

Failure of this interim decision to make the perpetrators accountable for their deeds shall encourage further human rights violations from the perpetrators of the past and the armed groups of the present. Expressing commitment for uprooting the trend of human rights violation and new policy for reform is not enough. The perpetrators involved in the serious incidents of human rights violation should not only know that they will go to prison for torture, disappearance and extra judicial killings, but they should actually be sent to the jail as criminals. This has not happened in Nepal and impunity prevails in the form of de jure impunity and de facto impunity. The present interim verdict has proved this.

The de facto impunity prevails when the state fails to prosecute against those who are responsible in the incidents of human rights violation due to lack of capability or will power (often backed by political reasons). Prosecution is not carried out even in the well documented cases of serious violation of human rights applying existing laws due to complex interplay of political pressure and other interventions. Effective role of the judiciary is much expected at such circumstances, but through its decision on the Okhalghunga murder case the Supreme Court has joined the corrupt politicians.

Laws are often limited, and on many occasions the Nepalese laws provide firm ground for immunity from prosecution. In this context, it is a hopeless situation for justice seekers that the Court failed to give fair judgment for protection of human rights. This has protected the perpetrators and expanded as well as encouraged impunity. There are so many provisions in Nepal law that protect members of security forces and civilians from accountability towards law. These laws are contradictory with the right to receive remedy and reparation in the serious violation of international human rights law. The legal and practical forms of impunity have encouraged rights violations in Nepal and decreased the trust of people towards government and judiciary.

National and international experiences are evident that impunity is the direct enemy to the institutional development of democratic achievements and economic prosperity for a country. Impunity creates a big hurdle in the post conflict societies when it is strongly connected with all the agencies of the state. It creates a worse situation when impunity is linked with politics, peace and reconciliation efforts. Impunity prospers under such situations and justice with prosecution becomes a bargaining issue for peace. This is supported by the logic that measures against impunity push peace and political consensus into peril in a post conflict society. This situation brings institutional protection of impunity during transitional phase or the state restructuring and rebuilding phase in a country like Nepal where impunity has become a tradition. The above verdict of the Supreme Court has posed serious challenge to this problem.

The problem of impunity is prevalent in all the state agencies including the political level, security agencies and legal sector. Moreover, the withdrawal of criminal charges and political protection to the criminals have been the factors encouraging impunity. The efforts made to address impunity before the attainment of democracy or after that have become useless. Failure of these efforts have made the people hopeless.

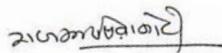
Current peace process has reached a vulnerable stage due to lack of investigation in the systematic and serious violation of human rights and prosecution against perpetrators in the incidents that occurred during the decade long armed conflict. Impunity continues and the public trust towards democracy and peace erodes due to lack of prosecution against perpetrators of the past. In fact, there is tension between search for justice and peace. Unfortunately, we have not been able to proceed prosecution efforts to challenge incidents of serious human rights violation and impunity inherent in the politics. The campaign against impunity cannot bring positive results till the state does not adopt strong policy for effective prosecution.

People's trust in the judiciary of Nepal is declining due to unwillingness and inability of the state to bring the perpetrators to the justice system. Political pressure to stop the police from filing cases, collecting

evidence and arresting the convicted for investigation, indifference of the executive body and army for implementation of court verdicts and consensus among political parties to withdraw large number of cases relating to human rights violation are the common practices found in Nepal.

The national and international efforts to end impunity in Nepal have not yielded encouraging results. The victims and their family members have been facing unbearable uncertainty waiting for justice. The existing impunity has violated people's right for truth, justice and reparation. This situation shall certainly affect the concept of rule of law for a long term. Therefore, Nepal government must take strong and effective measures to guarantee justice and accountability. Only such measures can rectify the movement of the nation and the Supreme Court that is heading towards "complete impunity".

In this backdrop, CTCI calls upon the Nepal government and Supreme Court of Nepal to be accountable to guarantee justice for the citizens. CTCI urges the UN agencies and international community to extend explicit and constructive assistance to motivate the Supreme Court of Nepal to play effective role to ensure justice for the victims and to end impunity in Nepal.



Raj Kumar Siwakoti
Secretary General of FOHRID, Secretariat of CTCI

For further information, please contact:

Raj Kumar Siwakoti
Secretary General

Citizen's Task Force to Combat Impunity (CTCI)
Secretariat: FOHRID, Human Rights and Democratic Forum
GPO Box: 19186,
Dillibazar, Kathmandu, Nepal
Tel: + 977 1 44 23 125,
Cell: +977 9841842008
Fax: + 977 1 44 38 812
Email: fohrid@wlink.com.np
Website: www.fohrid.org.np

ⁱ **Citizen's Task Force to Combat Impunity (CTFCI)** is a loose network to promote public awareness at national level on the role of International Criminal Court (ICC) and pressurizing Government of Nepal to accede to Rome Statute of ICC for prevention of impunity strengthening transitional justice initiative and rule of law. Organizations involved in this network are - 1. Human Rights and Democratic Forum (FOHRID); 2. Informal Sector Service Centre (INSEC); 3. AI Nepal; 4. National Coalition for ICC; 5. Forum for Protection of Human Rights (FOPHUR); 6. Centre for Victims of Torture (CVICT); 7. Child Workers in Nepal Concerned Centre (CWIN); 8. Injured International; 9. Campaign for Human Rights and Social Transformation (CAHURAST), Nepal; 10. Joint Forum for Human Rights; 11. AJAR Nepal; 12. National Human Rights Foundation (HURFON); 13. Women Foundation; 14. Advocacy Forum; 15. Women Rehabilitation Centre (WOREC); 16. Shakti Samuha; 17. Youth Action Nepal; 18. Blue Diamond Society (BDS); 19. COCAP; 20. Today's Youth; 21. ICPD; 22. Campaign for Human Development and Peace (HUDEP); 23. IHRICON; 24. Legal Aid and Counselling Centre (LACC); 25. LANCAW-Nepal; 26. Disabled Human Rights Centre (DHRC); 27. Elders Nepal; 28. Conflict Study Centre; 29. Environment and Justice Society (ENJUS); 30. Campaign for Human Rights and Humanitarian Law; 31. Rural Self-reliance Service Centre; 32. National Land Rights Concern Group; 33. Civil Society for Peace and Development; 34. Centre for Legal Study (CLS); 35. Kanooni Rajya Prabardhan Samaj; 36. Development Forum; and 37. Rural Self-reliance Development Centre (RSDC). **Organizations expressing solidarity to the Citizen Task Force to Combat Impunity**– 1. Human Rights Home (HRH); 2. Pro-Public; 3. Nepal Chepang Association; 4. Social Development Forum; 5. National Dalit Federation – Nepal; 6. GAESO; 7. International Law Forum – Nepal; 8. Ex-Army Council; 10. Drinking Water and Sanitation User's Federation; 11. Law Associates; 12. Swatantra Jeevan Kendra; 13. Nepalese Society of Victimology (NESOV); 14. National Human Rights Concern Center (NHRCC); 15. Forum for Women, Law and Development (FWLD); 16. Civil Peace Committee; and 17. K & K College.