



OPEN LETTER

1 December 2006

To:
Sen. Alain Destexhe
Belgium
President, Parliamentarians for Global Action (PGA)
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CC:

Ms. Shazia Z. Rafi, Secretary-General, Parliamentarians for Global Action
Mr. Pier Ferdinando Casini, President, Inter Parliamentary Union
Ms. Louis Arbour, UN High Commissioner for Human Rights
Ms. Lena Sundh, Representative of UN Office of High Commissioner for Human Rights in Nepal
Rt. Hon. Mr. Subas Nembang, Speaker, House of Representative, Nepal
Hon. Mr. K.P. Sharma Oli, Deputy Prime Minister and Minister for Foreign Affairs, Nepal
Hon. Mr. Narendra Bikram Nembang, Minister of Law, Justice and Parliamentary Affairs, Nepal

Nepal's Accession to the Rome Statute of the ICC: Call for Engagement at a Higher Level

Dear President Destexhe,

Informal Sector Service Centre (INSEC), on behalf of the National Coalition for the International Criminal Court (NCICC) in Nepal, would like to draw your attention to the developments towards accession to the Rome Statute of the ICC in Nepal and crucial need for serious engagement with the Government of Nepal and the parliament in this regard.

We are concerned over the delay in joining the ICC by Nepal taking into account the unanimously adopted motion of House of Representatives (HoR), lower house of the parliament, directing the Government to accede to the Rome Statute of the ICC on 25 July 2006. The parliamentary motion has paved way to the Government to move forward for joining the court and translate its commitments to human rights, peace and the rule of law fighting against impunity.

It is noted that the Government has time and again expressed commitments to accede to the Statute. Recently an Asian Delegation for the International Court was assured by the Prime Minister Mr. Girija Prasad Koirala on 26 August 2006 that the Government of Nepal had expressed its firm commitment to accede to the Statute, given that it had already been unanimously directed by the HoR. Similarly, the Deputy Prime Minister and Minister for Foreign Affairs Mr. K.P. Sharma Oli, in a meeting with the

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delegation on 25 August reiterated his commitment to accede to the Statute and assured the delegation that the process of accession would be completed in no time. During the meeting with the delegation on 27 August, Speaker of the HoR Mr. Subas Nembang vowed to follow-up with the Government until the directive is fully complied with.¹ Nepal's accession to the Statute will prove that these commitments are widely realized.

Government's commitment to uphold its foremost priorities of respecting democracy, rule of law and promotion and protection of all human rights² can assure Nepali people with confidence that these foundations create an opportunity to accept the jurisdiction of the ICC not only to create an option for justice but also encourage national mechanisms to be more effective and efficient.

At this moment, we would like to highly appreciate the positive efforts of the HoR of unanimous adoption of the motion and commend the role and commitments of Nepali parliamentarians to continuously take up this agenda until the Government accelerates the process for accession. However, it is not encouraging while looking at the results and attention of the Government in translating the commitment into practice to fight genocide, war crimes and crimes against humanity.

On the other hand, the challenge we have been facing throughout the history of democratic establishment and in particular the post-1990 movement in Nepal is of critical concern. Impunity is one of the most serious challenges to sustainable and just peace and establishment of the rule of law. Since Nepal has already experienced multifaceted effects of culture of impunity, democratic institutions and practices have been time and again offended by the undemocratic forces. It is also a challenge that the future course of democracy does not recur past grievances of the autocracy and violence but sustains with democratic governance and enjoyment of all human rights. These can be attained by putting an end to impunity. We are concerned that the most serious crimes covered by the Rome Statute must not go unnoticed and their effective prosecution must be ensured by taking measures at the national level and if not, by encouraging international jurisdiction of the ICC in future.

End of direct rule of king and reinstatement of the HoR by people's movement in April 2006 has offered an opportunity for peace and democratization in Nepal. Even though the peace process has been speedy particularly after the end of decade-long internal armed conflict and Comprehensive Peace Agreement between the Government of Nepal and Communist Party of Nepal-Maoist (CPN-M) on 21 November 2006, issues of impunity are yet to be priority concerns.

It is also a responsibility of the forth coming interim parliament in line with the agreements between Seven Party Alliance and CPN-M to maintain the spirit of the present parliament and reach to a meaningful result. "As the country moves into this critical transition phase, consolidating the rule of law through professional policing and a strong criminal justice system will be key measures to be taken. Ending impunity remains one of the biggest human rights challenges for Nepal to address."³ It is also noteworthy that the UN Committee against Torture in its 35th session in November 2005 has

¹ "Asian Delegation calls for Immediate Accession to the ICC Treaty", Press Statement by Asian Delegation for the International Criminal Court, Kathmandu, Nepal, 25-27 August 2006

² Statement by Hon. Deputy Prime Minister and Minister for Foreign Affairs Mr. K. P. Sharma Oli at the First Session of the UN Human Rights Council in Geneva on 19 June 2006

³ Statement by Louise Arbour, United Nations High Commissioner for Human Rights, at the opening of the third session of the Human Rights Council in Geneva on 28 November 2006

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recommended the Government of Nepal to become a party to the Statute. Immediate accession to the Statute will facilitate ongoing peace process and contribute creating opportunities to consolidate the rule of law and democracy ensuring that the appropriate transitional justice mechanisms are in place and function effectively.

We would also like to the Parliamentarians for Global Action (PGA) be reminded of the agreement of the legislators attending the "Asian Parliamentarians' Consultation on the Universality of the International Criminal Court" held in the Congress of the Republic of the Philippines in Manila on 15-16 August taking action "to facilitate the implementation of the motion adopted on 25 July so that Nepal may become a State Party to the Rome Statute at the earliest opportunity while, at the same time, launch initiatives to initiate the decision-making and legislative processes to fully implement the Rome Statute into the domestic legal order"⁴ considering the fact that necessary actions are yet to be taken by the Government.

In this backdrop, Informal Sector Service Centre (INSEC) as a Coordinator of the National Coalition for the International Criminal Court (NCICC) in Nepal, requests the PGA, at its 28th Annual Forum on Human Security and Fourth Session of the Consultative Assembly of Parliamentarians for the ICC and the Rule of Law in Tokyo, Japan on 4-5 December 2006 to:

1. Express concerns over the delaying response by the Government of Nepal in acceding the Rome Statute of the ICC and request it to immediately implement the parliamentary motion of 25 July 2006;
2. Encourage Nepali parliamentarians to have better engagement with the Government for an immediate implementation of the parliamentary motion;
3. Work together with the members of the present parliament and forth coming Interim Parliament to facilitate undertaking country-specific strategies that could contribute to the accession to the Statute; and
4. Establish and strengthen communication with the Government of Nepal regarding immediate accession to and implementation of the Rome Statute.

Thank you very much for your kind consideration.

Sincerely Yours,

Subodh Raj Pyakurel

Chairperson

Informal Sector Service Centre (INSEC)

Coordinator of the National Coalition for the International Criminal Court (NCICC), Nepal

www.icc.inseconline.org

⁴ "An Action Plan for the Working Group of the Consultative Assembly of Parliamentarians for the ICC and the Rule of Law on the Universality of the Rome Statute in Asia", Asian Parliamentarians' Consultation on the Universality of the International Criminal Court (ICC), Parliamentarians for Global Action (PGA), Philippines Coalition for the ICC and Coalition for the ICC (CICC), Asia and the Pacific, Manila, 15-16 August 2006, P. 3

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