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Destroyed by a quake. Targeted by organ traffickers. Will a monsoon break this village?

By Matt Alesevich

PRI (16.06.2016) - <http://bit.ly/28JgK8F> - From June to September, Mother Nature will add insult to injury and hammer central Nepal with its second monsoon season since a catastrophic earthquake.

The April 2015 quake left 8,000 dead and hundreds of thousands homeless. Many living with the fresh scars of tragedy, especially in rural villages, remain wildly ill-prepared to face the region's elements.

One of these villages is Hokse, a mountainside town of 3,000 people 30 miles east of Kathmandu. While Hokse lost 11 of its own in last year's disaster, the scars that most connect them predate the earthquake and are physical, not metaphorical.

For decades, kidney traffickers have targeted Hokse so frequently that it's become known as Kidney Village. Hokse's impoverished district, Kavrepalanchok, has become a stronghold for Indian brokers trading in black-market organs.

According to a 2014 Asia Foundation study, 42 percent of organ-sellers in the district parted with a kidney so they could acquire land or a house. After last year's earthquake, however, no homes in Hokse remained inhabitable. Villagers here are still living in makeshift homes that are vulnerable to the elements.

c Local authorities say the current price tag on a new home in Hokse is around \$4,000, far beyond the reach of the average person who has parted with an organ. Most villagers who've sold a kidney here otherwise earned around \$50 a month as farmers or laborers

— before last year's earthquake and Indian blockade ground Hokse's economy to a near halt.

While historical data on organ trafficking in the region remains limited, the Asia Foundation study the year before the earthquake concluded Nepal's kidney trade was "booming," bolstered by a worldwide organ shortage. The WHO estimates 10,000 illegal organ transplants occur worldwide each year.

Sixty-three-year-old Kenam Tamang, who claims to be the first person in Hokse to sell a kidney, did so 43 years ago.

The traffickers operate through Nepalese middlemen, who first approach the poorest villagers — reported to be as young as 15 — to manipulate them into traveling to India to sell their kidneys. Some sellers who return home feeling fine — though they're rarely aware of health complications — encourage their neighbors to do the same.

In India, the organs are removed by black market doctors and sold for up to 50 times what the seller receives, which is anywhere from a few thousand dollars to nothing at all.

"When [the brokers] came, I was building a house. [The middleman] said, 'Why do you work so hard? Come with me, and I'll give you a job, so you can help your family,'" recalls 65-year-old Indra Bahadur Tamang, who sold a kidney decades ago. (Tamang is an indigenous family name that many in this village share.) "One morning at 3 a.m. I was taken to Siliguri in India. The men I was with would talk in Hindi, so I couldn't understand. I was promised 50,000 rupees [\$500] for my kidney, but I wasn't given anything."

If people don't have any options left for employment, "they have to sell what they have in their body," says Raju Thapa, president of Human Rights Without Frontiers Nepal. "Finally [they] go to this broker and this chain is expanding and expanding, and we have to break this chain." Thapa's group has plans to introduce a poultry farming cooperative to Hokse, hoping it will provide a stable source of income and food.

But those who've lost homes face a long road to rebuilding — especially if they already traded an organ to fund the first investment.

"I built a house with [the money I sold my kidney for]. The house I built collapsed in the earthquake last year," says Chhenam Tamang, who traveled to Chennai, India, to sell his kidney for \$600 30 years ago. Now he's living in a makeshift structure with no foundation. "I'm worried that a storm will come and blow my shelter away."

During Nepal's three-month monsoon season, which begins this month, the nation can receive up to 80 percent of its annual rainfall. Whipping winds and downpours batter the country almost daily, and Hokse's mountainside topography leaves it prone to landslides. Less than two years ago, mudslides in Sindhupalchok district, just 30 miles north of Hokse, killed over 150.

"I'm currently living in a tent. What can I do?" asks a 40-year-old woman whose child was pulled from rubble and saved during the earthquake last year. "The rain continues all day — storm rises — monsoon is near. Where do I go?"

The villagers' makeshift shelters, usually standing beside the remains of their pre-earthquake homes, are low patchwork structures comprised of wood, tarps, old food bags and thin metal sheets. The floors are earthen and the roofs are usually kept in place by a hodgepodge of heavy objects — rocks, blocks, logs, and in one case, a mangled bicycle.

"[Our temporary shelters] will never be the same as a house. When the storm comes, I'm feeling afraid for the kids. When it rains, there's leaking, and the children get wet," says Kanchhi Tamang of Hokse. "The children cry. Of course that's [the most difficult thing to face]."

Even at some schools in the earthquake-affected zone outside Hokse, children wear donated raincoats as they sit in class to fend off the rain that pours in through temporary bamboo schoolhouses.

"Every moment — every day — [the villagers] are living with fear," says Rameshwar Thakur, principal of Hokse's secondary school.

While the coming monsoon will be a major test for post-earthquake Hokse, it won't be the first. The village has already braved a Nepal winter, withstanding temperatures hovering around freezing.

