took responsibility for collecting names of conflict affected persons, working closely with CDO’s. As LPCs became functional they often were used as a forum to consolidate names as proposed by parties. Noteworthy for its absence from interim relief are two major categories - victims of sexually abuse and victims of torture. These categories however are included in the TRC and CoID Bills. Funding for the project comes from the World Bank Emergency Peace Support Project (EPSP) and became effective from late September 2008.[[11]](#footnote-11) The current project deadline is June 2012, with possible extension beyond this initial end date. Within the broader EPSP programme, the ESES component is designed to serve conflict victims in 12 initial districts with a broader range of services. In mid-2011 IOM saw the opportunity presented by the ESES to test certain components of the Reparations Program. This led to a redesign in the project building on the convergence of interests between the IOM, the WB and MoPR. It highlights the importance of institutional cooperative efforts and the need to be responsive to contextual and environmental dynamics. Currently the ESES project is being implemented in 12 districts to reach out to conflict affected persons with a wider range of services than provided under the Interim Relief Programme,

Local civil society, victim groups and international donors alike kept working to keep broader transitional mechanisms on the State’s agenda. The importance of more comprehensive measures that recognizes the State’s responsibility to victims was pushed amidst the bustle of daily politics. The international community in turn also kept an active interest in preparing for the formation of the two Commissions. In April 2011 the Nepal Peace Trust Fund commissioned a funding proposal to lay the groundwork for both the TRC and CoID. The final format and detail of this proposal awaits the formation of a TRC/CoID to advance further.

The project proposal was drafted in early 2010 soon after the two Bills have been registered in Parliament. The atmosphere and expectation of the time was that the two Bills will be promulgated relatively soon and that the project would serve as a direct technical support to the MoPR and by extension the TRC and political peace process. However delays in the peace process resulted in stalling of the two key transitional mechanisms. This to a large degree change the utility of the Reparations Policy and Program to serve as resource documents for use by the MoPR and later on any Commission(s) that might be established as part of the transitional justice mechanisms.

The political situation and background as described above indicates that acute awareness on the part of staff and organizations are required to function effectively and adapt where necessary. The decision to align the Reparations project with the ESES project represents perhaps the most prominent example from various stakeholders and partners to be responsive to opportunities while staying committed to the project objectives. At the time of this evaluation the situation remained very much the same with one important difference. Political leaders have finally found a new urgency and intent to focus on drafting the constitution before the deadline set by the Supreme Court. A final push and adoption of the constitution will hopefully result in a renewed return to finalise the Commissions or at least initiate a reparation policy and program. Given this possibility the timing of the project found a space within the rhythm of political events in Nepal.

A clear distinction should be drawn between “interim relief” and “reparations.” This is important as it has policy, programmatic and finally political consequences. An ICTJ report draws the following distinction:

*“In interim relief the focus is on monetary forms of assistance, medical treatment, and a skills development, training program to be implemented in the future. In this way relief is distinct from reparations, … include the following forms of satisfaction: truth-seeking; searching for the disappeared; public apologies (including acknowledgement of the facts and acceptance of responsibility by the government); prosecuting those who committed violations; commemorations and tributes to the victims; and other victim-centered responses”*.[[12]](#footnote-12)

This distinction sets up the question whether it is useful, if at all possible, to use an interim relief program as a starting point for an eventual reparations program? The political consequences of adopting a strong reparations program are clear – the state and political actors accept and take responsibility for past actions and are committed to establish a legal and moral base to prevent future repetition. Relief in the case of Nepal is provided to “persons affected by the conflict,” while reparations are meant to be awarded to persons who suffered human rights abuses as defined by international law and practice. The reparations program drafted by IOM does take the existing relief program as a starting point and developed lessons for implementation of a reparations program

## Project Overview[[13]](#footnote-13)

A joint proposal titled *Fairness and Efficiency in Reparations to Conflict Affected Persons[[14]](#footnote-14)*was submitted by IOM and OHCHR and approved for funding by UN Nepal Peace Fund Executive Committee on 19 March 2010. The project formally started on 1 May 2010 and concluded at the end of December 2011 after a five-month extension was granted. Final reporting was done in March 2012. The project was implemented in close cooperation with a number of Ministries, particularly the Ministry of Peace and Reconstruction as well as victim groups and relevant civil society organizations.

The purpose of the project was to provide support to the MoPR to develop and implement reparations mechanisms in accordance with international human rights standards and practices. To this end two major outputs were delivered - a Reparations Policy[[15]](#footnote-15) drafted by OHCHR-Nepal and a Proposed Reparations Programs[[16]](#footnote-16) developed by IOM-Nepal. The former document is supported by a more comprehensive Reparations Framework which outlines a broad approach, principles and standards for the policy. The Proposed Reparations Programs contains a number of key components – defining and categorizing “victims,” reparations implementing structure, reparation benefits and services, monitoring mechanisms, an outreach strategy and Standard Operating Procedures. The Proposed Reparations Programs is based on an earlier document, *Report on Mapping Exercise and Preliminary Gap Analysis of the Interim Relief and Rehabilitation Programme.* On request from MoPR-RRU a capacity assessment of the RRU was done and a “Rapid Capacity Assessment”[[17]](#footnote-17) document was completed in July 2011. In addition, an Outreach Strategy for the ESES project was developed to test aspects of a broader outreach program and in support of MoPR project to reach out to 12 selected districts.[[18]](#footnote-18)

The Reparations Policy follows the structure as provided in the UN Guidelines. Such policy is thought of politically neutral and un-biased, have taken account of the socio-economic-structure of Nepalese society, consideration for women victims, state capacity to implement such policy and need of the victims. In order to help to formulate and adopt a comprehensive reparation policy by the government of Nepal, this project examined comparative experiences, international best practices and conducted a series of discussions with different stakeholders such as parliamentarians, bureaucrats and victims.

The task of developing procedures for a Reparations Program met with a couple of obstacles. The realization that the Reparations Policy will follow after the Reparations Program as well as the initial optimism for the formation of the two Commissions evaporating, required a creative response to match the ground realities. The shift to incorporate the ESES project into the testing of certain procedures of the Reparations Program, including an Outreach Strategy, has already been mentioned above. The original proposal calls for testing the administrative procedures in three districts. However the ESES project offered the opportunity to test the procedures “in action,” and through monitoring the implementation gain a solid understanding of how the said procedures actually work for staff, service providers and victims. During the month of May 2011 extensive discussions between IOM/OHCHR, the World Bank EPSP program, MoPR and the UN Peace Fund led to reformulating Activity Six in line with the idea of testing Reparations procedures and Outreach Strategy in the 12 districts

This Evaluation is tasked to assess to what extent the project has delivered on the Activities, Outputs and Outcomes as described in the proposal and tracked by the Monitoring system. More broadly what, if any impact the project had on the given area of transitional justice and the peace process at large? [[19]](#footnote-19)

## Limitations of the Evaluation

The evaluation encountered a number of limitations. A key factor was that two separate evaluations were commissioned and separate teams of consultants contracted to assess the different organizational components of the project, i.e. OHCHR – Reparations Policy (Activity One) and IOM – Reparations Programming, Outreach (Activities 2 – 6). This meant that the two separate evaluations had to be integrated by the IOM contracted consultant without participating in the OHCHR evaluation. This split in task was urged by the rather unexpected ending of OHCHR mandate resulting in (forced) closure of a number of projects. In some ways this reflects a deeper and consistent issue which impacted the project as a whole. This will be dealt with in more detail below under the heading **“Substance of the Evaluation: Management of the Project.**

A further limitation was that in some cases it was difficult to obtain interviews with a number of stakeholders and people who could contribute to a nuanced understanding of the project. A number of persons who provided input were no longer available or present in Nepal. The closure of OHCHR resulted in staff who worked closely with the project was only available for short interviews or not at all. Annex C provides a list of persons interviewed.

A third and related limitation was that a final Reparations Policy document was not available at the time of drafting the Evaluation Report. However the draft made available to the evaluator provided sufficient information to make an informed assessment of the range and direction of thinking included in the Policy.

