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Joint Oral Statement of International Commission of Jurists (ICJ) and Human Rights Commission of Pakistan (HRCP)

in the Clustered Interactive Dialogue with the Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on the human rights of internally displaced persons

NEW SECURITY LEGISLATION IN PAKISTAN PERMITS ARBITRARY DEPRIVATION OF LIFE

12 June 2014

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The ICJ and the Human Rights Commission of Pakistan welcome your emphasis on the need for states to bring domestic laws on the use of force by law enforcement agencies, into line with international standards.

The ICJ and HRCP commend the Government of Pakistan for being one of 25 countries to submit domestic legislation for the purposes of your study. However, it is not clear from the report website whether the Protection of Pakistan Ordinance (PPO) 2013, which is currently in force, and the proposed Protection of Pakistan Bill (PPB) 2014 currently being debated in Parliament, were provided for review.

The PPO and PPB contain provisions that give law enforcement agencies overbroad powers to use firearms without independent accountability. They increase the risk of use of excessive and lethal force and arbitrary deprivation of life.

Section 3(2) of the PPO authorizes law enforcement agencies to use firearms, including intentionally lethal use, against a person who is "committing, or in all probability is likely to commit" certain offences, after forming "reasonable apprehension" that death, grievous hurt, or destruction of property may be caused.

This provision is incompatible with international law and standards on the right to life, including Principle 9 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The Basic Principles do not authorise any use of firearms solely for protection of property, and permit intentional lethal use of firearms only "when strictly unavoidable in order to protect life".

In addition, section 19 of the PPO and section 20 of the proposed PPB grant members of law enforcement agencies immunity for all acts done in good faith during the performance of their duties. Such provisions violate obligations to investigate and prosecute unlawful killings, as provided for under the ICCPR and as recognized in Article 7 of the Basic Principles on Use of Force and article 18 of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

Where death is caused, the only review mandated by the PPB would be an internal inquiry committee constituted by the concerned law enforcement agency. While any review is in theory a move forward from the PPO, this still falls short of the requirement that persons affected by the use of force and firearms have access to an effective and independent process, including a judicial process.

We would welcome clarification whether the PPO and PPB formed part of your review. We also call on Pakistan to respond positively to your repeated requests to visit, in order among other things to review the conformity of all of Pakistan's domestic legislation and practices with respect for the right to life.

I thank you.

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