"If you go inside [some of the homes in Hokse], there is nothing — no quilt, no pillow, no blanket. They have a very pathetic situation," says Thapa, whose organization distributed fur pants and winter coats to villagers last October. "People in the earthquake affected zone — what they say is, 'We lie in the bed of the rain and our pillow is ice.'"

While more than \$4 billion in international aid has been pledged post-earthquake, Nepal's government, increasingly accused of corruption and ineptitude, has distributed little of it.

When I ask Kanchhi Tamang how she's preparing for the rainy season, she shrugs.

"What preparations?" she asks. "Who would come here? It would have been good if there was someone to help."

Government of Nepal reluctant in implementing the decision of the Supreme Court

Human Rights Without Frontiers International (Brussels) condemns the failure of the Office of the Prime Minister and the Council of Ministers, Ministry of Home Affairs and Police Headquarters to promote four Deputy Inspector Generals (DIGs) in the post of Additional Inspector General of Police (AIGP) as per the Directives of the Supreme Court.

HRWF (02.03.2016) – The Brussels-based INGO Human Rights Without Frontiers Int'l (HRWF Int.) urges the Office of the Prime Minister and the Council of Ministers, Ministry of Home Affairs and Police Headquarters to abide by the decision of the Supreme Court concerning the appointment of AIGPs. HRWF Int'l urges the European Union, the DFID (Department of International Development) and UN agencies to revisit its aid policy to Nepal Police so long as the Government does not implement the final decision of the Supreme Court in this case.

Timeline of the legal proceedings

On 27th June 2014, the Committee for Promotion of AIGP published a name list of seven DIGs that it deemed eligible for the position of Additional Inspectors General of Police (AIGP). That list was sent to the Office of the Prime Minister and the Council of Ministers.

On 14th August 2014, the Council of Ministers created two additional positions for AIGP and therefore promoted two more DIGs. This means that the DIGs ranked eighth and ninth on the list of recommendations for promotion, issued by the Complaint Hearing

Committee for Promotion, should have filled these two new positions. However, Ramesh Shekhar Bajracharya and Kedar Prakash Saud, who ranked tenth and thirteenth on the list of recommendations were selected. The four candidates who were not promoted, although they were ranked higher on the list of recommendations, filed a writ petition.

On 24th September 2014, the Supreme Court ruled that the government had to promote the remaining four DIGs to the position of AIGP. The Court directed that the existing promotion regulations had been violated and the four plaintiffs had been illegally deprived of promotion.

The Government filed a review petition at the Supreme Court to revert its double bench decision about the promotion of DIGs. On 18th December 2015, the full bench comprising the Chief Justice Kalyan Shrestha decided not to open the case for revision and upheld the verdict of the Bench of 24th September 2014 to be final and binding.

Effort of Judgment Execution Directorate

For more than a year, the Government of Nepal has failed to execute the order despite of tremendous pressure exerted by the Judgment Execution Directorate of the Supreme Court. Letters were sent to the Prime Minister and the Council of Ministers, the Ministry of Home Affairs and the Police Headquarters on 8th December 2014, 1st November 2015 and 5th January 2016.

Article 126(2) of the Constitution of Nepal says that "All shall abide by the order of decisions made in the course of trial of lawsuits by the courts." In a letter dated 5th January 2016, the Judgment Execution Directorate wrote to the Office of the Prime Minister and the Council of Ministers, Ministry of Home Affairs and Police Headquarters, reminding them of this provision of the constitution. Further it stated that "If the order or judgment is not executed at proper time, then the concerned party does not feel as achieved justice; public confidence to the court of justice will decrease; and it will be against the spirit of the rule of law. If it happens that the judgment/order of the Supreme Court is not executed by important and responsible state bodies like the Office of the Prime Minister, the Council of Ministers, the Ministry of Home Affairs and the Police Headquarters, then what can be expected from other bodies?"

Moral ground of Nepal police in peacekeeping operations

The Nepal Police force has been contributing significantly in the United Nations Peacekeeping operation in different parts of the world since 1992. If the Nepal Police are hesitant in implementing the Apex Court's order, it might embrace marginal moral ground to be a part of peacekeeping operations.

UN: Nepal blockade puts millions of children at risk

BBC (30.11.2015) - <http://bbc.in/1IUMXPA> - Shortages of fuel, food, medicines and vaccines are putting more than three million infants at risk of death or disease as winter begins in Nepal, the UN children's fund (Unicef) has warned. It said the situation had been worsened by more than two months of political unrest in the south of the country.

A blockade has severely hit the import of key goods by land from India.

The blockade is led by ethnic communities angered by Nepal's recently promulgated new constitution.

The Madhesi communities say the new constitution does not represent them properly.

The government accuses India of deliberately worsening the embargo, but India denies this.

The blockade is being enforced while Nepal is still recovering from powerful earthquakes earlier this year which left up to 9,000 people dead.

In a stark warning, Unicef says supplies of vaccines and antibiotics in the country are now critically low - and the fear is that children could be the worst hit.

More than 200,000 families affected by the earthquakes are still living in temporary shelters at an altitude above 1,500m (4,920 ft) where weather conditions will be harshest this winter.