## Substance of the Evaluation

The evaluation will deal with three major categories of delivery

1. Technical delivery as specified in the LogFrame, and described in six Activities
2. Management and Coordination of the project as it was designed and implemented. A section on the monitoring system is added.
3. Strategic impact and value for transitional justice and the Nepal peace process.

In addition the cross-cutting theme of gender is addressed in a separate section.

### Technical delivery as specified in the LogFrame

A number of project documents were produced as part of the required deliverables. The final products from OHCHR include a Reparations Framework document and a Reparations Policy. The first of these were produced in mid-2011 and a draft of the Reparations Policy in March 2012. A final version of the Reparations Policy is being drafted at the time of the evaluation. A penultimate draft of the policy was made available in July 2011. On the side of IOM the major product is the Proposed Reparations programs which were submitted to MoPR in December 2011. A number of other supportive documents were submitted. These will be mentioned below under the relevant sections

The policy and the program documents are meant to be read together and ideally the policy should have been written ahead of the program to provide a conceptual basis for the procedures and strategies as outlined in the program. In reality it went the other way, with the reparations program forging ahead while field work was still ongoing to obtain information for the formulation of a policy. A draft policy however was available in July 2011 and the Proposed Reparations Programs document draw and reference this draft frequently.

A point to note is the aspect of truth seeking, accountability and non-repetition of human rights abuses, which from a principled and legal point of view is typically part of a reparations program. IOM only briefly refers to this in the proposed reparations program but explained that it was agreed that administrative systems for truth seeking would be addressed by the TRC, accountability systems and processes by the justice sector and non-repetition through the Security Sector Reform process. The Final report clarifies this separation of task further:

“As has been evident in contexts where no truth commission has first been established, reparations without prior truth seeking risks deteriorating into a politicized process and thus exacerbating the divides evident during the conflict. Accordingly, measures were taken to draft a reparations policy that would, in keeping with the UN’s Basic Principles and Guidelines, incorporate truth seeking and other transitional justice measures into Nepal’s reparations programme in the absence of a truth commission.”[[20]](#footnote-20)

**Delivery of Activity One[[21]](#footnote-21) – Development of Reparation Policy in line with International Human Rights Principles**

The Project contributed two major documents from the side of OHCHR-Nepal to the overall objectives. The first, a broad framework for a reparation policy was produced in August 2011. At the time of the evaluation, the second, the Reparations Policy, is being finalized by the international expert in consultation with the Rule of Law unit of the OHCHR in Geneva. A first draft was made available in July 2011 for discussion and to inform the Reparations Program as designed by IOM.

The Reparation Policy Framework offers a rationale for a policy based on comparative experiences and best international practices. The evaluators ascertained that the document still needs further substantive additions but it serves as an excellent complement to the policy document as is. The two documents should therefore be read together for deeper understanding of transitional justice policy and mechanisms.

The strength of the draft policy is that it offers a wide and solid base of information for any future TRC and CoID. However it can equally serve as a standalone policy to the government or separate truth seeking initiatives. The Policy incorporates and to a degree contextualized most of the guidelines outlined in the *United Nations General Assembly Resolution on Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violation of International humanitarian Law (UN Reparation Guidelines)* in its Article IX, Para 15-23. However any reader lacking background of the context and issues of transitional justice will find the document complex reading.

The MoPR acknowledged receiving the draft policy as developed by the OHCHR-Nepal but are awaiting the final version. They indicated that the uncertainty surrounding the formation of the TRC and CoID may further delay the adoption of a Reparations Policy. They did however find the draft Reparations Policy document useful as it provides an outline and approach needed in Nepal. They further suggested that the Policy been distributed to the different stakeholders, including to the civil society, victims groups, international community in Nepal and to the Council of Ministers.

On the side of critique it is somewhat puzzling that the MoPR indicated during the interview that they have not received the Framework document to date. This should be corrected as the framework is a very useful precursor for a deeper understanding of transitional justice issues and as a base for the policy document that followed.

The Policy itself follows international human rights standards, but comparative experiences and international practices would have been useful to illustrate some points. The usefulness of such examples is evident from the Framework that contains such comparative information. The appointment of a highly qualified international expert added significant impetus to the drafting of the Policy and Framework. However he came into the project 9 months after the start and with IOM already working for a number of months the late appointment resulted in uneven sequencing in relation to the IOM deliverable of a Reparations Program.

The consultants are further not convinced that some of the policies can be implemented by the suggested institutions. This refers to policies on restitution and compensation (the National Human Rights Commission - NHRC) and accountability (Office of the Attorney General) and more generally MoPR. The NHRC as a human rights monitoring body with constitutional status does not have the legitimacy and perhaps the capacity to provide oversight from a human rights perspective. Similarly, the OAG may not take initiative to start working on prosecution, unless it is recommended by the TRC and CoID and statutory arrangements are made to empower OAG in this respect. The consultants are also of the opinion that MoPR could start implementation with or without the recommendations of the TRC and CoID and NHRC oversight. It would have been useful if the Policy could have provided some direction how the MoPR could work together with the National Peace Trust Fund (NPTF), United Nations Peace Fund (UNPF), and other relevant international community in Nepal, civil society and human rights organizations. It would also have been helpful if some of the jurisprudence developed by the Supreme Court of Nepal on the relief and reparation to date have been incorporated in the Policy to give it more legitimacy.

It is somewhat problematic to ascertain the current status of the Draft Reparations Policy for two reasons. The first is that a final draft is still being finalized. Second and related is that the Ministry is unable to review, assess or advocate for it to be adopted as a final document as formally no final document was received. The logical framework for the project requires OHCHR to submit a final version for adoption by Government. To date this is outstanding. However it would to too harsh to maintain that all hinges on submission of a final version of the Policy, especially since a first draft was received as early as July 2011. Over the life of the project a range of very informative exchanges and consultations occurred with a wide range of stakeholders much of which should be credited to OHCHR. These contributed substantially to a future reparation policy of Nepal.

In conclusion – the consultants is of the opinion that Project mostly met the outcome, output and activities as prescribed in the logical framework. If the final version of the Reparation Policy and Reparation Policy Framework are submitted to the government, including the MoPR, other relevant stakeholders and made public, a significant contribution would have been made in taking reparations forward in Nepal.

**Delivery of Output Two – Map existing interim relief mechanisms and develop a set of concrete recommendations for improving their delivery, processing and reporting**.

The major delivery was the *“Report on Mapping Exercise and Preliminary Gap Analysis of the Interim Relief and Rehabilitation Programme,”[[22]](#footnote-22)*The core question is whether the Mapping and Gap Analysis Report serves as a sufficient basis for the *Proposed Reparations Programs* which is one of two major outputs of the project? In many ways the answer is “Yes.”The strengths of the document is providing a streamlined overview of the policies and procedures pertaining to the relief program as implemented and managed by the Relief and Rehabilitation Unit (RRU) of the MoPR at the time. The format of the report makes for easy reading and is very accessible. Particularly useful is the Table outlining the various benefits as received by different victims’ categories. An added column with comments could have been useful to provide additional information or to draw attention to inconsistencies or exceptions. A quick review of the Table indicates the complex nature of the Interim Relief Program and how difficult it must be for victims to understand the steps and gain access to accurate information regarding their entitlements given the particular category they belong to.

MoPR accepted and endorsed the findings of the Mapping Report, however since they felt that over 85% of the caseload for the cash grants had been completed through the EPSP phase 1 program, they would not change the implementation modalities so late in the project and would consider adopting recommendations only for subsequent programs.

A minor point of critique is the choice of pictures on the front page. The cash handover picture creates the wrong impression that cash will be handed over by hand to the conflict victim which was not the case as “cash” was transferred via a bank transfer.

