



Press Release

THE INTERNATIONAL CONVENTION FOR THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE ENTERS INTO FORCE

December 23, 2010 – The Asian Federation Against Involuntary Disappearances (AFAD) and Advocacy Forum (AF), International Commission of Jurists (ICJ) welcome the the International Convention for the Protection of All Persons from Enforced Disappearance (the Convention) that enters into force form today. For the disappeared and their families this is a historic moment, a cherished victory in the global struggle against this scourge.

The Convention is a legally-binding instrument protecting people and establishing the right of everyone not to be subjected to enforced disappearance. No circumstance whatsoever, be it a state or threat of war, internal political instability or any other public emergency may be invoked to justify enforced disappearance. The Convention provides that enforced disappearance constitutes an international crime and, when committed as part of a widespread or systematic attack, it amounts to a crime against humanity.

Every provision of the Convention stems from poignant experiences of relatives of the disappeared. In 1981, the Latin American Federation of Associations of Relatives of Disappeared- Detainees launched the project to draft an international convention. Associations of families of the disappeared and international human rights organizations from various parts of the world actively took part to the drafting and influenced the contents of the Convention.

To date, the Convention has been ratified by 21 States and signed by 88. Despite the growing clamour of the Nepali Civil Society, Nepal is neither among the signatories nor the State parties. The Convention is particularly relevant to the Nepalese situation, where enforced disappearances since the dark years of the Panchayati regime to the decade-long conflict remain unresolved and continue to occur. In Nepal, the 10-year conflict left around 1,000 disappeared. Nepal had also gained ignominious distinction of having the majority of the 267 outstanding cases of disappearances reported to UNWEGID occurred between 1998 and 2004 in the context of counterinsurgency operations launched by security forces against alleged members and supporters of the CPN-Maoists. Families and relatives of the disappeared continue to suffer and, at the same time, to struggle to establish the truth and to obtain justice and redress. The above-mentioned situation

urges Nepal to provide protection to all persons from this heinous crime by signing and ratifying the Convention.

Ruling on 83 cases of disappearances, the Supreme Court of Nepal on 1 June 2007 found Nepal's legal framework to be inadequate to address the systematic practice of enforced disappearance during the armed conflict and, therefore, held that the Government of Nepal 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 stated 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.

According to the Convention, each State Party shall criminalise enforced disappearance as an autonomous offense under its criminal law and punish it by appropriate penalties which take into account its extreme seriousness. The ratification of the convention becomes exigent to Nepal as a Bill for the formation of Disappearance Commission and criminalization of an act of disappearance is under consideration in the Legislature Parliament.

The Convention further provides for:

- The relatives of disappeared have the right to know the truth on the circumstances of the enforced disappearance and the fate and whereabouts of the disappeared;
- The relatives of the disappeared and those who suffer harm because of the disappearance are also victims;
- Enforced disappearance is a continuing offense;
- No one shall be held in secret detention;
- All States Parties shall establish and maintain up-to-date official registers of persons deprived of liberty and guarantee access to basic information;
- All victims of disappearance and their relatives have the right to obtain integral reparation and prompt, fair and adequate compensation.

A Committee on Enforced Disappearance will be established to monitor the implementation of the Convention and to support families, acting as a channel of communication between them and the State, in their search for their loved ones.

The Convention is the UN's response to a global phenomenon, which, according to the 2009 report of the UN Working Group on Enforced or Involuntary Disappearances, occurs in 100 countries of the world. 27 of which are Asian. Asia is the continent from which the highest number of cases was reported to the said Working Group.

The imperative of the Convention's ratification by as many States as possible and its universal implementation can be gleaned, among others, from the sad reality that the Asian Federation Against Involuntary Disappearances (AFAD) continues to learn from its member-organization in other Asian countries.

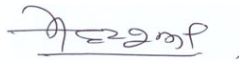
As the Asian Federation Against Involuntary Disappearances (AFAD) Advocacy Forum (AF) and International Commission of Jurists (ICJ) celebrate this especially glorious day in the struggle against enforced disappearance through the entry into force of the Convention, it joins the International Coalition Against Enforced Disappearances (ICAED) to call for more signatures and ratifications especially from governments of Asia.

AF, ICJ and AFAD, especially calls on the government of Nepal to respond to the cry of the families of the disappeared by putting a stop to the phenomenon of enforced disappearance and fulfilling its pledge as a member of the UN Human Rights Council to sign and ratify the Convention without further delay. We also demand the following from the government:

Ratify the UN Convention for the Protection of All Persons from Enforced Disappearance and Recognize the Competence of the Special Committee on Enforced Disappearances!

Immediately enact a domestic legislation criminalizing Enforced Disappearances observing the recognized international standards as required by the Nepal Supreme Court ruling of Jun 1 2007!

As per the commitment made in the past, immediately establish an independent commission of inquiry to investigate into the whereabouts of the disappeared!



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