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Rights groups and CSOs demand a credible transitional justice process in Nepal

Twelve years after the Comprehensive Peace Agreement (CPA), Nepal's transitional justice process which is an integral part of the peace process failed to move ahead in a credible and meaningful way. The Truth and Reconciliation Commission and Commission of Investigation on Enforced Disappeared Persons completed their initial mandate of two years and their mandate was extended to two more years on two separate occasions. The mandate is expiring on 9 February 2019. However, the government has not been able to frame necessary laws in accordance with the constitution, international treaties and conventions that Nepal is party to and the orders of the Supreme Court of Nepal to prosecute those involved in grave violations of human rights. These commissions have not been able to conclude even a single case among around 65,000 cases filed at both commissions.

With the commissions' tenure about to come to an end, there has been a serious concerns and uncertainty regarding the way forward for transitional justice process. Stakeholders, including conflict victims, human rights community and civil society have been demanding that no law should be framed to provide amnesty and immunity to perpetrators involved in serious crimes including war crimes, crimes against humanity, rape and sexual violence and that a meaningful and wider consultation should be followed for the amendment process of the law. The government, however, has been ignoring these demands.

In this context, there is a need to take lessons from the obstruction and failure in transitional justice and carry out a serious review. Just extending the tenures of the commissions without reforming laws, mechanisms and processes will not fulfill the main purpose of the formation of the commissions. This kind of patchy and ad hoc step will not only fail to guarantee victims' rights to truth, justice and reparation but also further institutionalize the entrenched culture of impunity. We, human rights organizations, rights activists and members of civil society reaffirm our past views and confirm our position on the amendment process of the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act, 2071 (2014) and on the restructuring of the commissions which are as follows:

1. Amendment of the Act is the main demand of the stakeholders including victims, human rights community and civil society. The Supreme Court of Nepal has also issued a landmark decision on this issue. The Act needs to be immediately amended in line with Nepal's Constitution, the Supreme Court orders, Nepal's obligations under international treaties ratified by the country and established standards of transitional justice to advance the TJ process in a credible manner.
2. Comprehensive and meaningful consultation with stakeholders including conflict victims, human rights community and civil society should be ensured during the amendment process of the TJ Act.
3. The Nepal government had provided the draft of the amended Act to the stakeholders in June 2018 and different national and international human rights organizations including the victim community, civil society, human rights community, National

Human Rights Commission and the United Nations Office of the High Commissioner for Human Rights had expressed serious dissatisfaction on the draft. We strongly object to the fact that the same draft has been taken forward. The Act amendment process should progress only after incorporating the suggestions from the national and international human rights community.

4. Law amendment in line with international standard and jurisprudence established by the Supreme Court of Nepal as well as based on consultation with the stakeholders and restructuring of transitional justice commissions should be the basis of the transitional justice process from hereon. The transitional justice commissions should be restructured in line with international standards and made free of political interference, be victim-centric, impartial, independent, autonomous and competent. Independent and competent commissioners should be selected based on a transparent and impartial process and the commissions should be restructured. There should be a guarantee of no conflict of interest in the appointment process.
5. All the complaints, evidence and documents registered at the commissions should be put under the protection and monitoring of National Human Rights Commission until the restructuring of the commissions.
6. There is an immediate need of framing the laws to end the legal vacuum on criminalizing all past grave violations of human rights including war crimes, crimes against humanity and on punishing the guilty. Moreover, there should be no statute of limitation for the crimes mentioned above.
7. Victims of sexual violence and torture have not yet received interim relief. Immediate relief and interim reparation should be provided to them.

Lastly, the state must deal with the current obstruction in transitional justice process and the interventions from perpetrators and should guarantee the protection of victims and human rights defenders. The National Human Rights Commission and international human rights community should carry out continuous monitoring in line with the CPA to make the transitional justice process independent, impartial and effective.

Name list of human rights organizations and members of the civil society

S.N.	Name	Designation	Organization
1.	Charan Prasai	Coordinator, Rights activist	Accountability Watch Committee (AWC)
2.	Professor. Kapil Shrestha	Former Member, National Human Rights Commission, Rights activist	
3.	Senior Advocate Dinesh Tripathi	Rights activist	
4.	Senior Advocate Baburam Giri	Rights activist	
5.	Dr. Kedar Narsingh KC	Rights activist	
6.	Bhawani Prasad Kharel	Chairperson	Human Rights Foundation (HURFON)

7.	Rajan Kuikel	Rights activist	
8.	Advocate Om Prakash Aryal	Rights activist	
9.	Krishna Gautam	Province-3 Chief	Informal Sector Service Centre (INSEC)
10.	Basanta Adhikari	Executive Director	Justice and Rights Institute Nepal (JuRI-Nepal)
11.	Om Prakash Sen Thakuri	Executive Director	Advocacy Forum- Nepal
12.	Sabin Shrestha	Executive Director	Forum for Women Law and Development (FWLD)
13.	Advocate Indra Prasad Aryal	Chairperson	Human Rights Organizations Nepal (HURON)
14.	Advocate Badri Prasad Bhusal	Chairperson	Collective Campaign for Peace (COCAP)
15.	Nirajan Thapaliya	Director	Amnesty International-Nepal
16.	Lily Thapa	Chairperson	Sankalpa
17.	Sumira Shrestha	Director	Women for Human Rights (WHR)
18.	Dr. Renu Adhikari Rajbhandari	Founder, Women's Rehabilitation Centre (WOREC)	Chairperson-National Alliance of Women Human Rights Defenders (NAWHRD) and Tarangani Foundation
19.	Ashik Ram Karki	General Secretary	Civil Rights Association Nepal (CIRAN)
20.	Rajin Rayamajhi	Chairperson	Nispaksha
21.	Anjana Shakya	Chairperson	HIMRIGHTS
22.	Bikil Sthapit	Program Manager	Voices of Women Media
23.	Srijana Pokhrel	Executive Director	INHURED International
24.	Jaya Luitel	President and Chief Executive Officer	The Story Kitchen
25.	Anita Neupane Thapaliya	Chairperson	Legal Aid and Consultancy Centre (LACC)
26.	Susan Rijal	Executive Director	Nagarik Awaz
27.	Bhupendra Khanal	Advocate, Rights activist	
28.	Kamala Panthi	Vice-Chair	Sancharika Samuha
29.	Tikaram Pokhrel	Advocate, Rights activist	
30.	Subindra Bogati	Founder	Nepal Peace Building Initiative
31.	Shiva Bisankhe	Advocate, Rights activist	
32.	Pitambar Koirala		TPO-Nepal
33.	Kapil Aryal	Chairperson	Human Rights and Justice Centre (HRJC)
34.	Babita Basnet	Rights activist	Media Advocacy Group (MAG)
35.	Upendra Aryal		Equal Access

