

fidh

Fédération internationale des ligues des droits de l'Homme

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DU CONSEIL DE L'EUROPE ET D'OBSERVATEUR AUPRES DE LA COMMISSION AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

International Federation
for Human Rights

Federación Internacional
de los Derechos Humanos

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COUNTRY PRIORITIES

FIDH

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FIDH COUNTRY PRIORITIES
for the resumed 6th session of the Human Rights Council

Summary

Africa

- ***Sudan***
- ***Darfur***
- ***Zimbabwe***

Asia

- ***Burma***
- ***Pakistan***

SUMMARY

On the occasion of resumed 6th session of UN Human Rights Council, the present position paper highlights the priorities of the International Federation for Human Rights (FIDH), for which we would expect the UN Human Rights Council to act.

Follow-up of the special session on Burma

Following the Council's special session on Burma, FIDH and the ITUC deployed a joint investigative mission to the Thai border to document the extent of the repression. Its conclusions corroborate the Special rapporteur's, the **repression has been harsh and is still ongoing**. Thus, FIDH urges the UN Human Rights Council to :

- **set-up an International Commission of Inquiry to investigate in a more comprehensive manner the events of September 2007,**
- **set-up a permanent office of the High Commissioner for Human Rights in the field; to monitor directly the evolution of the situation.**

Maintaining safeguards on Sudan

The 6th session of the Council will be an opportunity to review the mandate of the Special Rapporteur on Sudan.

FIDH would like to underline the complementarity of this procedure with the Group of experts on Darfur, which was set up following a Council's special session. The Special Rapporteur fulfills a vital role in monitoring the human rights situation across the whole of Sudan and is usefully complemented by the Group of Experts concerning the major and complex issue of Darfur.

FIDH welcomes the dialogue initiated by the Group of Experts with the authorities but deplores that, as documented by the Group, the UN recommendations have only been very partially implemented, in particular those relative to the disarmament of the militia, and the persistence of attacks on civilians and harassments against human rights defenders.

FIDH therefore calls on Council to :

- **maintain and support the mandate of the Special Rapporteur on Sudan**
- **renew the mandate of the Group of Experts and ensure the actual implementation of recommendations as set out in the report A/HRC/5/6**

Situations requiring a reaction of the HRC

FIDH considers that the human rights situation of **PAKISTAN** requires a reaction of the Council regarding the dramatic setback in the field of human rights and the rule of law in Pakistan. In light of this worrying situation, **FIDH urges the UN Human Rights Council, of which Pakistan is a member, to :**

- **adopt a resolution firmly condemning the massive human rights violations that have occurred recently in Pakistan,**
- **send a commission of inquiry composed of the Special Rapporteur on counter-terrorism, the Working Group on Arbitrary Detention, the Special Rapporteur on Freedom of Expression, and the Special Rapporteur on Independence of Judges and Lawyers to Pakistan**

FIDH remains deeply concerned by the situation in **ZIMBABWE**, where harassments, arbitrary arrests and torture of citizens by the police and the army forces continue in total impunity. Regarding this situation, the Council should echo these concerns and **adopt a resolution :**

- **denouncing the grave violations of human rights, be they economic, social and cultural or civil and political,**
- **condemning the repression of human rights defenders, members of opposition movements, and journalists**

AFRICA

1. Sudan: Review of the Mandate of the Special Rapporteur on Sudan

Human Rights situation in Sudan

Taking note of the decision of the Human Rights Council to review during the second part of its 6th session the mandate of the UN Special Rapporteur on the human rights situation in Sudan, the International Federation for Human Rights (FIDH) and its partner organisation the Sudan Organisation against Torture (SOAT) express their concern over the human rights situation in Sudan and urge the Human Rights Council to maintain and support the mandate of the Special Rapporteur (SR) on Sudan established by the Commission on Human Rights according to resolution 2005/82.

The SR fulfils a vital role in monitoring the human rights situation across the whole of Sudan. While Darfur remains the major pressing issue, the FIDH and SOAT welcome the SR's attention to the slow implementation of the Comprehensive Peace Agreement (CPA) which put an end to two decades of war between the North and the South and the National Interim Constitution subsequently adopted.

A successful implementation of the CPA and INC is crucial for Sudan's democratisation process, tackling the root causes of its conflicts, protecting human rights and fundamental freedoms and reaching a lasting peace throughout the country.

