

Memorandum

**TO: Mr. Antonio Guterres, Secretary-General
The United Nations
United Nations Headquarters, New York, NY 10017, USA**

**FROM: National Network of Victims and Survivors of Serious Human Rights Abuses (NNVS) in
Nepal**

DATE: 12 October 2023

**RE: Appeal for UN Support in Securing Nepalese Government Commitment and Action on
Transitional Justice, Memorialization, Reparations and Non-recurrence.¹**

1. The NNVS is a member-based nationwide network of grassroots victim groups representing victims of serious human rights abuses from across Nepal. This network includes victims of State and Maoist actions during the internal armed conflict (1996-2006). The NNVS has years of experience in mobilising and empowering victims, survivors and their movement credible and victim-centered transitional justice processes.
2. NNVS believes that transitional justice initiatives should be context specific, nationally owned, victim-centered, inclusive, gender -sensitive and most transformative. However the grassroots victims' voices are less heard by the Government, international actors and human rights organizations. Kathmandu-based transitional justice efforts continue to be top-down, disconnected from the day-to-day realities, priorities and needs of victims and survivors in their context. This is why the whole transitional justice course focused on criminal prosecutions and amnesty which has significantly undermined the value of the other component of transitional justice including element of transformative justice.
3. The international human rights organizations have focused on legal and prosecutorial justice in Nepal, the primary goals of victims and survivors is to learn the truth about what happened to them and wider community, and to secure social and economic justice, recognition and memorialization.
4. In setting out our concerns, we note the stated commitment of the governing parties to take action to address victim needs and to achieve transitional justice goals from victim-centered approach.
5. We, therefore, would like to draw the attention of the General Secretary of UN to (A) take note of our concerns and (B) duly consider our recommendations in order to promote truth, dignity,

¹ This Appeal was drafted and adopted by National Consultation Meeting of Representatives of Victims and Survivors from across Nepal organized by NNVS in Kathmandu on 12th October, 2023.

memorialization, reparations, and non-repetition through addressing conflict victims' needs and transitional justice as an unfinished agenda of comprehensive peace accord (CPA, 2006).

A. CONCERNS

6. We request that the UN Secretary General takes note of the following concerns of the NNVS:

I. No Further Delay in Delivery

a) In the absence of effective measures to address harms we suffered, they are compounded and multiplied as each year passes. So many victims are now living in situations of extreme deprivation, unable to meet their basic needs. In this context the Kathmandu based prosecution v. amnesty debate further frustrate the grassroots victims. Any intervention that further delays the process would have adverse impact on the need of the victim. We therefore urge the Secretary General (SG) to use his good office to expedite the process.

b) We welcome the shift of the approach in the transitional justice, the amendment of Bill, now being considered in the sovereign parliament The amendment empowers the Truth and Reconciliation Commission (TRC) to undertake its functions transparently in a victim-centric, gender-friendly and disabled- friendly manner. It also empowers the Commissions to study the root causes and impact of the conflict, and to recommend institutional reforms to prevent the recurrence of violations. The bill guarantees victims' right to reparation, psychosocial counselling, interim relief, compensation and rehabilitation, and makes this non-contingent to the identification of the perpetrators, the attainment of reconciliation, or the recommendation of pardon or prosecution of the perpetrators. Furthermore, it guarantees the right of the families of disappeared persons to their relative's property; it prioritizes victims of rape, sexual violence and torture in access to reparation. However, there are still a couple of issues that need to be addressed. We therefore, urge the SG to use his good office to encourage all stakeholders of the process to expedite the parliamentary process to pass the bill without any further delay.

II. Adopting Proper Processes in Transitional Justice

a) The commissions are some of the most important mechanisms of transitional justice in Nepal. Only if the commissions are made effective can they deliver recommendations concerning truth, justice, reparations and non-recurrence on the basis of the root causes of conflict, its results and the establishment of truth. Only effective commissions can prioritize the investigation of serious human rights abuses that happened during the conflict. After the amendment of the TRC Act, the Government must give priority to establishing a high-level effective commission and immediately start a wider discussion and consultations to appoint competent commissioners.

b) The government should take this initiative as an opportunity to gain the trust of victims and create sufficient space to listen to victims and their network as a partner of the transitional justice processes.

- c) We, therefore, seriously urge the SG use his good office encourage the members of the parliament to listen the voice of grassroots victims and address their needs of access to health, education, employment, memory and psychological support where the grassroots needs, experiences and expectations of victims should be central during the amendment process.

