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Preparation Paper

Human Rights Council (HRC)

"Civil and Political Rights in Pakistan"

I. About the Human Rights Council

The United Nations Human Rights Council is an international body within the United Nations System. Its stated purpose is to address human rights violations. The Council is the successor to the United Nations Commission on Human Rights.

The Commission was often criticized for the high-profile positions it gave to member states that did not guarantee the human rights of their own citizens. International politics and the competing interests of states undermined and marginalized the Commission. Nevertheless its achievements provide the basis on which its successor, the Human Rights Council, works.

The United Nations General Assembly established the Human Rights Council, which was proposed by the SG Kofi Annan in his visionary report "In Larger Freedom", on 15 March 2006 under the Resolution 60/251. The Commission was abolished on 16 June and three days later, on 19 June, the Council began its work. The new human rights body was created with the approval of 170 members of the (then) 191-nation General Assembly. Only the United States, Israel, the Marshall Islands and Palau voted against the Council's creation, claiming that it would have too little power and that there were insufficient safeguards to prevent human rights-abusing nations from taking control. Belarus, Iran and Venezuela abstained from the vote, and a further seven countries (Central African Republic, North Korea, Equatorial Guinea, Georgia, Kiribati, Liberia and Nauru) were absent from the session.

The 47-seat Human Rights Council (HRC) replaces the former 53-member Commission on Human Rights (CHR). The Commission was an independent body, but the Council has been elevated to the status of a subsidiary body of the Assembly. The 47 seats in the Council are distributed among the UN's regional groups as follows: 13 for Africa, 13 for Asia, 6 for Eastern Europe, 8 for Latin America and the Caribbean, and 7 for the Western European and Others Group.

In an attempt to remedy problems of the former Commission, which was criticized among other actions for the election of Libya to its chairmanship in 2003, the resolution establishing the Council specified that "members elected to the Council shall uphold the highest standards in the promotion and protection of human rights" and will be subject to periodic review. Each member nation of the Council must be approved individually and directly by a majority (96 of 191) of the members of the General Assembly, in a secret ballot. Council membership is limited to two consecutive terms, and any Council member may be suspended by a two-thirds vote of the Assembly. Despite these efforts the initial members of the Council included numerous states with poor records on human rights.

II. Civil and political rights

Karel Vasak, a Czech human rights expert, created the expression "human rights generations" in the 1970s. The first of these generations contains civil and political rights, the second generation economic, social and cultural rights and the third generation collective rights of peoples. First-generation human rights deal essentially with liberty and participation in political life. They are fundamentally civil and political in nature and are entitled to protect the individual from interference of the state. They were first enshrined at the global level by the 1948 Universal Declaration of Human Rights (UDHR).

The first and second generation of human rights are moreover reflected in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The ICESCR and the ICCPR have their roots in the same process that led to the Universal Declaration of Human Rights. As the UDHR was not expected to implement binding obligations, the United Nations Commission on Human Rights began drafting a pair of binding Covenants on human rights intended to impose concrete obligations on their parties. Due to disagreements between member states on the relative importance of negative Civil and Political versus positive Economic, Social and Cultural rights, two separate Covenants were created. These were presented to the UN General Assembly in 1954, and adopted in 1966.

The ICCPR contains the most important civil and political rights, including the right to life, the prohibition of torture and slavery, the right to liberty and security, the equality before the courts and tribunals the right to recognition as a person before the law, the right to privacy, the right to freedom of thought, conscience and religion, the right to hold and express opinions, the right of peaceful assembly and freedom of association, the right to marriage and the protection of the family, the right to vote and a guaranteed equality before the law.

The Universal Declaration of Human Rights primarily reflects the first generation of human rights as well. Civil and political rights are laid down in the articles 1-21. Thus, many of the fundamental human rights norms enjoy universal protection by customary international law across all boundaries and civilizations. Human rights cause both rights and obligations. States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must not interfere with or limit the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights violations. The obligation to fulfil means that states must take positive action to provide the enjoyment of basic human rights.