As noted by the SR, the legislative reform is worryingly behind schedule and laws which seriously violate the Constitution and international human rights standards are still in use, including the National Security Act. Under the latter arbitrary arrests and detentions are carried out and interference with freedom of expression and human rights defenders activities is justified. During the month of August a

number of journals have been confiscated, prevented from going to print and articles have been censored. Sudanese authorities have prevented any public discussion and imposed a ban on media reporting on issues such as the International Criminal Court and the arrest warrants for two suspected war criminals, the Kajbar incidents and the arrests and arbitrary detention of political opponents in July 2007. Activists campaigning against the building of the Kajbar dam in the Nubian region have been the object of a waive of arrests and arbitrary detentions and a peaceful demonstration was quashed by security forces through excessive use of force which resulted in the death of four persons and many others injured.

Cases have been reported in which detainees have been held incommunicado for long periods of time placing them at risk of ill-treatment. More recently a number of human rights defenders in Khartoum have been repeatedly summoned and questioned by the National Security Services in relation to their activities, administrative and financial matters.

The SR both as a member of the UN group of experts on Darfur and in her capacity as SR on Sudan has also devoted attention to the conflict in Darfur which remains a region where gross violations of human rights are perpetrated, mass internal displacement continues and where insecurity reigns affecting the whole neighbouring region.

The mandate of the SR is vital in supporting the Government of Sudan in meeting its obligations under the Interim National Constitution and international human rights standards; it also fulfils a crucial function of monitoring the human rights situations in Sudan which cannot be compartmentalised. Peace in Darfur and elsewhere can be reached only if the wider country can benefit from a solid and effective implementation of the Comprehensive Peace Agreement and the accompanying National Interim Constitution with its guarantees for fundamental human rights and liberties.

FIDH and SOAT call on the Council:

- To maintain and support the mandate of the Special Rapporteur on Sudan

- To call on the Government of Sudan to:

-- Continue cooperating with the mandate of the Special Rapporteur

-- Cease harassment and arbitrary detentions of journalists and human rights defenders, remove restrictions on local media

-- Respect its constitutional and international human right obligations

-- Speed up the harmonization of its laws in line with the Interim National Constitution including the National Security Act

-- Cooperate with the international community to end the conflict in Darfur including facilitating a speedy deployment of the hybrid UN/AU force and ensure accountability for the crimes perpetrated in Darfur

2. Human Rights Situation in Darfur: the Group of Experts on Darfur

Taking note of the Human Rights Council resolution 4/8 establishing the Group of Experts on Darfur and resolution OM/1/3 adopted on 20 June 2007 requiring the Group of Experts on Darfur to present its final report on the implementation of resolutions and recommendations on Darfur, the International Federation for Human Rights (FIDH) and its partner organization the Sudan Organisation against Torture (SOAT) call on the Human Rights Council to renew the mandate of the Group of Experts and ensure an effective follow up on the implementation of the recommendations set forth in their report (A/HRC/5/6).

FIDH and SOAT welcome the reports of the Group of Experts and the recommendations

therein identified aimed at the improvement of the human rights situation on the ground. FIDH and SOAT also welcome the positive engagement with the authorities of the Government of Sudan, the constructive relationship established with the Chairperson of the Darfur-Darfur Dialogue and Consultation and with the human rights mechanisms of the African Union.

FIDH and SOAT remain gravely concerned about the human rights situation in Darfur which to this day remains critical in terms of the actual human rights violations still occurring and the total impunity of perpetrators; the protections needs and the deployment of the United Nation and African Union hybrid force; and the renewed peace process.

The continuation of the mandate of the Group of experts remains of great importance in light of the critical need to address and improve the human rights situation on the ground. The extension of the mandate of the Group of experts would allow an effective follow up of the implementation of the recommendations and avoid a loss of acquired institutional knowledge and understanding of the current human rights needs in Darfur.

In its interim report the Group of experts noted that recommendations have only been partially implemented. Many short term and especially long term recommendations are far from having been implemented. An extension of the mandate not only would enable the Group of Experts to continue monitoring the actual implementation of the practical measures recommended for the improvement of the human rights situation on the ground but would also, in light of the short period of time available, enable the Government of Sudan to avail itself of the expertise of the individual experts and of the group as a whole.

The FIDH and SOAT call on the Human Rights Council to:

Renew the mandate of the Group of Experts and ensure the actual implementation of

recommendations as set out in the report A/HRC/5/6

Ensure that the Group of Experts is provided with the necessary financial and human resources needed to carry out its mandate

Call on the Government of Sudan to continue cooperating with the Group and to implement the recommendations compiled by the Group of Experts.