It is noteworthy to mention an ICTJ report[[23]](#footnote-23) that covers much of the same ground that was published a few months after the IOM report. ICTJ was sub-contracted by OHCHR as part of their Peace through Justice Project, also funded by the UNPF-N. The ICTJ Report is more victim centered, playing to their strength as an international NGO working with local partners and providing a much deeper understanding of victim perspectives and experiences. IOM on the other hand had more and direct access to government and the RRU specifically and could benefit from in-depth discussions with officials. The two reports in many respects complement each other and ideally should be read together although covers some of the same information. It is somewhat peculiar that the ICTJ work was also a joint project with OHCHR, equally funded by the UN Peace Fund. Some duplication is evident from reading both documents and perhaps closer cooperation and information could have added value for both reports. ICTJ depth of field research would have complemented IOM’s government access in many ways. IOM in drafting their Proposed Reparations Programs document could perhaps have drawn more deliberately from the ICTJ work. As it is both documents offer valuable insight for an eventual reparations program or TRC.

**Delivery of Activity Three - Design an outreach strategy (including an outreach implementation plan)**

Three documents were produced in support of this Activity.

* *“Outreach: Conflict Victim’s Perceptions and Recommendations.”* This report was the result of a series of consultations with victims groups in three districts held in April and May 2011.
* Outreach Strategy[[24]](#footnote-24) specifically written for the ESES Project. The intention was that IOM would be able to test and monitor the effectiveness of the strategy for later wider application. This strategy is specific to the ESES structure and services. Posters and brochures were created and a MoPR toll free hotline established for persons to phone for information and queries. The consultant tested the hotline and spoke to a person who could answer some basic questions in English
* Outreach Strategy as a chapter in the “*Proposed Reparations Programs,”* finalised in December 2011. A short section on implementation is part of this proposed outreach strategy.

The most directly applicable of these documents is the Outreach Strategy for the ESES project as it is available for immediate use in the ongoing implementation of the ESES Project. The downside is that actual implementation of ESES in the districts only started in the beginning of 2012 with the result that IOM can no longer play the envisaged technical support role as their project closed end December 2011. This must put a question mark as to what extent MoPR will use the wide range of suggested outreach strategies in the implementation of ESES. Perhaps more importantly - without IOM involvement it is not clear how the lessons will be noted and documented for future use in an anticipated expanded ESES project or if a full blown Reparations Program is adopted by government or the TRC and CoID are formed. The slower than planned implementation of the ESES project was however outside the control of IOM. Subsequently IOM submitted a proposal to MoPR to continue the working relationship and provide direct technical support to the ESES project during this very important experimental phase till June 2012.

A final caution - the ESES should not been construed as synonymous with a Reparations Program. The ESES is a shift away from the cash payments under the Relief Program but it is not a Reparations Program in conception or design. However it does contain elements of a Reparation Program and many lessons can be learned that will be applicable and useful for a wider Reparations Program.

**Delivery of Activity Four – Design a comprehensive strategy for the collection and registration of victims and beneficiaries data, including the development of a victim and beneficiary data collection standard**

This Activity is dealt with under *Section 1. Victim Identification and Categorization of the Proposed Reparations Program.* Sub-sections deal with victim categorization, victim database, and registration. The ability to successfully implement the strategy hinges on two main factors. Also Annex 7 depicts the “Process flow for Conflict Victims Management Information System.” This was taken from WLinkTech, the service provider for the WB MIS system.

The proposed strategy covers significant aspects and will serve as a useful starting point in the eventual design of a reparations program. Frequent mention is made of the MIS system now being developed by MoPR with support from the WB. This database should serve the immediate needs and as recommended by IOM, could be expanded to address the demands of a fully fledged Reparations Program or TRC structure once established. The creation of this MIS although ambitious in scope, can benefit significantly by incorporating other sources of data such as INSEC, ICRC, OHCHR, UNFPA to mention a few.

Clarity of who is a “victim” as opposed to a “conflict affected person” is an essential distinction to lay the basis for a reparations program. In Nepal the two terms are often used interchangeably as can be noticed from the title of the project, “Fairness and Efficiency in **Reparations** to **Conflict Affected Persons.** Technically this would be incorrect as it links reparations with conflict affected persons, while it should read “**Reparations** … to “**victims of human rights violations”** The above distinction between “interim relief and “reparations” further serve to make the point that clarity of terminology is important in the drafting of both reparations policy and program.

The IOM document, in order to be consistent with the current TRC Bill, sticks to the categories of victims as listed in the Bill. This by itself is understandable but a more critical categorization might serve the legally defined victims better. At least two of the categories listed are doubtful if an international standard is applied. Category 7 – *Looting, seizure, breaking or arson of private and public property*, and category 8 – *Forceful eviction from house and land or displacement by any other means*, are included more likely to pacify political constituencies rather than norms as applied internationally. What is noteworthy is that the two categories - victims of sexual abuse and victims of torture is prominently mentioned. The special attention to treatment and specifically designed procedures for victims of sexual abuse is recognized.

The proposed strategy highlights another key aspect – an effective reparations program requires strong political will and backing. Victim issues are emotional, sensitive and cost money. Getting your name on a list can open doors that otherwise would stay shut. Political manipulation of lists is very likely and categorization of victims and subsequent registration are two related areas where the application of international norms is essential. A well trained bureaucracy to work sensibly and sensitively with information will be enormously important if and when a program is initiated.

**Delivery Output Five - Design process-flows and standard operating procedures for the processing of victims’ reparation claims and the provision of reparation benefits**

In mid-2011 IOM was asked to conduct a capacity assessment of the RRU and to make concrete suggestions that will increase their effective functioning and draw lessons for the establishing of a unit to implement a full reparations program. This assessment contributed to the development of specific SoP’s, strategies and administrative functions as described in the proposed reparations program.

The Proposed Reparations Program contains a number of Annexes that outline suggested process flows and SoPs for key services envisaged in a Reparations Program. Its utility lies in the effort to simplify the flow of procedures in order to receive a benefit from a particular category. A step-by-step procedure complements and explains the process flows. Lessons from the interim relief program were clearly applied to simplify and unify the process flows. The Outreach Strategy for ESES also benefited from the process flows and the brochures as designed draw the basic information from here. What remains is to test the suggested paths and to learn from actual practice and interaction of victims with the systems and flows as designed.

**Delivery Output Six - Testing of the administrative mechanisms for Employment/Self-employment Services (ESES) Program in twelve pilot Districts**

The convergence of interests between the World Bank funded Employment and Self-Employment Services Programme (ESES) with the IOM project, combined with MoPR expressed need to have IOM involved in the testing of administrative procedures, SoPs and the outreach strategy, provided an opportunity to test these in the field. This Activity was revised as described above to take advantage of this convergence and provide a wider testing base for the procedures as described in the Proposed Reparations Program. However the late implementation of the ESES in the 12 select districts resulted in a very narrow time overlap between the two projects and IOM could only support the initial preparatory phases in the districts. Preparatory training did take place and was supported by IOM in the districts exposing relevant government staff to the proposed procedures and Outreach Strategy. MoPR did indicate that the instruments as developed by IOM is helpful but it is not clear to what extent officials, consultants and service providers have internalized the systems, guidelines and procedures. It is not known to what extent MoPR using the SoPs and administrative procedures as is designed. This evaluation assumes that much of the learning would have been on the job and that the testing and application of the said systems would have been more effective if IOM remained involved as anticipated in the revised proposal.

The use of LPCs as key focal points for information and coordination in the ESES remains a risky strategy given the uneven performance of LPCs across the country. Various assessments and observations of LPCs[[25]](#footnote-25) (Carter Centre Report) indicated that very few are functioning effectively and it is assumed that the select districts follow this wider pattern. A dedicated and coordinated effort between the ESES Unit and the LPC Unit is thus necessary to ensure that the LPCs can increase their level of functioning to provide the level of service envisaged in the ESES/IOM design. A conceptual risk is that an already skewed perception is strengthened through the ESES project that LPCs existence is primarily to serve conflict victims. LPCs have struggled with money and their autonomy as structures throughout their existence and if ESES brings funds to the table LPCs may easily see themselves as serving this program rather than operating as autonomous peace building structures.

