

TERMS OF REFERENCE

Tender N°: T/GC400-417/2019/1

1. CONTEXT

The project "Increasing accountability and preventing enforced disappearances and extrajudicial killings in Mexico, Nepal, the Gambia and beyond" financed by the European Union aims at preventing enforced disappearances and extrajudicial killings (ED/EJK) and increasing the accountability of perpetrators while improving the search for victims of ED/EJK worldwide, taking into account the needs of their relatives.

The overall project must be read keeping in mind that ED often involves the EJK of the victim followed by the concealment of the body to eliminate any evidence of the crime and ensure the impunity of perpetrators. Hence, these two crimes are interrelated and actions aiming at preventing, documenting, investigating and holding accountable those responsible for one practice (i.e. ED) are bound to have an impact also on the other (i.e. EJK).

In 2006 in Nepal, a Comprehensive Peace Agreement (CPA) marked the formal end of a devastating decade-long conflict between Maoist insurgents and the Government of Nepal. Both parties to the conflict were involved in a multitude of crimes under international law, such as torture, arbitrary arrests, enforced disappearances, rape and other forms of sexual violence as well as recruitment and use of child soldiers. Approximately 17'000 individuals lost their lives and more than 1'300 people were forcibly disappeared.

Despite these grave atrocities, the Nepalese authorities have continuously failed to conduct any investigation and to prosecute perpetrators, thereby fostering a culture of impunity for international crimes. To date, only two conflict-related cases have successfully been dealt with through the domestic criminal justice system, although despite the positive decisions, perpetrators remain at large. Victims of human rights violations and their families are therefore denied access to truth, justice, and reparation.

Equally worrying is the fact that cases of grave violations of human rights, such as torture and extra-judicial executions, continue to be reported in the country, especially in the Southern Terai belt. The lack of accountability of the State forces institutions still raises concerns, as shown by Nirmala Panta's case, where police officers would have allegedly destroyed evidence in connection to the rape and killing of a 13-year-old girl.

Despite the ongoing transitional justice process and the creation in 2015 of the Truth and Reconciliation Commission (TRC) and the Commission on Investigation of Enforced Disappearance of Persons (CIEDP) aiming at investigating violations committed during the conflict, no tangible outcomes have been delivered so far. The process is faulty and in contravention of international standards, due to serious resource constraints, an unrealistic timeframe and an apparent lack of independence and/or capacity of the Commissioners. While Commissions were initially mandated to complete their work in two years, the deadline has already been extended three times. The last one, on 6 February 2019, when the two Commissions' mandates were further extended for an additional year. New Commissioners will be appointed during the first semester 2019.

The Commissions are not trusted by the victims, who have not been properly involved in the consultations. More importantly, the Commissions, as recommending bodies, do not hold the power to prosecute any case on their own and are hence unable to bring redress to the victims directly. TRIAL International has helped victims to file complaints before the commissions but none of the victims have been informed of an investigation regarding their case. Since the beginning of their mandate, the Commissions have not taken any concrete steps toward justice for victims, despite approximately 62'000 complaints filed with the two

commissions.

As a response to the Government's attempts to shrink the space of civil society in the country through the National Integrity and Ethics Policy 2074 – which was the object of criticism by United Nations' independent experts – it remains crucial to continue monitoring the situation in the country and working on behalf of victims of grave crimes.

Through its program, TRIAL International brings international attention to the country, supports victims in their search for justice – especially at the international level – monitors the transitional justice process, trains local actors, and analyses the compliance of the domestic legislation with international standards.

Resorting to international human rights protection organs may often be the only available way of seeking justice for victims due to the absence of an effective domestic judicial system and a dysfunctional transitional justice process. Nevertheless, these international human rights protection mechanisms are still considerably underused in Nepal and this is why capacity building activities for local actors are at the heart of TRIAL International's intervention in the country.

Furthermore, the human rights legal community often lacks internal coordination, which translates in the absence of a shared understanding about the opportunities and best strategies to combat impunity. TRIAL International not only acts as a liaison between Nepalese stakeholders and international bodies, carries out advocacy campaigns and diplomatic pressure, but also puts a special emphasis on strengthening the capacities of local actors and helping key agents to develop a common understanding and shared knowledge.

The services to be provided under this contract will be key to supporting TRIAL International's efforts in training and coaching local actors on key concepts about ED/EJK as well as submitting advocacy reports on the thematic. The activities will be implemented in collaboration with the local partner organization Human Rights and Justice Centre (HRJC).

