

## **Documents**

*July-December 2005*

### ***I. Foreign Policy***

#### **A. INDIA-PAKISTAN RELATIONS**

##### **1. Text of the joint statement issued in Islamabad at the conclusion of foreign secretaries level talks between Pakistan and India.**

The Foreign Secretary of Pakistan Mr. Riaz Mohammad Khan and the Foreign Secretary of India Mr. Shyam Saran met in Islamabad on September 1, 2005 to review the progress of the second round of the composite dialogue comprising Peace and Security including CBMs; Jammu and Kashmir; Siachen; Wullar Barrage/Tulbul Navigation Project; Sir Creek; Terrorism and Drug Trafficking; Economic and Commercial Cooperation and Promotion of Friendly Exchanges in Various Fields. The talks were held in a cordial, constructive and friendly atmosphere.

2. The Foreign Secretaries reviewed the progress made so far and assessed the developments in bilateral relations since the last review meeting of the Composite Dialogue held in September 2004. The Foreign Secretaries expressed satisfaction over the positive developments during the current round of the composite dialogue. They also reaffirmed the important outcomes of the discussions between President Pervez Musharraf and Prime Minister Manmohan Singh reflected in the 18th April, 2005 Joint Statement.

3. The Foreign Secretaries reviewed the work of their experts who discussed Nuclear and Conventional CBMs and have contributed to a better understanding of each other's concerns. They welcomed the continuation of the ceasefire and commended the finalization of the Agreement on Pre-Notification of Ballistic Missile Tests. They recommended that the Agreement on Pre-Notification of Flight Testing of Ballistic Missiles and the MOU on establishing communication links between the Pakistan Maritime Security Agency and the Indian Coast Guard be signed during the forthcoming Ministerial Level Review Meeting on 3-5 October, 2005 at Islamabad.

4. The Foreign Secretaries welcomed the commencement of the Srinagar-Muzaffarabad Bus Service and agreed to hold a technical level meeting as soon as possible on the early operationalization of Poonch-Rawalakot Bus Service and a truck service for trade on the Srinagar-Muzaffarabad route. They agreed on further discussions on meeting points across LoC for divided families to ensure early implementation.

5. The Foreign Secretaries reiterated the importance of enhancing mutually beneficial economic cooperation and friendly exchanges. They noted that technical meetings would be held in September 2005 to review the bilateral Air Services Agreement and the Shipping Protocol. Technical experts will finalize the modalities for operationalisation of the Lahore-Amritsar and Nankana

Sahib – Amritsar bus services during September 2005. They agreed that the 1988 Cultural Exchange Programme Agreement should be revised. The Foreign Secretaries noted the decision to expand the 1974 Bilateral Protocol on Visits to Religious Shrines to increase the number of pilgrims and add new sites in both countries. In addition, it was agreed to undertake an updating of the 1974 Visa Agreement.

6. The two Foreign Secretaries agreed on the need to improve, on humanitarian grounds, the existing mechanism for expeditious disposal of consular issues related to prisoners, fishermen and inadvertent line crossers of either side. They also agreed to implement the understanding reached in this regard during the Foreign Secretaries level talks in December 2004 and Home/Interior Secretaries talks in August 2005. In this regard, the need for revision of the 1982 Protocol on Consular access was agreed upon. The Foreign Secretaries welcomed the decision to release all prisoners on 12th September 2005 whose nationality was confirmed and who have completed their sentences.

7. The Foreign Secretaries recalled the decision taken in April 2005 by President General Pervez Musharraf and Prime Minister Dr. Manmohan Singh to revive the India-Pakistan Joint Commission. They recommended that a meeting of the Joint Commission be held during the visit of External Affairs Minister, Mr. K. Natwar Singh to Pakistan on October 3-5, 2005.

8. The Foreign Secretaries agreed on the following schedule for third round of Composite Dialogue:

- The Foreign Secretaries would meet in January 2006 in New Delhi to launch the next round of the Composite Dialogue.
- The next round of the Composite Dialogue meetings on the other six subjects will be held between January and July 2006.
- All technical level meetings would be concluded by April 2006.

The Indian Foreign Secretary Mr. Shyam Saran paid a courtesy call on President Pervez Musharraf and Prime Minister Shaukat Aziz.

Source: 2 September 2005, [www.meaindia.nic.in](http://www.meaindia.nic.in)

## **2. India-Pakistan joint statement issued after a meeting of Indian Prime Minister, Dr. Manmohan Singh and President Pervez Musharraf of Pakistan at New York on the sidelines of the plenary meeting of 60th UN-General Assembly session.**

‘Prime Minister Dr. Manmohan Singh and President Pervez Musharraf met in New York on September 14, 2005 and reviewed progress in their relations since they last met in New Delhi on April 18, 2005. The two leaders referred to the earlier statements of January 6, 2004 and April 18, 2005 and reiterated their pledge that they would not allow terrorism to impede the peace process.

They reaffirmed their commitment to the decisions taken at their meeting in New Delhi and agreed to expedite their implementation. They also welcomed the progress made within the framework of the composite dialogue,

including promotion of trade and economic relations, people to people contacts and confidence building measures. They also welcomed the recent release of prisoners on both sides and agreed to continue this process on a humanitarian basis.

They expressed their commitment to ensure a peaceful settlement of all pending issues including Jammu and Kashmir to the satisfaction of both sides. They agreed that possible options for a peaceful, negotiated settlement in this regard should continue to be pursued in a sincere spirit and purposeful manner.’

Source: 14 September 2005, [www.meaindia.nic.in/speech](http://www.meaindia.nic.in/speech)

### **3. Joint statement issued at the conclusion of Foreign Minister level meeting in Islamabad**

The Foreign Minister of Pakistan, Mr. Khurshid M. Kasuri and the Indian External Affairs Minister, Shri K. Natwar Singh met in Islamabad on 3 October 2005 for a review meeting on the progress of the second round of the Composite Dialogue comprising Peace & Security including CBMs; Jammu & Kashmir; Siachen; Wullar Barrage/Tulbal Navigation Project; Sir Creek; Terrorism & Drug Trafficking; Economic & Commercial Cooperation and Promotion of Friendly Exchanges in various fields. The plenary meeting of the revived Pakistan-India Joint Commission was also held in Islamabad on 04 October 2005. The meeting was convened pursuant to the decision taken by President General Pervez Musharraf and Prime Minister Dr. Manmohan Singh in their Joint Statement issued on 18 April 2005. The talks were held in a cordial and constructive atmosphere.

2. The Ministers held detailed and substantive discussions on the whole range of issues within the framework of the Composite Dialogue process and expressed satisfaction over the progress in the Composite Dialogue since their last review meeting in September, 2004. They recalled the outcome of the discussions between the President of Pakistan and Prime Minister of India reflected in the Joint Statements of 6 January 2004, 24 September 2004, 18 April 2005 and 14 September 2005. The Ministers reiterated that possible options for a peaceful, negotiated settlement of the issue of Jammu and Kashmir should be explored in a sincere, purposeful and forward-looking manner. The Ministers reaffirmed their determination not to allow terrorism to impede the peace process. They resolved to carry forward the peace process and to maintain its momentum.
3. The Ministers expressed satisfaction over developments that have taken place over the last one year, including the smooth operation of the Muzaffarabad-Srinagar bus service.
4. The two Ministers endorsed the recommendations made by the Foreign Secretaries as reflected in the Joint Statement of the 02 September 2005. It was agreed that Expert level meetings will be held by the end of this year to finalize modalities for the meeting points of the divided families across the LoC and to initiate a truck service on Muzaffarabad-Srinagar route.

5. The two Ministers:
  - a) welcomed the agreement to operationalize the Lahore-Amritsar bus service in November, 2005;
  - b) agreed that a meeting of experts would be held in Islamabad on 25-26 October, 2005 to start the Nankana Sahib-Amritsar bus service at an early date;
  - c) agreed that a meeting at the technical level would take place before the end of the year to discuss arrangements for operationalizing the Rawalakot-Poonch bus service as early as possible;
  - d) agreed that a technical level meeting would take place before December 2005 to discuss modalities for starting truck service on Muzaffarabad-Srinagar route for trade in permitted goods; and
  - e) welcomed the release of prisoners and fishermen by Pakistan and India. They agreed that the understanding reached between the Interior Secretaries on exchange of prisoners and fishermen would be implemented in letter and spirit including immediate notification of arrests by either side, consular access to all persons within three months of arrest, release of prisoners on completion of sentence and verification of national status, and early release of inadvertent crossers across the LoC. The Indian side handed over a draft of an agreement on consular access.
6. The two sides exchanged ideas on the Siachen issue and agreed to continue their discussions so as to arrive at a common understanding before commencement of the next round of the Composite Dialogue in January next year.
7. The two sides also exchanged ideas on the Sir Creek issue, taking into account the joint survey of the horizontal section of the boundary in the area. Without prejudice to each other's position, they agreed to undertake a similar joint survey of the Sir Creek itself, and to consider options for the delimitation of their maritime boundary. They agreed that the joint survey should commence before the end of the year and its report will be considered in the next round of the Composite Dialogue. Ideas relating to the delimitation of the maritime boundary would also be addressed in the Composite Dialogue with a view to its early resolution.
8. The two Ministers reiterated their commitment to the Iran-Pakistan-India gas pipeline project and agreed that this would contribute significantly to the prosperity and development of their countries.
9. The two Ministers also welcomed the signing of the following:
  - a) Agreement on Pre-Notification of Flight Testing of Ballistic Missiles.
  - b) Memorandum of Understanding (MoU) on Establishment of a Communication Link between the Pakistan Maritime Security Agency and the Indian Coast Guards.
10. The Indian side presented drafts for consideration proposing amendments to the existing agreements on visa, visits to religious shrines and new proposals for a Cultural Exchange Programme. The two sides agreed to pursue these matters under the Composite Dialogue framework.

11. The two sides reaffirmed their commitment to maintain the integrity of the Composite Dialogue.
12. The two Ministers expressed satisfaction at the revival of the Joint Commission and hoped that the Joint Commission would contribute significantly in strengthening the mutually beneficial relations and cooperation between the two countries. The two sides decided to restructure and streamline the work of the Joint Commission in the light of developments that have taken place since its last meeting in 1989.
13. In this context, the two sides had a meaningful and constructive exchange of ideas on restructuring the Joint Commission and subjects to be considered under its purview. The understandings reached would form the guidelines for the future work plan for the Joint Commission. The next meeting of the Joint Commission will be preceded by technical level working groups on Agriculture, Health, Science & Technology, Information, Education, I.T. & Telecommunication, Environment and Tourism.
14. The External Affairs Minister of India invited the Foreign Minister of Pakistan to visit India. The invitation was accepted and dates would be finalized through diplomatic channels.
15. The External Affairs Minister of India also paid courtesy calls on President General Pervez Musharraf and Prime Minister Shaukat Aziz.

Source: 4 October 2005, [www.meaindia.nic.in](http://www.meaindia.nic.in)

#### **4. India-Pakistan joint statement on opening of crossing points across the LoC**

The delegations of Pakistan and India met on 29 October 2005, to discuss the proposal made by the President of Pakistan in the wake of the earthquake of 8 October 2005 regarding the opening of crossing points across the LoC. The Pakistan delegation was headed by Syed Ibne Abbas, Director General (South Asia), Ministry of Foreign Affairs. The Indian delegation was led by Mr. Dilip Sinha, Joint Secretary (PAI), Ministry of External Affairs. The meeting was held in a cordial and constructive atmosphere.

