PRESS RELEASE

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Nepal: Deliver justice for “disappeared”

The failure of the Nepali authorities to bring to justice those responsible for the disappearance of five men more than a decade ago is symptomatic of their wilful inaction in such cases, Amnesty International said ahead of the International Day of the Victims of Enforced Disappearances on 30 August.

More than 1,300 people are thought to have disappeared during the armed conflict in Nepal between 1996 and 2006. To date, not a single person suspected of criminal responsibility for serious human rights violations or crimes under international law committed during the conflict has been brought to justice in a criminal court.

“The Nepali authorities need to end the excuses and instead deliver justice for the victims and families of the disappeared,” said Richard Bennett, Asia Pacific Director at Amnesty International.

Every year on the International Day of the Disappeared victims' families in Nepal gather to demand that Nepal's government reveal the fate and whereabouts of victims of enforced disappearance and prosecute those suspected of committing them.

Forensic and DNA analysis completed earlier this year identified remains exhumed from gravesites near Janakpur, Danusha District as those of five men that were disappeared by security forces in 2003.

The analysis found that the “Dhanusha Five” had been blindfolded, shot at close range and buried. Ballistic analysis confirmed that bullets found at the burial site corresponded with ammunition only used by the Nepal Army at the time.

Sanjeev Kumar Karna and a group of ten friends were beaten and arrested by a group of army and police personnel while on a picnic in Janakpur on 8 October 2003. Five of these young people, including Sanjeev Kumar Karna, were never seen alive again by their families.

In July 2014, more than decade after the murders, Nepali authorities returned the remains to surviving family members. Despite the forensic evidence that the five youths were victims of extrajudicial execution, suspects - including high ranking police and military personnel - remain free, some in positions of authority. Police investigations into the case appear to have stalled.

Sanjeev’s father, Jai Kishore Labh, dedicated the remainder of his life to seeking truth and justice for his missing son and his friends. He died in 2010 without an answer.

Last week, an Amnesty International delegation met with surviving parents of the “Dhanusha Five” who reiterated their calls for justice.

“There must be no whitewash when it comes to investigating and bringing to justice those responsible for the disappearance and killing of these five men,” said Richard Bennett.

“The authorities are dragging their feet on these investigations. It seems they appear content to push this case and others like it to the proposed Truth and Reconciliation Commission.”

The Truth and Reconciliation Act, which was passed by Nepal’s parliament in April established two commissions, a Truth and Reconciliation Commission and a Commission on Investigation of Disappeared
Persons (CIDP). It is appropriate that the CIDP, once operational would investigate this important case, but that process should not hold up the criminal justice procedure.

The Truth and Reconciliation Commission law, which remains under review by the Supreme Court, does not meet Nepal's obligations to provide remedies, including full and effective reparation, to victims.

As it stands, the proposed Truth and Reconciliation Commission would be deeply flawed particularly as it would have the power to grant amnesties to those suspected of committing crimes under international law. This could include those responsible for the “Dhanusha Five” enforced disappearances.

“These cases must be independently investigated and those responsible brought to justice. There is ample evidence in the “Dhanusha Five” case for it to proceed to a criminal investigation and prompt prosecution of suspects in fair trials,” said Richard Bennett.

Enforced disappearances involve multiple violations of the human rights of both the individuals disappeared and their families.

Amnesty International urges the government of Nepal to:

- Conduct prompt, thorough and effective investigations into the “Dhanusha Five” case and all other cases of enforced disappearance and other crimes under international law committed in Nepal between 1996 and 2006, including, respecting court orders to do so.
- Establish an effective commission of inquiry into enforced disappearances without further delay, to establish the fate and the whereabouts of the victims and inform their families who have a right to truth.
- Where sufficient admissible evidence exists, prosecute those suspected of committing enforced disappearances and other crimes under international law in fair trials.
- Define and criminalize enforced disappearances and other crimes under international law – including genocide, crimes against humanity, war crimes, torture and extrajudicial killings - in domestic law in line with international standards.
- Remove barriers to justice. In particular, ensure that amnesties are prohibited for crimes under international law and that no time limits are imposed for their prosecution of such crimes.
- Provide full and effective reparation to victims of enforced disappearance and their families to address the harm they have suffered.
- Promptly establish the TRC, in full accordance with international standards and without any power to grant amnesties to persons suspected of crimes under international law.
- Promptly accede to and implement into national law:
  - the International Convention for the Protection of All Persons from Enforced Disappearance. In doing so, recognize the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims;
  - the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity;
  - The Rome Statute of the International Criminal Court.

Notes to editors

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