



Accountability Watch Committee (AWC)

जवाफदेहिता निगरानी समिति

Press Statement

Unjustified immunity for those guilty of serious crimes committed during the armed conflict would be absolutely unacceptable!

25 July 2024

Kathmandu, Nepal: The Accountability Watch Committee (AWC) is seriously concerned about reports from various media outlets that the top three political parties have agreed to stipulate a legal provision that guarantees a 75 percent reduction in punishment for those guilty of serious crimes committed during the armed conflict.

The AWC underscores that the "right to effective legal remedies" is the soul of transitional justice. Any decision made at any level that directly or indirectly undermines this right of the victims of human rights violations cannot be sustained. The right to effective remedies for victims is guaranteed under the Constitution of Nepal (Article 21) and international human rights standards accepted by Nepal (such as Article 2 of the International Covenant on Civil and Political Rights). This right remains immutable at all times (peace, armed conflict, or emergency) and cannot be overridden by any provision contrary to the Constitution and international human rights legal standards. Therefore, the AWC urges all actors involved in the process of amending transitional justice laws to keep this undeniable fact in mind.

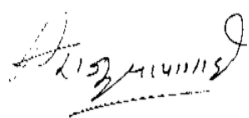
A balanced approach can be adopted where the court retains the authority to determine the appropriate degree of punishment based on an independent judicial evaluation of the aggravating and mitigating factors of an offense. It is not appropriate to bind the judiciary by law to grant excessive immunity from criminal punishment to those guilty of serious crimes by specifying a percentage reduction in sentences undermining the judicial independence and the victims' right to effective legal remedy. Such actions would open the door to impunity and exemption for perpetrators of serious crimes, depriving victims of their right to justice. The state cannot create exceptions to the guarantee of equal protection of the law and the principle of non-discrimination in Article 18 of the Constitution by treating victims of serious human rights violations resulting from violations of the laws of war, i.e., conflict victims, unequally.

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Therefore, the AWC strongly demands the abandonment of the option reportedly negotiated among the top three parties that undermines criminal accountability for serious crimes. Additionally, the AWC strongly urges for rectifying flaws in the definition of gross violations of human rights, making the selection process of commissioners open and transparent, guaranteeing the full independence and autonomy of the commission, removing any barriers resulting from statutes of limitations for the prosecution of serious crimes, and clarifying that there would be a scope for prosecution against those unfit for amnesty and reconciliation. These steps are necessary to address the legitimate demands of the victim community and civil society, which have been raised for years.

The AWC calls for the passing of the pending bill with these amendments, thereby ensuring the obstructed transitional justice process is brought back on the right track.



On behalf of the Accountability Watch Committee

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