



For Immediate Release

Nepal: Fix Flawed Truth, Reconciliation Act

UN Rights Bodies Call for Fundamental Overhaul

(New York, July 9, 2014) – The Nepal government should act immediately to fix crucial flaws in the Truth and Reconciliation Commission (TRC) Act, particularly those highlighted in a new United Nations evaluation, Amnesty International, Human Rights Watch, and the International Commission of Jurists said today.

The assessment, in a technical note from the UN Office of the High Commissioner on Human rights to the Nepal government, pointed out that the TRC Act does not conform to Nepal’s international legal obligations, including in that it allows for amnesty for crimes committed under international law. Five experts for the UN Human Rights Council have also voiced similar serious concerns over the TRC Act, passed by Nepal’s Constituent Assembly in April 2014.

“The UN’s findings are consistent with what human rights groups have been saying all along – Nepal’s TRC Act is fundamentally flawed and could leave thousands of victims of conflict-related violations without access to the justice they deserve,” said Richard Bennett, Asia director at Amnesty International. “The act allows the commission to recommend amnesties for crimes under international law, including war crimes, which flies in the face of Nepal’s obligations under international law.”

Nepal’s Supreme Court in January rejected an earlier version of the TRC Act – the 2013 Truth and Reconciliation Ordinance, which contained many of the same flawed provisions. The court ruled that any mechanism for transitional justice must conform to international legal standards, lead to accountability for serious human rights violations, and guarantee victims their right to remedy and reparation.

Nepal’s Constituent Assembly defied the Supreme Court ruling, and passed the TRC Act. It became law on May 11, 2014. The act is only a slightly modified version of the 2013 TRC Ordinance and fails to address the Supreme Court’s concerns. The Supreme Court is set to rule on a petition challenging the new act in July 2014.

In its briefing paper issued in May, *Justice Denied: the 2014 Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act*, the ICJ highlighted the flaws of the new TRC Act and called on the government to take active steps to implement the Supreme Court’s orders.

“By defying the Supreme Court’s recent principled ruling, the Nepal government is violating its obligations under national and international law to provide justice and accountability,” said Sam Zarifi, Asia director at the International Commission of Jurists. “All eyes are now on the Supreme Court to see whether it will allow the Nepal government to legislate impunity for

perpetrators of crimes under international law, such as unlawful killings, enforced disappearances, and torture, including rape and other sexual violence.”

The international community should support and encourage initiatives that can deliver real justice for victims of human rights violations in Nepal and oppose those that could shield perpetrators from accountability, Amnesty International, Human Rights Watch, and the International Commission of Jurists said.

Last year, EU missions, including Denmark, Finland, France, Germany, UK, and the EU delegation, joined by Norway and Switzerland, issued a statement calling for credible and independent commissions that do not have the authority to confer amnesty for serious human rights abuses and that have regard for victims’ needs. The donors said they would “be unable to support mechanisms that do not meet international standards.” Nepal’s donors need to live up to their promise and refrain from supporting government processes that violate Nepal’s international legal obligations.

“There is no question that the TRC, if implemented without serious amendments, will entrench a culture of impunity rather than delivering justice,” said Brad Adams, Asia director at Human Rights Watch. “Donors need to unequivocally refuse to participate in any process that strips victims of their rights.”

For more Human Rights Watch reporting on Nepal, please visit:

<http://www.hrw.org/asia/nepal>

For more information, please contact:

In San Francisco, for Human Rights Watch, Brad Adams (English): +1-347-463-3531 (mobile); or adamsb@hrw.org

In Washington, DC, for Human Rights Watch, John Sifton (English): +1-646-479-2499 (mobile); or siftonj@hrw.org. Follow on Twitter @johnsifton

In The Hague, for Human Rights Watch, Tejshree Thapa (Nepali, English): +31-70-306-3817; or +31-6-553-554-63 (mobile); or thapat@hrw.org

In Bangkok, for International Commission of Jurists, Sam Zarifi (English): +66-807-819-002; or sam.zarifi@icj.org

In London, for Amnesty International, Richard Bennett (English): +44-0-20-3036-5894; or +44-0-7432-633-679 (mobile); or richard.bennett@amnesty.org

In London, for Amnesty International, David Griffiths (English): +44-20-3036-5891; or +44-7432-633-675