"The risks of hypothermia and malnutrition, and the shortfall in life-saving medicines and vaccines, could be a potentially deadly combination for children this winter," Unicef Executive Director Anthony Lake said in a media statement.

"During my recent visit to Nepal, I witnessed first-hand the precarious living conditions of many of the earthquake survivors. They could now be facing a new disaster - without adequate food, protection from the cold, or healthcare."

There are also fears that the rising dependence on firewood - triggered by the fuel crisis - is increasing indoor pollution, which in turn could lead to a rise in pneumonia cases.


Last year more than 800,000 children under five suffered from the condition in Nepal, Unicef says, and about 5,000 died.


Already stocks of the inoculation against tuberculosis have run out completely in regional medical centres.


The blockade along the border with India began in September.


Some international reactions to the blockade


HRWF Nepal (30.11.2015) -

 [United Nations](#) – On 11 November, Secretary-General Ban Ki-Moon reiterated his "concern over the obstruction of essential supplies on the Nepal-India border. Acute shortages in fuel supplies continue to impede planned deliveries to earthquake-affected villages in Nepal," said spokesman Stephane Dujarric. "The Secretary-General underlines Nepal's right of free transit, as a landlocked nation as well as for humanitarian reasons, and calls on all sides to lift the obstructions without further delay."

 [United Nations](#) – On 26 November, [United Nations Development Programme](#) Resident Senior Economist Basudeb Guha-Khasnobis stated *What could have been transient poverty is turning out to be structural poverty due to delay in reconstruction works.*

 [United States](#) – On 5 November, the US has expressed deep concern over the critical shortages of essential supplies in Nepal resulting from a volatile situation along the Nepal-India border.

 [European Union](#) – On 24 October, [Jean Lambert](#), [MEP](#) and Chair of the [European Parliament](#) Delegation to South Asia, stated the unofficial 'blockade' at the Nepali border only serves to hurt the Nepali people who are still recovering from the devastating earthquakes earlier this year.

 [Bangladesh](#) – On 18 October, Tofail Ahmed, Minister of Commerce, Bangladesh, a supporter of India's South Asia trade policies, urged an end to the blockade and commented that such blockades hit at agreements like the [BBIN](#).

Five protesters killed in Nepal as violence over constitutional reform continues

Some fear the changes would marginalize their communities

Time.com (01.09.2015) - <http://time.com/4019663/nepal-violence-constitution-tharu-medhesi/> - Nepalese police killed five protesters in the south of the country Tuesday as demonstrators, angry at the government's plan to change the constitution, clashed with authorities.

Police said four people were shot dead in the town of Birjung (40 miles south of the capital Kathmandu), when protesters threw stones and petrol bombs at a police post. A fifth person was killed in a separate clash in a neighboring town of Kalaiya, reports Reuters.

A new constitution has been under review since the monarchy was abolished during a Maoist insurgency in 2008. The proposed changes would federalize the Himalayan nation, dividing it into seven states.

Supporters hope the charter will bring political stability and boost economic development in the country, which is still recovering from two devastating earthquakes earlier this year.

But the Tharu and Medhesi minorities who live in the country's southern plains, say the proposed demarcations would marginalize their communities. In a series of protests in recent weeks, several ethnic groups have demanded statehood in the new charter.

At least 20 people have been killed in violence since the draft constitution was announced two weeks ago.

Meanwhile, hundreds of Hindu protesters clashed with police in front of the assembly building in Kathmandu Tuesday. They are demanding that Nepal be declared a Hindu state in the new constitution, reports the Associated Press.

In the aftermath of the earthquake, Supreme Court of Nepal issues 'show cause notice' on the issues raised by HRWF/Nepal

By Raju Thapa, Human Rights Without Frontiers/ Nepal

HRWF/ Nepal (20.05.2015) - On 19 May, a single bench of Justice Kalyan Shrestha of Supreme Court of Nepal issued a show cause notice in the name of the government of Nepal to present a written answer within seven days about the issues raised by HRWF/Nepal.

HRWF/Nepal has demanded following issues in the name of Office of the Prime Minister and Council of Ministers, Legislature-Parliament, Home Ministry and Local Development Ministry among others defendants:

- a. In collaboration with the government, many experts and scholars should get together and formulate a body that dedicatedly should engage in studies and research activities in Geology and Seismology. This can be enhanced knowledge regarding the earthquake and its trends. Also the government will have experts in hand who are well informed, who will help the government in proper decision taking and policy making.
- b. Government should establish some testing mechanisms to certify a person as a Geologist. For example, to be a legally recognized doctor in Nepal, the exam taken by Nepal Medical Council has to be passed. Similarly, in order to be a competent geologist, the government has to test their knowledge and potential by setting some parameters like geological council.
- c. Natural Calamities Relief Act 1982, does not address the present day problems and complexities. Therefore, it should be substituted by new act, to address the current day problems and complications.
- d. The warning and information of geosciences should be provided to the public only via authorized and genuine sources such as; the research centers established by the government or in collaboration with the government, along with geologists, whom the government has approved.