2. OBJECTIVE, PURPOSE & EXPECTED RESULTS

The purposes of this contract are to:

- 1) Develop a capacity building training on the international standards to fight against impunity for ED/EJK in Nepal:

Conceptualise the workshops and practical exercises, prepare the academic curricula and learning objectives of each session as well as detailed agenda, additional teaching material, lecture presentations; support local experts in preparing complementary training materials; prepare and correct entry and exit tests and evaluation forms; analyse and present the workshops 'results in terms of participants' knowledge progression and satisfaction.

- 2) Deliver 2 training sessions:

Facilitate 2 training sessions (one in Kathmandu in December 2019 and one in Pokhara in 2020), deliver lectures, evaluate the session and produce an end of training internal report for each session.

- 3) Develop the content and methodology of an 8-months coaching program for civil society organisations (CSOs) on the documentation of ED/EJK cases:

Conceptualise the coaching program, develop assignments according to a work calendar, present the methodology and develop guidelines for local and international coaches.

- 4) Draft two reports on ED and EJK in Nepal, one for the 2020 Universal Periodic Review (UPR) session and one on the implementation of international standards on ED/EJK in Nepal to be submitted to a competent domestic authority or a relevant body outside the UPR.

Conduct research, formulate specific questions for local staff and partner organizations to gather information, carry out a legal analysis of the information provided, compare it against international standard, draft the reports, submit the reports to concerned bodies, contribute to outreach activities in relation to the reports.

Results to be achieved by the consultant are:

- 1) The curriculum of the capacity building training, including pre and post-evaluations, and presentations, are drafted.
- 2) 2 sessions of the capacity building training are delivered. An evaluation as well as an end of training internal report are submitted to the Coordinator after each training session.
- 3) The methodology of the coaching program is drafted.
- 4) An advocacy report is submitted to the next UPR session.
- 5) A report on the implementation of international standards on ED/EJK in Nepal is submitted to a competent domestic authority or a relevant body outside the UPR.
- 6) Three reports (6-month progress report, 1-year progress report and final report) are submitted to the Coordinator.

3. SCOPE OF THE WORK

Geographical area to be covered: Nepal

Target groups: Nepalese CSOs (lawyers, representatives of civil society organization's and relatives of ED/EJK victims).

4. RESPONSIBLE BODY

TRIAL International

5. MANAGEMENT STRUCTURE

The project counts with a project manager based in Geneva in charge of the overall implementation of the project, including the recruitment, progress and reporting of the consultant.

TRIAL International also counts with a legal advisor for Nepal who will provide guidance to the consultant for the implementation of the activities and will be in charge of implementing the coaching component according to the methodology and content developed by the consultant. The training sessions will be organized in collaboration with the HRJC.

6. FACILITIES TO BE PROVIDED BY THE CONTRACTING AUTHORITY AND/OR OTHER PARTIES

TRIAL international will cover the costs of travel, per diem and visa of the tenderer for the two missions

(of one week each) to Nepal.

7. LOGISTICS AND TIMING

The consultant will work remotely, except for two training sessions of one week to be delivered respectively in the central region (Kathmandu) and the western region (Pokhara) of Nepal in December 2019 and the second half of 2020 (to be determined).

The intended start date is 01.09.2019 and the period of implementation of the contract will be 21 months from this date.

8. REPORTING REQUIREMENTS

The consultant will provide the following reports:

Name of report	Content	Time of submission
6-month progress report	<ul style="list-style-type: none"> - short description of progress, including problems encountered and recommendations; - planned work for the next 6 months - invoice. 	No later than 1 month after the end of the 6-month implementation period.
1-year progress report	<ul style="list-style-type: none"> - short description of progress, including problems encountered and recommendations; - planned work for the next 6 months - invoice. 	No later than 1 month after the end of the 1-year implementation period.
Final report	<ul style="list-style-type: none"> - short description of achievements including problems encountered and recommendations; - final invoice. 	Within 1 month of completing all the activities.

A digital version of the reports referred to above must be submitted to the project manager as identified in the contract. The reports must be written in English. The project manager is responsible for approving the reports.

9. MONITORING AND EVALUATION

Indicator: 80 % of the participants to the trainings and coaching program show that their knowledge of the international standards on ED/EJK has improved following the training sessions and coaching program based on pre/post evaluation test.