3. Human Rights Situation in Zimbabwe

The International Federation for Human Rights (FIDH) and its member organization Zimbabwe Human Rights Association (ZimRights) request the Human Rights Council to adopt a resolution denouncing the following human rights violations in the recent past:

After the March 2007 arrest and torture of opposition Movement for Democratic Change (MDC) leaders and their supporters, a former cameraperson with the Zimbabwe Broadcasting Corporation was abducted from his home and was later discovered dead outside Harare. It is widely suspected that he was responsible for leaking to the world the pictures of the brutalized MDC leaders. Up to now no arrests have been made in connection to both the abduction and murder. Around the same time, the spokesman of the opposition MDC, Mr. Nelson Chamisa, was waylaid at the busy Harare International Airport, was severely assaulted and left for dead. Again, no arrests have been made. Similar reports have been received from that time, of opposition supporters who have been assaulted, intimidated or killed in Chimanimani, Chipinge, Masvingo and Bindura, among other areas, yet the police seem unable or unwilling to arrest the culprits.

In November 2007, police tortured 22 National Constitutional Assembly (NCA) activists for demonstrating against recently passed constitutional amendments. The NCA is advocating for the drafting of a new constitution before the next elections. The 22 activists were reportedly abducted on Thursday 22 November

by officers of the dreaded intelligence outfit, Central Intelligence Organisation (CIO) and tortured for eight hours at the ruling Zanu PF headquarters. Activists of other civic organizations suffer the same fate each time they demonstrate peacefully against the various issues of concern in Zimbabwe. Among organizations that have had their members arrested and tortured by the police include Women of Zimbabwe Arise (WOZA) and members of the legal fraternity.

Human rights lawyers who try to come to the rescue of victims of torture and arbitrary arrests usually are unable to access their clients as the police make it difficult to do so. Some such lawyers have themselves been arrested and tortured.

Victimization of the Prosecutors in the Attorney General's office has also been noted. A prominent case is that of one Levison Chikafu, is being victimized for daring to prosecute the Minister of Justice, Legal and Parliamentary Affairs. The Attorney General himself was recently arrested for meeting one prominent banker who was wanted by the police.

In spite of the ongoing mediation talks between the ruling Zanu PF and opposition MDC that are aimed at ensuring a free and fair election, among other things, the ruling party has continued to prepare for the elections using the discredited Zimbabwe Election Commission, which was appointed by the President in the last elections. This body is known for its bias against the opposition despite its denials. ZEC has already started working on the new constituency boundaries in spite of the fact that the opposition is protesting how voter registration was conducted and the parlous state of the voters' roll.

The government seems unmoved to repeal repressive legislation such as the Public Order and Security Act (POSA), Access to Information and Protection of Privacy Act (AIPPA) that has seen to the closure of four independent papers, and the Broadcasting Services Act (BSA). The

latter prohibits the operation of private radio and television stations in the country. Private stations continue to broadcast from outside the country though their operations are being interfered with by government which recently passed the Interception of Communications Act. This Act gives government the power to also interfere with private mail, Internet services and telephone services.

As the country is gripped in a severe economic crunch, worsened by shortages of food following government's policy of controlling food prices in a bid to control the inflation, many citizens in both the urban and rural areas are without food. As a result, as many as 4.1 million Zimbabweans are in need of urgent food aid. However, government is making it difficult for donor organizations to run feeding schemes for the most vulnerable. At the same time, government is reportedly only making food available in areas where its supporters are concentrated. Government is making access to food difficult for opposition supporters by using traditional leaders and councilors. Beneficiaries are required to have ruling party membership cards for them to access the food.

Given the above, FIDH and ZimRights recommend the Human Rights Council to adopt a resolution :

- **requesting the international community to ensure that the talks between the ruling Zanu PF and the opposition MDC yield positive results to ensure that genuinely free and fair elections can be held in 2008. The ruling party should be forced to immediately stop violence and intimidation of the opposition and civic society activists, as well as to ensure that all those that have been implicated in the past are brought to justice.**
- **demanding the Zimbabwean government to repeal the above pieces of legislation so as to respect**

freedoms of speech, thought, association, peaceful demonstration and movement. Private radio and television stations should be allowed to operate and government needs to allow more newspapers to open. The state media should cease to be used as the ruling party mouthpiece by allowing the opposition to also utilize it to reach its supporters.

- **condemning intimidation, harassment, arbitrary arrests and torture of citizens by police and army forces and requesting the fighting against impunity of the perpetrators. Lawyers seeking to represent victims of political repression should be allowed to go about their work unhindered, and government should be forced to abide and respect the rule of law.**
- **demanding that access to food is depoliticized. Above all, traditional leaders such as chiefs and headmen must not be used by the ruling party to use food as a campaign tool to punish supporters of opposition parties.**

ASIA

4. Human Rights Situation in Burma

The International Federation for Human Rights (FIDH) and the International Trade Union Confederation (ITUC) conducted a joint mission along the Thai-Burma border from 13 – 21 October 2007. The mission interviewed people who participated in the protests in Burma, or who were eyewitnesses to the crackdown, as well as representatives of the democracy movement based both inside the country and abroad. It also held a meeting with many relevant stakeholders, including members of the diplomatic community.

