

**A request to remind the Government of Nepal to incorporate victims' concerns regarding
Nepal's Transitional Justice (TJ) Bill**

6th October 2023

His Excellency Mr. António Guterres
UN Secretary-General
United Nations
United Nations Headquarters
New York, NY 10017
via
Office of the UN Resident Coordinator in Nepal
UN House
Pulchowk, Lalitpur, P. Box 107, Kathmandu, Nepal

Your Excellency,

We came to know that you are visiting Nepal soon, which we welcome heartily. We, the victims of conflict-era human rights violations in Nepal are waiting for truth, justice and reparation for over the last 17 years. The Comprehensive Peace Agreement (CPA) of November 2006 had promised to end impunity, uncover truth, respect and ensure victims' rights to justice. However, the Government of Nepal is yet to fulfil those commitments of CPA.

As a result of the absence of substantial justice, truth and reparative measures including adequate compensation, individuals affected by the conflict and their families have endured profound challenges in many aspects of their lives. Tragically, some of them have lost their lives while pursuing justice, and their descendants have taken up the cause in their memory while some are tragically living without treatment. Thousands of victims of murder, disappearance, sexual violence, beating and mutilation, torture and abduction, and hostage, displacement etc. longing for truth, justice, reparation and non-recurrence are tired of the repeated commitments that are yet not duly fulfilled. Victims due to the mine explosion after CPA are not recognized as victims.

We would like to request your excellency to be the voice of victims and raise the importance of a victims-centric transitional justice process for consolidation of peace, democracy, rule of law and development in the country.

We would like to highlight some of our concerns for you to take into consideration as you meet political actors in Nepal.

Repeated Empty Promises

We noted with great interest the speech made by Prime Minister Pushpa Kamal Dahal during the general debate of the 78th Session of the United Nations General Assembly (UNGA, New York, 19 - 26 September 2023). In his address, the PM reiterated that he has been making serious efforts to build consensus and complete the task of transitional justice and conclude Nepal's home-grown peace process. He also stated there will be no blanket amnesty for serious violations of human rights. We

appreciate this latter commitment, reinforcing Nepal's commitment to international obligations. We also appreciate the Prime Minister's acknowledging the importance of the consultative approach to craft this legislation, placing victims at the centre of the process and recognizing their right to reparations.

While we remain cautiously hopeful that the government will finally demonstrate its genuine commitment to address the concerns of the victims and ensure that justice prevail. We have repeatedly heard similar commitments made during the UNGA and Human Rights Council's sessions, number of national and international forums, and government policies and programs over a decade without doing much to fulfil those commitments. Thus, we, the thousands of conflict victims who are longing for the truth, justice and reparation over decades are tired of no implementation of those commitments.

Your Excellency, it is important to bring to your attention that the Government of Nepal is currently pursuing a Bill to amend the Enforced Disappearances Enquiry, Truth, and Reconciliation Commission Act 2014 (TJ Bill), where we have some serious concerns. At present, there is no clear roadmap, credible plan of action and timetable for its proper enactment. We want the Bill to be approved by the parliament only after making necessary amendments in the Bill through transparent and consultative process.

Our Concerns on the Bill

The Bill, which is under the consideration of the sub-committee of the Law, Justice, and Human Rights Committee of the Federal Parliament does not include some of the concerns that we have been raising over the years. Verdict of the Supreme Court in 2015 to amend the faulty provisions in the TJ Law hasnot been fulfilled over the years. Although some consultations and meetings were held in the past, including with us, the bill was finalised secretly, leading to the inclusion of provisions that we strongly object to. We have serious concerns in the Bill's categorization of violations committed during the conflict into 'human rights violations' and 'serious human rights violations,' that effectively narrows down the scope of serious violations.

Cruel and inhuman torture and murder with cruelty, rape, and enforced disappearance are categorized as serious human rights violations and made non-amnestiable crimes in the Bill, whereas murder, sexual violence, beating and mutilation, torture and abduction, and hostage taking are categorized under human rights violations qualified for mediation, reconciliation and amnesty.

The violations listed as "human rights violations" amount to gross violations of international human rights law and serious violations of international humanitarian law. We have submitted time and again our concerns and suggestions for amendments of the Bill but we are frustrated that our concerns are largely ignored.

The victims' community also have concerns regarding the credibility and independence of the Recommendation Committee, that recommends name for the Commissioners. As most of the public institutions are now captured by cronies of political parties, undermining legitimacy of these institutions, the selection of commissioners with credibility, and the transparency in their appointment is critical. We are equally concerned on victim centric and gender sensitive approach by commissions.