Political disaster plagues Nepal after earthquake

HRWF Nepal (12.05.2015) - As Nepal enters its third week since a devastating earthquake killed, injured and made homeless thousands of people, some of the hardest-hit areas have only just started receiving humanitarian aid, while many people remain missing. The politicisation of the Nepal earthquake rescue and relief operation has not only hampered efforts to search for survivors and deliver essential supplies, but it can also be held responsible for deaths that were preventable if only the Nepal Government had kept its most fundamental obligation at the forefront of its agenda: the equitable protection of its citizens.

Despite numerous disaster management plans, policies and mechanisms, Nepal's political weaknesses, instability and party disputes meant vital policy and emergency plans could not be agreed upon or implemented. This has led to delays in delivery of relief, while reports have been made that political leaders misrepresent the amount of damage caused in certain areas, thus skewing the distribution of relief in favour of their own constituencies.

This political influence over the distribution process is devastating for those who could have been saved if the first crucial hours after the earthquake had been harnessed efficiently and fairly.

International aid organisations had to overcome numerous barriers just to get relief materials into the country in the first place, as they faced strict customs inspection requirements and taxation of relief supplies as normal goods, causing serious delays in the delivery of aid. It took a week for the Government to loosen these policies following complaints from the UN.

Despite Nepal's awareness of an imminent earthquake, preparedness seemed further lacking as no clear communications protocol was in place for immediately informing the

Prime Minister of events while he was out of the country. Instead, he received the news via a Tweet by Indian Prime Minister, Narendra Modi. The Government had no satellite phone to communicate with concerned stakeholders at this critical time, and ministerial offices were not even earthquake-proof to protect those commanding emergency operations.

The first critical hours after the earthquake were wasted as it took five hours before an emergency ministerial cabinet meeting was held to plan the rescue and relief operation and to mobilize rescue workers. The amount of supplies kept in store for such an event was shamefully low, and essential heavy equipment required for rescuing trapped survivors and clearing roads was scarce. Furthermore, The Government failed in their role to coordinate foreign rescue teams when, early on in the rescue operation, it was reported that multiple teams searched the same areas in the city because of a lack of coordination from the Government.

Weaknesses in Government leadership and Nepal's legal framework were exposed following a ministerial cabinet meeting on 25 April, where Deputy Prime Minister Bamdev Gautam declared a state of emergency. However, this was contradicted by members of the state management committee of the parliamentary committee, who argued that there is no constitutional provision in place to declare a state of emergency in the instance of an earthquake. Thus, a day later, Mr Gautam retracted his initial statement and instead declared the severely affected districts as crisis zones.

Differentiation between such important concepts by senior government members and disunity at such a critical time could have been disastrous.

While prompt delivery of relief materials should have been a priority, the Government allowed Indian helicopters to carry journalists for publicity.

Rather than filling helicopters to maximum capacity with relief supplies, Nepal Government ministers preferred to occupy precious space so that they could be seen distributing aid to their constituencies. They manipulated the situation for political gain even further by directing dispatch of relief materials to their own home districts rather than identifying the villages in most immediate need of relief and rescue. Unfortunately, reports of looting of aid materials were also received.

In a ministerial cabinet meeting held the day after the earthquake, Finance Minister, Ram Sharan Mahat, expressed his dissatisfaction with the Nepal Army as they had not heeded his request to send relief materials to his own village in Nuwakot District. He expressed that he himself would go with in their helicopter to distribute the relief materials, which caused a disturbance in the meeting. Minister of Health, Khagraj Adhikary, thought that if a leader of the Nepali Congress did this, people would become loyal to them. In response, he suggested Mr Sharan take the Foreign Minister along with him, a member of the Communist Party of Nepal (Unified Marxist Leninist), also from Nuwakot district. This issue escalated to such a level that the distribution of relief materials in Nuwakot was halted for seven days as the parties disputed who should distribute the materials.

Not only have political parties been fighting over distribution of relief materials in order to gain political recognition, media reported that Sarlhai district political party members have gone so far as to intimidate Government officials into adding their names to earthquake victim lists in order to receive relief supplies in return for their vote. The National Human Rights Commission received complaints about the way in which relief materials were being distributed, and requested the Government supply relief materials directly to victims.

Nepal's legal system and highly bureaucratic political structure has been another disaster for this earthquake event. The Natural Calamity Relief Act, 1982 has no clear legal

provisions for the jurisdiction of bureaucrats in times of crisis. A lack of consensus between bureaucrats caused further delay and inefficiency in the relief and rescue operation when Chief Secretary, Mr Leela Mani Paudyal, holding the capacity to order and assign tasks to all other ministerial secretaries, formed a committee of 11 members to manage this disaster effectively, and mobilize the Nepal Army under the Ministry of Defense. However, according to the Natural Calamity Relief Act, the rescue and relief operation falls under the jurisdiction of the Home Ministry. Thus, Mr. Paudyal's act faced great opposition from the Home Minister and Home Secretary. With such disagreements, no understanding was reached, and Mr. Paudyal's committee stood ineffective with no opportunity to perform its desired tasks.

Operations were further crippled when the Prime Minister refused to hold a constituent assembly meeting so that information from members could be obtained about their respective constituencies, and on that basis increase the effectiveness of rescue and relief operations. The Prime Minister was more concerned about avoiding any discussion he feared may arise about the Government's weak response mechanisms, drawbacks, and failures.