III. The current situation in Pakistan

Ongoing human rights concerns in Pakistan include arbitrary detention, mistreatment, torture, enforced disappearances of terrorism suspects and violence against women and religious minorities. In addition to that harassment, intimidation and censorship of the media remain crucial problems for the country and its development.

In 2007, there was a serious violation of civil and political rights. Security forces were responsible for systematic and widespread human rights violations including massive illegal arbitrary arrest, enforced disappearance, illegal detention and torture. These violations were perpetrated with impunity which was strengthened by the subsequent attacks on the judiciary. In addition to that, the freedom of expression was under persistent pressure because of systematic assaults and threats on the media. Counterterrorism operations were also conducted with serious violations of human rights.

These repressions were often justified on the grounds of national security and the fight against terror stating that the situation of civil and political rights must be understood in the context of the security environment of Pakistan.

On 3 November 2007, President Musharraf declared a state of emergency, suspended Pakistan's constitution, and fired Chief Justice Iftakar Mohammed Chaudry and other judges of the Supreme Court. The suspension of the Constitution and the imposition of a state of emergency deteriorated the political situation in Pakistan. In an environment of systematic violation of human rights, attacks on the rule of law, the judiciary, media and lawyers led to a downward momentum in the human rights situation.

Musharraf ended emergency rule on December 14 and restored the Constitution. However during the state of emergency the Constitution and several laws were amended that would normally require a two-thirds majority in parliament to become law.

After the assassination of Benazir Bhutto on 27 December, the parliamentary elections were postponed until 18 February 2008. In this election President Musharraf's party, the Pakistan Muslim League-Q suffered a defeat. The opposition Pakistan People's Party and the Pakistan Muslim League- N formed a coalition government that signaled an improvement of the human rights situation in Pakistan. As of 22 April, the two parties are discussing the vital issue of the reinstatement of the judges deposed during the emergency rule.

The recent ratification of the International Covenant on Economic, Social and Cultural Rights and the signing of two important UN conventions, including the International Covenant on Civil and Political rights, were welcomed by many human rights defenders and non-governmental organizations. This step was seen as the commitment of the new government to promote and strengthen the mechanism to protect human rights of the people in Pakistan.

However the above mentioned human rights concerns and violations still remain and the outlook for human rights protection in Pakistan remains bleak, unless the new parliament tackles these issues and takes concrete action.

IV. Key civil and political rights issues

The freedom of expression and information is under constant pressure by the Pakistani government. There have been physical attacks on media offices along with torture, kidnapping and illegal detention. Journalists work under constant threat of attack both from security forces and militants. There were several complains by privately-run TV channels that were taken off air because of the transmission of violent scenes by state authorities. Two decrees passed in November 2007 barring the media from printing or broadcasting "anything which defames or brings into ridicule the head of state, or members of the armed forces, or

executive, legislative or judicial organ of the state.” Journalists have been repeatedly threatened and prevented from fully covering events following the suspension of the Constitution. Furthermore private Pakistani networks were instructed to sign a new 14-page code of conduct by the Pakistan Electronic Media Regulatory Authority (PEMRA) that was introduced on 4 June 2007 deteriorating the legal environment. The current restrictions prohibit live coverage of events and hold anchors responsible for anything their guests or interviewees might say.

Officials from the Pakistani government blame the media for projecting violence and refer to the lack of responsibility. They justify the curbs by stating that it is necessary to prevent the media of becoming a tool in the hands of enemies of Pakistan, who are trying to destabilize the country.

Counterterrorism operations in Pakistan continue to be conducted on a widespread scale, often illegally and with serious violations of human rights. Suspects held on terrorism charges frequently are detained without charge or tried without proper judicial process. Prior to the state of emergency and the dismissal of judges, the Supreme Court maintained pressure on the government, publicly stating that it had overwhelming evidence that Pakistan’s intelligence agencies were detaining terror suspects and other opponents. Raising the issue of disappearances was one of the main reasons which caused the dismissal of the Chief Justice.

