



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

"Dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights"

United Nations Human Rights Council
7th Session, 3 - 28 March 2008

ICJ Intervention in the Interactive Dialogue with the Chairperson of the Working Group on Enforced or Involuntary Disappearances, Mr. Santiago Corcuera, (A/HRC/7/2)

10 March 2008

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Mr. Chairperson,

The International Commission of Jurists (ICJ) appreciates the Working Group's recent revision of its working methods, which the ICJ feels will improve the channels of communication between Governments and the family members of disappeared persons, thus enhancing the Working Group's ability to fulfill its basic mandate of assisting families in determining the fate or whereabouts of their family members who are reportedly disappeared.

In particular, the ICJ supports the Working Group's establishment of the criteria for closure or discontinuation of reported cases as either agreement between family members and Governments or the free and undisputed desire of concerned relatives and other interested parties to close the case, while respecting the right to adequate reparation at all times in the event of the presumptive death of the disappeared person. However, the ICJ recalls that this provision on the presumption of death does not exonerate a State from its obligations under international law to continue the investigation until the fate of the disappeared person has been clarified and to bring the perpetrators of the disappearance to justice.

The ICJ has been concerned at the high rate of disappearances in Sri Lanka. In 2007, 58 new cases of enforced disappearances were reported, while 5,516 cases remained pending. The Working Group's report states that the Sri Lankan Army and Criminal Investigation Department were allegedly responsible for the majority of 37 of the cases in which urgent action was undertaken last year. According to the report, only 1 of these cases was clarified.

Given the accounts of incidence of enforced disappearances in Sri Lanka, and the fact that the Working Group's request to visit the country has been declined, the ICJ wishes to learn how the Group intends to address further deterioration of the situation there, especially in light of the January 2008 termination of the cease-fire agreement. What measures should the international community take to assist the Group in the exercise of its mandate in Sri Lanka?

In Thailand, the 12th of March 2008 will mark the fourth anniversary of the enforced disappearance of human rights lawyer Somchai Neelapaijit. We welcome the continued investigation of this case by the Department of Special Investigations. However, a successful prosecution has yet to take place in this case or any other case alleging enforced disappearance in Thailand. Instead, the climate remains one of total impunity. The current violence in the southern border provinces, combined with broad emergency laws and martial law, create the environment in which enforced disappearance becomes possible. What steps is the Working Group taking to ensure that the Thai authorities are complying with their obligations under the Declaration on the Protection of all Persons from Enforced Disappearance, and in particular to ensure that independent investigations continue and evidence is carefully preserved and witnesses protected?

I thank you.