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**HUMAN RIGHTS SITUATIONS THAT REQUIRED THE COUNCIL'S
ATTENTION**

**Written statement* submitted by Amnesty International, a non-governmental
organization in special consultative status**

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[7 December 2007]

* This written statement is issued, unedited, in the language(s) received from the
submitting non-governmental organization(s).

The state of emergency in Pakistan

On 3 November 2007, General Musharraf, acting *ultra vires* his powers as Pakistan's Chief of Army Staff, imposed a state of emergency, suspended the Constitution and replaced it with a "Provisional Constitutional Order" (PCO) that explicitly suspended fundamental constitutional rights, including the right to life and to equality before the law, empowered him to amend the Constitution at will, and prohibited any judicial review over his orders or his government's actions.

In the pledges and voluntary commitments of 24 April 2006 that Pakistan made as part of its successful campaign for election to the Human Rights Council, the government of Pakistan informed UN Member states, *inter alia* that:

"Promotion of human dignity, fundamental freedoms and human rights, equal status and rights of the followers of all religions and prohibition of discrimination on account of religion, race, caste or creed etc are enshrined in Articles 9-29 of the Constitution of Pakistan."¹

However with the imposition of the state of emergency, General Musharraf suspended all of Pakistan's constitutional guarantees for the protection of human rights and fundamental freedoms.

As a member of the Human Rights Council, Pakistan "shall uphold the highest standards in the promotion and protection of human rights".² The suspension of fundamental rights and freedoms, particularly when their existence formed a key part of Pakistan's bid for election to the Council, can hardly be consistent with this requirement to uphold the highest standards.

While Amnesty International notes reports that the Pakistan authorities intends to lift the state of emergency on 15 December, the organization remains gravely concerned that safeguards critical for the future protection of human rights in Pakistan have now been seriously undermined.

The credibility of the Council's predecessor, the UN Commission on Human Rights, was called into question due to repeated charges that the Commission's work was characterized by politicisation and double standards. If the Human Rights Council fails to address the grave consequences of the imposition of the state of emergency for the very underpinnings of the protection of human rights in Pakistan, Council members risk being complicit in politicization and double standards entering the Council.

Background

Following the declaration of the state of emergency, General Musharraf summarily dismissed Chief Justice Iftikar Choudhry, along with 11 other Supreme Court judges – a

¹ For the full text of Pakistan's election pledges, please see: <http://www.un.org/ga/60/elect/hrc/>

² UN General Assembly Resolution, A/RES/60/251, OP 9.

move flagrantly breaching the country's Constitution and core provisions of the UN Principles for the Independence of the Judiciary. Only those judges who were invited to resume their position and agreed to take an oath to uphold the PCO were allowed to continue in their post. As noted above, the PCO suspended fundamental rights - including safeguards to arrest and detention, and freedom of association and assembly – while providing full immunity for all government actions taken during emergency rule. Under the PCO no court order can be issued against the President, Prime Minister or any person exercising powers under their authority.

The government also amended the Army Act (1952), on 11 November, to allow military authorities to try civilians on charges including treason, sedition, and "statements conducive to public mischief". Publishing materials containing comments against the imposition of the emergency could be at risk of falling in this category.³ Despite the Attorney General's assurances that no politician or lawyer would be tried under the Army Act in the current circumstances, the amended Act poses serious threats to freedom of expression and the work of civil society activists as well as political opponents.

On 15 November, General Musharraf amended the PCO, transferring the power to lift the state of emergency from his role as Chief of Army Staff, to his role as President. This will enable him to continue to exercise these powers now that he has stepped down as Army Chief.

Under rules of customary international law, fundamental human rights such as the rights to life, freedom from discrimination and arbitrary detention, as well as key rights to a fair trial, can never be suspended and must not be curtailed in order to silence political opposition.

Amnesty International condemns General Musharraf's suspension of fundamental human rights through emergency rule as a blatant violation of international law, as well as of Pakistan's Constitution. Additionally, Amnesty International condemns the suspension and replacement of members of the Supreme Court as it removes a crucial safeguard against human rights violations and impunity for perpetrators, at a time when they are needed most.⁴

Mass arrests

Amnesty International is gravely concerned at a continuing pattern of arrests across the country. Despite the authorities' announcement on 27 November of the release of 5,748 detainees, including human rights activists,⁵ lawyers, and political activists, there are

³ Amnesty International notes that the grounds for detention of many persons detained immediately after 3 November were that their activities were prejudicial to public safety and the maintenance of public order.

⁴ For further information see: *Amnesty International: Pakistan: Fatal erosion of human rights safeguards under emergency* (AI Index: ASA 33/040/2007) 23 November 2007.

