

Army has no authority to interpret statute: Experts

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Legal luminaries and human rights activists today strongly condemned the Royal Nepalese Army's (RNA) refusal to furnish details to the Supreme Court despite the orders.

"Which law authorises the RNA to determine its jurisdiction and not furnish details to the SC?" RNA president Shambhu Thapa questioned referring to the RNA military court outlining its own jurisdiction to interpret the statute.

He said that the military court has no right to determine its own jurisdiction while the apex court is busy probing any case. "It is not only disrespect of the Supreme Court but also violation of the current constitution," he said.

"The Constitution has solely authorised the SC to interpret the statute and the military court cannot, even in cases where the Constitution empowers it, interpret any Article," he added.

Thapa said this while addressing a programme jointly organised by the Constitutional Lawyers' Forum (CLAF) and INSEC here to mark the International Criminal Court Day. According to Thapa, the apex court is the sole authority to decide whether a case is to be handled by the military court or the civil court.

Though Article 88(2)(a) of the Constitution empowers the military court to look into any military disputes, it, however, does not mean that the military court is authorised to interpret the statute.

Article 88 (2)(a) states: "The Supreme Court shall not be deemed to have power under this clause to interfere with proceedings and decisions of the military court except on the ground of absence of jurisdiction or on the ground that proceeding has been initiated against, or punishment given to, a non-military person for an act other than an offence relating to the army."

Responding to a SC order to fur-

nish details regarding a writ filed by sacked military official Prajwal Basnet, the RNA, on Tuesday, had sent a letter to the SC claiming that the RNA had no constitutional or legal obligation to furnish details to the apex court.

"Both government officials and Maoist militia will have to face trial at the International Criminal Court (ICC) for their violation of human rights by killing innocent people, if such cases are filed there," Thapa said.

RNA is disrespecting the SC by not furnishing the details it has sought, INSEC chairman Subodh Pyakurel said. "What is the intention behind this disrespect to the Supreme Court?" Pyakurel asked. He also blamed the RNA of grossly violating the human rights.

Advocate Bhimarjun Acharya, the chairman of the CLAF, said that the military officials and Maoist leaders are engaged in violating human rights and they will definitely have to face the ICC if Nepal becomes its signatory party.