

Press Release

Serious objection to the Government's decision to extend the tenure of the Transitional Justice commissions without amending the law.

Call for 'amendments to the law in line with Supreme Court decisions' and 'reconstitution of the Commissions that have failed to exercise their mandate'

8 February 2018

Kathmandu, Nepal

We express our strong objection to the arbitrary decision of the government to extend the tenure of the Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappearance (CIEDP) on 6 February 2018 by Ordinance, ignoring the legitimate demands of the conflict-victims and the human rights community. It is evident to all that both commissions have failed completely to investigate complaints, establish the truth about conflict-related human rights violations and to pave way for justice and reparations. We consider it futile to extend the tenure of the commissions that have failed both to demonstrate the willingness and to discharge their crucial mandate of investigating conflict-era violations and atrocities in its existing status.

It is deplorable that Nepal, a recently elected member to the United Nations Human Rights Council, has refrained from taking concrete steps towards ensuring credibility, effectiveness and success of the transitional justice processes. This could have been achieved through amendments to the law pursuant to the orders of the Supreme Court and Nepal's international legal obligations relating to truth, justice and reparations as well as "appropriate reconfiguration of the Commissions".

The problems relating to the legitimacy of the transitional justice processes will deepen further unless the unconscionable decision made by the government is rectified. All stakeholders must realize that the tendency towards seeking solutions beyond the country will naturally rise if the issue is not genuinely addressed within the country. Thus, we strongly demand the government to address our legitimate concerns and interests, and make the transitional justice processes more effective and credible by addressing the following concerns including through a bill that will substitute the Ordinance:

1. Adoption of clear legal provisions against pardoning/amnesty, withdrawal of cases and statute of limitation in cases of serious violations of human rights (Extra-judicial killing, Torture, Rape and sexual violence);
2. Reorganization of the Commissions following meaningful consultation with victims and civil society;

3. Clear provision relating to prosecution of cases recommended by the TRC and the CIEDP at the Special Court, established pursuant to principles of judicial independence;
4. Criminalization of torture and enforced disappearance in line with international standards; \
5. Explicit guarantees against transfer of running (sub judice) court cases to the commissions;
6. Guarantee of victims' right to respect and reparations;
7. Reconciliation only with the informed consent of the victims, and solely in the cases where reconciliation is permissible.
8. Adoption of a vetting system and measures of institutional reform to ensure non-reoccurrence of violations in future;
9. Appropriate arrangement for victims and witness protection;
10. To ensure that the commissions will deliver their mandate within extended tenure, adoption of a clear action plan specifying the participation of victim organizations and civil society.