The posters and brochures can be described as functional rather than creative, interesting or inspiring. It is understood that the brochure has to condense complex information in a simplified flow to make it accessible for a wide range of people, some who would be illiterate. However the steps as outlined in the present brochure illustrate 7 steps that a prospective conflict victim beneficiary has to go through from application to service acquisition. Even though mentioned in the FAQs that acceptance into the program is not automatic, the steps indicate a linear process suggesting it is merely a matter of application with no provision for rejection of an application. This creates the impression that anyone coming to the LPC will be accepted which of course is not the case. The poster provides basic information on the ESES and who can participate. A series of pictures are presumably meant to be illustrative of the range of services. From the perspective of the evaluator the pictures add very little value and are of poor quality. The core message from the above is that staff and service providers who deal with conflict victims will have to be well trained to be able to explain to applicants the complexity, timing and decision making of the process.

In summary – the technical part of the proposal as described in the LogFrame was completed on time (with the exception of a final Policy draft). The documents developed will no doubt add to the knowledge base of the stakeholders who comprise the transitional justice grouping in Nepal. This implies that documents have to be distributed widely and made accessible. At the time of writing this Evaluation Report the Proposed Reparations Program was handed over to the respective Minister at MoPR. It is recommended that further dissemination will serve the wider constituency

### Management and Coordination of the Project[[26]](#footnote-26)

The overall management of the Project consisted of three levels to provide coordination and guidance. Firstly, a Project Management Committee (PMC), chaired by the Joint Secretary of the MoPR, with representatives from OHCHR and IOM met regularly to provide coordination and oversight. During the evaluation interview the responsible Joint Secretary[[27]](#footnote-27) indicated a positive working relationship that enriched him personally and professionally.

The PMC gave policy direction and contributed significantly to a sense of ownership of the project from the side of the MoPR.

A second structure, the Project Consultative Group (PCG) were formed with representatives from OHCHR, IOM, UNPFN, World Bank (WB), ICTJ, MoPR, Ministry of Home Affairs (MoHA), Ministry of Women, Children and Social Welfare (MWCSW), Ministry of Defense (MoD), Ministry of Finance (MoF), NHRC, TRC, CoID, civil society and victims groups participating. Given the wide range of stakeholders it proved to be difficult to engage all of them and the full PCG was never able to meet and remained largely ineffective in its role as a consultation forum.

A third structure was the Technical Committee. It was intended as a technical support group to promote synergy between OHCHR, IOM, WB and MoPR in relation to the topic in question. The full group did not meet as intended. However IOM, WB and MoPR met regularly with IOM part of both mid-term EPSP reviews. These somewhat more informal exchanges enabled IOM facilitating the convergence of interests around the ESES project. The acceptance of a change in the design and delivery of the project indicates that at working level significant synergy is possible and effective. OHCHR were less engaged in this sector as their outputs were related entirely to a reparations policy and had little to do with the interim relief program. From the side of OHCHR however they did introduced the idea of a working retreat with MoPR where participants could focus on matters of content and not encumbered by normal office routine.

Strong institutional cooperation and alignment was assumed between the project partners OHCHR and IOM. The idea to combine the knowledge base of OHCHR in transitional justice from a legal and international standards perspective with the grounded and wide knowledge of IOM in project management and administrative procedures related to transitional mechanisms made a lot of sense. In practice this was perhaps more difficult than anticipated. IOM culture and strength tends towards action, implementation and project management with an eye for opportunity and practice. OHCHR is strong on principle, well versed in international legal standards in their field, more studious in their approach and perhaps operate more hierarchically referring many matters to Geneva for consultation or decision making. IOM equally consults with their headquarters in Geneva but in this instance IOM started implementation faster. OHCHR acted slower, starting with existing staff but taking significant time to appoint a key advisory consultant who would be responsible for drafting a reparations policy. Logically it should have worked the other way round with a policy developed first to provide a framework for the development of a reparation program.

The rather abrupt ending of the OHCHR mandate and consequent closure also added pressure on the relationship towards the end of the project. OHCHR energies and focus necessarily shifted at the same time that the project was being wrapped up. The two final products of the project - a Reparations Policy and Program - could have benefitted from more considered discussions bringing closer principle and practice.

## Monitoring mechanisms

Over the life of the project Quarterly Reports provide information of the progress achieved for the time period in question. Six such reports were produced providing progress as measured against predetermined indicators for given Outputs. Each report is useful in its own right and as a cumulative record of ongoing progress. The Final Report continues this narrative approach but in a much more elaborate and thoughtful manner. The authors of the report should be congratulated for the thorough and reflective nature of the report as it holds a lot of information that places much of what the project was all about in perspective. Included in the Final Report is a schedule with Indicators that uses the LogFrame format to provide an overall picture of the delivery at completion of the project. This is a useful single snapshot of the technical value and deliverables of the project. It could be argued that the essence of the project was in fact a technical cooperation and that it is sufficient to monitor the delivery on the technical products.

However viewed from the perspective of the broader context a purely project management/LogFrame approach presents a rather “flat” picture of the project and nothing of the nuance that made the project successful is reflected. Read together with the preceding narrative of the Final Report some of the value added to the transitional justice context becomes clearer.

Two aspects regarding the nature of the project are important to note. The first is the explicit Outcomes of the project and the associated Outputs as building blocks. For purposes of tracking progress and delivery the LogFrame related indicators are sufficient to determine progress and deviance from the project plan and time schedule. However a more complex aspect of the project needs to be tracked – impact on transitional justice in Nepal and the peace process in general. This requires the kind of reflective learning approach as is evident from the Final Report..

If the project is viewed as a change process then different lenses are needed to note, observe and track the changes that are occurring due to the project intervention. The “technical dialogue” approach suggested underneath by the evaluator alludes to this idea of the project not only delivering technical products but engaging stakeholders in a process of dialogue for the purpose to shift attitudes, strengthen working relations, build consensus, explore common understanding, build conceptual clarity, all related to advance transitional justice in Nepal.

Drawing from the work of Lewis as described in “Reflective Peacebuilding,”[[28]](#footnote-28) three layers of monitoring are suggested for consideration in UNPF-Nepal projects. The first as mentioned is the more conventional project implementation monitoring. A Logframe and indicators to track deliverables are appropriate tools. The second layer refers to desired outcomes and the change the project endeavours to bring. Does the project bring forth the desired influence as envisaged at the time of design? UNPF requires impact, which imply change from the status quo and therefore it warrants sufficient attention to a monitoring mechanism that provides information and learning. This will require a “theory of change” as part of the design and proposal with indicators how such change will be tracked during the life of the project. The underneath qualitative indicators in the next section used for this evaluation to assess the strategic impact could be seen as the beginning of a tool to monitor such broader contribution.

The third layer refers to monitoring the context to appreciate the impact of the context on the project. This project in particular operated in and was influenced in a number of ways by the context. It is therefore assumed that project staff informally and implicitly monitored by the context. A deliberate lens to bring wider contextual aspects into focus will assist to anticipate changes and enable timely adaptations.

## Strategic Value and Impact towards Transitional Justice and the Nepal Peace Process

The potential or intended value of technical inputs to larger processes of transition to peace and democracy is often overstated. Multiple factors inhibit the impact it can realistically make in a complex and politicized environment where overall progress of the transition to peace (as in Nepal) is often uneven to say the least. The delays in the formation of the two Commissions (TRC and CoID) are the most obvious examples to illustrate this point.

MoPR operates according to directives from government and is accountable to the Minister that heads up the Ministry.[[29]](#footnote-29) Even the best intended and designed technical inputs will be subjected to the constraints of the bureaucratic structure and the vagaries and realities of the politics of the day. Furthermore the Ministry is typically staffed with officials who are competent bureaucrats but have not been schooled in process dynamics or as experts in transitional justice, peacebuilding and conflict resolution or related disciplines. These and other factors make technical inputs a risky business, especially to assess their possible contribution to a larger peace process.