The mission's conclusion is that the current situation in Burma is unprecedented. The September 2007 peaceful protests and the violent crackdown have created new dynamics inside Burma. Indeed, eyewitness accounts strongly emphasize that the Saffron revolution is 'not over'. This has been confirmed by a number of small-scaled initiatives late November. The future is still unknown, but will depend of three factors: the extent to which the population will be able to organize new rounds of a social movement, the reaction of the military regime and the influence the international community can exert on it.

The recent events demonstrate that human rights will materialise in Burma only with a transition out of military rule. Indeed, the SPDC has proved to be unreliable as far as respecting human rights and international treaties. In our joint report issued today, based upon this joint mission, our organizations suggest four principles and four key leverage points to maximize the chances of the SPDC starting a genuine political process and negotiating a peaceful transition, in which the military would become a professional body in charge of defending the country against external threats, and not a tool for repression.

The Human Rights Council can contribute to maximizing these opportunities, if it stands up to

its historic responsibility of bringing human rights to Burma.

Consequently, the FIDH and ITUC urge the Human Rights Council to take concrete steps to follow up on its Special session on Myanmar/Burma by:

- building on Resolution S-5/1 (2 Oct 2007), concerning Burma, and continuing a thorough investigation of human rights abuses in Burma. An impartial and full account of the recent events and the immediate and unconditional release of all political detainees, arrested both in connection with the recent events and before them, is an indispensable first step in any genuine process of national reconciliation. This process further requires the setting of clear benchmarks for the Burmese regime, and agreeing on a timeline for an effective transition towards democracy. A permanent monitoring of whether this timeline is complied with should be established, assessing progress on a regular basis.

- calling upon the Government of Burma to provide full and credible guarantees for the physical and psychological integrity of all persons kept in custody, to reveal the whereabouts of all persons detained or missing, and grant immediate and unhindered access by the ICRC and other independent humanitarian personnel to all places of detention.

- calling upon the Government of Burma to invite an international Commission of Inquiry or fact-finding mission to investigate in a more comprehensive manner the events of September 2007.

- adopting a new resolution to express support for a genuine process of national reconciliation and to request from the SPDC to accept permanent offices in Rangoon for the UNSG Special Envoy's good offices mission and for the High Commissioner for Human Rights and to effectively engage in a

constructive and sustainable dialogue with the Human Rights Council and its special procedures. In particular, the Special Rapporteur, Prof. Sergio Pinheiro should be able to visit the country as often as is required for the effective fulfilment of his mandate.

- calling on the international community, including regional organisations and the neighbouring countries, to adopt effective sanctions to cut the regime's economic lifeline. Both ordinary people whom we have interviewed and representatives of the democracy movement of Burma are adamant: economic sanctions hurt the military regime and crony elites, not the people, who mainly live off agriculture and the informal economy. They stress the links between foreign direct investment and repression. They also insist that increased pressure now is useful, not harmful for dialogue. The adoption by the UN Security Council of a resolution imposing effective, multilateral sanctions is more urgent than ever. These should target, in particular, the crucial oil and gas sectors, timber, gems and the financial services, including banking. They should also include a comprehensive arms embargo, without which international calls on Burma's military to stop using child soldiers are nothing but a sham.

It is only by implementing these recommendations that there can be reasonable chances of success for the good offices mission of the UN Secretary-General's Special Envoy to Burma.

The issue is urgent: accepting the risk that the current window of opportunity for a transition swings shut is not an option. At the start of a year-long campaign to celebrate the 60th Anniversary of the Universal Declaration of Human Rights, and barely a few weeks after the 40th anniversary of ASEAN, our collective capacity to effectively realise and promote peace, human rights and democracy, is at stake. The lives, human rights, dignity and future of Burma's 54 million people require concerted and focussed commitment from the international

community now, and not at some undetermined time in the future.

The Human Rights Council can, and in our view should, contribute to this. We call upon the Council, in sum, to rise up to its historic responsibility in bringing human rights to Burma.

5. Human Rights Situation in Pakistan

The International Federation for Human Rights (FIDH) and the Human Rights Commission of Pakistan (HRCP) express their deepest concern about the dramatic setback in the field of human rights and the rule of law in Pakistan.

