

Geneva / Nepal, 23 August 2012

Mr. Pablo de Greiff

Special Rapporteur on the Promotion of Truth,
Justice, Reparation and Guarantees of Non-
recurrence
Office of the High Commissioner for Human
Rights
United Nations Office at Geneva
CH - 1211 Geneva 10

Subject: Recent political developments in Nepal leading to a lack of access to justice for victims of gross human rights violations and international humanitarian law

Dear Mr. Greiff,

We are writing to draw your attention to negative impact on efforts to secure truth, justice and redress of victims of gross human rights violations and international humanitarian law following the recent dissolution of Nepal's Constituent Assembly (CA) and the subsequent political instability.

This is of urgent concern because there is a danger that a transitional justice mechanism could be enacted through an ordinance by the interim government. This law will most likely be weak, provide amnesty to perpetrators, and fail to ensure justice. In the unlikely event that it is a strong law, however, it is likely to be revoked once a new government is in place.

It is crucial that your office remain seized of the political situation in Nepal that could lead to continuing impunity for perpetrators of gross human rights violations. We hope that your oversight will remind the government of Nepal of its obligations with regard to justice including the prosecution of individuals who may be criminally responsible for crimes against humanity or gross violations of human rights; guarantee the victims' rights to effective remedies and reparations; guarantee the victims' and society's right to know the truth about established violations; and ensure that transitional justice mechanisms are adopted in such a way as to guarantee these rights without perpetuating the original violations.

Many of these violations of international human rights law and serious breaches of international humanitarian law, such as enforced disappearances, torture and extrajudicial killings, occurred during the ten-year-long armed conflict between the Communist Party of Nepal-Maoist (CPN-M) and the security forces. To date, hardly any of these violations has been adequately investigated. Impunity prevails despite numerous complaints by victims and their families presenting strong evidence to the police. There has also been no comprehensive effort to provide adequate and fair compensation as well as other forms of reparation for the harm suffered by the victims and their families.

Since the conclusion of the ten-year internal conflict in 2006, victims' groups from the conflict – with the support of national organisation like Advocacy Forum-Nepal and other national and international human rights organisations and the UN Office of the High Commissioner for Human Rights in Nepal (OHCHR-Nepal) – have fought tirelessly for truth, justice and reparations for themselves and their family members. These efforts have been waged primarily through filing complaints with police to trigger investigations and prosecutions under the criminal justice system and through advocacy for the establishment of inclusive and effective transitional justice mechanisms.

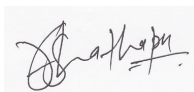
We, **TRIAL (Swiss Association against Impunity)**, the **International Center for Transitional Justice (ICTJ)**, **Advocacy Forum – Nepal**, the **International Commission of Jurists (ICJ)** and **Human Rights Watch (HRW)**, along with several national organisations (see Annex I) have attached a briefing note highlighting some of the problems in the failure to adopt justice mechanisms that conform to international standards. This amounts to a violation of several of Nepal's obligations under international law. We are also enclosing two background notes, one on the evolution of proposed legislations to establish commissions for truth and reconciliation and to investigate disappearances and the other on the broader political developments in Nepal leading to the dissolution of the Constituent Assembly in May 2012.

We hope that you will be able to take appropriate action. We are happy to provide further information to your staff to assist this effort. All future communications concerning this submission shall be kindly addressed to TRIAL, info@trial-ch.org, PO. Box 5116, 1211, Geneva 11, Switzerland.

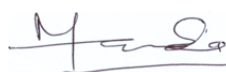
Yours sincerely,



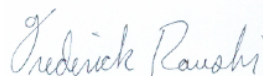
Philip Grant
TRIAL, Director



Reshma Thapa
ICTJ, Acting Head of Office



Mandira Sharma
Advocacy Forum – Nepal, Chairperson



Frederick Rawski
ICJ, Country Representative



Meenakshi Ganguly
Human Rights Watch, South Asia Director

with: Nepal Society of Families of the Disappeared and Missing (NEFAD); Conflict Victims Society for Justice-Nepal (CVSJ-Nepal); Informal Sector Service Centre for Human Rights and Social Justice (INSEC); Conflict Victims Committee – Bardia (CVC); Rina Arpan Dalit Uplift Forum (RADUC); Society of Terror Victim Orphans (OTV-Nepal) and; Conflict Victims National Society (ConVINS).