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## Nepal: Action Paralysis on Transitional Justice and Dahal's Threats to Revive the Civil War

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By S. Chandrasekharan

13 years have passed since the so-called People's war ended and yet nothing has happened to the poor victims of conflict who are still looking for Justice.

Over 16,000 lives were lost in the civil war and yet when cornered, Dahal the Co-Chairman of the Ruling Party, the Communist Party of Nepal and former Maoist, threatened that he would be forced to revive the conflict once again and thus bring misery to the people. But if this happens though unlikely, the very comrades who sacrificed everything to join the movement and now left in total neglect and poverty while the leaders are enjoying power and wealth will turn against him and other Maoist leaders!

The Peace Process that started thirteen years ago cannot be said to be completed until the victims of the conflict now seen in all walks of life are satisfied.

The ICJ, the Amnesty International and the Trial International called on the Government recently to commit itself to a transparent and consultative transitional Justice process that complied with International Law and the Judgement of the Supreme Court. So far, the Government has defied the Supreme Court Ruling in some cases against leaders of the Ruling Party. The three organisations have reiterated that the cease fire process failed to deliver the truth or reparation for victims of crimes under international law and gross human rights violations.

Soon after the end of the conflict, the Government had established two transitional mechanisms- one, the Truth and Reconciliation Commission and two, the Commission on Disappeared Persons. Since both the mechanisms have failed, the Oli Government was about to set up Special Courts to deal with Conflict era cases. This goes against the wishes of the Co Chairman of the Ruling Party, Dahal who wants a few to be punished and other cases closed for once and for all. This will not be accepted either domestically by the people or internationally.

The Government has extended the terms of the two Commissions for one more year in appreciation' for taking no action!

Meanwhile, the Constitutional Bench of the Supreme Court under Chief Justice Cholendra SJB Rana has begun its final hearings on two writ petitions by victims' relatives seeking Court's intervention to punish a former Maoist Leader Agni Prasad Sapkota for his alleged involvement in the murder of a school teacher.

This Bench will decide whether the Conflict Cases could be tried in a regular Court of Justice or under separate transitional justice mechanisms. Two other similar cases are also pending against other Maoist leaders.

The Ruling will be significant if the Supreme Court allows the cases to be tried in regular courts. There will be a flood of such cases and the Government will not be in a position to cover up or delay such cases as it had tried to do so far. The former Maoist Leader who was responsible for the loss of innocent lives during the conflict will be cornered.

In fact what is striking is that while the perpetrators who carried out the killings and other forms of torture on the instructions of their leaders will get punished either way, the leaders who gave the orders will go scot free. This applies to the Government forces too.

Interviews with the ex-Maoist Cadres who are struggling to survive after initial social ostracization indicate that they strictly followed the orders of their commanders and now regret having joined the movement with high ideals and ambitions and now left to languish in poverty and threat of criminal action!

The Maoist faction of the Nepal Communist Party have been pressing the Government to celebrate the February 13 every year (Falgun 1) to commemorate the People's War that took away innocent lives. ( Jana Yuddha Divas). The UML faction was opposed to it and this year the top UML leaders including Prime Minister Oli skipped a programme organized by the Maoist faction led by the Co Chairman Dahal.

The absence of the top leadership in the function did carry a political message and an ideological struggle between the two factions of the Ruling Party-the UML the NCP. Until 2017 the Maoists and the UML were adversaries and Oli had even questioned the relevance of the People's War. It looks that the ideological struggle between the two groups will continue for quite a long time. Not to be forgotten- the UML cannot forget that they were themselves the targets during the People's War and hundreds of their cadres had lost their lives in the hands of

the Maoists.

Much heat was generated on another minor issue- where the two groups took opposite positions in the case of the crisis in Venezuela. It all started on January 25 when Dahal without consulting the Government or the Prime Minister issued a strong statement siding with the embattled President Maduro and also denounced the United States' interference and imperialist moves. Oli on his return from abroad, tried to make a joke of it saying that it was a "slip of the tongue" of the Maoist leader which further infuriated the ex Maoist Chief. Then came the fiery rhetoric and response from Dahal threatening a revival of the People's War.

It is unfortunate and sad that Oli succumbed to the threats and declared officially that Falgun 1 will be commemorated as Janayuddha divas (People's War Day).

There is a temporary truce now between the two factions- UML and the Maoist and one does not know how long it will last. One Analyst aptly commented on Oli's one year as "Strong Government and Weak Governance".

Nepal of today is not what it was under the Panchayat era and not even during Constitutional Monarchy days. People are aware of their rights and are willing to approach the courts for justice without fear. Those leaders who perpetrated violence on innocent people with over 16000 lives lost, should not be left unpunished- however long it may take to get justice.

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