



**UNITED NATIONS
OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS IN NEPAL**



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OHCHR-Nepal raises concerns about Truth and Reconciliation Commission Bill

The Office of the High Commissioner for Human Rights in Nepal (OHCHR-Nepal) yesterday handed to the Government a document (a summary of which is attached) detailing its comments on the first draft of the Truth and Reconciliation Commission (TRC) Bill. The comments were presented at a workshop on 2 August, organized by the Ministry of Peace and Reconstruction and attended by the Attorney-General, members of Parliament, senior legal advocates, several representatives of civil society and others.

The bill proposes the creation of a TRC with a mandate to investigate the facts surrounding the commission of gross violations of human rights and crimes against humanity committed during the course of the armed conflict between 13 February 1996 and 21 November 2006. The Commission, which will consist of up to seven commissioners, will have two years, with a possibility of a 12-month extension, to complete its work. It will then provide the Government with a report of its findings, and recommendations as to reconciliation, prosecutions, amnesty and reparations.

The creation of a TRC is a very important initiative that can assist a nation in building a culture of peace and reconciliation based on truth, justice and reparation. It should provide an opportunity for the people of Nepal to address the past so as to identify the root causes of the armed conflict. It is also an opportunity for meaningful justice for the thousands of victims of the violence, and their families by bringing to account the perpetrators of serious human rights violations and violations of international humanitarian law.

With regard to the provisions of the draft TRC bill, OHCHR-Nepal is deeply concerned about provisions which would amnesty the perpetrators of gross human rights violations and violations of international humanitarian law (IHL), including extrajudicial execution, torture and disappearances. Amnesty provisions which prevent prosecution for these offences are inconsistent with Nepal's obligations under international law. Three days ago, the United Nations Secretary General, Ban Ki Moon, reaffirmed the UN's policy of not endorsing or condoning amnesties for genocide, crimes against humanity, war crimes or gross violations of human rights, nor undertaking or encouraging activities that might foster them.

Among the other main concerns regarding the bill is the lack of safeguards regarding the independence, impartiality and diversity of the Commission, both in relation to the selection of commissioners and in relation to operational and financial matters. According to the bill, the commissioners will be selected by a government-appointed body that may consist of political actors, rather than a diverse group that is representative of society. At the same time, there are no provisions to ensure diversity based on ethnicity, gender, caste, geographic region and religion.

In January, during her visit to Nepal, Louise Arbour, the High Commissioner for Human Rights, stressed the need to ensure the integrity of any truth commission emerging in Nepal today. She stated that “It is essential not to rush the process but rather to ensure that broad constituencies, including victims’ groups and human rights NGOs at all levels, are thoroughly consulted and participate in shaping the design and focus of a future truth-telling process.” At the same time, the political conditions for a TRC must be such that victims, families and witnesses can testify without fear of retribution. Given the continued violence in the country, serious thought must be given as to whether the time is right for such a process.

OHCHR-Nepal expresses its appreciation at being given the opportunity to provide comments at an early stage of the TRC process, but urges the Ministry of Peace to take into account the concerns raised by Nepalese civil society and others about the TRC bill. “In making its own comments public at this stage, OHCHR-Nepal wishes to contribute constructively to discussions on the nature and timing of a truth and reconciliation commission, and thereby contribute to the creation of a timely, credible, impartial independent commission which will address the victims’ rights to truth, justice and reparation” said Sandra Beidas, Acting Representative.

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