2. The Pakistan side expressed its appreciation for the assistance provided by India for the earthquake victims.
3. The two sides agreed to open crossings at five points across the LoC which are listed below:
  - Nauseri-Tithwal
  - Chakoti-Uri
  - Hajipir-Uri
  - Rawalakot-Poonch
  - Tattapani-Mendhar
4. It was agreed that because of non-availability of or damage to infrastructure on these points, crossings across the LoC would be permitted on foot. The parameters and procedures as already agreed upon between the two sides being used for the Muzaffarabad-Srinagar bus service would be used for the

above additional crossings and both will endeavour to expedite the clearance process preferably within ten days. It was further agreed that priority for crossings would be accorded to members of divided families on either side of LoC.

5. For relief, rehabilitation and reconstruction purposes, it was agreed that with prior information and acceptance and depending on feasibility, relief items can be sent in either direction and handed-over to local authorities on the aforementioned crossing points.
6. The two sides agreed on operationalization of the arrangements on 7 November 2005 as a humanitarian measure.

Source: 29 October 2005, [www.meaindia.nic.in](http://www.meaindia.nic.in)

## B. KASHMIR

### Text of Mirwaiz's speech

I am profoundly grateful to the organizers of 'the Hindustan Times Leadership Summit' for the opportunity to speak to such an esteemed and even more profound audience on the subject, 'New Thinking on Kashmir.'

Ladies, and Gentlemen, for the greater part of its history, Kashmir has maintained an independent existence. Its individuality has been shaped by its distinctive natural setting, the diligence and craftsmanship of its people, its long experience of phases of growth and decline and its sustained traditions of amity and tolerance between the different religious or cultural communities. The conflict over the disputed territory of Kashmir is soluble only if pragmatic, realistic and tangible strategy is established to help set a stage to put the Kashmir issue on the road to a just and durable settlement.

Since, we are concerned at this time with setting a stage for settlement rather than the shape, the settlement will take, we believe that it is both untimely and harmful to indulge in, or encourage, controversies about the most desirable solution.

We deprecate raising of quasi-legal or pseudo-legal questions during the preparatory phase about the final settlement. It only serves to befog the issue and to convey the wrong impression that the dispute is too complex to be resolved and that India, Pakistan and the people of Kashmir hold equally inflexible positions. Such an impression does great injury to the cause. Anymore, complexity is in the eyes of beholder. There is not a single international issue that is not complex. If there is an interest then the complexity becomes a motivating factor. And, if there is none, then complexity becomes an instrument of passivity and inaction.

I believe that peace and justice in Kashmir are achievable if all parties to the dispute make some sacrifices. Each party to the dispute will have to modify her position so that common ground could be found. Therefore, the plan should be such which neither promotes nor rules out any conceivable settlement of the dispute – accession in whole or in part to India or Pakistan, the eventual

joining or separation of any two regions, independence or quasi-independence etc.

The whole idea behind it is not to impose or recommend any particular solution but instead to get the representatives of the different regions of Kashmir themselves to decide a settlement without pressure either from India or Pakistan and even from one dominant region or another.

Let it not be said that Hurriyat does not recognize the diversity within the State. It has repeatedly acknowledged, advocated the representation of these diversities and in such recognition have mooted a 'United States of Kashmir'. This may or may not be acceptable to the State's diverse population.

But to verify that we need an atmosphere in which we, the diverse people of the State can meet freely without fear of labels, talk amongst ourselves, understand each other and determine what is practicable. Clearly the government of India and Pakistan need to be generous to allow this internal dialogue amongst ourselves. The Hurriyat favours a mechanism that I have often described as 'triangular dialogue'.

What we mean by this is that the leadership from across the ceasefire line of the State be allowed to talk to the Indian and Pakistani leadership separately and alternatively and to return to its populaces with their views. This will take time and it will require effort. But let it be said here and now, both will be needed in generous amounts if we are to embark on the road to the resolution of the Kashmir problem.

We have welcomed the initiation of talks between the Governments of India and Pakistan. We owe it to the interests of peace to enter two caveats along with this welcome. The first caveat is that as the dispute involves three parties — India, Pakistan and the people of Kashmir who are the most directly affected — any attempt to strike a deal between the two without the association of the third, will fail to yield a credible settlement. This has been made unmistakably clear by the flimsy agreements that were contrived in the past. The agreement between Sheikh Mohammad Abdullah and Pandit Jawaharlal Nehru in 1952; and the pact between Sheikh Mohammad Abdullah and Mrs. Indira Gandhi in 1975; and an agreement between Mr. Farooq Abdullah and Mr. Rajiv Gandhi in 1980's sought to bypass Pakistan, leaving the basic issue of Kashmir unsettled. Likewise, the Tashkent Agreement of 1966 between India and Pakistan; the Simla Agreement of 1972; and the Lahore Declaration of 1998 sought to bypass the people of Kashmir and it resulted in a failure. So the time has come that talks need to be tripartite.

It is quite obvious that no formula that fails to command the consent of the Kashmiri people will be worth the paper on which it is written. The idea is neither novel nor grasping. Sinn Fein was a negotiating partner in Northern Ireland, the Palestinian Liberation Organization in the Middle East, East Timorese leaders in East Timor, and the Kosova Liberation Army (KLA) in Kosovo.

The policy that aims at merely defusing the situation, and buying time whatever that may mean and not encouraging a credible settlement has not paid in the past. It is likely to do even less now. We all know that the best remedy for

any tragedy is the coming together of people from all walks of life. Nothing has dramatized the cruelty of the artificial lines that separate and divide us in Kashmir than the recent earthquake that had devastated Muzaffarabad and laid much of the State on either side of ceasefire line to waste. Again we appreciate the moderation in Delhi and Islamabad in allowing people from the two sides to meet, share our grief and help each other. I would like to take this opportunity to urge India and Pakistan and the State of Jammu and Kashmir in its entirety to expand this new season of trust and apathy. It is this, that is normal; it is this, that is natural; it is precisely what is needed if we are to end the uncertainty that has plagued the politics of South Asia, a population of almost a billion and a half, for over half a century.

It must be noted, that although we commend India and Pakistan for allowing the five points of entry along the Ceasefire Line to be opened, and the restraint displayed by India for not retaliating or building up troops on the borders.

Until the people of Kashmir are able to freely travel from one side of the Ceasefire Line to the other, the Kashmiri people will still be faced with a feeling of seclusion and imprisonment. We understand the concerns of India and Pakistan regarding security issues, and that by opening the crossings for aid to travel freely to both sides is an incredible concession and confidence-building measure for both sides, and they should be commended for putting people before politics. But more needs to be done.....(Ladies and Gentlemen, let us stand for a minute in silence in memory of those who have lost their lives and those who have been otherwise devastated in the recent earthquake.)

Recently, both Dr. Manmohan Singh and General Pervez Musharraf have taken some initiatives towards a new re-thinking of Kashmir, an approach that both sides have come to embrace. Additionally, both leaders have involved input from Kashmiri leadership, something that has always been a necessity to finding a solution. I can personally tell you that the talks have been fruitful, and that our input was well received, and received in good faith. We only hope that this will continue, as we believe the more Kashmiri leadership is involved and received in good faith by Pakistan and India, the greater the results will be witnessed on the ground.

In another sign of moving forward, President Musharraf stated last month that it is time for Kashmir to be demilitarized. Both Indian troops, as well as Pakistani and troops throughout the regions of Kashmir. This would not only benefit India and Pakistan, but this would pave the way for further dialogue between both sides of Kashmir to become closer with one another.

Therefore, the urgent necessities are:

- a) To demilitarize the arena of conflict — the state of Jammu and Kashmir — through a phased withdrawal of the troops (including para-military forces) of both India and Pakistan from the areas under their respective control.
- b) To take the sting out of the dispute by detaching moves towards demilitarization of the State from the rights, claims or recognized positions of the three parties involved. In order to do this, it might be necessary to



make the demilitarization of the State the first step towards the reduction of Indian and Pakistani forces on their borders outside of Kashmir.

- c) It is after the peace-process is set afoot that the rights and claims of the parties can be considered in a non-violent atmosphere.

Ladies and Gentlemen, contrary to some pundits who revel in teaching what they don't know that the Kashmir conflict is neither fuelled by Islamic fundamentalism nor the machinations of extremism and terrorism. Militancy is not the only aspect of the Kashmir issue. It began decades ago in 1931 before the so-called 'Afghan Arabs' appeared on the international terrorism and before Islamic 'fundamentalism' was even minted by the Western press; the resistance displays no particular affection for any country.

More so, the term fundamentalism is inapplicable to Kashmiri society. It has a long tradition of moderation and non-violence. Its culture does not generate extremism. The Kashmiri Hindus (Pandits), though a tiny minority – just less than 2 per cent of the total population – flourished under the Kashmiri Muslim majority.

They equally believe, as do their Muslim compatriots, that the resistance in Kashmir is not communal. It cannot be communal and should not be. The compulsions of Kashmir's history and the demands of its future alike forbid religious conflict or sectarian strife. Despite some cultural divergences, Kashmiri Muslims and Pandits are tied harmoniously together by a common history, folklore, tragedies, habitat, seasons, soil, language, heritage, customs, and socioeconomic interdependence.

Their commonalities dwarf their differences, and explains their remarkable record of fraternity and solidarity. The present situation inside Kashmir makes it clear that, if talks between India, Pakistan and the people of Kashmir are to mean anything, they must be accompanied by practical measures to restore an environment of non-violence.

Nevertheless, the continued talks between India, Pakistan and Kashmiris can be useful if they reflect a sense of urgency and prepare the ground for an earnest effort to frame a step-by-step plan of settlement. If a response to the gravity of the situation is intended, we firmly believe that the following measures are essential:

- i. The immediate and complete cessation of military, para-military and militant actions;
- ii. Withdrawal of the military presence from towns and villages;
- iii. Dismantling of bunkers, watch towers and barricades;
- iv. Releasing of political prisoners;
- v. Human Rights violations especially custodial killings continue apace and are often dismissed as one of aberrations. This cavalier attitude must cease.
- vi. Annulling various special repressive laws;
- vii. Restoring the rights of peaceful association, assembly and demonstrations;
- viii. Permitting to travel abroad without hindrance, Kashmiri leadership who favour a negotiated resolution;
- ix. Issuing visas to the Diaspora Kashmiri leadership to visit Jammu and Kashmir to help sustain the peace process;

- x. Creating necessary condition and providing facilities for an intra-Kashmiri dialogue embracing both sides of the Ceasefire Line.
- xi. Allowing a transitional phase, a phase of detoxification, before its decisive elements are put into effect.

I would like to conclude my presentation to you on a personal note. As many of you know, many of my colleagues and I had an opportunity, a few months ago to visit the other side of the Ceasefire Line that divides us. When we boarded our cars at the Hurriyat office, I was intensely aware that I was taking the same route that my grandfather, Mirwaiz Yusuf Shah, had taken in 1947 when he was exiled.

I remember thinking, as I boarded the bus, that those were bitter times. A bitterness that had dominated us for almost six decades. The time has come to change that. And we travelled further up the roads that links the two sides of Kashmir, I remember committing myself to preventing my children from living in the atmosphere that we had experienced in our times. It convinced me that I must personally contribute towards the process that will end the bitterness and bring resolution to the dispute.

The Kashmir problem, ladies and gentlemen, is a human tragedy. The time has come to end it and move forward. We in Kashmir are ready. The roar of the gun in Kashmir will stop; it has to stop but ladies and gentlemen what needs to be addressed is the roar in the minds and hearts of the Kashmiris. I believe that with Kashmiri participation, anything is possible. Without it, nothing is.

Thank you for your patient hearing.

Note: Kashmir means entire state of Jammu and Kashmir as it existed on 14th August 1947.

Reproduced from *Dawn*, Karachi, 17 November 2005.

### C. SAARC

#### 1. Address by Mr. Shaukat Aziz, Prime Minister of Pakistan at 13<sup>th</sup> SAARC Summit.

Your Excellency Begum Khaleda Zia,  
Chairperson SAARC Excellencies,  
Ladies and Gentlemen,  
Assalam-o-Alaikum

It is indeed a privilege to participate in the Thirteenth SAARC Summit in the historic city of Dhaka. I wish to thank the Government and people of Bangladesh for their warm welcome and their gracious hospitality. The impressive arrangements made by the Government of Bangladesh augur well for the success of the Summit.

