



Joint Press Statement

Nepal: Transitional Justice Proving Elusive

Term Extensions do not Cure Act's Fundamental Problems

(New York/Bangkok/Colombo/Kathmandu, February 13, 2018) -- The one-year extensions of Nepal's two transitional justice mechanisms without necessary legal and institutional reforms ordered by the Supreme Court and the United Nations, are insufficient to comply with international standards, Amnesty International, the International Commission of Jurists and Human Rights Watch said today.

The three organizations warned that the mere extension of the terms of the Truth and Reconciliation Commission (TRC) and the Commission on the Investigation of Enforced Disappeared Persons (CIEDP) is likely to prolong the justice process without meaningfully improving the chances that victims will have their demands for justice, truth, and accountability met.

"The net worth of these two bodies has now been tested by the victims in Nepal who are deeply dismayed and disappointed at not having been served truth and justice—even after years of delay," said Biraj Patnaik, Amnesty International's South Asia Director.

On February 5, 2018, the Government of Nepal extended, for the second time, the mandates of the TRC and CIEDP by one year without taking any measures to ensure their credibility and human rights compliance, and to increase the capacity of the Commissions as demanded by victims, civil society groups, and the National Human Rights Commission of Nepal (NHRC).

On the same day, the [NHRC](#) called on the government to amend the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act, 2014, in line with international standards and the judgements of the Supreme Court of Nepal.

The TRC and CIEDP have [fallen short of international standards](#), both in constitution and operation, despite repeated orders by the Supreme Court of Nepal. Among other flaws, the current legal framework allows for the possibility of amnesties and effective impunity for gross human rights violations amounting to grave crimes under international law, and the broad authority to facilitate reconciliation, including without the informed consent of the victims and their families.

In addition, a non-consultative, uncoordinated and opaque approach to their work has also created distrust with all major stakeholders, including conflict victims and members of civil society. Where the Commissions have made efforts to work effectively, they face problems due to a lack of sufficient human and financial resources.

"Families and victims of Nepal's decade-long civil war have waited far too long for answers, and cynical government attempts such as extending the mandate without broader reform as directed by the highest court is a further slap in the face," said Meenakshi Ganguly, South Asia director at Human Rights Watch. "The two commissions have gathered a lot of documentation,



but the authorities seem more committed to protecting perpetrators than ensuring justice in the process.”

Despite flaws in the law, and questions of legitimacy and capacity, victims and their families have given the benefit of the doubt to these bodies, and submitted thousands of complaints. As of February 2018, the TRC has received 60,298 complaints of human rights violations, and the CIEDP has received 3,093 complaints of enforced disappearance. Though the Commissions have stated that they have initiated investigations into some of these cases, there are serious concerns about the quality of these investigations, and to date, not a single case has been recommended for prosecution.

"Now a member of the UN Human Rights Council, the international community has high expectations of the government of Nepal," said Frederick Rawski, Asia Director of the International Commission of Jurists. "It needs to commit to ensure that these institutions function independently and free from political interference, and in accordance with international standards that prohibit impunity for gross human rights violations. Merely extending their mandates without addressing the underlying problems is not adequate.”

Background

The TRC and CIEDP were established on 10 February 2015 through the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act, 2014. The two-year mandates of the TRC and CIEDP expired on February 9, 2017. The government extended the mandates for one year. On 20 January 2018, the President approved an Ordinance extending the mandate of the two Commissions. On the basis of the Ordinance, the Council of Ministers, on 5 February 2018, extended the mandates of these bodies for an additional year.

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