General Pervez Musharraf, President and Chief of Army of Pakistan, imposed a state of emergency in the country on 3 November 2007 and suspended the country's Constitution.

During the weeks following the proclamation of the state of emergency, thousands of opposition activists, lawyers, journalists, trade union leaders and human rights defenders were detained, tortured or put under house arrest. Ms. Hina Jilani, Special Representative of the United Nations Secretary General for Human Rights Defenders had a detention order issued against her, and Asma Jahangir, the United Nations Special Rapporteur on Freedom of Religion or Belief, was placed under house arrest. Although the restrictions against those two UN mandate-holders have been subsequently lifted following the mobilisation of the international community, extremely severe restrictions on the media are persisting and reports on a number of issues considered as sensitive are prohibited with the possibility of imposing high fines, prison sentences and confiscating equipment in case of violation. Furthermore, the arbitrary use of violence by police forces against demonstrators is widespread. While a number of political prisoners have now been released, many remain detained and new arrests are still taking place.

Several high-profile politicians such as former Prime Minister Benazir Bhutto, and the opposition leader - retired cricket star Imran Khan, have been hindered to pursue their political activities. Ms. Bhutto has vocally opposed the suspension of the Constitution and has twice been placed under house arrest to stop her leading Pakistan People's Party (PPP) rallies.

Immediately after the state of emergency, the Chief Justice, Mr. Iftikhar Chaudhry, along with several Supreme Court Judges, while they were to rule on Musharraf's right to present his candidacy for a new presidential term, were dismissed. The remaining judges loyal to him rejected on 15 November 2007 all the petitions challenging Musharraf's right to a new term as President.

The declaration of emergency is a response to alleged interferences of the judiciary in the government policy to fight terrorism and extremism. The Supreme Court was indeed about to rule on several hundreds of cases of enforced disappearances and had ordered the government and intelligence services to produce the missing people before the Court. In Pakistan, enforced disappearances have increased alarmingly on a regular basis since 2001, in connection with the fight on terror. As a result of the state of emergency, the cases of disappearances pending before the Supreme Court are currently suspended.

On 10 November 2007, in a move to further consolidate army rule in the country, Musharraf promulgated an Ordinance amending the Pakistan Army Act (1952), giving power to military courts for trying civilians for a wide range of offences. These amendments take effect retroactively from 1 January 2003. The amended Army Act gives power to the military courts to try numerous offences punishable under various pieces of legislation, including the Prevention of Anti-national Activities Act (1974) and the Anti-Terrorism Act (1997), as well as the attempt to commit any of the said offences.

The Attorney General reportedly justified these

amendments on the ground that they were essential for combating terrorism. FIDH and HRCP recall that there can be no trade-off between effective action against terrorism and the protection of human rights. On the contrary, as stressed by Kofi Annan, "in the long term, we shall find that human rights, along with democracy and social justice, are one of the best prophylactics against terrorism."

Legislative elections in Pakistan are scheduled for 9 January 2008. However, the elections cannot be free and fair as long the requests of the Pakistani civil society are not implemented.

On 22 November 2007, Pakistan was suspended from the Commonwealth "pending restoration of democracy and rule of law in the country". The decision was taken by consensus as Pakistan had failed to fulfil its obligations in accordance with Commonwealth principles. FIDH and HRCP welcome this strong and unequivocal support to the rule of law and respect for human rights in Pakistan.

The FIDH and HRCP urge the government of Pakistan to :

withdraw the Emergency and Provisional Constitutional Order (PCO) as soon as possible, in any case no later than 16 December 2007, as President Musharraf declared, and fully restored the Constitution,

reinstate the functions of the deposed chief justice of Pakistan Iftikhar Muhammad Chaudhry and the judges of the Supreme Court and high courts who did not take oath under the PCO,

free all lawyers, journalists, civil society activists and political prisoners,

insure that General Musharraf make way for a political process to thwart out his exit strategy.

In light of this very serious situation, which may constitute a threat to regional and international peace and security, FIDH and

HRCP urge the UN Human Rights Council, of which Pakistan is a member, to consider taking the following actions :

- to adopt a resolution firmly condemning the current situation, urgently sending a commission of enquiry composed of four special procedures to Pakistan (UN Special Rapporteur on freedom of expression, UN Working Group on Arbitrary Detention, UN Special Rapporteur on the Promotion and Protection of Human Rights while Countering Terrorism and Special Rapporteur on the Independence of judges and Lawyers).**
- if Pakistan fails to invite those special procedures and to comply with the Human Rights Council resolution, the latter should:**
 - convene a special session on the situation of human rights in Pakistan, and**
 - examine the possibility to suspend Pakistan's membership for serious breach of international human rights law.**