Allow me to offer to you, Madam Prime Minister, our heartiest felicitations on your assumption of the office of the Chairperson of SAARC. I am confident that under your able leadership, SAARC will move rapidly

towards realisation of its cherished goals. I assure you of Pakistan's full support to your endeavours in this direction.

Excellencies, Ladies & Gentlemen,

I compliment our former Secretary General, Mr. QAMA Rahim and his team for their excellent work in steering the SAARC organisation during his tenure. I also warmly welcome His Excellency Lyonpo Chenkyab Dorji, our new Secretary General, who, I am sure, will provide dynamic stewardship to the Organisation. We assure him of our full cooperation.

I am told that this will be the last appearance by Her Excellency President Kumaratunga of Sri Lanka at a SAARC Summit as she will be relinquishing her august post after completion of eleven years in the office of the Presidency. Our organisation has greatly benefited from her wisdom and sagacity over the years. We shall miss her wise counsel and inspiring leadership. We wish her every success in her future endeavours in the service of her country and the SAARC.

Excellencies, Ladies & Gentlemen,

I take this opportunity to express our deep gratitude to the world community and especially to our SAARC community for the generous assistance given to Pakistan in our hour of need as we were hit by the catastrophic earthquake of 8 October. In the face of this colossal tragedy, our people have responded with courage and determination.

The tsunami of last December and the equally devastating earthquake clearly highlight the need to establish an early warning and disaster response system in the region. The SAARC Environment Ministers Conference in the Male this June had called for strengthening regional cooperation for better preparedness and effective management of natural disasters. This recommendation deserves special attention at the national level.

Excellencies, Ladies & Gentlemen,

We are happy to see that as SAARC celebrates its twentieth anniversary, the organisation has returned to the city of its birth for rejuvenation. The spirit of Dhaka will lend our enterprise greater vigour and dynamism. We pay tribute to the inspiring vision of Late President Ziaur Rahman who initiated the SAARC idea and emphasised that regional cooperation was essential for peace and progress of South Asia. We must transform this vision into a reality.

This Dhaka Summit will also be remembered as a landmark event for we would welcome the brotherly country of Afghanistan to the SAARC family. Inclusion of Afghanistan will undoubtedly enrich our organisation and add to its strength. We also welcome the interest of our friend and neighbour China to be associated with our organisation as an observer or dialogue partner.

Excellencies, Ladies & Gentlemen,

We live in a transformed world where regional cooperation has become a powerful vehicle of peace, development and progress. South Asia is yet to enter the mainstream of this worldwide phenomenon. We remain mired in poverty and preoccupied with our differences and conflicts. We have not been able to leverage the full potential of SAARC.

As we look at the twenty years of SAARC, we cannot escape the conclusion that South Asia lags behind its larger Asian neighbourhood, in terms of economic and social advancement.

In my view there are two key impediments to SAARC's success. Firstly, the political disputes and tensions in the region. We have remained embroiled with conflict management. We need to move towards conflict resolution.

Secondly, while other Asian countries, especially those of the ASEAN, forged closer and robust cooperation for development and positioned themselves to benefit from globalisation, SAARC has remained inward looking and shy of reaching out to other regional organisations and the world. We must adopt an inclusive approach and open to interaction especially with our larger Asian neighbourhood. We need to create linkages and interdependencies ensuring a win-win for all.

Excellencies, Ladies & Gentlemen,

Dhaka Summit is taking place under propitious circumstances as we are witnessing a new hope across our ancient sub-continent. Since the Islamabad Summit, I am happy to state that the political atmosphere between Pakistan and India has improved, and both countries are engaged in a peace process to resolve all issues, including Jammu and Kashmir. Success of the process augurs well for the region and SAARC.

I am also happy to say that regional cooperation and SAARC's profile were enhanced during the past two years. The Twelfth Summit took landmark decisions that have helped energize SAARC. We were able to set new markers for regional cooperation in South Asia, including SAFTA, the Social Charter, Poverty Alleviation, Energy Cooperation and the signing of the Additional Protocol to the SAARC Convention on Suppression of Terrorism. SAARC has also received Observer Status at the United Nations. We are grateful for the cooperation and support we received during Pakistan's Chairmanship from all the Member States.

We must now demonstrate the political will to sustain the momentum generated at Islamabad. We should build on areas of convergence, minimise divergences and most of all seek to augment complementarities for the greater good of the peoples of this region. We must learn from each other's best practices. We need to help each other to help ourselves.

Excellencies, Ladies & Gentlemen,

Pakistan has submitted to this Summit a blue print to make SAARC goal-oriented, practical and pragmatic. The focus should be on implementation of decisions and translating into tangible terms the worth and value of our regional enterprise. SAARC activities should be prioritised, quantified and evaluated constantly. We must enable SAARC to deliver on the promise of its Charter.

In this perspective, I would suggest that SAARC set itself the following broad priorities:

- Expansion and intensification of economic and commercial cooperation.
- Promoting cooperation in the field of energy.

- Cooperation for environmental protection and sustainable development with particular focus on conservation and management of water and natural resources.
- Cooperation for joint projects to alleviate poverty and promote health, education and agriculture. In this context our proposal of a SAARC Poverty Alleviation Fund of US\$300 million has been welcomed.
- Improvement of infrastructure, especially region-wide transportation and communication links. I am encouraged to see the establishment of the SAARC Regional Multimodal Workshop, which is tasked to study and help develop the transport sector in the region.
- Greater cooperation and coordination in the monetary and fiscal policies of SAARC Member States. Pakistan is ready to host the next meeting of Finance Ministers before the end of the year.
- Strengthening of the SAARC Secretariat. Our proposals in this regard are with the Member States.

Excellencies, Ladies & Gentlemen,

SAFTA has been a landmark agreement and we take pride in the fact that it materialised at the Twelfth Summit in Islamabad. I commend the hard work put in by the Committee of Experts. I hope that negotiations would be completed in time for SAFTA to become operational by January 2006.

Pakistan is a strong advocate of energy cooperation in South Asia, including the concept of an Energy Ring as mandated by the 12 th SAARC Summit. We hosted the 1 st SAARC Energy Ministers meeting in Islamabad, which approved the establishment of a SAARC Regional Centre on Energy in Pakistan. I am confident that the Centre will develop into a regional institution of excellence for the initiation, coordination and facilitation of SAARC programmes in Energy. I may mention that the prospective Iran-Pakistan-India Gas Pipeline will be an outstanding example of regional cooperation in the energy sector.

Excellencies, Ladies & Gentlemen,

In the interest of efficiency and effectiveness, it is our view that the SAARC Summit and other meetings should be streamlined to make them business like. Summits, Ministerial and Standing Committee meetings should each have duration of one day. We need to concentrate on substantive matters. The future SAARC Declarations should be well-focused and brief documents.

Excellencies, Ladies & Gentlemen,

The SAARC Social Charter is a historic document. It provides a clear vision for the socio-cultural development of South Asia. Implementation of its objectives in priority areas including health, education, human development, poverty alleviation, empowerment of women and protection of children would have far reaching impact on the lives of our peoples. The Charter objectives should be correlated to the Millennium Development Goals to facilitate multi-dimensional assistance and cooperation from the UN specialised agencies.

Pakistan took the lead in setting up of a National Coordination Committee to prepare a National Strategy and Action Plan to implement the Charter and launched its National Plan of Action last September. In addition to poverty reduction, our plan focuses on raising and maintaining the social infrastructure, environment, drug de-addiction, women, youth, children, housing, clean drinking water and sanitation. We have aligned the targets of the Plan of Action with our Medium Term Development Framework, which, in turn, is in line with the Millennium Development Goals.

Eradicating poverty is the greatest global challenge and remains the biggest impediment to sustainable development particularly in our region. Pakistan has made concerted efforts to arrest poverty through accelerating economic growth, developing human resource, job creation in agriculture and industry, and through micro-finance credit. The preliminary results of Pakistan Social and Living Standard Measurement Survey suggest a significant reduction of poverty level in Pakistan.

SAARC has placed considerable emphasis on gender equality and empowerment of women. We should redouble our efforts to bring women into our political and socio-economic mainstream. We commend the Work Plan adopted by the SAARC Advocacy Group of Women at its meeting in Islamabad in July 2004. Pakistan will host the SAARC Ministerial Conference on Women in 2006.

Excellencies, Ladies & Gentlemen,

In an interdependent, fast globalising world, no regional grouping can hope to function in isolation. SAARC must open up to other regional groups and the international community. The interaction among SAARC Ambassadors' Groups in major capitals of the world and at the UN to exchange views on important global issues of mutual interest and coordinate our positions has worked successfully. We should establish closer interactions with important extra-regional states and other regional organisations especially the European Union, ASEAN, OECD, ECO, the Gulf Coordination Council and Shanghai Cooperation Organisation.

The rich civilisational and cultural heritage of the peoples of South Asia has a lot to offer to the world. We must give thought to sharing of best practices not only amongst ourselves but also with other regions. Our region's excellence in knowledge, arts, crafts, traditions and culture should be shared with other regional organisations.

There is a need to create synergies and build mutually beneficial economic complementarities for progress in South Asia. I firmly believe that we can transform South Asia into an engine of economic growth for the world while preserving our environment and our civilisational distinction. Pakistan remains committed to promoting regional cooperation under the SAARC auspices for ensuring peace, amity and progress of the peoples of our region.

Thank you.

12 November 2005. <http://www.saarc-sec.org/main.php?id=169&t=7.1>

## 2. Dhaka Declaration issues by the Thirteenth SAARC Summit

The Prime Minister of the People's Republic of Bangladesh, Her Excellency Begum Khaleda Zia; the Prime Minister of the Kingdom of Bhutan, His Excellency Lyonpo Sangay Ngedup; the Prime Minister of the Republic of India, His Excellency Dr. Manmohan Singh; the President of the Republic of Maldives, His Excellency Mr. Maumoon Abdul Gayoom; the King of Nepal, His Majesty Gyanendra Bir Bikram Shah Dev; the Prime Minister of the Islamic Republic of Pakistan, His Excellency Mr. Shaukat Aziz; and, the President of the Democratic Socialist Republic of Sri Lanka, Her Excellency Mrs. Chandrika Bandaranaike Kumaratunga met at the Thirteenth Summit meeting of the South Asian Association for Regional Cooperation (SAARC) in Dhaka, Bangladesh on 12 - 13 November 2005.

### Regional cooperation

2. The Heads of State or Government noted that the Thirteenth Summit was taking place at an important moment in the evolution of South Asia when SAARC stood at the threshold of a new decade of its existence. They agreed that the Summit provided a unique opportunity to consolidate the gains made in regional cooperation during its first two decades and to chart a forward-looking strategy to promote effective cooperation at all levels to realize the objectives and principles set out in the Charter of the Association.

3. The Heads of State or Government noted that cooperation and partnership within the framework of SAARC is based on the sound foundation of shared values, beliefs and aspirations. The objectives and goals of SAARC, they affirmed, were of continuing relevance and importance to all Member States. The dynamics of recent political and economic changes in South Asia and the world highlighted the importance of, and the compelling logic for, a more vibrant and effective process of constructive regional cooperation. They emphasized their commitment to making such cooperation an enduring feature and thus contribute to the region's peace, progress and stability.

4. The Heads of State or Government noted that SAARC has evolved in a positive direction during the first two decades of its existence and that its agenda encompassed concerns and areas vital for the fulfillment of the Charter objectives of promoting the welfare of the peoples of South Asia, accelerating economic growth, social progress, cultural development and strengthening collective self-reliance among the countries of South Asia. They stressed that realization of these objectives not only called for continued and serious result-oriented efforts but also for consistent endeavours to translate pledges and commitments into concrete actions, regional initiatives and projects. They reiterated their commitment to making SAARC an effective instrument for cooperation, which will visibly improve the quality of life of millions in South Asia.

