



संयुक्त राष्ट्र संघका लागि नेपालको स्थायी नियोग
PERMANENT MISSION OF NEPAL
TO THE UNITED NATIONS
GENEVA

Note No. OHCHR.SP.20.94

The Permanent Mission of Nepal to the United Nations Office and other International Organizations in Geneva presents its compliments to the Special Procedures Branch, Office of the High Commissioner for Human Rights (OHCHR), and with reference to AL NPL 1/2020 Joint Communication dated 16 March 2020 sent from Mandates of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences, has the honour to enclose herewith response of the Government of Nepal on the points raised in the Joint Communication.

The Permanent Mission of Nepal to the United Nations Office and other International Organizations avails itself of this opportunity to renew to the Special Procedures Branch, Office of the High Commissioner for Human Rights (OHCHR), the assurances of its highest consideration.

Geneva, 12 June 2020

Special Procedures Branch
Office of the High Commissioner for Human Rights (OHCHR)
Geneva, Switzerland



Response of the Government of Nepal
on
the Joint Communication from Special Procedures dated 16 March 2020

While responding to the issues raised in the Joint Communication, the Government of Nepal (GoN) would like to reiterate its principled position that the Government is committed to resolve the issues related to the transitional justice (TJ) based on victims' concerns, the Supreme Court's Directive Order of 2015; commitments and obligations of Nepal arising from being a party to various international instruments; and the related provisions enshrined in the Constitution of Nepal.

In short, the specific responses to the issues raised in the communication are as follows:-

On Consultation with Victims and Amendment to the TRC Act:

The GoN is in constant contact with the representatives of the victims and other stakeholders of the conflict in a number of ways: through the meetings held at the Ministry of Law, Justice and Parliamentary Affairs (MOLJPA) on different occasions and the public discussion and consultation programs organized at different places. Therefore, the consultation with the victims and other stakeholders is not a one-time or occasional event.

With a view to bring amendment to the Truth and Reconciliation Commission Act, 2014 (TRC Act) in consultation with the victims of the conflict and other stakeholders, MOLJPA initiated a broad-based consultation process. MOLJPA, in consultation with the representative organizations of the victims, decided to convene provincial level consultations and collect suggestions and feedbacks for preparing the Amendment Bill to TRC Act. In consultation with the victims' representative organizations, it was also decided that the high level leaders of all political parties should also join the consultation process. Terms of reference was also developed for conducting the consultation.

Accordingly, one-day consultation programs were held in the capital cities of all provinces on January 13, 2020. The consultation programs were divided into two sessions.. The first

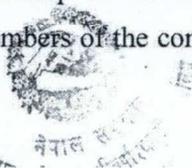
session was held with exclusive discussion with the victims and their representative organizations, while the second was held with the victims, their representative organizations and other stakeholders including the political parties, security forces, government officials, journalists, and civil society organizations, human rights organizations and the Bar. The first session was organized to create an atmosphere where the victims could express their aspirations and views in an open and frank manner; while the second session was intended to better understand the perspectives of all stakeholders on the matters to be incorporated in the proposed Amendment Bill and other matters to be dealt with by the GoN to complete the TJ process. A short presentation was made by the Ministry's team at the beginning so that discussions is facilitated in a structured manner.

During the consultation programs, the victims and other stakeholders raised several issues related to the TJ process and suggested a number of measures to be taken by the state through amendment in the law and policy intervention. A consolidated report was prepared compiling all the issues discussed and suggestions given which was later submitted to the GoN. The GoN at present is engaged in developing the Amendment Bill on the basis of the consultation report, demands submitted by the victims' representative organizations and the suggestions and feedbacks from the international communities including the relevant UN bodies. Consultations at higher political level are also underway to bring the consensus on the issues to be incorporated in the Amendment Bill so that it could be implemented in an effective manner. However, the outbreak of the COVID 19 pandemic has considerably affected the process.

On Appointment of New Commissioners

In order to ensure transparency and fairness in the appointment of the new commissioners in two transitional justice bodies: the Truth and Reconciliation Commission (TRC) and the Commission on the Investigation of Enforced Disappearance (CIEDP), the GoN formed a Recommendation Committee under the convenorship of the former Chief Justice of the Supreme Court [REDACTED]. The members of the committee included a member

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from the National Human Rights Commission and three prominent human rights activists as provisioned in the TRC Act.

The Committee developed its own procedures to call for applications from interested persons, conducted scrutiny of the applications and documents submitted therewith; publicized the names of the candidates and made recommendation of the most suitable candidates for appointment to the vacant positions. On the basis of the said recommendations, the GoN appointed the new Commissioners. Immediately after the appointment, the GoN fulfilled the positions of the Commissioners in both the Commissions, some of which were vacant after term of office of the then commissioners were over. At present, both the Commissions i.e. TRC and CIEDP have been working as per their respective mandates.