The state agencies are still operating freely to arrest anyone without any legal authority and keeping persons incommunicado for several months during which time they are tortured. An amendment to the 1952 Army Act during the State of Emergency gives the military power to try civilians in special military courts for a wide range of offenses previously under the preview of the country’s judiciary, including charges as vague as causing “public mischief”. These military courts are closed to the public. The investigations are conducted by military officers and without standard rules of evidence and procedures for criminal trials.

The use of torture and ill-treatment in custody is a systematic practice in Pakistan, often resulting in custodial death. The condition of prisoners in Pakistan is deplorable. Most jails are overcrowded and the majority of the prisoners are pre-trial detainees.

These issues seriously violate the right to a fair hearing, the prohibition of torture and the right to liberty and security of a person.

The freedom of movement and the freedom of assembly were also attacked during and after the state of emergency. Political and religious gatherings, rallies and demonstrations were usually banned across the country under the excuse that these increased security risks. A brutal crackdown against opposition political parties was launched. Hundreds of opposition leaders and activists were arrested or put under house arrest. Thousands of people from all social sectors, who came out to support certain causes and express their grievances were tear-gassed and arrested. In addition, people were barred from travelling to different cities to participate in rallies.

V. Review of the situation by the Human Rights Council

The Council should continue following the Human Rights Situation in Pakistan. Institutionalizing civil and political rights is a gradual and evolutionary process and terrorists and extremists complicate the human rights situation of the country. Nevertheless a failure to address human rights violations in Pakistan will have serious consequences for domestic stability as well as regional and wider international security.

The Human Rights Council is concerned about the independence of the judiciary and the constitutional amendments during the state of emergency, the freedom of expression and the political repression. Information about torture, illegal detentions and enforced disappearances also raises the Council’s concern. Please focus on the above mentioned issues in your position papers. Nevertheless you can also bring forward other important aspects concerning the civil and political rights in Pakistan.

The Human Rights Council will discuss and summarize the situation of civil and political rights in Pakistan. You should analyze the steps that could be taken by the government in order to improve the Human Rights record of the country. Furthermore the ratification of the ICCPR and the implementation of legislation to ensure that the treaty becomes part of Pakistan’s domestic law are of importance.

A constructive approach towards the government and authorities of Pakistan is needed to assist the country in improving their commitments regarding the organization’s human rights treaties.

Please also be aware that this Preparation Paper was updated last on 22 April 2008. There might be some changes in the upcoming months until the session in August.

VI. Further information

Please have a look at the following web pages

United Nations, UN Human Rights Council, Civil and Political Rights

<http://www.un.org>

<http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx> (the UN Human Rights bodies)

<http://www2.ohchr.org/english/bodies/hrcouncil/> (Official Homepage-HRC)

<http://www.un.org/aboutun/chartlg.html> (UN organization chart)

<http://www.ishr.ch/handbook/Handbook.pdf> (Handbook about the transition from the Commission on Human Rights to the Human Rights Council)

http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf (Resolution 60/251 of the General Assembly establishing the Human Rights Council)

<http://www2.ohchr.org/english/law/index.htm> (International Covenant on Civil and Political Rights)

UNHR Documents on Pakistan

<http://www.ohchr.org/EN/countries/AsiaRegion/Pages/PKIndex.aspx>

http://ap.ohchr.org/documents/dpage_e.aspx?c=138&su=140

General Information and Human Rights situation

<https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html> (Facts and Figures)

<http://www.onlinenewspapers.com/pakistan.htm> (Pakistan Newspapers)

<http://hrw.org/doc/?t=asia&c=pakist> (Human Rights Watch, Info Pakistan)

<http://www.achrweb.org/countries/Pakistan.htm> (Asian Centre Human Rights, Info Pakistan)

http://www.hrcp-web.org/hrcpDetail_pub3.cfm?prold=528 (Human Rights Commission of Pakistan)

<http://www.unwatch.org/site/c.bdKKISNqEmG/b.1277549/k.BF70/Home.htm> (UN Watch)