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Advocacy Forum (AF) is a leading non-profit, non-governmental organization working to promote the rule of law and uphold international human rights standards in Nepal. Established in 2001, advocacy forum has since grown to have 4 regional offices and 9 district offices in Nepal with the head office located in Kathmandu.

Intimidation, Assault on AF Staff

Raj Kumar Mahaseth, a human rights activist and working as a human rights lawyer at Advocacy Forum – Janakpur, Dhanusha district, was beaten up by security personnel of Nepal Armed Police on January 26, 2008 at Barabigha of Dhanusha district while he was monitoring a mass meeting organized by the Seven Political Parties and simultaneously documenting the use of force by the police personnel on the demonstrators.

Although Raj Kumar was wearing a uniform that clearly identified him as a human rights defender, the policemen beat him with batons. He received severe beating on his legs and particularly the left haunch and is currently undergoing medical treatment at Koshi Zonal Hospital.

In yet another incident, two AF staffers in Bardiya were intimidated by the cadres of NCP-Maoist and threatened of dire consequences if the former kept on organizing orientation programs regarding transitional justice mechanisms.

AF reporter Adi Ram Jaisi and facilitator Janaki Choudhary were intimidated by the local Maoists led by Birkha Bahadur Choudhary.

TRANSITIONAL JUSTICE

Advocacy Forum Newsletter

January/February 2008

Conflict Victims form National Ad-hoc Committee

A single step of victims, a giant leap for victimkind

In what may be termed as a red-letter day for the conflict victims, victim representatives across the country decided to join hands and make a concerted attempt in their march for justice by sheltering themselves under an umbrella organization named "Conflict Victims' Society for Justice".



In a simultaneous move, the victim representatives have constituted a 13-member central ad-hoc committee and have also mapped out strategies for the mobilization of victim groups in their quest for justice. Victim representative from Kathmandu and Morang, Pradesh Bista and Bhagwati Gautam, were unanimously chosen as coordinator and secretary of the committee respectively. Others nominated members include Janak Raut (Kapilvastu), Suresh Choudhari (Kanchanpur), Abdul K. Sheikh (Banke), Til Bahadur Thapa (Kaski), Deepak Thakuri (Dhading), Jas Bahadur Rai (Udayapur), Radhe Shyam Puri (Dhanusa), Sanjaya K. Gupta (Rupandehi), Bimal KC (Baglung), Bhagi Ram Choudhary (Bardiya) and Sushila Oli (Surkhet).

The tentative strategies envisaged by the victim representatives to mobilize themselves include:

1. Increasing knowledge on Transitional Justice (TJ) mechanisms by conducting thematic orientations on various aspects of TJ and the issues of victims vis-à-vis justice (mechanism that ensure the rights of the victims including issues of gender; reparations; institutional reforms; prosecution; reconciliation; truth-seeking; interim relief measures; sharing of foreign experiences).
2. Lobbying with various stakeholders (Media, political parties, government offices of all levels, Nepal Bar Association, civil society, INGOs and foreign diplomatic missions)
3. Therapy programs (Closed session cathartic programs; publishing books on the personal saga of victimhood)
4. Submission of victims' signatures and petitions to the Home Minister/Minister of Peace & Reconstruction outlining demands of the victims for comprehensive consultations with major stakeholders before the establishment of TRC and a commission on disappearances.
5. Conduction of a national-level conference of victims and formation of an all-in-all central establishment.
6. Proper documentation, identification of victims, filing of First Identification Reports (FIRs)

Such significant decisions were taken after a comprehensive consultation among the representatives of victims from fifteen districts at a program facilitated by Advocacy Forum.

AWC condemns MoPR's Conclave

AWC, in its bid to condemn the decision of an apparently "conclave" meeting of a high-level political task force under the coordination of Ministry of Peace and Reconstruction (MoPR) held on January 28 to recommend the government for establishing a Truth and Reconciliation Commission and a Commission on Disappearances via two separate ordinances, issued a press release dubbing the route taken by the government as "circumnavigating".

