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COMMUNIQUE DE PRESSE – COMUNICADO DE PRENSA

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Nepal: ICJ urges Government to ensure “High level Commission of Inquiry on Disappeared Citizens” meets international standards and complies with Supreme Court order

The International Commission of Jurist (ICJ) has written to the leaders of the eight political parties of Nepal raising concerns that the recently formed “High Level Inquiry Commission on Disappeared Citizens” does not meet international standards and calling on the Government to ensure that such an inquiry complies with the 1 June 2007 Supreme Court order on enforced disappearances.

The High Level Inquiry will investigate the cases of enforced disappearance committed by the security forces and the Communist Party of Nepal (Maoist) during the decade-long armed conflict in Nepal. The ICJ is, in principle, fully supportive of the formation of a commission of inquiry into past enforced disappearances that meets international human rights standards and complies with Supreme Court order.

The ICJ said that the terms of reference, composition, procedures, powers and resources of a commission of inquiry should be in accordance with international human rights standards.

This includes, among others: clearly defined terms of reference that do not attempt to establish the commission of inquiry as a replacement for the criminal justice system; the members of the commission should be competent, skilled, independent and impartial; the safety and security of victims, witnesses, complainants, counsel and investigators should be ensured; should provide victims with the opportunity to present their views and be represented by lawyers, should ensure that the bodies of any deceased persons are not disposed of until autopsies are conducted; should ensure hearings are held in public unless confidentiality is necessary to protect victims, witnesses and their families; should provide the power to issue public reports; and should provide the power to transfer conclusions, recommendations and evidence directly to the prosecuting authority for criminal prosecution.

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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The order of the Supreme Court of 1 June 2007 states that the existing legal framework related to commissions of inquiry is inadequate to address the cases of disappearance that have been systematically practiced during the armed conflict in Nepal. The order instructs the interim Government to introduce new legislation to ensure the establishment of a credible, competent, impartial and fully independent commission. The order also states that, in doing so, the interim Government should take into account the Convention for the Protection of all Persons from Enforced Disappearance and the Criteria for Commissions of Inquiry developed by the United Nations Office of High Commissioner for Human Rights.

The ICJ is concerned that formation of this High Level Commission of Inquiry not in compliance with the order of the Supreme Court damages the rule of law in Nepal and will make it more difficult to ensure justice for past gross human rights violations and therefore to prevent such crimes occurring again in the future. The ICJ encourages the interim Government to uphold its commitment to establish the rule of law in Nepal made in the November 2006 Comprehensive Peace Agreement.

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