

17 July 2006

Rt. Honorable Subash Nembang
Speaker, House of Representatives
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Re: Memorandum for Ratification of Rome Statute of the International Criminal Court (ICC)

Rt. Honorable Speaker,

On the occasion of 8th International Day of Justice, we as members of civil society, including Human Rights Treaty Monitoring Coordination Committee (HRTMCC) and National Coalition for the International Criminal Court (NCIC), submit this memorandum demanding immediate ratification of the Rome Statute and accept jurisdiction of the International Criminal Court by the Government of Nepal.

On July 17, 1998 the Rome Statute of the International Criminal Court (ICC) was adopted by 120 countries from all over the world. Although war crimes, crimes against humanity and genocide are crimes that human kind cannot ignore and that bring tremendous catastrophe, they have been hard to prosecute due to various ambiguities. Speaker is well known about the emergence of the International Criminal Court.

The International Criminal Court (ICC) is the best defense against such evils in the contemporary world. The International Criminal Court brings the most serious international criminals to justice and challenges impunity that they have so often enjoyed in the past. Only a handful of those responsible for these crimes have ever been brought to justice by national courts - most perpetrators have therefore committed these crimes in the conviction that it was extremely unlikely they would be brought to justice for their actions. Until now, those who commit atrocities have escaped justice and victims left without remedy.

The ICC can provide redress and reparations for the victims and survivors of these atrocities, which is a vital step towards accountability and lasting justice. It is one of the greatest achievements in the field of international law since the founding of the United Nations. And in a country like Nepal that has been trapped in violent conflict for more than a decade, it is a ray of hope for the defense of humanity.

Honorable Speaker,

Impunity is widespread and it has resulted in the failure of rule of law in Nepal. Since Nepal has already experienced multifaceted effects of the culture of impunity, the democratic institutions and practices have been time and again offended by the undemocratic forces. On the other hand, conflicting parties were indulged in violation of human rights and humanitarian law with impunity during conflict situation. As a consequence, there had been prevalence of anarchy within the State authority. Not to recur such injustices in future and to

put end to impunity against crimes against humanity as defined by the Geneva Conventions, the primary need for Nepal is to ratify Rome Statute of the ICC.

The most serious crimes of concern to the international community must not go unpunished and their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation. We need the ICC to held individual perpetrators accountable for their atrocities and pave the way to end the culture of impunity in Nepal. Similarly, it can provide space for justice to the victims of genocide, war crimes and crime against humanity.

It is imperative that the Government of Nepal has a high-profile commitment to respect international human rights and the humanitarian laws, particularly by ratifying the major human rights treaties and the four Geneva Conventions of 1949. Similarly, invitation to some of the UN Special Procedures; Special Representatives of General Secretary on Internally Displaced Persons and Special Rapporteur on Torture and signing of the Memorandum of Understanding (MoU) with the United Nations High Commissioner for Human Rights (UNHCHR) have also contributed to cooperate with the global body.

It is also noteworthy that the UN Committee against Torture in its 35th session in November 2005 has recommended the Government of Nepal to become a party to the Rome Statute of the ICC. International community has been suggesting the Nepal Government for ratification of the Statute to promote the culture of human rights and meet the complementary state obligations to the international commitments.

Most recently, the Government of Nepal has expressed its commitment that "no efforts will be spared to investigate into all the alleged human rights violation cases in a responsible manner. And the proven human rights violators will be held accountable and persecuted as per the law of the land" and that "respect for democracy, rule of law and promotion and protection of all human rights are the foremost priorities of the Government", in the Statement by Honorable Deputy Prime Minister and Minister of Foreign Affairs at the First Session of the Human Rights Council in Geneva on 19 June 2006. Ratification of the Statute of ICC will have landmark move forward for the translation of these commitments into reality.

We would like to take this opportunity, to remind the remarkable pronouncements made by the past government with the International Lobby Team of the Coalition for International Criminal Court (CICC) during their visit in Nepal in May 2002. The then Deuba government's Minister without portfolio Mr. Rhishikesh Gautam had accepted whatever the team had apprised to him and had pledged his full support and thereby assured that he would forward the matter to the Prime Minister. Likewise, the then Opposition Leader Mr. Madav Kumar Nepal, General Secretary of Nepali Congress Mr. Sushil Koilara and Spokesperson of Nepali Congress Mr. Arjun Nara Singha K.C. had also expressed their full commitments to move ahead for its ratification as soon as possible. These commitments could not be realized due to the political turmoil after the dissolution of the House of Representatives and the royal takeover.

Honorable Speaker,

After the reinstatement of the parliament on 24 April 2006, human rights organizations have submitted a list of United Nations Human Rights Conventions, including the Rome Statute of the ICC to the parliamentarians and political parties on 28 April 2006 and urged them to be party to those important human rights instruments.

Nepal had ratified Geneva Conventions 42 years ago, on 7 August 1964 and the Supreme Court also had given directive order to the government to formulate national laws pursuant to Geneva Conventions on 9 January 2004. However, the Government of Nepal has not fulfilled any of the obligations under these conventions so far.

In this backdrop, perpetrators of gross human rights violations during the decade long internal armed conflict could not be brought into the book. Nor the victims could get the remedy, due to the lack of such legal provisions and strong mechanisms.

Therefore, we would like to request Rt. Honorable Speaker to:

1. Facilitate the agenda of ratification of the Rome Statute of the ICC at the ongoing session of the House of Representatives;
2. Request the Government of Nepal to stand for the agenda and ratify the Statute as soon as possible.

Thanking you for your kind attention;

National Coalition for the International Criminal Court
Human Rights Treaty Monitoring Coordination Committee