For these reasons it might be better to conceive of and construct technical input as a process, veering away from a fixation on the final product (Reports, Reparations Policy and Reparations Program, Outreach Strategy and SoP’s as was the case with this project) as the only or even primary manner in which value is added to the larger peace process. The value of technical input is therefore not solely assessed in terms of delivery of quality technical products but also through how and with whom these products were developed. In short, matters of process - open dialogue and discussion, empowerment towards full contribution from all, creating space for inclusion of all stakeholders, stronger relations building between actors and institutions, convergence of thought on principle and practice, readiness to take ownership of the final products, timing and consultations – holds equal if not more value for the larger impact or contribution to transitional justice as a part of the overall peace process.

The evaluator would like to introduce the term **“technical dialogue”** to highlight the value of process considerations as part of technical input and cooperation. The notion of technical dialogue will be used as a lens to assess the possible strategic value the project contributed to transitional justice in particular and the peace process in general. The underneath categories were created by the evaluator to serve as a yardstick of contributions to transitional justice process as a key component of the broader peace process in Nepal

### Deeper Knowledge Base through added Technical Value

Processes of transitional justice require well argued, documented and quality technical inputs grounded in both international practice and norms and local culture and practices. By and large the technical documents produced made significant contributions to the evolving field in Nepal and should serve as a resource not only for government but also for a range of other stakeholders – political leaders, civil society actors, media and victim groups.

It is however unclear to what extent the knowledge contained in the documents has been internalized by respective officials and even politicians. The need to view the proposed policy and programs through a victim-centered lens remains a challenge as various stakeholders are inclined to view such measures through their preferred or conditioned lenses. The recent political decision to do away with the two proposed mechanisms of a TRC and CoID is a stark example of the divergent views of whose interests will be served in TJ mechanisms.

### Government Officials Capacities and Ownership Enhanced for Implementation

A significant investment has been made in key government officials through workshop learning, exposure trips and ongoing interactions and discussions. Several officials remarked on the value of comparative examples and cite lessons learned from elsewhere.[[30]](#footnote-30) Responses from different government officials have been mixed with regard to the various project documents with a strong leaning towards an appreciation of the quality and value of the documents produced. Late submission, limited distribution and therefore access to some degree detract from the government officials embracing the documents whole heartedly.[[31]](#footnote-31)

It remains a challenge to convert increased technical capacity and knowledge into implementation capacity for a number of key reasons. The first is that bureaucracies operate in set ways and the victim centered approach demanded by a sensitive reparations program is not the norm that fits the current culture and practice.

What was highlighted during the evaluation was the often confined space in which officials operate. They are answerable to the political leadership and given the often rotating incumbents it is often best to adopt a-wait-and-see approach. This is especially true for politically sensitive documents in the uncharted waters of TJ.

Given the above it is assessed that government officials at present will accept the documents as useful but may not be in a position to fully advocate for their adoption unless the political climate is conducive.

### Willingness to Test Procedures and Formats

The opportunity to test draft procedures and formats go beyond programmatic value and touches upon the broader TJ goals. Linking the UNPFN project with the WB/MoPR ESES project was exactly argued on this basis. Testing procedures, systems, monitoring and the Outreach Strategy offers the best practical opportunity to add value for broader application across the country. In some ways ESES could serve as a bridge between interim relief and a more comprehensive reparations program. However timing and subsequent non-involvement of IOM in the implementation puts a question mark over MoPR willingness or ability to make use of the technical expertise available through a cooperative arrangement with IOM. Without careful documentation to capture and learn the nuances the testing phase in 12 districts will not be optimized.[[32]](#footnote-32)

### Relations between Key Donors and MoPRStrengthened

The best example of increased donor cooperation came about through the revision of the project to take advantage of working together on the ESES project. This held the further bonus of bringing the project partners, especially IOM, closer to the MoPR. The project have thus contributed constructively and positively to foster a deeper appreciating of different key donors in the peace process.

Separate from the above but useful to note is the contributions IOM made to the NPTF cluster meetings to provide technical inputs in the proposal development phases of the NPTF system.

### Closer Cooperation within the UN System

Five UN related agencies made inputs into the development of the project products. The UN Peace Fund provided the money, IOM and OHCHR implemented the project jointly and UNWomen and UNFPA made inputs and comments over the life of the project. From the limited information gathered it would appear as if IOM and OHCHR both complement and at times challenged each other. The value added by UNWomen to bring a gender perspective in workshops and the research done by UNFPA on women victims who suffered sexual abuse contributed significantly to a deeper understanding of such issues . It would be appropriate to give more recognition to these contributions. At minimum copies of the completed documents should be given to them as part of a wider distribution[[33]](#footnote-33)

### Cooperation between bi-lateral Organisations, NGO’s and Victim Groups

The focus of the project especially for IOM was to work with the MoPR in developing administrative procedures and systems in support of a program. Contact with victim groups was therefore limited. More significant was exchange of knowledge with a number of international and local NGOs prominent in the field of transitional justice.

OHCHR on the other hand engaged much more with victim groups and local communities through a series of workshops. IOM was able to make use of very good relations enjoyed by OHCHR with a number of local partners. Engagement always run the risk of raising expectations but it is also necessary to gain the important perspective of victims directly. In summary contact, exchange and connection with victim groups and NGOs were useful and served both constituencies.

### Contribution towards Sustained efforts to keep Reparations for Conflict Victims Active

The new constitution to be promulgated at the end of May 2012 will herald in a new era. Attention, money, energy and momentum will start to shift to address future and ongoing conflicts and manage the new challenges. Within this scenario it is likely that voices of victims will be drowned out and political leaders may want to make some quick compromises to gloss over the past.[[34]](#footnote-34) This indicates the need to amplify voices and sustain efforts towards an integrative approach for transitional justice in Nepal. A related question is whether and how the Reparations Project provided support to those organizations who will continue to carry the baton for transitional justice?

Also connected is whether future commissions will make use of the material and information contained in the documents? The widest possible distribution of the documents will increase the possibility of this happening as shared information facilitates growing consensus and convergence.

## Gender Focus and Sensitivity

Women are a significant proportion of the overall number of victims of serious human rights violations in Nepal. Given this and their socio-economic status plus the nature of the violations suffered by them, special attention is needed to bring them into the relief and reparations programs and more broadly transitional justice processes. International law and standards[[35]](#footnote-35) further draws attention to the special need and obligations of the State regarding women and abuses they suffered during the conflict period. Build into the design requirements of the UN Peace Fund is special consideration for women victims, especially in cases of sexual violence. Given the above the expectation is that the project would as a priority place gender and women sensitivity as a key component in capacity building of MoPR/RRU staff. In this regard the series of joint workshops together with UN Women to sensitize the local government bodies of 7 districts of Nepal on NAP on 1325/ 1820 to highlight the needs of women and children affected by 10 years of armed conflict is significant.

More broadly the project worked closely with UN Women and UNFPA, to ensure an active perspective and also involved women officers from the MoPR to bring in women’s perspectives during the project cycle itself. In turn the project partners participated actively in the development of the GoN “National Action Plan.”[[36]](#footnote-36) Women victims appear to have been consulted throughout the country. In the Proposed Reparations Programs document specific reference to special considerations for women is highlighted in *Section 3.6.3: Reparations Benefits and Services – Specific Consideration for Women and Section 5.3.1: Outreach Strategy – Target Audience Analysis: Gender.* The need to structure payments, services and operating procedures to serve the needs of women are highlighted in these sections.

As a critique the recommendations in the Rapid Capacity Assessment, although implied, does not specifically mention gender and women aspects as an area of capacity building within MoPR as part of preparations for a reparation program.

The ESES in particular offers an opportunity to bring women into the process of employment/self employment services offered through this project. The Outreach Strategy drafted by IOM does dedicate a section on “Gender” to the need for the project to design outreach programs to reach women as a large proportion of conflict affected persons and victims are in fact women. However it is the responsibility of the ESES project is itself to gear the project to respond to the particular livelihood needs, capacities and opportunities of women to make it effective within their wider cultural role and context.

A note on data and data systems - it is essential to disaggregate data on victim categories and be able to track gender differences and particulars. The IOM program emphasizes that the MIS should be able to track and record categories of victims that respond to women but at the same time are sensitive to cultural shame related to sexual abuse.