The crisis is not over. Nepal continues to experience large aftershocks and landslides, causing further damage to weakened buildings and mountains, and putting more lives at risk. Many people remain vulnerable, living with inadequate food, water, shelter and sanitation, and aid needs to be distributed quickly to avoid waterborne diseases spreading during the monsoon season. As Nepal's National Planning Commission begins looking at rebuilding the country, cracks can already be seen in the Government's handling of post-earthquake reconstruction efforts. The same political infighting, lack of consensus over critical decisions and corruption will hamper Nepal's recovery for weeks, if not months or even years to come. To prevent this disaster from growing, the Government needs to remember its purpose, its most basic obligation: the equitable protection of its citizens.

Nepal in crisis after earthquake

HRWF Nepal (04.05.2015) - A powerful 7.8 M earthquake struck Nepal on 25th April. As of 3rd May, it has been reported that 7276 people have died and 14278 people are injured. In this earthquake, Gorkha, Sindhupalchowk, Makawanpur, Sindhuli, Bhaktapur, Dhading, Dolakha, Kathmandu, Lalitpur, Lamjung, Rasuwa, Ramechhap, and Nuwakot districts are severely affected. In such crisis situation lots of support and aid has been receiving by the government but still rescue and relief operation is not being effective due to following reasons;

1. Less prompt and ineffective communication

a. Prime Minister of Nepal knew about the earthquake half an hour after, with the twitter message of Indian Prime minister Modi¹. This suggests that the head of executive is not continuously updated about his country, which indicates reluctance and less concern for his country.

b. As powerful after shocks hit one after another, the required amount of rescuers weren't mobilized for several hours of earthquake. The government failed to effectively communicate to them so that rescue and relief would be more prompt.

c. People tried to contact their family, relatives and friends so due to the over traffic on cell phone network, it become inaccessible. On the other hand significant numbers of BTS towers installed in the rooftop of the buildings collapsed. Alternative means of

¹ <http://timesofindia.indiatimes.com/india/Modi-Nepal-PM-learnt-of-quake-from-my-tweet/articleshow/47102377.cms>

communication, which is Internet, was also shut down. Government had no satellite phone to establish communication with concerned stakeholders in time.

2. Delayed decision to deliver command in rescue operation

a. Emergency Ministerial cabinet meeting was held only five hours after the earthquake. It should have been held much earlier to plan the; disaster management, the manner in which the rescue and relief should be conducted, and proper mobilization of rescuers so that more lives could be saved.

3. Lack of relief materials in store with the Government

a. Nepal lies in high seismic zone, and this is well known by the government. The government officials and ministers have been attending many national and international seminars and meetings regarding this issue, but government showed least preparedness, with very shameful amount of rescue and relief materials in store. There was great scarcity of heavy equipment that was required for rescuing the trapped ones, and clearing the roads by removing the rubble.

4. Lack of clear and adequate knowledge about responding in emergency situation

a. Deputy prime minister, Bamdev Gautam declared a 'state of emergency' in ministerial cabinet meeting of 25th April². Nepal government has also appealed for humanitarian assistance across the region. However, when members of the 'state management committee' of the parliamentary committee argued that state of emergency is not applicable in such situation, Mr. Gautam himself seemed to be unclear about his previous statement and he corrected himself by stating that he declared severely affected districts as 'crisis zone'. This suggests that even a responsible person like deputy prime minister can't clearly differentiate such important concepts³.

5. Office and residence of the head of the state and head of the executive were not safe

a. Office of the both president and prime minister is very old building, and have got several cracks due to earthquake⁴. When there was a shake of 6.8 Richter scale the following day, which is 26th April, the participants of ministerial cabinet meeting, rushed to the open space while the meeting was taking place at the office of the Prime Minister⁵. This shows the extent of carelessness and ignorance of the leaders. At least they should have chosen a safe building to live and work, as they are the responsible ones for most of the power and commands to operate the country.

6. Complicated Lifestyle

- a. Due to the lack of electricity and most BTS and Internet tower shut down, it made a difficult situation for people to communicate and seek help.
- b. Rain made life more difficult as almost all people were living under open sky.
- c. It was difficult to find open space in Kathmandu. The available spaces gradually got dirty as there were many people residing, with lack of latrines and clean water.
- d. Mosquito, insects and parasite problem were rampant in the open space. There was shortage of mosquito repellent.
- e. The shops and other private sectors didn't feel responsible enough. They didn't easily provide supply of the basic needs. Those who provided inflated the price many times than normal times⁶.
- f. Indian helicopter highly accompanied Indian journalist rather than rescuer and relief materials. They prioritized publicity rather than the rescue operation.⁷

² <http://www.bbc.com/news/world-asia-32461019>

³ http://article.wn.com/view/2015/04/25/Quakehit_areas_declared_crisis_zones/

⁴ <http://www.myrepublica.com/politics/item/20226-quake-damage-assessment-for-govt-buildings-starts.html>

⁵ <http://www.myrepublica.com/politics/item/20226-quake-damage-assessment-for-govt-buildings-starts.html>

⁶ Kantipur daily Apr, 30 2015

⁷ Kantipur daily Apr, 29 2015

g. There is a perceived threat of epidemic.