5. The Heads of State or Government emphasized that efforts must continue to free South Asia from poverty, hunger and other forms of deprivation and social injustice which present a daunting challenge. Member States

expressed determination to work towards significantly accelerating regional cooperation in economic areas. The main emphasis will be to secure a wider economic space, so that benefits and opportunities offered therein can be shared by all, and that the true economic potential of South Asia can be fully realized. Efforts will be made to create dynamic complementarities in the development of human resources and capacity of Member States to address their common challenges. They underlined the need to accelerate regional cooperation through all possible means and mechanisms, including exchange of best practices in various fields in the Member States.

6. The Heads of State or Government reiterated that the peoples of South Asia are the real source of strength and driving force for SAARC and resolved to make regional cooperation more responsive to their hopes and aspirations. They agreed that the Association should broaden its engagement with the civil society organizations, professional groups, and entrepreneurs. Member States should also strive to promote and assert their South Asian identity, encourage greater people-to-people contact and draw strength from their shared cultural heritage.

7. The Heads of State or Government emphasized the importance of initiating project cooperation under the SAARC auspices. They encouraged Member States to undertake projects, as per existing provisions of the Charter. These projects may pertain to economic and social sectors, including Human Resource Development and Poverty Alleviation. These may be undertaken, where required, with financial or technical assistance, from International Financial Institutions (IFIs) or, UN Funds and Programmes or, any extra-regional State, as appropriate.

#### **Poverty Alleviation**

8. The Heads of State or Government decided to declare the decade of 2006-2015 as the SAARC Decade of Poverty Alleviation. During the Decade, endeavours – both at the national and regional level - will continue to be made with a sense of commitment and urgency to free South Asia from poverty.

9. The Heads of State or Government appreciated the valuable work of the Independent South Asian Commission on Poverty Alleviation (ISACPA). They also endorsed the SAARC Development Goals (SDGs), as recommended by the Commission, and called for follow-up and implementation of the Plan of Action on Poverty Alleviation, adopted by the 12th SAARC Summit. They entrusted the ISACPA to continue its advisory and advocacy role in this regard. They endorsed the priorities for action identified in the Report of ISACPA adopted by the Twelfth SAARC Summit. They agreed that these priorities would be duly taken into account while working out the elements for regional initiatives in this vital area. They decided to focus on formulation and implementation of concrete regional programmes and projects as well as forging partnerships among all stakeholders.

10. Underlining the need for an exclusive forum for focused and comprehensive examination of poverty related issues, the Heads of State / Government decided to replace the three-tier mechanism on poverty alleviation



by a two-tier one, comprising the Ministers and the Secretaries dealing with Poverty Alleviation at the national level.

### **Funding Mechanisms**

11. The Heads of State or Government decided to establish a SAARC Poverty Alleviation Fund (SPAF) with contributions both voluntary and/or, assessed, as may be agreed. They called upon the Finance Ministers to formulate recommendations on the operational modalities of the Fund, taking into consideration the outcome of the Meeting of the Financial Experts. In this regard, they welcomed the offer of Pakistan to host the next meeting of the Finance Ministers. The operational modalities of the SPAF shall be decided by the Finance/ Planning Ministers. They agreed that the SPAF shall function within the SADF to be reconstituted, as SAARC Development Fund (SDF), to serve as the umbrella financial institution for all SAARC projects and programmes and comprise three Windows namely Social Window, Infrastructure Window and Economic Window with a Permanent Secretariat.

12. The Heads of State or Government decided that Finance Ministers should meet within the first quarter after every Summit and also on the sidelines of the World Bank and ADB annual meetings, to take stock of macro-economic developments and outlook for South Asia, achievement of SAARC Development Goals as co-related to Millennium Development Goals (MDGs) and to assess the investment climate, foreign capital inflows, financial sector reforms and other areas of cooperation.

### **Advancing Economic Cooperation**

13. The Heads of State or Government stressed that accelerating cooperation in the core economic areas was of vital importance for the realization of Charter objectives and also for making South Asia truly vibrant, dynamic and secure in its robust progress. They reaffirmed their commitment to accelerate cooperation in the economic and commercial fields, especially in the energy sector. They noted the progress in the negotiations on outstanding issues and directed early finalization of all the Annexes ensuring entry into force of the SAFTA Agreement as agreed, with effect from 1 January 2006.

14. The Heads of State or Government stressed the importance of the entry into force of the SAFTA Agreement on the scheduled date i.e. 1 January 2006. The launching of SAFTA would mark an important milestone on the road to a South Asian Economic Union. They directed that the negotiations on the outstanding issues under the Agreement should be completed by end November 2005. They further directed that the necessary national procedures should be completed in time to facilitate the operationalisation of the Agreement.

15. They reiterated the need to strengthen transportation and communication links across the region for accelerated and balanced economic growth. They directed further measures aimed at trade liberalisation, as provided for in the SAFTA Agreement. They noted with satisfaction the ongoing SAARC Regional Multimodal Transport Study to enhance transport connectivity among the Member States. The Heads of State or Government agreed to undertake trade

facilitation measures, including transit among SAARC countries, on the basis of understanding among concerned countries, for enhancing intra-regional trade and other economic activities. They noted the Indian proposal in this regard. They agreed to study the proposal by India for daily air service facility by designated airlines, on a reciprocal basis and without prejudice to existing rights, to all the SAARC Member States and also the proposal to extend fifth freedom rights to designated airlines from the Member States, both intermediate and beyond, within the SAARC region on a reciprocal basis.

16. The Heads of State or Government recognized the need to take the process of regional economic integration further by expanding the scope of SAFTA to include trade in services, enhanced investment and harmonized standards.

17. The Heads of State or Government welcomed the signing of the following Agreements during the thirteenth SAARC Summit:

- The Agreement on Mutual Administrative Assistance in Customs Matters
- The Agreement on the Establishment of SAARC Arbitration Council
- The Limited Agreement on Avoidance of Double Taxation and Mutual Administrative Assistance in Tax Matters

18. They emphasized the need for parallel initiatives for dismantling of non-tariff and para-tariff barriers. In this context, they called for expeditious action on conclusion of agreements on mutual recognition of standards, testing and measurements with a view to facilitating intra-regional trade. They recognized the potential of trade in services which have expanded rapidly at the informal level. They called for a study to see how services could be integrated into the SAFTA process.

19. The Heads of State or Government decided to encourage, where appropriate, trade-creating investment in the Member States. They stressed the need for closer regional cooperation in the field of Information and Communication Technologies (ICT), including Tele-communications.

20. The Heads of State or Government welcomed the Joint Statement of the First SAARC Energy Ministers meeting in October 2005 in Islamabad. They agreed to the recommendation to establish the SAARC Energy Centre in Islamabad; to promote development of energy resources, including hydropower; and energy trade in the region; to develop renewable and alternative energy resources; and promote energy efficiency and conservation in the region. They underlined the need to constitute a South Asian Energy Dialogue process, involving officials, experts, academics, environmentalists and NGOs, to recommend measures to tap potentials of cooperation in energy sector to provide inputs to the Working Group on Energy.

21. The Heads of State or Government noted the proposal for the establishment of a Regional Food Bank proposed by India and agreed to examine the proposal.

22. With regard to paragraph 15 of the Council of Ministers Report, the Heads of State or Government noted the offer of Nepal to host the Regional Support Unit.

**South Asia's Social Challenge**

23. The Heads of State or Government reiterated their commitment to take initiatives at national as well as regional levels for achieving the specific objectives contained in the SAARC Social Charter. They recognized that realization of these objectives is crucial to enable SAARC to meet the hopes and aspirations of the common peoples of South Asia and visibly improve the quality of their lives. They emphasized that in outlining future actions in this regard national implementation efforts should be complemented by regional programmes and projects in areas requiring collective regional response. They appreciated the establishment of National Coordination Committees (NCCs) in all Member States, decided on annual meetings of the Heads of NCCs and directed convening of their first meeting at the earliest for follow-up and implementation of the Social Charter. In this regard, they noted the proposal from the Maldives to convene an experts' group meeting on establishing a Civil Society Resource Centre.

24. The Heads of State or Government called upon the Member States to expeditiously complete the process of preparing their national strategy and plan of action. They also emphasized that national implementation efforts should be complemented by regional projects and programmes. In this context, they directed that regional projects, particularly in health and poverty alleviation, should be initiated.

25. The Heads of State or Government reiterated their pledge to continue to work in the next decade and beyond to address the formidable challenges faced by women and children, especially the girl child. They noted that sustained efforts were needed on the part of the Member States not only to free them from all types of deprivation but also to make them full partners and beneficiaries of South Asian progress and development. In this context, they decided that a mid-term review of the progress in realizing the objectives of SAARC Decade on the Rights of the Child (2001 – 2010) should be undertaken in 2006.

26. The Heads of State or Government affirmed their strong resolve to continue to work together to address the problem posed by trafficking in women and children. They expressed satisfaction at the ratification of the SAARC Conventions relating to Trafficking in Women and Children and Promotion of Child Welfare by all Member States and called for effective measures for their early implementation. They noted that the civil society organizations and the media have an important role to play in raising awareness of the degrading and inhuman treatment faced by the victims of trafficking. They encouraged them to continue their constructive role in this regard. They stressed that law enforcement agencies in the Member States should also coordinate and strengthen their efforts to address this problem effectively.

27. The Heads of State or Government noted the achievements of the Member States during recent years in the area of primary education through sustained efforts and adoption of country specific innovative approaches. They recognized that regional initiatives in this particular area might focus on sharing of experiences and best practices. They also called for optimal utilization of

resources and identification of strategic interventions in the area of training, management and performance evaluation of these programmes so as to ensure sustainability, coverage and quality of education imparted and services provided. They stressed that freeing South Asia from the scourge of illiteracy is a major objective of SAARC in the third decade of its activities. They called for effective measures to realize the SDGs, in particular universal primary education in the context of pursuing the Millennium Development Goals.

28. The Heads of State or Government stressed that to meet the challenges of the twenty-first century Member States must make important strides in the areas of science, technology and higher education. They decided to give priority attention to encourage regional cooperation in these areas to derive benefits from the synergy of collective, well-planned and focused initiatives undertaken by Member States. They directed that a SAARC Plan of Action for Science, ICT and Technology be elaborated for consideration during a Meeting of SAARC Science, ICT and Technology Ministers to be convened as soon as possible. They noted the offer of India to establish a South Asian University and agreed to examine this matter further.

29. The Heads of State or Government recognized the need to collaborate on preparedness for addressing health emergencies, including prevention and control of pandemics like avian influenza, as these pose a major global threat with impact on health, trade and tourism involving human mobility. They emphasized on the need to develop a regional strategy for such emergencies as soon as possible; and identify and strengthen collaboration within and beyond the region and establish links with other regional organizations. They called for early establishment of a SAARC Health Surveillance Centre and a Rapid Deployment Health Response System, to deal with emerging and re-emerging diseases.

30. The Heads of State or Government welcomed the preparation of a strategy for collective SAARC response to prevent the spread of HIV/AIDS. They noted that regional response in this regard should be further enhanced to eliminate this dreadful disease from South Asia. In this regard, they emphasized the importance of early implementation of the Regional Strategy of HIV/AIDS. At the same time, they underscored the need for increasing cooperation to develop regional strategies for the prevention and treatment of Dengue, Malaria and other infectious or communicable diseases constituting major public health concerns.