Victims of sexual violence still have no confidence whether they could go even to report their case without them being exposed as no specialised victims and witness protection mechanisms and resources are envisioned in the Bill. We want to see the Special Court, which the Bill envisions as being impartial and for which appointment procedures needs to be the same as the judges in other courts.

Although the Bill states serious violation could be prosecuted, the provisions relating to statutory limitations and non-applicability of retroactive effect of law would create hurdles in this process and the Bill does not address this issue.

Recently, we have come to know that the sub-committee has finalised their deliberation and suggested recommendations as to how the bill has to be amended but none of us have so far been given access to the current copy of the Bill.

Appeal to Your Excellency

Your Excellency, we wish to draw your attention to the letter of 9 June 2023 by four UN Human Rights Council mandate holders to the Nepal Government, requesting a reply to several concerns raised regarding the TJ Bill. The government did submit its reply on 7 August 2023; however, we express our disappointment that the response fails to address the concerns of the victims as identified shortcomings in the TJ bill.

Additionally, we also wish to bring to your attention the letter from conflict victims' community to you of 2 October 2021 which underscored Nepal's ongoing struggle in attaining truth, justice, and reparations for the numerous victims of human rights violations during the 1996-2006 conflict.

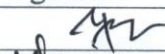



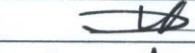
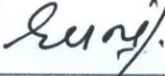
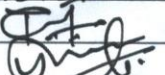
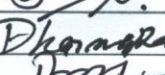

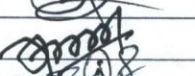
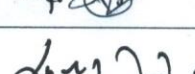
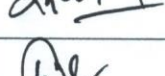
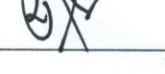

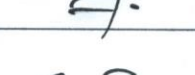

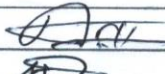


Hence, we kindly urge you to utilize powers of your office to reiterate to the Government of Nepal the importance to expedite the resolution of Nepal's longstanding TJ concerns, amend the TJ Bill with full incorporation of our concerns, ensure victim centric and credible transitional justice process that thousands of victims finally receive the truth and justice we deserve and conclude the peace process successfully.

Copied to

1. Volker Türk, High Commissioner, Office of the United Nations High Commissioner for Human Rights (OHCHR)
2. Fabian Salvioli, Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence
3. Aua Baldé, Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances
4. Morris Tidball-Binz, Special Rapporteur on extrajudicial, summary or arbitrary executions
5. Reem Alsalem, Special Rapporteur on violence against women and girls, its causes and consequences

Signatories

Conflict victims' representatives on behalf of the conflict victim's community of Nepal.

S.N.	Name	Types of victimization	Address	Signature
1	Gopal Bahadur Shah	Displacement	Bardiya	
2	Srijana Shrestha	Murder	Kathmandu	
3	Kalyan Budathoki	Forceful seizure of property, Displacement	Ramechhap	
4	Sushila Chaudhary	Enforced Disappearance, Extrajudicial Killing	Dang	
5	Devi Sunuwar	Extrajudicial Killing	Kavre	
6	Sunita Ghale	Civilian Disabled Conflict Victim	Lamjung	
7	Puspa Kumari Basnet	Civilian Disabled Conflict Victim	Okhaldhunga	
8	Bablu Lama	Torture	Kavre	
9	Phadindra Luitel	Murder	Okhaldhunga	
10	Dharma Raj Neupane	Torture, Displacement	Achham	
11	Rupesh Shah	Enforced Disappearance	Sunsari	
12	Uday Kumar Sah	Enforced Disappearance	Siraha	
13	Sabitri Khadka	Murder, Damage of Property	Baglung	
14	Ram Lakhan Jayswal	Abduction, Torture	Kapilvastu	
15	Sital Singh Rathaur	Extrajudicial Killing	Surkhet	
16	Ganesh Bahadur Malla	Torture, Displacement	Kailali	
17	Chandrakala Upreti	Enforced Disappearance	Banke	
18	Ram Chandra B.K.	Civilian Disabled Conflict Victim	Kaski	
19	Surendra Khatri	Civilian Disabled Conflict Victim	Myagdi	
20	Bal Krishna Shrestha	Torture, Enforced Disappearance, Looting of Property	Parsa	
21	Ratna Kumari Regmi	Extrajudicial Killing, Torture, Looting of Property	Dailekh	
22	Gita Rasaili	Extrajudicial Killing	Kavre	
23	Suman Adhikari	Murder	Lamjung	