7. Political parties, leaders and ministers are taking this situation as an opportunity

a. The influential political leaders have captured the relief materials and dispatched them in their home district. This has led to many needy victims still deprived of relief materials⁸.

b. Instead of identifying the villages that need immediate relief and rescue, the ministers were sending rescuers to places of their interest. In the ministerial cabinet meeting held the day after the earthquake the finance minister, Ram Sharan Mahat, expressed his dissatisfaction with Nepal Army as he had requested the Nepal Army to send relief materials to his constituency in Nuwakot district. The Army officials did not identify his village, so he expressed that he himself would go with the officials in their helicopter to distribute the relief materials. This caused the disturbance in the meeting and Minister of Health, Khagraj Adhikary, thought that if a leader belonging to Nepali congress does this, people will incline and be loyal to Nepali Congress, and so he said that Mr Sharan has to take the Foreign Minister along with him because the Foreign Minister belongs to Communist Party of Nepal (Unified Marxist Leninist) and is also from Nuwakot district. This issue heightened to such level which halted the distribution of relief materials in Nuwakot for 7 days, as the parties were disputing over who should distribute these materials. The ministers are using this time of crisis also as an opportunity to make happy their cadre.⁹

c. Political parties are exerting pressure to the bureaucrats to include the names of the party cadre in the earthquake victim list, although they are not the real victims. In Sarlhai district political parties have intimidated the bureaucrats to do so.¹⁰

d. The political parties desperately want to get credit, but instead of acting wisely and gaining trust and rebuilding their diluted image by showing sincerity at least during this situation where people are in real need, they are fighting with each other in order to get more share of relief materials, so that and they can donate it with their name.¹¹

8. Old law fails to properly address the complexity of modern disaster management

a. The country has a very old law called 'Natural Calamity Relief Act 1982' there are no clear legal provisions of the jurisdiction of bureaucrats in time of such devastating crisis¹².

9. Incompetency of bureaucrats and ego problem

a. There seems to be lack of consensus between bureaucrats, which is one cause of delayed and inefficient relief and rescue operation¹³. The Chief secretary holds the capacity to order and assign tasks to all other secretaries. Thus, with this in mind Mr. Leela Mani Paudyal, the Chief secretary in his leadership formed a committee of 11 members to manage this disaster in a better way. But according to the 'Natural Calamity Relief Act 1982', rescue and relief operation falls under the jurisdiction of Home Ministry. So, the Home Minister and Home Secretary showed great disagreement to Mr. Paudyal's act. Mr. Paudyal might have thought of forming such committee because, Defense Ministry looks after and regulates Nepal Army, so the Home Ministry might not be able to properly mobilize the Nepal Army for better relief and rescue, but the Chief Secretary as aforementioned does hold the capacity to give instructions and mobilize them, therefore he might have thought his committee would be very useful to suitably manage this crisis. With such disagreements this issue did not come to understanding and Mr. Paudyal's committee stood ineffective with no opportunity to perform the desired tasks¹⁴.

⁸ Kantipur daily 29 Apr 2015, page 15

⁹ Kantipur daily Apr 30, 2015

¹⁰ Kantipur daily 30th Apr, 2015, page 9

¹¹ Kantipur daily, Apr 29, 2015

¹² Natural Calamity Relief Act 1982

¹³ Kantipur daily, 29 Apr, 2015 page 15

¹⁴ Kantipur daily Apr 30, 2015

In this way bureaucrats have failed to plan properly, failed to co-ordinate successfully, failed to identify the urgency of relief and rescue of the victims, and failed to prioritize victim's needs over theirs are some reasons behind the snail pace dispatch of relief material¹⁵.

10. Too many parliamentarians and their overloaded interest

a. Nepal has 601 constituent assembly members and most of them want reach to their constituency for inspection, interaction with people, and distribution of relief materials. In this they are using the helicopter that has been transporting relief materials to various places. In such a scenario the amount to relief materials that used to be loaded in a helicopter is being reduced, so that the constituent assembly members can also be included in that helicopter.¹⁶

11. Government acts hopeless

a. After four days home minister said that rescue and relief operation was ineffective¹⁷.

12. Delayed announcement of nominal relief package

a. After five days of earthquake Prime minister announced that the relief amount of USD 1000 will be provided to the bereaved families¹⁸.

13. Least responsible leaders

a. Chairman of the Constituent Assembly of Nepal, demanded to hold a constituent assembly meeting, so that information from constituent assembly members can be obtained about their respective constituencies, and on that basis rescue and relief could be made more effective, but the PM denied calling for the meeting assuming that discussion about the government's weak responding mechanisms, drawbacks, and failures would be discussed¹⁹.

b. Political leaders of Nepal love to attain international meeting. Leaving behind this pathetic scene at home, Finance Minister Ram Sharan Mahat flew to Azerbaijan to attend a donor meeting on 3rd May²⁰.