31. The Heads of State or Government agreed to launch a regional initiative with regard to basic healthcare services and sanitation in the rural areas and encouraged exchange of experience and best practices within the region. They called for expediting elaboration of a SAARC Plan of Action for cooperation in medical expertise and pharmaceuticals, as well as traditional medicine, and availing affordable pharmaceuticals produced in the region, harmonization of standards and certification procedures and production of affordable medicines. They also agreed that steps should be taken to promote traditional medicine and to protect the intellectual property rights related to them as a matter of regional priority.

### **South Asia's Environmental Challenges and Natural Disasters**

32. They further decided to consider the modalities for having a Regional Environment Treaty in furthering environmental cooperation among the SAARC Member States. They expressed deep concern at the continuing degradation of environment and reaffirmed the importance of concerted action in the protection and preservation of environment. While expressing satisfaction at the progress in implementation of the SAARC Environment Action Plan, the Leaders welcomed the decision of the Council of Ministers to establish a SAARC Forestry Centre in Bhutan. They emphasized on the need for the Centre to have a coordinating role in the field of Forestry for exchange of information, expertise, training and formulation of regional projects with emphasis on social forestry.

33. The Heads of State or Government welcomed the Declaration of the Special Session of the SAARC Environment Ministers in Male in June 2005 convened in the wake of the tsunami catastrophe. They endorsed the recommendation for elaboration of regional programmes and projects for early warning, preparedness and management of tsunami and other natural disasters. They called for elaboration of a Comprehensive Framework on Early Warning and Disaster Management.

34. They endorsed the decision of the Special Session of the SAARC Environment Ministers to further enhance the capacity of the existing SAARC Institutions namely, SAARC Meteorological Research Centre and SAARC Coastal Zone Management Centre, to carry out their mandated tasks.

35. In view of the extensive loss of life and colossal damage to property as a result of earthquake and tsunami and other natural disasters in South Asia, the Heads of State or Government underscored the urgency to put in place a permanent regional response mechanism dedicated to disaster preparedness, emergency relief and rehabilitation to ensure immediate response. They directed the concerned national authorities to coordinate their activities in such areas of disaster management as early warning, exchange of information, training and sharing of experiences and best practices in emergency relief efforts.

36. The Heads of State or Government underlined the need for collaborative action in the area of environment, including water conservation, to promote sustainable development. They decided to proclaim the Year 2007 as the 'Year of Green South Asia' devoted to a region-wide afforestation campaign. They also agreed to address the problem of arsenic contamination of groundwater and assistance to affected peoples.

### **Combating Terrorism**

37. The Heads of State or Government agreed that terrorism violates the fundamental values of the SAARC Charter and the United Nations, and constitutes one of the most critical threats to international peace and security. The Heads of State or Government expressed their satisfaction at the ratification of the Additional Protocol to the SAARC Convention on Suppression of Terrorism by all Member States and called for putting in place effective

mechanisms for its implementation. They strongly condemned terrorist violence in all its forms and manifestations, agreed that terrorism is a challenge to all States and a threat to all of humanity, and cannot be justified on any grounds. They underlined that there should be no double standards in the fight against terrorism. In view of the continuing and recent terrorist attacks in the region and their impact on security, economic stability and social development, they expressed their determination to unite in their efforts in preventing and combating terrorism. They also noted the United Nations Security Council resolution 1373 (2001) in this regard.

38. They called for early and effective implementation of the Additional Protocol to the SAARC Convention on Suppression of Terrorism. They underscored the need for an early conclusion of a Comprehensive Convention on International Terrorism. They also agreed that Member States would strengthen their cooperation in such important areas as exchange of information, coordination and cooperation among their relevant agencies.

39. They decided that SAARC Interior/Home Ministers would meet annually preceded by a meeting of the Interior/Home Secretaries.

40. The Heads of State or Government directed that concrete measures be taken to enforce the provisions of the Regional Convention on Narcotic Drugs and Psychotropic Substances through an appropriate regional mechanism.

#### **Security of small states**

41. The Heads of State or Government noted that due to their specific vulnerabilities, small states require special measures for support from all concerned for safeguarding their sovereignty, independence and territorial integrity. In this context, they stressed that protection of small states should be firmly rooted in scrupulous adherence to the UN Charter, rule of law and the strict adherence to universally accepted principles and norms related to sovereign rights and territorial integrity of all States, irrespective of their size. They committed themselves to give concrete expression to protect the interest and security of all small states through the pursuit of appropriate policies and actions.

#### **People-to-people contact and cultural cooperation**

42. The Heads of State or Government noted that the spirit of SAARC needed to be sustained by efforts to promote people-to-people contact and by a vibrant civil society throughout South Asia actively engaged in forging links across national boundaries. They felt that the Association of SAARC Speakers and Parliamentarians should meet at an early date to establish a mechanism for periodic contacts among the Parliamentarians of South Asia. They stressed that continued efforts would be made by the Member States at all levels to promote people-to-people contact by facilitating travel among SAARC countries, promotion of youth exchanges in culture and sports, promotion of intra-SAARC tourism, establishment of linkages among professional bodies and through adoption of other concrete measures. They decided to launch 2006 as 'South Asia Tourism Year.' They directed their Ministers for Tourism to meet at an

early date and elaborate a plan of activities to be undertaken during the year 2006. They also stated that Member States would encourage initiatives by private sector entities in promoting understanding and harmony in the region.

43. The Heads of State or Government recognized the crucial role of culture in bringing the peoples of South Asia closer. They also stressed that cooperation in the area of culture was vital for reinforcing and projecting the distinct identity of South Asia. In this context, they expressed satisfaction on the progress made in establishing the SAARC Cultural Centre in Kandy and underlined the importance of making it operational at the earliest. They also directed the SAARC Ministers of Culture to meet as soon as possible to elaborate a SAARC Agenda for Culture. They noted the offer of India to establish a SAARC Museum of Textiles and Handicrafts inter alia to preserve designs in various crafts and related traditions, train artisans and crafts persons, foster design skills, hold promotional events, undertake research.

#### **International political and economic environment**

44. The Heads of State or Government reviewed international political and economic developments since their last Summit in Islamabad. They underscored the imperative need to ensure universal adherence to the principles and objectives enshrined in the UN Charter. They called upon the international community to redouble efforts to meet the commitments of the Millennium Summit and the Monterrey consensus. They noted the outcome of the UN World Summit 2005 and underlined the need for meaningful reforms of the United Nations system in consonance with its role as the central organ for the cooperative management of the global problems and for the promotion of peace, security, development, justice and human rights. They also reiterated their full support for a comprehensive approach, which would facilitate implementation of the Millennium Declaration and the Millennium Development Goals (MDGs) in a time bound manner.

45. The Heads of State or Government stressed that promotion of global peace and security inter alia called for removing the existing asymmetries in security and in ensuring undiminished security for all, at the regional and global levels. They also emphasized the importance of pursuing effectively the global objectives of universal disarmament and preventing the proliferation of weapons of mass destruction.

46. The Heads of State or Government reaffirmed their commitment to further strengthen the multilateral trade regime of WTO. They called upon all WTO members to demonstrate necessary understanding and accommodation for a breakthrough at the Hong Kong Ministerial meeting in December 2005 to pave the way for the successful conclusion of the Doha Development Round. They underscored that the development dimension should continue to be at the heart of the on-going negotiations so that the legitimate concerns of the developing countries are adequately reflected in the outcome of the current round of trade negotiations. They agreed that the SAARC Member States would work closely together to coordinate their positions in the on-going negotiations on trade and other key economic issues. The Heads of State or Government directed the

Commerce Ministers to hold consultations on the sidelines of the 6th WTO Ministerial Conference to be held in Hong Kong in December 2005, to evolve a common SAARC Position on issues of common concern.

47. The Heads of State or Government addressed the question of electing the Secretary-General of the United Nations in the year 2006, being aware of the unanimous view that the well-established principle of geographical rotation should be observed and that an Asian should be appointed as the next Secretary-General of the United Nations. In this regard, they noted that Sri Lanka has offered a candidate.

#### **Enhancing Political Cooperation**

48. The Heads of State or Government welcomed the growing importance being placed by all Member States to promote cooperation in an environment of enduring peace and stability in South Asia. They reiterated their commitment to the principles of sovereign equality, territorial integrity and national independence, non-use of force, non-intervention, and non-interference in the internal affairs of other Member States. Recognizing the increasing interdependence and the imperative of pursuing the objectives of peace, freedom, social justice and economic prosperity, they re-affirmed their resolve to foster mutual understanding, good neighbourly relations and a more meaningful cooperation through sustained constructive engagement among Member States.

#### **External Profile and Linkages of SAARC**

49. The Heads of State or Government welcomed the observer status granted to SAARC by the United Nations General Assembly at its Fifty-ninth Session; and expressed the hope that this would not only enhance the profile of SAARC in the world body but would also enable Member States to project common positions of SAARC in various multilateral forums. They also acknowledged the renewed interest of other regional and international organizations, bodies and entities to cooperate with SAARC in various collaborative endeavours in accordance with the objectives and priorities of SAARC. The Heads of State or Government welcomed the request by the Islamic Republic of Afghanistan for membership and invited Afghanistan as a member, subject to the completion of formalities. They also welcomed and agreed in principle with the desire of the People's Republic of China and Japan to be associated as observers. The Council of Ministers will decide the modalities in this regard at their twenty-seventh meeting in July 2006.

#### **Strengthening Institutional Mechanisms of SAARC**

50. The Heads of State or Government agreed that with the incremental broadening of the SAARC agenda and increased emphasis being placed on implementation of plans and programmes, there was a need for a commensurate strengthening of institutional capabilities of SAARC. Recognizing the importance of thematic Ministerial meetings, they emphasized that these meetings should focus on regional challenges and priorities and contribute to the



realization of the objectives of SAARC. They agreed that on completion of twenty years of SAARC's existence, it was essential that a comprehensive review and reform of all SAARC institutions and mechanisms, including the Secretariat and the Regional Centers should be undertaken. In this context, they called on the Council of Ministers to convene a Meeting of Experts, to be nominated by each Member State, to undertake a detailed Study and present a report to the next Council of Ministers. They empowered the current Chairman of the Council of Ministers to prepare within the next fifteen days a draft Terms of Reference for the Study to be approved, if necessary, by tele-conferencing of all SAARC Foreign Ministers.

#### **SAARC Vision: An agenda for Third Decade of SAARC**

51. The Heads of State or Government reiterated their commitment to the realisation of the vision of South Asian Economic Union in a phased and planned manner. They agreed that as SAARC completed its twenty years of its existence, it was an opportune occasion to draw a roadmap for regional cooperation in South Asia for the next decade. In view of the new challenges facing the region, pledges and commitments made in the last two decades should be translated into concrete actions in the form of regional projects and programmes and innovative initiatives.

52. They directed all SAARC institutions and mechanisms to work collectively towards a decade dedicated to implementation so that a visible and discernible impact can be felt across South Asia. They emphasized that while this would enable SAARC to realize its basic objectives of improving the quality of life of all South Asian peoples, it would at the same time create an enabling environment towards the establishment of a South Asian Economic Union. They directed the Standing Committee to formulate its recommendations, at its next Special Session, on a Vision for SAARC's Third Decade and the course of action for its realization, to be elaborated by a high-level Committee of Senior Officials.

#### **Date and venue of the Fourteenth SAARC Summit**

53. The Heads of State or Government welcomed the offer of the Government of India to host the Fourteenth SAARC Summit in 2007

13 November 2005. <http://www.saarc-sec.org/main.php?id=159&t=7.1>

#### **D. PAKISTAN & THE UN**

##### **Text of the address delivered by President Pervez Musharraf at the 60<sup>th</sup> session of the UN General Assembly.**

Mr. President,

It is a privilege to address this 60th Anniversary Summit of the United Nations.

We are participating in an historic event – the endeavour to establish a just world order for the Twenty-first Century. The decisions we take here will have far-reaching consequences. It is therefore our solemn responsibility to

bequeath a legacy of hope and peace to future generations. We cannot afford to fail.

