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Nepal: ICJ calls for amendments to Bill on Disappearances to address the Past and Securing the Future

The International Commission of Jurists (ICJ) has released a letter to the Peace Minister urging the Government of Nepal to strengthen the proposed Bill on Crime and Punishment of Disappearances in order to bring it into line with International Human Rights standards, the June 1, 2007 directives of the Supreme Court of Nepal, and international best practices.

The ICJ welcomes the Government's commitment to seriously addressing the problem of enforced disappearances. The new Bill aims to criminalize the act of enforced disappearance, establish a commission to investigate past cases from 1996 to 2006 and provide for prosecution of perpetrators and reparations for victims. "However, the new Bill again fails to comply with the Supreme Court directives and international standards. Therefore, the government's positive steps could well be undermined by the failure of certain provisions of the Bill to meet international human rights standards", said Vincent Calderhead, Country Director of the ICJ-Nepal Programme.

The systematic practice of enforced disappearances in Nepal during the ten-year conflict was among the worst anywhere in the world. "A proposed new Bill represents a crucial step in national healing based on principles of justice and accountability which will help to prevent a return to the violence of the past but the government should not stop half-way towards the goal of ensuring human rights protection for all the people of Nepal", added Calderhead.

In its June 1, 2007 ruling, the Supreme Court found Nepal's current legal framework inadequate to address the systematic practice of enforced disappearance during the armed conflict, and therefore, held that the Government must introduce new legislation to criminalize enforced disappearances and to ensure the establishment of a credible, effective, impartial and independent commission of inquiry.

The Supreme Court order also provided that these measures should conform to international standards as provided in "the Charter of the United Nations, the Universal Declaration of Human Rights, the Declaration on the Protection of All Persons from Enforced Disappearance, 1992, and the International Convention for the Protection of All Persons from Enforced Disappearance, 2006 (Disappearances Convention)."

In March 2009, the ICJ released a briefing paper (*Disappearances in Nepal: Addressing the Past, Securing the Future*) in which it reviews international law and best practices on enforced disappearances and makes a number of specific recommendations to improve Nepali law in key areas and to strengthen the independence and effectiveness of the

The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

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Commission on Disappearances, which remains relevant. The letter sent to the Minister and being released today is based on the conclusions and recommendations made in the paper.

Among the improvements in the proposed new Bill are the incorporation of the principle of command responsibility, an increase in the penalty from 5 years imprisonment to 10 years; an increase in the statute of limitation from 6 months to 1 year. However, the changes and other provisions of the Bill again fail to meet the standards as prescribed by the Supreme Court and the Convention Against Enforced Disappearances.

“The improvements recommended by the ICJ would put Nepal at the forefront of global efforts to deter human rights violations and end impunity through reliance on the rule of law”, said Govinda Sharma Bandi, ICJ Consultant.

The ICJ urges the Government to improve the Bill and table the amendments during the current parliamentary session.

For further information please contact:

In Kathmandu, Vincent Calderhead, ICJ Country Director, +977-01-2210413 or 9808086635 (mobile)

In Geneva, + 41 22 979 3800