Nevertheless, the sectors that have been doing commendable jobs to soothe the victims have also been witnessed, which are:

- h. Nepal Army, and Nepal Police have been playing significant role in the crisis situation.
- i. International relief effort is praiseworthy.
- j. Nepal electricity authority has been able restore electricity very quickly excluding some severely damaged areas and arrangements.

What is the meaning of justice if people die seeking it?

Asian Human Rights Commission (20.03.2014) - There are estimated 15,451 pending cases at the Supreme Court (SC) of Nepal. Last year the Supreme Court gave final decisions on only 4360 cases. There are still 12,114 pending cases from last year and 8097 registered this year that makes total of 20,211 pending cases at the SC. So far this year, the SC has been able to give decisions to only 20.95 percent of cases.

10 judges have been appointed at the Supreme Court. The number used to be 23 two years before. To make matters worse, five temporary judges are finishing their terms

¹⁵ Nagarik daily, Apr 30, 2015

¹⁶ Kantipur daily, Apr 30, 2015

¹⁷ Kantipur daily Apr 29, 2015

¹⁸ Kantiour daily Apr, 30 2015

¹⁹ Kantipur daily, Apr 30, 2015

²⁰ <http://www.myrepublica.com/politics/item/20324-mahat-flies-to-azerbaijan.html>

this month. Now the question remains how the five judges are going to deal with over 15,000 pending cases. It is a herculean task in front of the Supreme Court.

As popular saying goes 'Justice delayed is justice denied'. But there are many reasons behind this delay of justice. One of the major reasons is required human resources, mostly judges. The interim constitution of Nepal has ensured justice, rule of law and the protection of human rights. However, this has become merely a concept with the lack of judges in Nepalese courts. The interim constitution has been limited to a paper tiger only.

It has been two years of waiting for the family of [Chhori Maiya Maharjan](#). Chhori Maiya disappeared after she went to meet Surakchya Singh alias Nikki at Baneshwor, Kathmandu. With many delays the case finally reached the Kathmandu District Court a year ago. Recently the court again postponed the final hearing for the reason that the judge is absent. The court has now given 23rd March as new hearing date.

The family is scared of losing their mother if the Kathmandu District Court continues to delay justice any further. They have been feeling helpless. The investigating authorities and the court know the fact but no one is stepping forward to find out Chhori Maiya's whereabouts. It has been a long wait for Chhori Maiya Maharjan's family who has been waiting for justice for over two years now.

The lack of judges has become emblematic to courts in Nepal. It is also evident that these pending cases will not come to an end until and unless more judges are hired. The role of the judiciary is in question as it has not been able to hire required judges. They have failed in their utmost responsibility.

If the situation persists in Nepal, it is certain that justice seekers will die before receiving justice. What is the meaning of justice if people die seeking it?

The SC has been merely provided as an example. The other courts are also in a sorry state. Nepalese courts suffer from lack of infrastructure and human resources, mostly judges come first. With lack of budget, courts could not even hire staffs required for administrative purposes. Record shows that the government invests less than 1 percent of the annual budget in the judiciary. This also contributes in the slowing of the justice process.

There are a couple of issues that need urgent intervention in order to overcome this impasse. Firstly more judges need to be appointed. Cases relating to women, children, aged and the disabled should be given priority. Most importantly, Nepal needs to establish the 'Fast Track Court' system to address urgent nature of cases including rape, disappearance, and torture. Courts should be equipped with better infrastructure, technologies, and the required number of judges. The government should allocate more annual budget to make it happen.

It will speed up the justice process. And people will begin to regain their belief in the justice system. The country celebrated justice in the past with the popular slogan 'nyaya napaye gorkha janu', meaning *go to Gorkha if you do not get justice*. This slogan has faded away over time with the rise of impunity, and rule of law that has been undermined.

With delayed justice, there remains question of value judgment. Therefore, the Asian Human Rights Commission (AHRC) urges the government of Nepal including the newly appointed Prime Minister and Minister of Law to give immediate priority to appoint more judges in order to conclude pending cases. The AHRC further urges the Nepal government to reform its judiciary system in order to speed up the justice process and deliver timely justice.

Stateless citizens within, time for Nepal to reform decaying institutions

Asian Human Rights Commission (17.03.2014) - Nepal has been in transition since 2006. Following the failure of the first Constituent Assembly to promulgate a new constitution, the country has been in a state of limbo and to make matters worse, there is no clear indication of when this transition will come to an end.

The indefinite hunger strike of Dr. Govinda KC has proved that the Nepal government is not running its institutions; they are being led by a mafia. That a person who has dedicated his life for the benefit of the poor and for victims of state negligence is forced to continuously subject himself to a life threatening hunger strike is proof that the government is not ready to listen to dissenting voices, or that it will do so only when forced to.

Civil society and doctors from across the nation have supported Dr. KC's strike. The Nepal Medical Association (NMA) has decided to close down hospitals across the country, bringing the Tribhuvan University (TU) officials and the government to their knees. It may be recalled these individuals include those that gathered spontaneously in the April 2006 people's uprising, which brought the monarchy to its knees.