Equating the approach of the government to the one taken by King Gyanendra during the royal regime, the press statement said: "The 'circumnavigating route' taken by the government whereby it has made an unwholesome attempt to introduce legal frameworks in question via ordinances in the name of political accord just after the termination of parliamentary sessions reeks of an overt conspiracy aimed at exonerating the perpetrators of gross human rights

violations during the armed conflict.

The press statement also stressed on the need of imbibing the spirits of the Apex Court's momentous June 1 verdict, consultations with the major stake holders and a due observance of Nepal's international obligation before the formation of such commissions.

Holding that "introducing such important legal frameworks via ordinances will prove catastrophic for the country", the press statement invoked "all to initiate steps towards drafting laws and establishing a commission related to disappearance by adopting both national and international standards.

"Such a process can be duly forwarded by starting discussions and consultations on the bill drafted by the Ministry of Home Affairs amongst family members of the victim, civil society, human rights activists and international human rights organizations", it further said.

AWC submits NCS to PRM

In line with its effort to lobby for the process of establishment of Transitional Justice Mechanisms and to exert pressure on the government so as not to let it forget its past, Accountability Watch Committee (AWC) submitted a National Consultation Strategy on forming the Truth and Reconciliation Commission addressed to Minister of Peace and Reconstruction Ram Chandra Poudel on 10 January 2008 expressing its conscious ire against the back-door approach adopted by the government vis-à-vis the establishment of a host of commissions including the Truth and Reconciliation commission.

Referring to the reports in media that the government is all set to constitute a number of commissions related to Transitional Justice, a press statement from AWC commented: "There is no gainsaying that these commissions are extremely important in enhancing peace process, providing justice for the victims and to establish system of accountability. We, nevertheless, are concerned over the decision of the government to establish the commissions without even initiating adequate dialogue and consultations with the concerned stakeholders and preparation. This raises a serious doubt over the genuine political will of the government in making these commissions functional and effective at all."

"We hold that the government should continue broader consultations with the concerned individuals and stakeholders in designing legal framework of Truth and Reconciliation Commission and start a credible process such as drafting Comprehensive Act on disappearance and the legal framework on establishing commission on Disappearance in line with the Supreme Court decisions of June 1, 2007," the statement further said.

AWC smells rat over police action on Maina's case

Issuing a press statement on 2 January 2008, AWC expressed its concern over the lackluster performance of police authorities in carrying out effective investigation even after clear directives from the Supreme Court to do so within three months in connection to the extra-judicial murder of Maina Sunuwar.

"Since there has not been any significant progress in this case like arresting murderers as pinpointed in the FIR, collection of evidences regarding the incident, interrogation of and depositions from the alleged individuals, inquiring eye-witnesses, identifying people actively bent on covering-up the incident and the obvious failure of the police to procure important testimonials and documents used during the verdict of the Military Court of Inquiry, we conclude that a deliberate attempt has been made to muffle up the impact of the case and to simultaneously let off the alleged criminals scot-free," the release said.

"At this precarious juncture, we, therefore, demand the formation of a special investigation team under the aegis of National Human Rights commission and the Office of High Commissioner of Human Rights in Nepal (OHCHR-Nepal) to forward the procedures of investigation in this connection," the release further stated.

TJ Activities for March/April

1. Launch of the survey report

The report of the survey conducted by AF in collaboration with the International Center for Transitional Justice (ICTJ) to find out victim's perceptions towards justice and transitional justice mechanisms is all set to be published by the end of March. For the purpose of the survey, both qualitative and quantitative data collection was done by conducting thematic focus group discussions in nine districts and administering structured questionnaires among 811 victims respectively.

2. Registration of the National Level Victim Group

AF, with inputs and suggestions from victim representatives, is currently engaged in drafting the statute for the newly-formed victim group's organization, "Society of Conflict Victims' for Justice" for their ultimate registration as an autonomous body. Moreover, AF is actively engaged with the victims and their representatives from various districts in designing their future activities according to their needs, demands, and requirements to empower the victims.