Thanks to Secretary-General Kofi Annan, and to President Jean Ping, a year's process of reflection and discussion has produced numerous ideas and proposals to enhance international security, development and human rights.

This Special Summit offers us an opportunity to recommit ourselves to the principles and purposes of the UN Charter. Let us pledge to make the United Nations a more effective and relevant institution for the 21<sup>st</sup> century.

We believe that international security can be best promoted when every State sees peace as being in its best interest; when states believe that they can realize their interests through mutual cooperation; when the supremacy of equitable principles is established over the realities of unequal power; when Member States agree to utilize the United Nations to harmonize their policies and reconcile their interests.

The Security Council should work openly, on behalf of the general membership. The Council should become more representative; not by adding a new elite, but by reflecting more fully, the entire spectrum of the UN's membership. This can be achieved only through patient dialogue and general consensus.

Mr. President,

The challenges confronting international peace and security are formidable and many. Terrorism and the threat from Weapons of Mass Destruction are among them. Yet, even as we address new threats, we should not, and we cannot, ignore the legacy of festering problems left by the past. Peace and justice must come to the peoples of Palestine as well as Jammu and Kashmir.

We must not only be prepared to proclaim our principles; we must defend them and, above all, live up to them. Resolutions of the United Nations, especially the Security Council's decisions, must be implemented.

It is in this spirit that Pakistan is pursuing the composite dialogue with India. We want the dialogue process to be result oriented and initiate a new era of peace and cooperation in South Asia. Our nations must not remain trapped, by hate and history, in a cycle of confrontation and conflict. For this to happen, it is essential to find a just solution of the dispute over Jammu and Kashmir, acceptable to Pakistan, India and above all to the people of Kashmir.

Today, terrorism is a primary threat to world order. We must fight terrorism, in all its forms, outlaw it and eliminate it. We need a comprehensive strategy for success. At the same time, we need to understand and address the motives behind terrorist acts. These may not justify terrorism; but they explain it. To eliminate terrorist violence, we will need to eliminate it in the minds of potential terrorists. No religion sanctions terrorism; the motives of terrorists, however misguided, are always political. We, therefore, need to redress political and economic injustice. I have suggested a strategy of Enlightened Moderation, which can ensure success in eliminating terrorism and extremism. I trust that this will be reflected in the deliberations of the new Commission created by the Secretary-General on an 'Alliance of Civilizations'.

Mr. President,

Weapons of mass destruction must not fall into the hands of terrorists. To prevent this, we must aim to eliminate both the terrorists as well as the weapons of mass destruction. The catastrophic consequences of a nuclear war make it imperative to prevent one from ever taking place. Both the proliferation and the perpetual possession of nuclear weapons pose an unacceptable global danger. We must evolve a new consensus to achieve disarmament and non-proliferation.

We also need to prevent the destabilizing accumulation and build up of conventional weapons and forces especially in regions of tension — such as the Middle East, South Asia and North East Asia. Pakistan will continue to promote a nuclear and conventional weapons restraint regime in South Asia.

Mr. President,

Peace and development are interdependent. Although action for development must be largely local, it is critically dependent — in our globalized world — on the external economic environment. Paradoxically, globalization has increased both poverty and prosperity. The rules of international trade and finance and technology access are weighted against the poor and weak. In fact, the poor should be offered a 'development handicap' to enable them to successfully integrate into a world market of unequal players.

Respect for human rights is an integral element of both peace and development. Economic rights are as important as political and civil rights. A hungry man is not a free man. The new human rights architecture we will create — such as the proposed Human Rights Council — should advance human rights, through cooperation and mutual support. Genocide, ethnic cleansing and similar grave violations must be prevented. As a first step, the United Nations should be given a standing authority to send a fact-finding mission to the area where a conflict has broken out.

Mr. President,

Pakistan has contributed actively and constructively to the preparation of this Summit's important decisions. We shall work equally to ensure that our decisions are translated into action. At this Summit, let us resolve to make poverty history, peace permanent and freedom universal.

I thank you.

14 September 2005. [www.meaindia.nic.in/speech](http://www.meaindia.nic.in/speech)

#### E. INTERFAITH DIALOGUE

**Text of the address delivered by President Pervez Musharraf at the international conference on Interfaith Dialogue and Cooperation for Peace at New York.**

Ladies and Gentlemen,

I am honoured to address this important gathering on Interfaith Dialogue and

Cooperation for Peace. I felicitate you, President Arroyo and the Government of Philippines for hosting this meeting, which Pakistan has the honour to co-sponsor, together with fifteen other States.

Faith should be a source of individual and collective strength, promoting moral conduct and providing a framework of values for human action and endeavour. Faith can also be a powerful instrument for social and political mobilization to achieve collective goals.

It is unfortunate that great religions, which should be a source of hope, tolerance and peace, are today seen to be pitted against each other. The need to promote cooperation and understanding among religions and cultures is no longer an option in our globalized world. It is a political and moral imperative.

Throughout history, confrontations between faiths and civilizations, when they occurred, were motivated by competing political or economic interests rather than incompatibility between the fundamental precepts of religions. Today also, the manifestation of misunderstanding and friction between cultures and civilizations are not the result of religious differences. They arise from divergent political perspectives on some important issues. This is certainly so in the relations between the West and the Islamic world.

In the Muslim world, there is a general belief that the West is deliberately suppressing or allowing the suppression of Muslim peoples in Palestine, Kashmir and elsewhere. In the West, all Muslims are, often collectively associated with what is so freely described as 'Islamic Terrorism'. In the West, some go so far as to project Islam itself as the source of terrorism and extremism. Indeed, a large section of Muslim opinion believes that their eternal faith is being defamed and demonized.

In the past, religions and civilizations inhabited separate geographical space. Today, the phenomena of international migration, communications and information technology have, in many ways, blurred the geographical and other fault lines where specific faiths and cultures encounter and interact with each other. Such close contact and interaction now takes place in the street, the work place, the living room, on television and the internet. This greater interaction can serve to enhance understanding and acceptance. Unfortunately, it often becomes the instrument for friction and rejection.

It is necessary to promote a better understanding of different faiths and cultures, to remove is understanding and deliberately propagated negative caricatures. It is important to emphasize that the vast majority of the adherents of any faith are peaceful, tolerant, honest, just and caring people. Those who hold militant views are as all minority and those who act on these militant views are even fewer.

For several years, Pakistan has actively promoted religious and cultural understanding, harmony and cooperation. In its last two Sessions, the General Assembly adopted two important resolutions, co-sponsored by Pakistan on this issue. We support the several proposals which have been advanced to promote religious and civilizational understanding: the Dialogue among Civilizations, proposed by Iran; the Alliance of Civilizations, proposed by Spain and Turkey; this Interfaith Cooperation for Peace, initiated by the Philippines; and the

Strategy for Enlightened Moderation, proposed by Pakistan. However, dialogue alone is not enough.

We must adopt and implement a comprehensive strategy for action to promote understanding and cooperation between faiths and cultures. Such a strategy should be inclusive – involving governments, civil society, private sector, media and international organizations. It should cover the political, socio-economic, religious, cultural and institutional aspects. It should be supported by adequate financial resources, from governments and the private sector.

At the national level, each country should promote conscious action to counter extremism within their societies. We must prohibit extremist organizations and hate literature; prevent the misuse of places of worship for the promotion of extremist views; ensure that educational institutions do not foster extremism or terrorism.

We should adopt appropriate reforms in educational curricula to promote the correct interpretation of various faiths and cultures; initiate dialogue among our own people to build further understanding of the true spirit and values of their own and other major religions; adopt conscious policies for the protection of religious minorities; and take action to promote social and human development, in partnership with civil society and private sector. We also need to take a number of actions at the international level:

Firstly, it is imperative to promote an early resolution of political injustice to which so many people are being subjected due to their faith or belief. Secondly, it is necessary to urgently resolve conflicts and disputes, especially where these involve friction between different religions and faiths e.g. in Palestine and Kashmir. Thirdly, conscious decisions must be taken to extend development support to those societies which have been challenged by the problems of interfaith friction or extremism. Such development support should be aimed at poverty eradication and generation of socio-economic growth and human development.

Lastly, interfaith dialogue should include religious leaders and scholars from across faiths and cultures, even some of those who hold extremist views and are un-enlightened about the virtues of other faiths, cultures and civilizations. In this context, we welcome the Secretary-General's forthcoming establishment of a Commission of Eminent Persons to promote 'An Alliance of Civilizations'. I suggest that Secretary-General should also create a U.N. Office for Interfaith Cooperation. It is not surprising that there are differences within and between societies, cultures, civilizations and religions.

These differences and diversity are no cause for confrontation. Each one of us is member of the same human family, with the same hope and aspiration to live a good and happy life in peace and prosperity. It is a good augury that the leaders of so many States, as well as international organizations and civil society, have come together today – united in our diversity and focused on one universal goal: enhancing cooperation and mutual understanding and, thereby promoting peace, security and prosperity for all the 'peoples of United Nations'.

I thank you.

13 September 2005. [www.presidentofpakistan.gov.pk](http://www.presidentofpakistan.gov.pk)

## F. OIC

### 1. Text of President General Pervez Musharraf's address delivered at the extraordinary OIC Summit.

Your Majesty, Khadimul Harmain Al-Sharifain King Abdullah bin Abdul Aziz, Chairman of the Extraordinary Islamic Summit:

Mr Abdullah Badawi, Chairman of the Tenth Islamic summit, excellencies, dear brothers and sisters.

It is Almighty Allah's great blessing that we, the leaders of the Muslim world are congregated here, at the holy precincts of Makkah-Al-Mukaramah to put life into the Ummah. Your Majesty's invitation to your brothers and sisters to meet at the Qibla of Islam not only reflects your sagacity and hospitality it also symbolises the unity and integrity of the Muslim Ummah.

May Almighty Allah guide us to our noble, collective endeavour towards the emancipation of the world of Islam. I also wish to express on behalf of the Pakistani nation, our profound gratitude to all those who extended generous help and assistance to the earthquake victims of Pakistan.

Your Majesty, Mr Chairman, brothers and sisters, two years ago, in 2003, at the Putrajaya OIC Summit we deliberated on the challenges confronting the Islamic world. We considered enlightened moderation as the way forward. A Commission of Eminent Persons from seventeen countries was thus constituted to recommend restructuring of the OIC to turn it into a dynamic and futuristic organisation. It is only, and I repeat only, through such a restructuring of the OIC that we can meet the objectives of enlightened moderation and the aspirations of the Muslim Ummah.

Your Majesty, Mr Chairman, let us, for a moment, reflect back at our past, lost glory. We were the fountainhead of knowledge, civilisation and moderation when most of the world was groping in the dark ages. It was the philosophic accomplishment of Al Ghazali and Ibne Rushd, which gave inspiration to later day western philosophers.

It was Ibne Seena who wrote 'Al Qanoon Fil Tib' which became known as the canon and used for 600 years as the standard book of medicine in the West. It was Al Beruni who wrote an encyclopaedia on medicinal plants. It was Jabir Ibn Haiyan who laid the foundations of modern chemistry. It was Mohammad Bin Musa Al-Khwarizmi who founded algebra and modern mathematics. It was Al-Zahrawi who invented a large number of surgical instruments now used in modern medicine. He is known as father of surgery. Omar Al-Khayyam besides being a poet was a great scientist. Among his several contributions is a remarkably accurate calendar.

Even today numerous shelves of libraries in the West are filled with books written on these famous Muslim scholars. All these scholars were the products of Madrassahs of those days. It is unfortunate that most Madrassahs of

today insist on restricting education to religion alone. Where are we today? While we represent one-fifth of humanity spread over 57 countries across three continents and blessed with rich and bountiful natural resources. We are among the poorest.

