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FOR HUMAN RIGHTS IN NEPAL



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**OHCHR-Nepal encourages disappearance law
consistent with international standards**

The Government of Nepal has submitted a bill to the Legislature-Parliament for consideration to substitute for the Disappearances (Crime and Punishment) Ordinance 2065. OHCHR-Nepal supports the Government's efforts to criminalise enforced disappearance and establish a Commission of Inquiry on disappearances, given the urgent need to address the rights of victims to truth, justice and reparations. OHCHR recognises that the Government has made efforts to improve upon earlier drafts by increasing the maximum penalty for disappearances to ten years, and extending the restrictive limitations period for filing a case in court to one year. Unfortunately, even with these changes, the Bill falls short of international standards. OHCHR shares the concerns of the National Human Rights Commission, as well as national and international civil society organisations, that the bill be consistent with international law and the requirements set out by the Supreme Court in its June 2007 judgment on disappearances.

OHCHR-Nepal therefore encourages the Legislature-Parliament, during its deliberations, to take into account the concerns raised by civil society, the human rights community and victim groups. This will ensure that the criminalisation provisions of the Bill are consistent with international law, and that the proposed Commission can act effectively and with broad-based public support.

OHCHR recommendations, which have been submitted to the Government, include:

- Further increasing the penalty for disappearances, and stipulating a minimum penalty, to reflect the seriousness of the crime;
- Further extending the limitations period, with an open-ended period for cases involving allegations of crimes against humanity;
- Amending the definition of disappearance to ensure consistency with internationally-accepted definitions;
- Ensuring that the burden of proof is on the State, rather than the defendant, respecting the presumption of innocence;
- Adding safeguards to ensure that the appointment process for Commissioners is fair, consultative and transparent, and that Commissioners appointed are independent, impartial and competent;
- Adding provisions clarifying the mandate, powers and competencies of the Commission, and maximizing the transparency of its operations; and
- Strengthening provisions for witness protection and wellbeing.

"The criminalisation of enforced disappearance and the establishment of a Commission of Inquiry are important steps forward in the peace process and for the protection and fulfillment of human rights," said Richard Bennett, Representative of the High Commissioner for Human Rights in Nepal. "In order to make these steps effective and long-lasting, I urge the Government and the Legislature-Parliament to ensure that the law is consistent with international standards, and that the proposed Commission is formed in such a way that it has the full confidence of the Nepali people."

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