Mention of the statute of limitations, as stated in the UN Reparation Guidelines would have been useful as it plays an important role to limit especially women’s access to justice in the case of sexual abuse. Further, special measures to deal with the women victims should have been prescribed stating the comparative experiences and international best practices.

In general it is assessed that the proposed program shows awareness and sensitivity towards gender/women aspects.

A last note – even though outside of the strict mandate of the project it would be important to see women (and in fact all victims) not only as passive recipients of interim relief or beneficiaries of reparations but as actors in seeking justice, truth, reconciliation as a group and as individuals. Women certainly have much to offer in the broader peace and truth seeking processes. A strong reparations policy and program will recognise the constructive role women can play in rebuilding communities, and heal past wounds. In this regard the proposed programs do not go as far as it possibly could in recommending such a role.[[37]](#footnote-37) Annex D provides a set of resources for further reading.

### Summary of Lessons and Recommendations[[38]](#footnote-38)

## Conceptual Clarity and Other Inclusions

A significant portion of the IOM component of the project focuses on the interim relief for conflict victims, including the shift to test procedures, outreach strategy and more in the ESES project and apply it to a reparations program. The conceptual basis for such a focus on interim relief is to base the reparations program on existing realities of capacity, skills and political mandate. However the aim is to develop procedures for a reparations program. This shifts the onus to IOM to make it explicit how such a shift will occur and what are the risks and sensitivities associated with using existing relief projects as a starting premise. Such conceptual clarity and linkage would have been useful as an opening chapter in the Proposed Reparations Programs. In the substance of the Proposed Reparations Program document reference is made to data and information of the relief program which is helpful to understand practical aspects. In a small way this link between relief and reparations are made in the Rapid Capacity Assessment document which provides a comparative table of skills required for the different programs.

One risk aspect to illustrate the need to make the inherent problems specific relates to the victims and how they would perceive a shift from relief to reparations. All programs so far has been directed at conflict affected persons and they would naturally understand themselves as legitimate beneficiaries – even the current Outreach strategy for ESES confirms that. However a reparations program involves an overlapping but different set of people. Managing such expectations could be problematic in Nepali context as can be seen from the way disqualified combatants reacted when they did not receive the same benefits as under voluntary retirement provisions.

Complementary to such a section a paragraph of two to describe the pitfalls and risks of developing a reparations program where no TRC or truth seeking process has preceded it would have been helpful. Many references have been made to impact the absence of a TRC/CoID had on drafting a reparations policy and program and therefore such a section will make it explicit what indeed are the risks when developing a reparations program without a TRC.

The project was seen as a technical cooperation with MoPR transferring knowledge and delivering a technical product. Two aspects are important. A reparations program is “political,” and holds significant political implications. Secondly, it has been noted that government officials are subjected to instructions and direction from the responsible Minister or government in general.

Acceptance of any reparations program is totally dependent on political leaders accept and advocate it and pass laws and budgets to make it happen. The lack of consultations with senior political leadership is seen a somewhat of a loss. The quality of the technical discourse could have been expanded to influence and sensitize political leaders as key decision makers.

## Institutional Relations and Partnership

Institutional cooperation is commendable, necessary and worthwhile to pursue. However merging of organizational cultures, institutional strengths, work and decision-making structures, management capacities may often result in a less than optimum cooperation as anticipated during the proposal drafting phase. Informal and formal arrangements as well as good personal relations are needed to make it work effectively

1. The technical cooperation and exchange between various organizations, especially since the ESES, would have benefitted from a more formal cooperative mechanism with regular meetings between the various organizations – IOM, OHCHR, UNPFN, WB and MoPR.
2. To conclude the project formally, the OHCHR should provide the final version of the Reparation Policy to the MoPR along with the Reparation Policy Framework. It is also recommended that some of the practical aspects like implementation by the MoPR and oversight and monitoring by the NHRC be revised.
3. Bring LPC Implementing Unit into the decision making and planning of the ESES project in a meaningful way as part of the process to support LPCs to play an effective role as a focal point structures for ESES roll-out. Already approved NPTF funding is available to strengthen LPC capacity as peace building structures and place support for victims as part of their overall peacebuilding role in the district.

## Sustainability

The quest for fair and comprehensive reparations is a long road and needs to be sustained over time. Ultimately it is Nepalese people and institutions that have to take on this task, advocate for it and ensure a program becomes a reality. The development of a draft reparations policy and program has to contribute to the ability of Nepalese people and organizations to advance on this road. In the shifting political context energy, focus and political will is going to shift to current conflicts and future challenges. Maintaining a voice for past issues or reparation to victims will increasingly find it difficult to be heard.

1. Value, make use and work closer together with civil society structures who brings a wealth of experience, local knowledge, independent research and access to victims
2. Strengthen and formalize alliances across various disciplines for sustained efforts, e.g. legal system and lawyers, victim organizations, peacebuilding NGOs, international community and donor organizations.
3. Victim organizations appear to be strong in commitment but organizationally weak. As the credible and authentic voice of victims their organizational and staff capacity should be strengthened at technical, managerial and administrative levels.
4. Maintain a strong focus on women victims and resources as part of a broader reparations program. Strengthen their participation, involvement and voices as a central piece of any policy and program.
5. Maintain informal and formal contact with MoPR who has to advocate keeping reparations policy on the national agenda. Civil society discussions should include government officials as far as possible
6. Explore who will be the champions from within Nepal to champion the cause of fair and effective reparations.

## Knowledge and Learning

1. The products of the Project must be disseminated, even if not published, to the relevant government ministries and agencies, including the MoPR, and to civil society, human rights organizations, international community in Nepal and made available prominently in the Transitional Justice Resource Centre (TJRC).
2. The Policy and Framework (and with IOM agreement) and Reparations Program, along with other important documents like UN Reparation Guidelines may be compiled and published for the public knowledge and reference.
3. The OHCHR and IOM may think of follow up program through their respective presence in Nepal and request UNPF and NPTF or any other institution like WB to continuously involve even after the TRC and CoID.
4. The OHCHR and IOM carry out a study to assess their collaboration of working on reparation project and recommend for future strategy.

## Conclusions and Finding

The past ten years of conflict has caused serious violation of human rights and particular victims and society at large has suffered. The country is poised to advance towards peace and prosperity under the umbrella of a new constitution. Rather than viewing it as a backward step or holding on to old wounds, victims can be a powerful catalyst to embrace an inclusive future for all. What will help them is a strong reparations program that provides them with a livelihood and understanding and truth of a traumatic past and recognition from the state for mistakes from both sides that cost them dearly.

The project and products delivered did indeed contribute to the capacity and competence of especially key government officials. The draft policy makes a significant contribution towards a comprehensive reparation policy to serve the victims of the serious human rights violation, and more broadly transitional justice in Nepal. The reparations program offers significant practical procedures and stand as a resource for the MoPR and Commissions alike.

More important perhaps than the documents is the process that engaged a wide range of actors and offered skills and capacity development. In turn these participants offered their knowledge and information making the drafting of the documents possible.

# Annex A – Major Human rights and humanitarian treaties and conventions[[39]](#footnote-39)

1. The [International Convention on the Elimination of All Forms of Racial Discrimination](http://en.wikipedia.org/wiki/International_Convention_on_the_Elimination_of_All_Forms_of_Racial_Discrimination) – Article 6
2. The [United Nations Convention Against Torture](http://en.wikipedia.org/wiki/United_Nations_Convention_Against_Torture) – Article 14
3. The Convention on the Rights of the Child – Article 39
4. The [Hague Conventions](http://en.wikipedia.org/wiki/Hague_Conventions_of_1899_and_1907) respecting the Laws and Customs of War on Land – Article 3
5. The [Rome Statute of the International Criminal Court](http://en.wikipedia.org/wiki/Rome_Statute_of_the_International_Criminal_Court) (ICC) – Articles 78 and 75”
6. Protocol Additional to the [Geneva Conventions](http://en.wikipedia.org/wiki/Geneva_Conventions) relating to the Protection of Victims of International Armed Conflicts – Article 91

# Annex B – Summary of UN Basic Principles and Guidelines

This includes the duty to:

1. Take appropriate legislative and administrative and other appropriate measures to prevent violations;
2. Investigate violations effectively, promptly, thoroughly and impartially and, where appropriate, take action against those allegedly responsible in accordance with domestic and international law;
3. Provide those who claim to be victims of a human rights or humanitarian law violation with equal and effective access to justice . . . irrespective of who may ultimately be the bearer of responsibility for the violation;
4. Provide effective remedies to victims, including reparation

The UN Basic Principles and Guidelines indicate that reparations should consist of multiple components, identifying a range of forms of reparations. These include restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.

