

For Immediate Release

Nepal: Recent Steps Undermine Transitional Justice

Victim Concerns Ignored Yet Again

Geneva, January 25, 2019: Recent steps taken by the government are a [serious setback](#) on Nepal's transitional justice process, the International Commission of Jurists (ICJ), Amnesty International, Human Rights Watch and TRIAL International said today.

The organizations expressed concern about the decision to appoint commissioners to the two transitional justice commissions without [adequate consultations](#), and without amending the legal framework to make it consistent with international human rights law and Supreme Court of Nepal rulings.

"Nepal's political leaders know that a transparent process is essential to ensure justice and accountability for egregious rights violations during the conflict, but they keep trying to protect those responsible for the abuses," said Meenakshi Ganguly, South Asia director at Human Rights Watch. "If the political leadership continues to evade responsibility, they leave little choice but for victims to approach courts outside the country."

On January 18, 2020, a five-member committee formed by the government to recommend names for commissioners for the Truth and Reconciliation Commission (TRC) and the Commission on the Investigation of Enforced Disappeared Persons (CIEDP) [submitted its nominations](#). The committee sent the names forward despite [longstanding demands by victims' groups and civil society](#) for the government to first amend the transitional justice legal framework to ensure that it complies with Nepal's international obligations and is responsive to victims' concerns.

Instead, the Ministry of Law, Justice and Parliamentary Affairs on January 13 hastily convened [provincial consultations](#) on the transitional justice laws lasting just three hours, which allowed little time for meaningful participation by victims' groups and civil society.

"The government's decision to carry out another rushed and secretive set of consultations fails to give due respect to the long-standing demands of victims and civil society," said Frederick Rawski, ICJ's Asia-Pacific Director. "It also makes it very difficult to take seriously the statements of political leaders that they are committed to supporting a victim-centred and human rights compliant process."

Victims' groups and human rights organizations have rejected these [appointments](#) and [consultations](#), and have reiterated that they will not support a transitional justice process that is opaque, non-consultative, and undermines the victims' right to truth, justice and reparations.

In addition, in its secretariat meeting earlier this week, the Nepal Communist Party (NCP) nominated Agni Sapkota as [the speaker](#) of the Federal Parliament. Sapkota, a member of parliament and the party standing committee, has been

accused of responsibility for the abduction and killing of [Arjun Lama](#) in 2005 in Kavre. The case is the subject of proceedings including before the Supreme Court of Nepal.

NCP should reconsider Sapkota's nomination as speaker of the parliament until there is a thorough and independent investigation, the organizations said.

"Nepal authorities should not appoint to high office people that are under investigation for human rights abuses, when they could interfere with that investigation," said Audrey Oettli, Program Manager at TRIAL International. "Such appointments are yet another illustration of the government's unwillingness to demonstrate a basic commitment to holding perpetrators of conflict-era rights abuses accountable."

In March 2008, the Supreme Court directed the police to register a case against Sapkota for abducting and killing Lama and to carry out an investigation. The police did not comply. In 2010, Australia and the US [rejected](#) visa applications from Sapkota in light of the allegations of serious human rights violations.

When Sapkota was appointed information communication minister in May 2011, the UN Office of the High Commissioner for Human Rights [issued a statement](#) expressing concern, saying that states have a responsibility "to ensure that the name of a person is fully cleared following a thorough investigation before any appointment to a high public office is announced."

The ICJ, Amnesty International, Human Rights Watch and TRIAL International have [repeatedly expressed concern about the transitional justice process](#). An effective transitional justice system requires strong legal foundations consistent with international law and standards, and the political will to address the demands of victims of the conflict, the organization said.

Concerns raised about the legal framework include: disparities between the definitions of specific crimes under international law and human rights obligations and violations under national, and international law; inadequate provisions to ensure that serious crimes under international law are subject to criminal accountability, including punishment proportionate to the seriousness of the crimes; and a reliance on compensation at the expense of other forms of reparation and remedy for conflict survivors and their families.

The government should amend the the 2014 Transitional Justice Act to make it consistent with the Supreme Court's rulings and international human rights standards, the groups said. It should initiate a genuine consultative and transparent process for the appointment of commissioners. And it should conduct credible and impartial investigations instead of appointing people accused of conflict-era crimes to high public offices.

"The government and the political parties in Nepal are increasingly showing that they are unwilling and incapable to deliver truth, justice and reparations to the conflict victims domestically," said Biraj Patnaik, South Asia Director at Amnesty International. "Their signal of impunity will further push the victims and activists to seek justice internationally under universal jurisdiction. Instead of putting

those suspected of criminal responsibility into positions of power, the government should bring them to justice in fair trials.”

Contact information