Seventeen out of us 57 are amongst the poorest in the world. We are among the most illiterate. Our literacy level is shamefully low, in spite of the fact that Islam enjoins us to acquire knowledge from anywhere. We are among the backward. Our level of socio-economic development is dismal and indeed distressing. We remain stuck in dire predicament, facing formidable challenges on all fronts: political, economic and intellectual. Many Islamic lands remain afflicted with conflict and violence.

Most Islamic societies are struggling to evolve stable institutions for governance. Most of us remain far removed from the expanding frontiers of knowledge, education and science and technology. Our economies remain fragile and mostly dependent on raw material production. Even the rich among us are consumers of the fruits of modernisation and innovation of other advanced nations who are shaping the direction of progress and the future of our world.

Our weaknesses and vulnerabilities, external and internal, are visible. Our differences and divisions are exploited. Our failure to secure just resolution of disputes such as Palestine and Kashmir has spawned desperation, confusion and extremism. Our disappointments and frustrations have induced anger in our youth.

Senseless acts of terrorism committed by a handful of misguided individuals while claiming to act in the name of Islam has maligned our noble faith of peace, tolerance and compassion. Many of us have agonised over this painful situation. We need to look within, we need to search our soul; Do we want to continue in our state of apathy or reshape our destiny. Clearly the choice is between getting permanently marginalised or re-emerging as a progressive society standing proudly in the comity of nations.

The answer is crystal clear: We have to break out from this stagnation of centuries. The options before the Ummah are two: A confrontationist course or a conciliatory course. A confrontationist course can only lead us to further destruction and deprivation. Therefore, it is in our own interest, in the interest of our emancipation for the sake of prosperity and progress of our peoples, and for the well being of our future generations, to adopt a conciliatory approach.

We need to learn, acquire and assimilate knowledge in order to emancipate. From this holy city of peace and tolerance, I appeal to all extremists in our society to see reason, and shun the path of violence, which offers no salvation and will only lead to more pain and more misery.

Your Majesty and Mr Chairman, Putrajaya was a summit of reflection, Makkah must be a summit of decision and action. The Commission of Eminent Persons and Makkah Conference of Scholars and Intellectuals have submitted their recommendations. These indeed are wholesome, all encompassing and futuristic.

I commend the effort of the authors for their clarity and vision. Based on their recommendations, we should launch a strategy for Islamic revival and renaissance. This strategy should encompass actions at the national and Ummah levels. Unless individual Islamic nations are politically and economically strong and stable, they cannot contribute to the Ummah's revival.

At the national level it is essential for each of our governments to pursue several actions. We should vigorously pursue good and accountable governance, designed to serve the best interest of our people. We must promote sound macroeconomic policies, which can accelerate economic growth, poverty alleviation and job creation, through public and private sector investment. We must live up to the Qur'aanic injunction to seek knowledge.

We must promote human development, through increased investment in modern education and acquisition of scientific and technical knowledge. We should promote full respect for human rights as enjoined by Islam, especially the rights of women and children. We must condemn and reject all forces of terrorism and extremism, banning organisations, which preach hate and violence. We must promote the Islamic values of tolerance and moderation.

Your Majesty and Mr Chairman, for the implementation of the strategy at the Ummah level, I first of all propose adoption of the recommendations of the Commission of Eminent Persons and the Makkah Conference of Scholars and Intellectuals in totality. I strongly support the recommendation of the commission to restructure the secretariat, develop a new charter and give it a new name. It is only then that the OIC will emerge with a completely new look and a dynamic face.

In restructuring the secretariat, the secretary-general should be more substantially empowered to promote the implementation of the decisions of summit and foreign ministers' conferences. The secretariat should create departments to deal with peace and security, trade and investment within the Ummah, economic and technical assistance, science and technology, Islamic thought and interfaith dialogue.

For effectively implementing all this, it will need to recruit highest quality personnel from within the Ummah, and compensate them competitively. Within the restructured secretariat we should institute mechanisms for conflict prevention and resolution within member states.

The OIC should also be able to interact with other international and regional organisations to be able to play a proactive role in contributing towards peace and harmony in the world.

A network of centres of excellence in science and technology needs to be established for the member states. We could identify areas of specialisation and pool our expertise in this vital sector. I also suggest establishment of a permanent forum of Islamic thought to provide guidance and opinion.

The forum should be inclusive, bringing together enlightened scholars of mainstream schools of religious tradition and those with grasp of the present day environment. We could then harmonise religious thought within our own societies and also project its true value and essence to the outside world. The



new charter must be unambiguous in allowing full and permanent membership, only to Muslim majority countries.

Your Majesty and Mr Chairman, I am very clear that this grand vision, our dream, will remain unfulfilled unless it is fully backed by our collective will, and adequate financial resources. We must commit to subscribe .01 per cent of our GDP, which will amount to around \$180 million or at least .005 per cent of our GDP, which works out to be \$90 million (based on collective GDP of \$1,850 billion). The poorest amongst us could be waived this subscription. These finances will have to be banked and managed efficiently and in a transparent manner. For this the IDB will have to be linked with the OIC Secretariat. An effective mechanism for this will be required to be created.

Finally, may I suggest that we mandate the Commission of Eminent Persons to draft a new charter for the OIC and suggest a new name for it.

This draft should be placed for adoption at the next summit. Whatever declaration we adopt today, we have a lot of work to do; we have a lot of work to do between now and the next summit in Senegal. The eminent persons, experts and scholars will have to meet a number of times to draft charter and select a new name for the OIC. The foreign ministers will have to meet several times to adopt their recommendations. Only then the recommendation will be fully mature for approval by the summit.

‘Your Majesty, Mr Chairman, brothers and sisters, today, we stand at crossroads of history, the decisions we take today, may forever change the destiny of our nations and immortalise this summit. Together, with resolve, we can make the Makkah Summit into a defining moment in our endeavours for the collective good of the Islamic Ummah. We can revitalise our organisation to become an effective vehicle in the pursuit of this high objective. Let this be our tryst with destiny. The challenge is indeed enormous, but failure is not an option. May Allah Almighty grant us courage and the wisdom to take the right decision. I thank you all.’

Reproduced from *The News International*, 10 December 2005.

## **2. Text of the Makkah Declaration adopted at the OIC Summit.**

We, the Kings, Heads of State and Government, and Emirs of the Member States of the Organization of the Islamic Conference (OIC), meeting in the Third Session of the Extraordinary Islamic Summit Conference, held in Makkah Al-Mukarramah from 5 to 6 Dhul Quidah 1426H (7-8 December 2005), declare:

We praise high the Name of Almighty Allah, Who has blessed us with the grace of gathering together on the soil of this hallowed land, cradle of the revelation of Islam and its message, and Qibla of all Muslims, from which the light of Islam shone forth to guide humanity to the path of prosperity and peace, thus enabling the foundations to be laid of an Islamic civilization that was able to bring a much-needed, timely, and decisive contribution to human civilization.

Whereas the purport of the lofty essence of Islam was to ultimately bring the world out of the darkness of ignorance, oppression, and tyranny and

into the light of truth, justice, developing sciences and knowledge, and peaceful co-existence, we find ourselves today at an age of muddled concepts, misguided values, and pervasive ignorance, as diseases and epidemics gain ever-greater grounds, injustice takes hold, and man's environment grows despoiled by the day. More than ever before, we stand in dire need of a fresh vision to turn the tide and the Ummah, as Almighty Allah has rightfully ordained, into a guiding beacon and source of light that radiates forth science, knowledge, and morality for the benefit of all humanity.

Protecting our Islamic identity, our basic values, and the higher interests of the Ummah can only be achieved through the sincere loyalty of Muslims to true Islam and their commitment to its original principles and values as their cherished way of life. Only then will the Ummah be able to rise to the challenge of playing an instrumental, proactive role in the service of humanity and human civilization.

Therefore, our conscience throbs in deep synchronicity with the hearts and minds of the Ummah as expressed by its scholars and intellectuals — may God bless them on our behalf — in their meeting only weeks before this Summit Conference. Thus are we only too aware of the political, developmental, social, cultural and educational challenges they brought to the fore; only too aware are we of the internal and external threats that have helped to exacerbate the Ummah's current plight, as they not only menace its very future but also that of the whole of humanity and civilization.

These challenges must, therefore, be dealt with through a strategic vision, which needs to plan for the future of the Ummah just as it needs to maintain a responsive pulse to international developments so as to gradually refine itself into a forward-looking vision that enables the Muslim world to tackle the challenges of the Twenty-first Century by leveraging the collective will and Joint Islamic Action.

At this stage, we are consequently called upon to take a pause for a sincere and firm reflection on reforming the Ummah, which is a process that starts with reforming the self by rallying round a common stand based on Almighty Allah's Holy Quran and the Noble Tradition of His Prophet (PBUH). This reform process should then naturally end in a staunch counteraction of any miscreants who would wantonly work evil sedition, who would misguide and mislead, and would distort the loftiest tenets of our Islamic faith enshrined in its intrinsic call for love, peace, harmony, and the civilized way out. How can they speak and act for such perverted ideas entrenched as they are in ignorance, isolationism, hatred, and blood-letting?

Nevertheless, our Muslim Ummah is called upon to meet today for the highest good and right in affirmation of Almighty Allah's words enjoining us to: 'Hold fast to Allah's rope [in unity] and not to be divided'. And that unity requires our scholars and experts of jurisprudence to unify their stand on exposing the corruption of these miscreants and the falsehood of their claims in a determined show of strength and undivided condemnation.

While we affirm, in this regard, that terrorism in all its forms and manifestations is a global phenomenon that is not confined to any particular

religion, race, color, or country, and that can in no way be justified or rationalized, we are determined — with Almighty Allah's help and grace — to develop our national laws and legislations to criminalize every single terrorist practice and every single practice leading to the financing or instigation of terrorism. Similarly, we are also called upon to redouble and orchestrate international efforts to combat terrorism, including the establishment of an International Counter-Terrorism Center as endorsed by the Riyadh International Conference on Combating Terrorism.

Even so, all the governments and peoples of the Ummah are unanimous in their conviction that reform and development are the priority to which all efforts should be channeled within a framework that is intimately molded in our Islamic social make-up. At the same time this framework needs to remain in harmony with the achievements of human civilization and steeped in the principles of consultation, justice, and equality in its drive to achieve good governance, widen political participation, establish the rule of law, protect human rights, apply social justice, transparency, and accountability, fight corruption, and build civil society institutions.

Indeed, the Islamic civilization is an integral part of human civilization, based on the ideals of dialogue, moderation, justice, righteousness, and tolerance as noble human values that counteract bigotry, isolationism, tyranny, and exclusion. It is therefore of paramount importance to celebrate and consecrate these magnanimous values in our Muslim discourse inside and outside our societies.

As we reaffirm our unwavering rejection of terrorism, and all forms of extremism and violence, we strongly voice our feelings of stigmatization and concern over the growing phenomenon of Islamophobia around the world as a form of racism and discrimination and declare our resolve to work hard to combat this phenomenon with all available means.

Given the deep import of economic and social cooperation in strengthening solidarity among Islamic States, maximizing the advantages and averting the pitfalls of globalization, we consider the eradication of illiteracy, diseases and epidemics, and the fight to alleviate poverty in Islamic States as urgent, strategic objectives requiring us to drum up all necessary resources.

If we are to succeed in achieving our desired objectives, then of necessity we must show commitment and credibility in our Joint Islamic Action. Therefore, proceeding from a new vision of the Muslim world that tackles head on international challenges, as well as political, economic, social, and cultural variables in a manner that safeguards the values and interests of the Ummah, we adopt and endorse the Ten-Year Programme of Action to face the challenges of the Muslim Ummah in the Twenty-first Century.

To Almighty Allah we pray that He may guide us onto the right path, crown our endeavors with success, and bless our lives with abundant prosperity.

