



INTERNATIONAL COMMISSION OF JURISTS

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

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ICJ Intervention in Response to the Update by the High Commissioner for Human Rights

Distinguished Madam High Commissioner,

The International Commission of Jurists (ICJ) wishes to commend your activities and those of your Office and welcomes the update on your recent visits.

Sri Lanka

The deteriorating human rights situation in Sri Lanka prompted your visit to the country. We welcome the discussions you had with the Government of Sri Lanka about options for establishing a field presence of the Office that would provide for monitoring and assistance to enhance human rights protection. Many Governments and NGOs, including the ICJ have advocated such deployment of human rights staff. Following your October visit to Sri Lanka, you stated:

"... in the context of the armed conflict and of the emergency measures taken against terrorism, the weakness of the rule of law and prevalence of impunity is alarming. There are a large number of reported killings, abductions and disappearances which remain unresolved. While the Government pointed to several initiatives it has taken to address these issues, there has yet to be an adequate and credible public accounting for the vast majority of these incidents. In the absence of more vigorous investigations, prosecutions and convictions, it is hard to see how this will come to an end."

In the last week of November 2007 alone at least 33 people, including children, were reportedly killed in deliberate attacks on civilians by both the Government armed forces and the Liberation Tigers of Tamil Eelam (LTTE). The most recent report of the University Teachers for Human Rights (Jaffna) estimates that during 2006 and 2007 the Government and its security forces were responsible for killing at least 700 unarmed civilians in Jaffna alone.

National mechanisms are very weak. The Council and the international community must take prompt and resolute steps to urge the Government and the LTTE to allow for international human rights monitoring and protection, to seek a peaceful resolution to the conflict and to ensure respect for their international obligations, especially to protect civilians.

Madam High-Commissioner, what further steps have you taken based on your visit and what measures would bring an improvement to the current human rights crisis in Sri Lanka?

Pakistan

The ICJ is gravely concerned about attacks on the rule of law and the independence of the judiciary and the legal profession in Pakistan over the last nine months and especially since 3 November 2007 and notes your concern, Madam High-Commissioner, that emergency rule and actions taken under it, have inflicted severe, long-term injury to the judiciary and to civil society.

Thousands of lawyers were arbitrarily arrested after 3 November, most because they protested – or were suspected of being about to protest – the removal of Supreme Court judges and the suspension of the constitution. Many were beaten, some held incommunicado. Some lawyers have been charged with sedition which, under changes to the law, can now be tried by a military court behind closed doors. The ICJ is particularly concerned about the continued detention of lawyers Muneer A. Malik, Aitzaz Ahsan, Ali Ahmed Kurd and retired Justice Tariq Mehmood who were until recently held incommunicado (in jails) since 3 November.

The ICJ deplores that thirteen judges of the Supreme Court, dismissed after they did not take a new oath of office after 3 November, as well as their families, are not free to move, are in effect under arbitrary house arrest and cannot be visited.

Mr. President, dismissing and replacing the Chief Justice, arresting lawyers and suspending the constitution, will not help to address the serious security threats facing the country.

Furthermore, amendments made to the constitution just over two weeks ago mean that even if the state of emergency is lifted as promised, many of the new measures adopted during the emergency that suppress rights, will remain in force. The amendments also prohibit any legal challenge to any of the measures the President has taken or will take. The Government is now even more unaccountable.

Unless the continuing attack on the judicial branch of the state and on lawyers is swiftly reversed, free and fair elections will not be possible. The electoral process must be overseen by an independent, civilian judiciary, operating under the constitution, with lawyers freely able to bring challenges to court. Free and fair elections also need a free media, yet journalists and media houses have also been targeted and closed down.

The ICJ believes the Council should express its concern at the ongoing violations of human rights and the rule of law in Pakistan and deplore the recent preventive detention order against Asma Jahangir, Special Rapporteur on freedom of religion or belief and the arrest warrant issued against H. Jilani, Special Representative of the UNSG on the situation of human rights defenders.

The Council should urge the Government of Pakistan, not only to lift the state of emergency, but also to restore fully the Constitution and all rights under it and release and reinstate the Chief Justice and other judges who have refused to take oath of office under the Provisional Constitution Order, 2007 and the Oath of Office (Judges) Order, 2007. The Council should call on the Government to release those arbitrarily detained and withdraw charges arising from peaceful protest, lift restrictions on the media, demonstrations and public statements, and repeal the laws and constitutional amendments made since 3 November 2007.

The ICJ also calls on the Council to request its special procedures on the independence of judges and lawyers, arbitrary detention, freedom of opinion and expression, human rights and terrorism and torture to assess the current human rights situation, including by seeking an immediate visit to the country, and to urge the Government to ensure their full and unhindered access to the country.

Madam High-Commissioner, the ICJ understands that you were unable to visit Pakistan following your recent mission to Afghanistan. Will you seek to visit Pakistan in the immediate future to explore these serious human rights concerns?