More specifically:

* Restitution to restore the victim to his or her original situation before the violation. This can include restoring liberty, the enjoyment of human rights, and restoration of employment and return of property
* Compensation should be provided or any economically assessable damage in a way that is appropriate and proportional to the gravity of the violation. Violations include physical and mental harm, lost employment or educational opportunities, and material and moral damages
* Rehabilitation includes medical and psychological care and legal and social services

Satisfaction is a non-financial expression of reparation, which can take a range of forms such as truth seeking, searching for the disappeared, public apologies, commemorations and tributes to victims, sanctions against those liable for violations

# Annex C - List of Persons interviewed

|  |  |  |  |
| --- | --- | --- | --- |
| **S.N** | **Name** | **Organization** | **Comments** |
| 1. | Ms.Jyoti Sanghera | OHCHR | Representative of OHCHR – Courtesy Telephone conversation  |
| 2 | Mr Sarat Dash | IOM | Chief of Mission |
| 3. | Mr. Terry Savage | OHCHR | International Consultant for Reparations Policy |
| 4 | Mr. Lach Ferguson | UNPFN |  |
| 5. | Mr. Sadhuram Sapkota | MoPR | Joint Secretary – Transitional Justice and Chair Project Joint Management Committee. An Unnder-Secretary joined the interview |
| 6. | Mr. Shankar Pathak | MoPR | Head of RRU |
| 7. | Mr. Deependra Nath Sharma | MoPR | Joint Secretary – Program Manager ESES. Two Under-Secretaries joined he interview |
| 8. | Ms Laxmi Basnet | MoPR | Joint Secretary – LPC Unit. Met together with one Under-Secretary |
| 9. | Ms. Afrah Alahmadi | World Bank | Team Leader ESPSP |
| 10 | Mr. Janak Raut | CVSJ- victim group |  Coordinator Victim group |
| 11 | Ms. Reshma Thapa | ICTJ | Acting Head  |
| 12 | Mr. Hari Phuyal | OHCHR consultant | Evaluator OHCHR component; Independent lawyer. Email exchange |
| 13 | Mr. Kabindra Pudasaini | MoPR |  Consultant for ESES project |
| 14 | Ms. Rachana Bhattarai | UN WOMEN |  Two additional colleagues joined the conversation |
| 15 | Philippe Brewster & Jitendra | IOM |  Met twice to discuss progress and obtain input.  |

# Annex D - Resources for Information and Knowledge on Women and Conflict[[40]](#footnote-40)

**Women’s Commission for Refugee Women and Children**

The Women’s Commission for Refugee Women and Children is the only advocacy organization with the mandate to support refugee and IDP women and children. It advocates for the inclusion of refugee and IDP women, children and adolescents in humanitarian assistance and protection programs, and tries to ensure that their voices are heard at every level of government.

[www.womenscommission.org](http://www.womenscommission.org)

**Inclusive Security: Women Waging Peace**

Women Waging Peace connects women addressing conflict around the world in the belief that they have a role to play “in preventing violent conflict, stopping war, reconstructing ravaged societies, and sustaining peace in fragile areas around the world.” Women Waging Peace advocates for the full participation of women in formal and informal peace processes. The initiative is run by the Women and Public Policy Program at Harvard’s Kennedy School of Government and Hunt Alternatives.

[www.womenwagingpeace.net](http://www.womenwagingpeace.net)

**Sexual Violence and Armed Conflict: United Nations Response**

This issue of Women2000 provides extensive information on sexual violence and armed conflict. It addresses the history of sexual violence during conflict and discusses the international community’s response to sexual violence. It was published by the UNDivision for the Advancement of Women in April 1998.

<http://www.un.org/womenwatch/daw/public/w2apr98.htm>

**Guidelines for Gender Analysis and Assessment**

An inter-agency workshop on “Integration of Gender in Needs Assessment and Planning of Humanitarian Assistance” resulted in summary guidelines and a checklist for integrating gender analysis and assessment

[www.reliefweb.int/library/GHARkit/files/workshoponintegrationofgenterintoneeds.pdf](http://www.reliefweb.int/library/GHARkit/files/workshoponintegrationofgenterintoneeds.pdf)

**Women and War**

In a 2000 article, Charlotte Lindsey of the International Committee of the Red Cross (ICRC) discusses the varying ways women experience armed conflict. This article addresses the different roles women play during conflict, including combatant, victim of sexual violence, and IDP. It also provides an overview of the ICRC’s work to assist and protect women.

[*www.icrc.ch/Web/Eng/siteeng0.nsf/iwpList179/5BD0956E8C9593CFC1256B66005EFEE9*](http://www.icrc.ch/Web/Eng/siteeng0.nsf/iwpList179/5BD0956E8C9593CFC1256B66005EFEE9)

**Human Rights Watch**Extensive information on women’s human rights developments around the world is provided on Human Rights Watch’s web site. The Women’s Rights section offers several reports about violence against women. [*www.hrw.org*](http://www.hrw.org)

**The International Committee of the Red Cross**

A section of the International Committee of the Red Cross’ web site is dedicated to the issues women face during wartime. The site includes useful reports and statements on the issue. Information is also available about women and international humanitarian law. [*www.icrc.org/eng/women*](http://www.icrc.org/eng/women)

**United Nations High Commissioner for Refugees**

The United Nations High Commissioner for Refugees’ Refworld database includes refugee country of origin and legal information. It contains many publications on women and conflict.

[*www.unhcr.org/rsd.html*](http://www.unhcr.org/rsd.html)

**United Nations Development Fund for Women**

The United Nations Development Fund for Women (UNIFEM) provides financial and technical assistance to programs that support women’s empowerment and gender equity. UNIFEM focuses on ending violence against women, reversing the spread of HIV/AIDS among women and girls, achieving gender equality in democratic governance, and reducing feminized poverty.

[*www.unifem.org*](http://www.unifem.org)

**U.S. State Department’s Office of International Women’s Issues**

The U.S. State Department’s Office of International Women’s Issues provides information and fact sheets on women’s situation in several countries on its web site. The office is responsible for coordinating the integration of women’s issues into the broader U.S. strategic, economic and diplomatic goals. [www.state.gov/g/wi](http://www.state.gov/g/wi)

**United Nations’ Division for the Advancement of Women**

Through its web site, the U.N.’s Division for the Advancement of Women provides analyses of women’s rights issues in a global context, promoting awareness of such issues and advocating for gender equality. Also addressed are everyday issues faced by women who are living in conflict situations. The site promotes women’s contribution to fostering a culture of peace.

