

Following the Footsteps of the Disappeared, 2020

Seminar on Transnational Experience of Enforced Disappearance

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The Case of Nepal (Notes for discussion)

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Ram Kumar Bhandari is a social justice activist based in Nepal. He has over a decade's experience working with marginalized communities, in particular the families of the disappeared (his father disappeared in 2001), victims and survivors of conflict, ex-combatant youth, ethnic minorities, rural youth, and women's groups. Ram helped launch a community radio station in Nepal, the Network of Families of the Disappeared (NEFAD), the Committee for Social Justice, and the Conflict Victims Common Platform among other organizations. He has written extensively on enforced disappearances, transitional justice processes, victim movements, memorialisation, nonviolent conflict and more.



1. The Nepali context

- 10 years armed conflict between Government of Nepal and Maoist rebellion (1996-2006)
- History of conflict and creation of victims

2. Root causes of Nepal's conflict

- Political, social and economic exclusion by caste, ethnicity, gender and region
- In Nepal, the socially, politically and economically excluded group were mobilized by then Maoist rebels, and so became targets for the State – because of who they were, not what they had done.
- The majority of Disappeared were from poor regions and excluded groups from countryside.
- State authorities (security forces) systematically disappeared, tortured detainees
- According to the commission's interim report: 91 percent disappeared peoples were Male, 81 percent were married at the time of disappearance; (Over 2500 disappearances: 77 percent disappeared by the State, 10 percent by Maoist forces and 13 percent unidentified)

3. Consequences: continued grievances of wives, children, parents and relatives

- Varied needs of women, children and parents
- Psychological and emotional needs are important
- The pain doesn't go away, families want to put their relative to rest
- Ongoing trauma without a closure
- Therefore commemoration and local memorialization are important in the family and communities that bring members together and provide a Psychological space, as a form of therapy

4. Key demands of families: Answer (truth), memory, dignity, justice, reparation, non-repetition

5. Obstacles: political, legal and structural

- A lack of accountability due to political interference and culture of impunity;
- A non-transformative process rooted in liberal ideas of global transitional justice)
- Post conflict peace (Comprehensive Peace Accord, 2006 onward) and stalled Transitional Justice process
- Creation of two Commissions (early 2015) (TRC and Commission of Investigation on Enforced Disappeared Persons): amnesty and political constraints

6. Problems:

- Transition, but not transformation as Peace Accord (2006) envisioned
- Lack of political will to investigate to the State authorities
- Lack of legislation related to crimes – eg. Enforced Disappearance
- Political intervention, manipulation
- Instrumentalising victims' agenda by interest groups (Pol parties, HR groups, donors..)
- Non-responsible State structures: Accountability issues (withdrawal of crime related cases declared as 'political cases' and deep rooted culture of impunity)

7. Examining Transitional Justice (TJ) process:

- TJ never viewed as victim-centric phenomenon
- It has been highly politicized and elite-driven (top-down)
- Designed and handled by limited people closed to the political parties based on prescription by foreign experts
- Legal orientation (Needs vs. Rights)

- Debating amnesty and prosecution without focusing on social and economic needs of victims' families
- Lack of political will to address impunity and establish accountability
- Lack of unity and coordination among actors (local and national)
- Lack of coordination among the donors, I/NGOs and UN agencies
- Victims immediate needs largely ignored (victims everyday poverty, livelihood support – health, education, employment, rehabilitation, psychological support and memorialisation)
- Lack of adequate victims participation, representation and ownership in TJ processes
- No comprehensive reparation policy and programmes
- Rights of victims (Right to truth, justice, reparation) of serious human rights violations – not established; given monetary support as relief (in the name of assistance and charity)
- Lack of protection mechanism: victims/witness and evidences

8. Gaps

- Political settlements focused on broader political reconciliation, federal republic, election, constitution, democratization and development
- But forgotten about victims inclusion and participation in the processes of transitional justice, and social, economic and political change processes
- Human Rights NGOs do not essentially work on root causes of conflict such as structural violations, exclusion and poverty etc., their focus is on accountability for violations of civil and political rights
- There is tension between a global agenda driven by international agencies/donors, they fund local victims organisations.
- International practices fetishizes trials, while victims have range of needs, i.e. driven by their poverty, local circumstances, and need to know about the disappeared

9. Timing is already a problem

- Victims are dying without truth, justice and a closure
- Witness for truth telling and prosecutions have been lost
- State has no political will to engage with past crimes
- Struggle will be a long one
- We never ever give up our fight to search the disappeared – local mobilization and international network and solidarity must be advanced and reorganized!

- We keep our memories alive and keep questioning the question of government's accountability
- Express my solidarity to all families in struggle around the world.

Reference:

Network of Families of the Disappeared in Nepal (NEFAD): <https://nefadnepal.com/>

Blog on My disappeared father: <https://www.advocacynet.org/my-fathers-dream/>

Journal article on Nepal's TJ process: <https://academic.oup.com/jhrp/advance-article-abstract/doi/10.1093/jhuman/huaa001/5834658?redirectedFrom=fulltext>