⁵ Among those detained were more than 50 human rights activists, who had gathered at the Office of the Human Rights Commission of Pakistan to discuss the emergency[0]. They were charged with unlawful assembly and activities prejudicial to the maintenance [0]of public order law. Among the detainees was the Chair of the Commission, Asma Jahangir, who is also the UN's Special Rapporteur for freedom of religion. A 90-day detention order under preventive detention laws confined her in her house from 3 to 17 November, when the order was withdrawn. A similar detention order was issued against Hina Jilani, UN Special Representative of the Secretary General on human rights defenders, who was out of the country at the time.

reports of continuing arrests targeting lawyers and human rights activists who have been jailed in violation of legal procedures.

Lawyers

Since the imposition of emergency rule, hundreds of lawyers are reported to have been arrested nationwide, particularly in the cities of Karachi, Lahore, Peshawar, Rawalpindi, Quetta, Hyderabad and Sukkur, where many had been peacefully protesting. On several occasions, security forces reportedly beat protesting lawyers, at times firing teargas at crowds. In Lahore more than 400 lawyers arrested on 5 November and subsequently released on provisional bail, continue to face serious criminal charges, including terrorism and murder, filed against them.

Several senior lawyers, including former Supreme Court Bar Association presidents Tariq Mahmood and Munir A Malik, were held incommunicado following their arrest on 3 November. Serious concerns were raised about Mr Malik's health and he was eventually brought to hospital on 23 November, under police custody, for medical treatment. He suffers from renal failure and his condition is reported to remain critical.

Many of the lawyers detained were held in administrative detention for up to 90 days under the Maintenance of Public Order law. They were held without charge or trial, at risk of torture and other ill-treatment.

Journalists

Local independent television and radio channels were for weeks prevented from broadcasting within the country till they agreed to abide by a code of conduct issued by the authorities. One TV channel has declined to sign any such code and is still banned. New laws restricting freedom of print and electronic media have been issued imposing three to four years' imprisonment and heavy fines as penalties for their breach. Many journalists were arrested since 3 November, including over one hundred protesting journalists who were baton-charged and arrested by police in Karachi on 21 November. They were later released.

Further harassment and detention of journalists remains likely. On 17 November, the editor of the Islamabad Urdu-language daily newspaper *Tulu* was arrested in his office by plainclothes police. During his detention he was blindfolded, taken to an unidentified location and questioned about his writings and released after three days. He was informed that he had been arrested on the orders of senior government officials.

Political activists

The threat of a "revolving door" of mass arrest and release continues for thousands of political activists of opposition political parties, including in particular the two main opposition parties, the Pakistan People's Party (PPP) and Muslim League. On 12 November, the PPP's leader, Benazir Bhutto, was placed under house arrest for a period of seven days, in an attempt to prevent her from leading a mass protest march from Lahore to Islamabad.

Three politicians and a trade unionist have also been charged with sedition on 8 November, after being arrested in Karachi for making speeches and participating in an anti-emergency demonstration outside the city Press Club.

‘Disappearances’ justified by the ‘war on terror’

Amnesty International is deeply concerned about thousands of individuals who have reportedly “disappeared” over the past six years since the start of the “war on terror”. Dozens of cases from a list of 485 submitted before the Supreme Court were scheduled to be heard before it on 13 November; however, following the arbitrary changes in the judiciary, the hearing was cancelled.

Their fate and whereabouts unknown, the “disappeared” are at serious risk of torture and other ill-treatment. The vast majority have not been charged with any crime. Some have been labelled terrorists or threats to national security and are thought to be held in undisclosed locations or to have been unlawfully transferred to the custody of other governments, including the USA.

The Supreme Court had been taking a rigorous approach to enforced disappearances demanding that the government disclose the whereabouts of the individuals. On 13 November the Court was due to hear a progress report by the government on cross-checking the lists of those “disappeared” into government custody or produce the individuals before the Court. Chief Justice Ifitkar Choudhry, now removed from his office and under *de facto* house arrest, had previously stated that there was “irrefutable proof that the missing persons are in the custody of secret agencies,” and that the Supreme Court would initiate legal proceedings against those thought to be responsible.

Action:

Amnesty International calls on Human Rights Council to urge the Pakistan government to fulfil its responsibility to uphold the highest standards of human rights, including as a member of the Council, and to:

1. Restore human rights and fundamental freedoms, including the rights to freedom of expression, association and assembly;
2. Release all those who remain arbitrarily detained under emergency provisions, including human rights activists, judges, lawyers, journalists and political activists;
3. Reinstatement of the superior court judges removed from service under the PCO and enable an independent judiciary to fulfil its critical role in the protection of human rights and the rule of law.
4. Rescind the measures conferring jurisdiction over civilians on military tribunals and ensure that civilians are tried fairly in independent civilian courts.
5. Lift all restrictions on the media
6. Invite the High Commissioner for Human Rights to visit Pakistan without delay to assess the situation.