[www.un.org/womenwatch/daw/index.html](http://www.un.org/womenwatch/daw/index.html)

**The 1995 Beijing Conference on Women**

This United Nations web site offers information on the Fourth World Conference on Women, held in Beijing, China, in September 1995. It covers the many issues faced by women who are living in conflict situations.www.un.org/womenwatch/daw/beijing/index.html

1. Wikipedia - <http://en.wikipedia.org/wiki/Reparations_%28transitional_justice%29> [↑](#footnote-ref-1)
2. From a USAID document titled Women and Conflict: An Introductory Guide for Programming, 2007, <http://pdf.usaid.gov/pdf_docs/PNADJ133.pdf> [↑](#footnote-ref-2)
3. UN *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,* adopted and proclaimed in 2005 by General Assembly Resolution 60 / 147 [↑](#footnote-ref-3)
4. OHCHR website - <http://www2.ohchr.org/english/law/remedy.htm> [↑](#footnote-ref-4)
5. *From Relief to Reparations: Listening to the Voices of Victims, ICTJ-Nepal,* *2011 -* [*http://ictj.org/publication/relief-reparations-listening-voices-victims*](http://ictj.org/publication/relief-reparations-listening-voices-victims) [↑](#footnote-ref-5)
6. The **Commission of Inquiry to Find the Disappeared Persons** (Hayner, 2001) was established in 1990 to investigate allegations of torture, disappearances and extra-judicial executions that took place from 1961 – 1990 under the Panchayat System. It investigated over 100 cases but it took strong pressure for the findings to be published and very few of its recommendations were ever implemented. [↑](#footnote-ref-6)
7. Since the formation of the MoPR in 2007 at least 7 Ministers have been appointed as political head of the Ministry, one as short as for a period of 2 weeks. [↑](#footnote-ref-7)
8. CPA, “*Item 7.1.3 - Both sides express the commitment that impartial investigation and action as per the law would be carried out against the people responsible in creating obstructions to the exercising of the rights envisaged in the letter of agreement and guarantee not to encourage impunity. Apart from this, they shall also guarantee the right to relief of the families of the conflict and torture victims and the disappeared*”; and

*“Item 8.4 - Both sides express commitment that the interim Council of Ministers can constitute and determine the working procedures of the … the Truth and Reconciliation Commission, … as per the need to implement this agreement, the Interim Constitution and all the decisions, agreements and understandings reached between the Seven-party Alliance, the Government of Nepal and the CPN (Maoist).”* [↑](#footnote-ref-8)
9. Briefing paper: D*isappearances in Nepal: Addressing the Past, Securing the Future, International Commission of Jurists, March 2009,* [*http://www.icj.org/IMG/Briefing\_paper\_on\_Nepal\_Enforced\_Disapp\_-\_FINAL.pdf*](http://www.icj.org/IMG/Briefing_paper_on_Nepal_Enforced_Disapp_-_FINAL.pdf) [↑](#footnote-ref-9)
10. <http://www.ekantipur.com/the-kathmandu-post/2012/04/19/top-story/big-3-parties-decide-to-go-for-a-single-commission/233939.html> [↑](#footnote-ref-10)
11. <http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2010/05/10/000333037_20100510000709/Rendered/INDEX/544210PJPR0P111only10IDA1R201010131.txt> [↑](#footnote-ref-11)
12. *From Relief to Reparations: Listening to the Voices of Victims, ICTJ-Nepal,* *2011 -* [*http://ictj.org/publication/relief-reparations-listening-voices-victims*](http://ictj.org/publication/relief-reparations-listening-voices-victims) [↑](#footnote-ref-12)
13. This section is largely taken from the report as written by Hari Phuyal and Om Prakash Aryal, with editing from Philip Visser as the IOM consultant. [↑](#footnote-ref-13)
14. *Fairness and Efficiency in Reparations to Conflict Affected Persons Proposal*, submitted to UNPFN Executive Committee adopted on 19 March 2010 [↑](#footnote-ref-14)
15. A first draft was made available in July 2011. A 2nd *Draft Reparations Policy* was circulated in March 2012 [↑](#footnote-ref-15)
16. *Proposed Reparations Programs*, December 2011 [↑](#footnote-ref-16)
17. *Rapid Capacity Assessment of Relief and Rehabilitation Unit (RRU), Ministry of Peace and Reconstruction(MoPR), July 2011* [↑](#footnote-ref-17)
18. Employment/Self-Employment Service [↑](#footnote-ref-18)
19. Terms of References for two sets of consultants contracted separately by OHCHR (Hari Phuyal and *Om Prakash Aryal* ) and by IOM (Philip Visser) [↑](#footnote-ref-19)
20. Final Programme Narrative Report, reporting period: 1 May 2010 – 31 December 2011, submitted to UN Peace Fund for Nepal, April 2012 [↑](#footnote-ref-20)
21. This Activity is an edited version of the relevant section of the Evaluation Report submitted by Hari Phuyal and Om Prakash Aryal, the consultants contracted by OHCHR to assess the delivery of the Reparations Policy component of the project [↑](#footnote-ref-21)
22. *“Report on Mapping Exercise and Preliminary Gap Analysis of the Interim Relief and Rehabilitation Programme,” IOM, December 2010* [↑](#footnote-ref-22)
23. *From Relief to Reparations: Listening to the Voices of Victims, ICTJ-Nepal,* *2011* [↑](#footnote-ref-23)
24. *Employment/Self-Employment Services Outreach Strategy, MoPR as drafted by IOM, no date* [↑](#footnote-ref-24)
25. Carter Center*: Local Peace Committee functioning has improved, but overall effectiveness remains unclear,* May10, 2011 [↑](#footnote-ref-25)
26. This section is based on the relevant part as written by Hari Phuyal and Om Prakash Aryal, the OHCHR contracted consultants [↑](#footnote-ref-26)
27. Interview with Mr Sadhuram Sapkota, Joint Secretary, MoPR, March 2012 [↑](#footnote-ref-27)
28. *Reflective Peacebuilding: A Planning, Monitoring and Learning Toolkit,* by John Paul Lederach, Reina Neufeldt and Hal Culbertson, Joan B Kroc institute, University of Notre Dame, and Catholic Relief Services, East Asia Regional Office, 2007. <http://www.crsprogramquality.org/storage/pubs/peacebuilding/reflective_peacebldg.pdf> [↑](#footnote-ref-28)
29. The Joint Secretary responsible for RRU remarked that the recommendations in the Mapping Exercise, although useful in its technical value and learning for the Unit, could not be adopted as they were operating on a set of procedures approved by Cabinet. Any change will require a new Cabinet decision. This was not likely as the Mapping Exercise was done in the latter part of the Interim Relief project. [↑](#footnote-ref-29)
30. During the interview a Joint Secretary and an Under Secretary both expressed the value of visiting Morocco and Colombia, countries with contrasting transitional justice experiences [↑](#footnote-ref-30)
31. This refers specifically to the two final documents of the project. Government officials in general express appreciation for the project but were cautious to fully embrace documents when they have not officially receive it. [↑](#footnote-ref-31)
32. The Joint Secretary responsible for implementing the ESES project expressed very directly the need for ongoing technical support, particularly when the project expands. Expansion was dependant on the World Bank extend the project period. [↑](#footnote-ref-32)
33. At the time of the interview UNWomen have not received a copy of the Reparations Program. They were looking forward to see it and express appreciation for the support from IOM in developing a Gender strategy [↑](#footnote-ref-33)
34. The interview with the Coordinator of a major victim group took place in their offices in Lazimpat, Kathmandu. The consultant was struck by what appear to be a very low level of administrative capacity in the office. The group only works on volunteer time which would be very difficult to sustain for those dedicated to their cause over a long period. Given the experience from other countries it should be recognized that transitional justices processes typically take at least a decade or longer [↑](#footnote-ref-34)
35. See amongst others United Nations Security Council Resolution 1325 October 2000 and Resolution 1820 in June 2008. [↑](#footnote-ref-35)
36. National Action Plan on Implementation of the United Nations Security Council Resolution 1325 & 1820, [2011/12 – 2016/17], Government of Nepal, Ministry of Peace and Reconstruction, Singhadurbar, Kathmandu, 1st February 2011 [↑](#footnote-ref-36)
37. See a USAID document titled Women and Conflict: An Introductory Guide for Programming, 2007, <http://pdf.usaid.gov/pdf_docs/PNADJ133.pdf>, for possible program possibilities [↑](#footnote-ref-37)
38. This section draws significantly from the Lessons and Recommendations proposed in the Evaluation Report submitted to OHCHR by Hari Phuyal and Om Prakash Aryal [↑](#footnote-ref-38)
39. Wikipedia - <http://en.wikipedia.org/wiki/Reparations_%28transitional_justice%29> [↑](#footnote-ref-39)
40. From a USAID document titled Women and Conflict: An Introductory Guide for Programming, 2007, <http://pdf.usaid.gov/pdf_docs/PNADJ133.pdf> [↑](#footnote-ref-40)