3. Submission of Signatures

AF is also helping victims to submit the latter's signatures to the Home Minister to lobby for a revised and effective TRC and disappearance commission, which can provide justice to the victims. AF has facilitated in the collection of more than thousand signatures of the victims across the country.

4. District/ Regional Level workshops

Altogether 11 workshops are projected to be conducted at both district and regional level to orient the major stakeholders including the victims about the transitional justice mechanism. Besides, AF is also providing training to the selected victim representatives under the category "Training of the Trainers (TOT)".

5. Collaboration with FEDO

AF is currently helping Feminist Dalit Organization (FEDO) to conduct workshops across the country aimed at drawing responses of women from Dalit women activists towards the TRC bill after orienting them about transitional justice mechanisms. AF is also helping the workshops by facilitating, providing resource materials and content, and above all drafting a strategy paper on "Participation of women in TJ and Peace Building".

6. Dissemination of Survey Report

AF, in collaboration with ICTJ, is also organizing a workshop to disseminate the survey report in five regions and those districts which bore the maximum burnt of the conflict.



Workshop on Enforced Disappearances Held

A one and half day workshop on “Enforced Disappearances”, jointly organized by Advocacy Forum and International Center for Transitional Justice (ICTJ) on 5th & 6th of December, 2007, came up with the conclusion that a conscientious effort from all sectors is necessary to address the grievances of the victims of disappearance by pressurizing the government to form a commission on disappearances by framing relevant laws based on prevailing international standards.

The program titled “Challenges in establishing Truth and accountability for Enforced Disappearances in Nepal: Lessons learned in South Africa and Sri Lanka” was attended by a host of national and international experts on disappearances, human rights activists, journalists, family members of the disappearance victims and government officials.

In the program conducted to generate discussions on the issue of enforced disappearance during the conflict from the diverse group of participants for further consultations with the government and civil society, there were altogether four presentations by international experts. Madeline Fullard, former Investigations expert on Disappearances in the South African Truth and Reconciliation Commission, and Vasuki Nesiah, head of South Asia and Gender programs at the International Center for Transitional Justice (ICTJ), Carla Fajardo, Transitional Justice Specialist at ICTJ and Ram Narayan Kumar, a TJ expert from India, had shared their insights and experiences regarding disappearances in South Africa, Sri-Lanka, Peru and Punjab respectively.

Speaking on the occasion, Attorney General Yagya Murti Banjade emphasized that under no circumstances should the popular trust over the judiciary be diminished.

“The need of the hour is to create an environment whereby the general citizenry is fully assured of the fact that the perpetrators will be punished sooner or later”, he said.

Showing his concerns over the widespread impunity afflicting the country, Banjade lambasted the proposed draft bill on Truth and Reconciliation commission (TRC) as focusing more on exoneration of the perpetrators.

“Now the impunity is at fever pitch. Even journalists, teachers and doctors are bearing the brunt of that. But the

government has not been able to punish the perpetrators even when the truth is out about them”, he said, adding, “The proposed TRC bill is bent significantly on compensations and reconciliations measures rather than on prosecution and reparations”.

Likewise, President of Nepal Bar Association (NBA) Bishwa Kant Mainali eulogized the June 1 verdict of the Apex Court on enforced disappearances labeling it a guideline and headway towards the solution of the problem of disappearances in the country.

He further stressed on the fact that the “judiciary of the country is strong but it is because of the anemic performance of the law enforcement agency it is fated to face the music”.

Similarly, Nepali Congress lawmaker Harihar Dahal expressed the commitment of his party towards the formation of a special commission on disappearances as per the international standard.

“A certain group, clique or coterie is trying its best to make the state the only accountable party for the disappearances. This perspective has become the toughest of hurdle to surmount”, Dahal stated.

After a wider consultation among the participants, the following conclusions were drawn unanimously at the workshop:

- A comprehensive separate law is needed to address the issue of disappearances;
- It is mandatory for the government to solicit recommendations from the concerned stakeholders;
- Awareness programs for victims;
- The pecuniary and other concerns of the victims should be looked after by the state, and
- An unquestioned compliance to the essence of the judgment of the Supreme Court on enforced disappearances and Nepal’s international obligations are mandatory while drafting laws on disappearances and the subsequent commission.