Government apathy is also manifest in the indefinite hunger strike by the parents of the slain Krishna Prasad Adhikari, who was falsely charged of spying on the Maoists and killed mercilessly in 2004 during the insurgency period. This strike has spanned 140 days and is continuing. The Adhikari couple seeks justice from the hospital beds, where they are detained. The government has been trying to save face by not allowing them to leave the hospital. The government fears a public protest and being exposed if either one or both of the Adhikari couple dies during their hunger strike. Such an event will bring national and international shame on the government.

The so-called peoples' party that claims it is the voice of commoners in Nepal has already shown its true colors. It has promoted cadres and leaders implicated in police investigations and court judgments, in murders during the insurgency period. Rather than assisting investigations and bringing the culprits to book under law, top leaders of the Maoists party have openly challenged the government to catch the implicated leaders and put them behind bars.

Recently, the police caught three students with guns late at night in Kathmandu. The following day, other students closed down the universities and blocked roads, bringing the whole city to a standstill. Their only demand was release of their leaders. Even a Constituent Assembly member joined them in the streets and demanded the release of the student leaders. Sadly all of them are from the Nepali Congress, the ruling party and the question begs to be asked: what can the general public expect from the ruling government when its own cadres are hitting the streets and messing up daily lives? There is direct enjoyment of impunity in the country.

There is also the case that whenever certain people are arrested, there is tremendous political pressure to obtain their release. They are connected to this or that political party. Such people gain their immunity from the dirt they have on other political leaders. The police have mentioned time and again that their investigations suffer due to this immense political pressure and that if they act independently they risk being transferred. Such incidents are proof that laws are not effective in society. Institutions are not functioning well but rather have been corrupted. The government and its officers turn a

deaf to these issues which is proof positive that their fingers are in the till. They are equal partners in the corrupt mafia-led moneymaking nexus.

The improper use of force and violence is so ingrained from top to bottom that touching one will bring all others into question. That is why no one wants to conduct investigations into these issues.

Nepal endorsed the Torture Compensation Act in 1996, but torture has not been criminalized yet. The establishment of the Commission on Disappearance and the Truth & Reconciliation Commission (TRC) has been stalled; as political parties are hesitant to allow them to operate for fear that their leaders will be implicated. For instance, the political parties want to pass the TRC only with a provision of mass amnesty for past crimes. What is the point of establishing such commissions if they are merely taken as a passage to go scot-free, a white-washing of involvement and withdrawal of charges?

Political authorities change every six months to a year and none of them are willing to establish institutions that may back-fire on them by punishing them for their past misdeeds.

There is a question of law in our society. The rule of law is undermined. If new institutions to support the rule of law are not created and a drastic reform of older ones that are rotting away is not carried out, there will be social collapse. Also, people will begin to shy away from institutions of the state.

On top of all this, incidents of youths protesting openly against corruption, civil society standing together against injustice, delay, and negligence will further increase.

It is time for the Nepali government to revise and reform its institutions, plugging the loopholes, so that law can be enforced without fear or favour. There is an urgent necessity for the government of Nepal to reform its decaying institutions. There should be rule of law, not rule by law and the practice of impunity. It is the only way to boost the confidence of Nepali citizens that have never been able to enjoy their citizenship. The second Constituent Assembly is also a historical opportunity to materialize this into action. So it is better to act now rather than later.

Colonel Kumar Lama of Nepal under arrest

By Raju Thapa, Human Rights Without Frontiers Nepal

HRWF Nepal (10.01.2013) - Human Rights Without Frontiers Nepal welcomes the arrest in the United Kingdom of Colonel Kumar Lama of Nepal on criminal charges of torture during the country's decade-long civil conflict.

In 2007 the Kapilvastu district court of Nepal concluded that Lama, as head of the then-Royal Nepalese Army's Goringha Barracks, was involved in illegally detaining and torturing two individuals. The court recommended disciplinary action against Colonel Lama and ordered the government to pay 75 000 Nepalese rupees to the victims as compensation. The court order has never been implemented.

The Nepalese Civil War was launched in 1996 by Maoist fighters aiming to overthrow the country's monarchy and to establish a People's Republic. The conflict ended with the signing of a Comprehensive Peace Accord in 2006.

The peace agreement committed both parties to ensure that the rights of war victims and their families were protected and that impunity for criminal offenses would not be tolerated; however, in practice, these provisions have largely been neglected. On the

occasion of Nepal's first Universal Periodic Review (UPR) in 2011, the Government of Nepal was urged to investigate and prosecute allegations of human rights violations on both sides during the war. A 2012 report issued by the UN High Commissioner for Human Rights documented more than 9 000 cases of human rights violations during the conflict. Even still, internal political pressures have moved the Nepalese government to force the withdrawal of a significant number of criminal cases and to see that court decisions remain unimplemented.

Human Rights Without Frontiers Nepal believes that the arrest of Colonel Lama is intended to send a strong signal to armed groups in Nepal that the present culture of impunity will not be tolerated by the international community. The organisation applauds the British government for this action and hopes that justice will be duly accomplished in accordance with international treaties in respect to torture and inhuman treatment.

Raju Thapa

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