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

**Written statement* submitted by the Asian Legal Resource Centre (ALRC),
a non-governmental organisation with general consultative status**

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

[18 February 2009]

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

**Pakistan: Judicial obedience and a weak rule of law continue
under the new government.**

When the People's Party of Pakistan swept into power in April 2008, it did so promising to right the wrongs of the constitutional amendments made by former President Pervez Musharraf, when he sacked the chief justice and disbanded the courts under emergency rule on November 3, 2007. It even cited a time period for the clean-up: 30 days.

Ten months on, the government has reinstated some of the rebel judges (those who had refused to sign the new oath under Musharraf), but it has not restored them to their pre-emergency rule working environment. Emergency restrictions remain, and the promised constitutional amendments have not yet been reversed.

These include those that granted the president the power to overthrow the assembly (through Article 58 (2) (b)), fire members of the judiciary, and – along with the federal law minister – appoint judges. The 17th amendment, which allows the president to hold two offices, such as army chief, has also not been repealed.

Five judges, including former Chief Justice Iftikhar Chaudhry, have refused to accept reinstatement under the new conditions, and they remain deposed. The current chief justice, Abdul Hameed Dogar, has kept his seat despite being undemocratically hand-picked by the former president.

The legal community in Pakistan has maintained its two-year campaign for an independent judiciary, with many bar associations refusing entry to government-compliant judges and continually inviting the former chief justice to give addresses. Every Thursday court boycotts are being held across the country, from district levels to the high court. In short, the legal system is fractured and floundering.

Severe long term damage is being done to the rule of law in Pakistan as a result. Under Iftikhar Chaudhry the supreme judicial counsel – now disbanded – had formed a human rights committee, with judges taking an increasing number of suo moto cases relating to forced disappearances by state intelligence agencies, land grabbing by the military and the privatisation of the steel mills. The judiciary asserted an unprecedented call for independence, where in the past it had been a tool of the armed forces and the government. Genuine progress was being made against corruption and human rights abuses.

But now judges are hireable and fire-able by government officials, and the recommendations of the judiciary hold little weight. Public confidence in the legal system – very high at the peak of the hard-fought lawyers' movement last year – is waning, as seen in the increase of violent vigilante incidents. Corruption is finding little challenge in the courts, and even the right to demonstrate has been revoked in certain places. Lawyers planning a second 'long march' across the country to the capital, Islamabad, and a sit-in, on 12 March this year, are being met with the government's activation of section 144 of the Criminal Procedure Code (CrPC), which bans gatherings of over five people. Furthermore, it has made little headway in investigating the

burning of six people, including two lawyers, during the protests. These are disturbing signs of the turn the country is taking under President Zardari, and is contrary to the will of many civilians, who expressed their desire for democratic rule last year by joining the lawyers in the streets.

With the judiciary cowed and acting as tools of the ruling party, and the legitimate chief justice deposed, respect for the rule of law is already sputtering, as is the credibility of Pakistan's new rulers.

The government needs to restore the judiciary to its position on 2nd November, 2007. To not do so, will leave it vulnerable to those autocrats, particularly within the military, who have plagued the country for so much of its history.

Rather than taking the country into a new era – one which protects and implements the fundamental rights of the people of Pakistan – President Zardari and his supporters are directing the country and its judiciary on a course to catastrophe.