Fourth Year of Maina's Killing Commemorated

Confidential documents on Maina Murder Case unveiled



Advocacy Forum and United Nations Office of the High Commissioner for Human Rights (OHCHR-Nepal) conducted a "Commemoration and Report Release Program" to mark the fourth anniversary of the death of Maina Sunuwar at the UN Conference Hall at, Pulchowk, Lalitpur, on 17 February, 2008.

Maina Sunuwar, 15-year old juvenile, was arrested and tortured to death by the then Royal Nepal Army officials four years back. With initiatives from the victim's mother, Devi Sunuwar, and Advocacy Forum, the murder case had attracted tremendous national and international attention.

The event also witnessed an informal release of a book entitled "Maina Sunuwar: Ghatana, Tathya ra Nyaya" (Maina Sunuwar: The Incident, Facts and Justice). Compiled and published by Advocacy Forum, the book incorporates all the relevant information and major legal documents vis-à-vis Maina's case including the evidence collected by the Military Court of Inquiry.

Speaking on the occasion, French Ambassador to Nepal, H.E. Gilles-Henry Garault, said that the event was "a sad reminder that despite the end of conflict, the culture of impunity continues to undermine lasting peace in Nepal".

"In order to create confidence in the peace process, the public investigation, trial and prosecution of emblematic cases is crucial", he said, adding "we urge the government to ensure that the TRC is established only after extensive and inclusive consultation and only once there is an environment that allows truth-telling."

Likewise, OHCHR-Nepal representative Richard Bennett welcomed the 'Nepal Army's commitment to human rights recently reiterated by the chief of Army Staff to the Deputy High Commissioner of Human rights'.

He dwelt upon that the army establishment

might start to show its commitment by cooperating fully in the case of Maina Sunuwar.

"I have noted that 1,100 Nepali soldiers serving as UN peacekeepers in Haiti were awarded peacekeeping medals last week. It would be regrettable if the positive image earned by the Army through such service abroad were to be tarnished by resistance to accountability at home", he said.

Similarly, human rights activist and AWC member Sushil Pyakurel hoped that "the next year will be the first anniversary of justice to Maina Sunuwar, not the fifth tedious year of impunity".

Explaining the rationale behind giving so much of importance and resources to Maina' Case, AF Executive Director Mandira Sharma said that her organization "is trying to open the door of justice to more than thousand similar cases AF has documented through this case"

Devi Sunuwar thanked AF's Executive Director Mandira Sharma for bringing the case of her daughter to the forefront and expressed her optimism towards the ultimate victory of justice over injustice.

The program was attended by representatives from foreign diplomatic missions, media, national and international human rights agencies and victims.

CHARGE SHEET SUBMITTED

The District Court of Kavre issued summons in the name of four perpetrators involved in the extra-judicial killing of Maina Sunuwar on 31st January. The step was taken by the court after the District Government Attorney's Office, Kavre, submitted a charge sheet pinpointing four accused, viz. Bobby Khatri, Sunil Prasad Adhikari, Amit Pun and Niranjana Basnet.

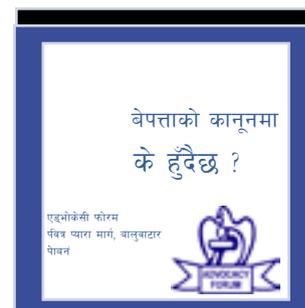
While the two amongst the four perpetrators have already left the army service and are at large, the fourth one, Niranjana Basnet, is reported to be recently promoted.

It must be noted that the Apex Court on 18 September 2007 had executed a verdict directing the officials concerned to carry out and complete the criminal investigation into the murder case of Maina and submit the case to the Court within three months.

Recent Publications



This book features a short introduction to the famous Maina Sunuwar Murder Case and the important documents compiled by AF related to the case including those procured from the Military Court of Inquiry.



This Janus-faced compilation incorporates official texts regarding the disappearance and TRC put forward by the government plus their progress and the subsequent comments and recommendations by various human rights organizations.

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