III. Respecting Victim Rights

- a) Victims' holistic rights to memory, truth, justice, reparation and non-recurrence should be ensured according to international standards and the Supreme Court verdict.
- b) State should prepare a comprehensive reparation policy to provide meaningful reparations that have potential to transform victims' lives and to make a difference on the ground. The active participation of victims and survivors in the design, implementation and evaluation of reparation program is needed, where victims network can play a constructive role as a driver for long-term socio-political change processes.
- c) There should be immediate provision of interim relief to the victims of torture and sexual violence. Psychological counseling service should be provided to the victims of serious human rights violations such as wives of the disappeared, and victims of torture, rape and sexual violence.
- d) It is not only due to the demands of victims, the State has both domestic and international obligation to prosecute and punish the perpetrators of enforced disappearance, rape and sexual violence, torture and extra-judicial killing, as serious human rights violations.

IV. Immediate steps to be taken

- a) The government should develop a trustworthy and transparent process for the restructuring of the commissions immediately after the amendment of the TRC Act, to make the commissions functional, result-orientated, victim-centric, trustworthy and credible.
- b) The activities by different interest groups that are harming the transitional justice process by denying justice to victims, capturing the process and dividing victims should be collectively scrutinized and donor agencies should stop supporting such activities.
- c) Advocacy at local, national and international level should continue for the assurance of truth, justice, reparations and non-recurrence that the victims are seeking. We should continue to reenergize, reorganize and mobilize the victims' network throughout the country, and continue policy advocacy to make the transitional justice process victim-centered and effective. Thus, the agencies supporting transitional justice process should directly support grassroots victims and their networks. Donor agencies, diplomatic missions including the United Nations must link their development projects into reparation programs that contribute both supporting local victims and transforming justice processes.

e) We should continue to oppose all obstruction to the effective transitional justice processes. The security of evidences, victims and witness, and the protection of victim rights defenders should be assured.

B. RECOMMENDATIONS

To the international human rights community:

7. While well-intended, the international human rights community has pursued a transitional justice agenda that focuses almost exclusively on prosecutions and amnesty while ignoring the multi-faceted needs of the victims of conflict. Despite continuous advocacy by victims network and numerous studies that have identified a wide range of needs of victims – often conducted by the international NGOs themselves – the international boycott and refusal to engage with the government of Nepal on account of amnesty provisions ultimately perpetuates a top-down and outside-in approach to transitional justice that ignores the realities and priorities of victims, including their social, political and economic needs.
8. NNVS calls on international NGOs and international human rights organizations to re-evaluate their policies and engagement in order to ensure that they are genuinely supporting victim-centered transitional and transformative justice mechanisms that go beyond mere prosecutions for perpetrators. Such an approach would prioritize structural inequalities; demand reparations for conflict-affected persons that based on needs and rights; sustain pressure on the government to formally acknowledge the serious human rights abuses committed during the armed conflict; facilitate victims' access to the truth; and provide direct support to grassroots victim associations to advance locally-led processes.
9. Long-term financial and political support to victims' groups should be at the heart of any support mechanism, so the international community can become an effective partner for victims in their movements for reparations and transformation.

The Government of Nepal

10. Accelerate the establishment and operationalization of transitional justice mechanisms which is victims-centred and inline with the locally-led process to address the needs of victims in their context.
11. We call on listening the victims of conflict to encourage the Government of Nepal to advance justice for the victims. While amending the amnesty provisions is important, it must not preclude advancement on other areas of restorative justice for victims and their families, including economic and social justice, formal acknowledgement, and national memorialization.
12. We urge the governing parties to take action to address victim needs and to achieve transitional justice goals from victim-centered approach. Most importantly, the major political parties (Nepali Congress, Communist Party of Nepal (UML), Community Party of Nepal (Maoist Center)) and other political parties both in the parliament and outside the parliament should play a constructive role to conclude unfinished agenda of peace process through developing a context specific Nepali model with a strong political will.

Copied to:

Prime Minister Mr. Pushpa Kamal Dahal 'Prachand'
Office of the Prime Minister of Nepal, Singhadurbar, Kathmandu

Secretariat of the Federal Parliament
C/o Parliamentary Committee on Law, Justice and Human Rights
Singhadurbar, Kathmandu

UN Resident Coordinator Ms. Hanaa Singer-Hamdy
Office of the UN Resident Coordinator in Nepal
UN House, Pulchowk, Lalitpur, Nepal

Volker Turk, High Commissioner, Office of the United Nations High Commissioner for Human Rights
OHCHR, Geneva

Professor Fabian Salvioli, Special Rapporteur on the Promotion of Truth, Justice, Reparation and
Guarantees of Non-recurrence

Morris Tidball-Binz, Special Rapporteur on Extra-Judicial , Summary or Arbitrary Executions

Reem Alsalem, Special Rapporteur on Violence Against Women and Girls, it's Causes And Consequences

Aua Balde, Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Top Bahadur Magar, Chairperson, National Human Rights Commission of Nepal

Submitted by:

Ram Kumar Bhandari, PhD
Coordinator
Email: rambhandari3000@gmail.com
Tel.: +977 9851123104

Bhagiram Chaudhary
General Secretary
Tel.: +977 9858027747