‘Allah has promised those who believe among you and who have done good deeds that He will surely empower them in the earth just as He did with their predecessors and that He will surely establish for them (therein) their religion which He has preferred for them and that He will surely substitute for

them, after their fear, security (for) they worship Me, not associating anything with Me. But whoever disbelieves after that-then those indeed are the evil doers.' (Al-Nour 53, True are the Words of Allah).

8 December 2005. Reproduced from *Dawn*, 9 December 2005.

## ***II. Water Problem***

### **Edited text of the 'Conclusions and Recommendations' of the technical committee's report headed by A.N.G. Abbasi**

On different occasions, Wapda has presented different figures about the availability of water in the country, which has created great confusion. If we take Wapda figures based on downstream approach, it becomes clear that the average water availability in the country is negative to the tune of 0.25 million acre feet (MAF). Sometimes, surplus water is also available but only in case of floods in western rivers.

Wapda has shown an average water flow of 35 MAF in the downstream in 28 years of post-Tarbela (1976-2003) period. A review of Wapda record suggest that in seven out of 28 years, 50 per cent or more of 35 MAF water went downstream Kotri and five per cent or less in another seven years.

Hence, it can be said in the light of post-Tarbela water flows that surplus water is available for storage for 10 out of 28 years. If a dam of six MAF of storage capacity is constructed, then only 22 per cent of the surplus available water can be stored.

Another dam of same capacity could additionally store another 18.9 per cent of available surplus water. This means that two new dams could together store 41 per cent of water in surplus years and remaining 59 per cent water would go downstream.

By comparison with these two dams (Kalabagh and Bhasha), if a carryover dam of 35 MAF (Skardu-Katzarah) storage capacity is constructed, about 84 per cent of water in surplus years could be stored.

If a dam is built with a capacity of six MAF, it can be filled for 10 years in 28 years and if another dam of same capacity is built, it can be filled for seven years and partially filled for three years. A carryover dam of 35 MAF of capacity would be completely filled for three out of 28 years and partially filled for seven years.

**Water shortage:** In Rabi season, 23 MAF of water is available, of which 15 MAF could be stored in Mangla and Tarbela dams. The construction of these two dams has increased the overall water availability by 65 per cent in Rabi season.

Wapda's post-Tarbela study reveals that surplus water is available in the canal system during Rabi and shortage is experienced for only a few years. On the other hand, shortage is more common during Kharif and hence there is no surplus water to build new dams.

**Flood canals:** Flood canals, like Katchi, Raineer and the Greater Thal canal being built under Wapda's Vision 2025 programme, should be given least priority and maximum preference should be given to 36 million acres of the existing irrigated land. For this, 117.35 MAF water share of provinces as determined in the 1991 Accord should be protected and at least 10 MAF of water below Kotri should be guaranteed.

**Link canals:** Link canals like Chashma-Jhelum and Taunsa-Punjab are not permanent canals and replacement works does not in any case mean that these are privileged canals. These link canals could only be operated when there is surplus water in the system and with express consent of Sindh and these should not be a permanent burden on river Indus.

If this proposition continues then the plans for construction of new reservoirs would be jeopardized, as it would increase reservations among the people.

This should also be declared 'once and for all' that Chashma-Jhelum and Taunsa-Punjab are inter-provincial canals and do not belong to Punjab only. Hence, Irsa should not release water to these two canals on the indent of Punjab along and instead these should be operated on all-Pakistan basis under 1991 water accord in an equitable manner.

**Guidelines for link canals:** Water from Indus River should not be diverted through link canals unless all the provinces are given their share approved on 10-daily basis by the council of common interest under the 1991 accord.

In normal circumstances, water should not be released through Chashma-Jhelum and Taunsa-Punjab canals in Kharif season because there is enough water available in the Jhelum-Chenab Zone during Kharif. If at all there is a need, water should be released in these canals through provincial consensus under 10-dailies approved in the water accord and no more. The CJ and TP should not be operated when Mangla dam is being filled.

**Guidelines on dams:** The storage in future dams should start only after meeting requirement of all the existing barrages on 10-daily basis approved under the 1991 accord and after ensuring separate 10-MAF of water for Kotri Downstream.

Second, the storage in new dams should start after filling the Tarbela dam. In extraordinary situations, when there is surplus water then new dams could also be filled simultaneously.

Third, it should be incorporated in the operation of dams that continuous flushing is taking place simultaneously to ensure that there is no accumulation of silt in dams.

**Guiding principles for water uses from dams:** First, water from new dams would be utilised to meet only shortages based on 10-daily uses approved by the CCI under the 1991 Water Accord.

Second, the distribution of water from new dams among the provinces should be made under Para-4 of the 1991 Accord that guarantees 37 per cent share each to Sindh and Punjab, 14 per cent for the NWFP and 12 per cent for Balochistan.

Third, new dams would not be filled to the capacity and the filling would be made based on expected annual availability. This means that new dams would not necessarily be filled every year even if these were not filled for 10 years. This principle would also be applicable in case of Tarbela and Mangla dams' filling.

Four, about 3.2 MAF of storage capacity has been lost in the existing reservoirs due to accumulation of silt, which would be recovered by the completion of raising of Mangla Dam project. If life of the dams is to be enhanced, then the problem of silt would have to be removed which could be done only through installation of sluicing devices. The report said the Wapda has put under the carpet a detailed study under Tam's Report of 1998 on sluicing devices.

**Large dams:** The Wapda has taken no step as required under the year 2000 report of the World Commission on Dams, which had been prepared in the light of experiences of large dams constructed throughout the world. This report should be taken into account before taking any decision on construction of large dams in the country.

**Recommendations on new dams:** Katzarah-Skardu is the only feasible dam for carryover purposes. Its pre-feasibility study has been completed while feasibility study could be completed in three to four years. 'This is the best dam for the country' because dams are constructed on four principles, the report said.

These include: a dam should have maximum storage capacity, it could give maximum benefits, it has bare minimum cost and maximum power generation capacity and it should not have a problem of silt. Only Katzarah-Skardu meets these criteria.

The feasibility study of Kalabagh dam was conducted in 1984 and 1988. It has neither been updated since then nor its cost been reviewed. All assumptions used in these studies are pre-water accord period and post- accord figures have so far not been considered. Hence, its feasibility study should be conducted afresh. In the given circumstances, Bhasha dam with a higher potential is much better than Kalabagh dam.

There are a number of reservations on Kalabagh dam, particularly over its right bank canal, left bank canal and flooding of Nowshera. All these issues should be settled to remove reservations and fears.

It may also be pointed out that if Kalabagh and Bhasha dams, if constructed, would not be filled every year and instead would remain empty for years. Besides, these dams would not be able to provide more than two MAF for many years. Hence, large expenditures on new dams should be made after taking into account all these factors.

Furthermore, another thing should also be kept in mind that whenever a new dam is built, preference should be given to the rights of the lower riparians than filling of dams and in case of any shortage, it should be met under the 1991 accord.

The sanctity of the 1991 Water apportionment accord should be ensured and guaranteed and the provinces should be given water share on the

basis of 10-daily uses approved by the CCI under para 14(a) and 14(b) of the accord.

The ministerial decision of 1994 has no legal ground and hence should be undone and directives issued by President General Musharraf on October 23 in this regard should be implemented.

If a province is not sharing water shortage, it has no right to be a member of the Irsa. Punjab is drawing higher water share under historic annual average uses of 1977-82, while NWFP and Balochistan does not share shortages. This means that only Sindh suffers in case of shortage, which is totally unjustified. Hence, the water accord should be implemented in letter and spirit and decisions of the CCI should be honoured, the report concluded.

22 December 2005. Reproduced from *Dawn*, Karachi, 23 December 2005.

### ***III. Human Rights***

#### **Pakistan:**

#### **Recommendations for an effective National Human Rights Commission**

Amnesty International welcomes the initiative of the Government of Pakistan to establish a National Human Rights Commission (NHRC) for the protection and promotion of human rights in Pakistan.

The Government of Pakistan submitted 'a bill to provide for the setting up of the National Commission on Human Rights' to the National Assembly during its last session. The National Assembly in May 2005 referred the bill to the Standing Committee for Law, Justice and Human Rights for discussion. The National Assembly will consider the bill upon receipt of any comments and recommendations made by the Standing Committee.

Human rights institutions can play an important role in this regard by independently and effectively monitoring the human rights situation in the country, analyzing and proposing changes in laws and policies, conducting a continuous dialogue with both the authorities and the public on human rights issues, investigating human rights issues and individuals' complaints about human rights violations and making appropriate recommendations in light of relevant national legislation and international human rights law and standards.

NHRCs set up by the state as quasi-governmental bodies occupy a unique place between the judicial, the executive and the legislative branches of the state. They monitor the human rights performance of the state and act as a check on the state's performance in protecting human rights. They are thus institutions within the state structure and yet, where they function properly, are independent and, where necessary, critical. NHRCs can constitute an effective complement to the judiciary and other institutions of the state in promoting and protecting human rights standards. They cannot be an alternative, however, to an independent judiciary ensuring legal redress or to determined government policy and practice to respect human rights, prevent violations and hold the perpetrators of human rights violations to account.

The bill presented by the government of Pakistan lays down the composition of the NHRC, defines its functions, powers, procedures and funding and provides for the setting up of human rights courts. The NHRC's proposed functions include investigating complaints of human rights violations, intervening in court proceedings, visiting prisons, reviewing relevant national legal and constitutional provisions, making recommendations relating to ratification of international human rights treaties, conducting human rights education, supporting national human rights non-governmental organisations, contributing to government reports to international bodies and responding to representations from national and international bodies on human rights issues in Pakistan.

For NHRCs to play an effective role, it is important to ensure that the founding statute defines its composition, functions, powers and procedures as comprehensively and clearly as possible, keeping in mind the particular national context in which it is to function. Its composition must be appropriate to its task, ensure its independence and inspire confidence in victims and their families to approach it in the anticipation of help in obtaining relief and redress.

There are several guidelines for the setting up of NHRCs. Key amongst them are the 'Principles relating to the status of national institutions' adopted by the United Nations (UN) Commission on Human Rights and later by the UN General Assembly, known as the Paris Principles.<sup>(1)</sup> Amnesty International has drawn up its own recommendations for the effective protection and promotion of human rights by national human rights institutions on the basis of observations of the work of human rights institutions and their impact around the world.<sup>(2)</sup> Both the Paris Principles and Amnesty International's recommendations are attached to this paper.

Amnesty International believes that the bill for the setting up a NHRC in Pakistan contains many worthwhile provisions. However, some other provisions appear to be flawed when viewed in the light of the Paris Principles and Amnesty International's recommendations for the setting up of effective human rights institutions.

In this document, Amnesty International lists its main concerns, and recommends that the bill be amended in the following ways.

### **1. Scope of human rights issues to be addressed by the NHRC**

The scope of human rights within the NHRC's jurisdiction as defined in the bill is too restricted. Section 2(d), defines 'human rights' to mean 'the rights relating to life, liberty, equality and dignity of individuals guaranteed by the Constitution of Pakistan or embodied in the International Instruments on Human Rights which the Government of Pakistan has ratified and are enforceable by the courts in Pakistan'.

While the rights listed are core civil and political rights, and a wide interpretation of the concept of 'dignity' may encompass all human rights provided for in international treaties and other instruments, Amnesty International is concerned that narrower interpretations are also possible. For instance, the definitions may be interpreted as excluding the entire range of



economic, social and cultural rights, including the rights to health, education and food, which are provided in the International Covenant on Economic, Social and Cultural Rights.

Because Pakistan has ratified only a few international human rights treaties, the reference to human rights treaties ratified by Pakistan unduly limits the range of human rights to be promoted and protected. To date Pakistan has not ratified important treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Social, Economic and Cultural Rights, the UN Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment, amongst others.

The reference to ‘international instruments of human rights which the Government of Pakistan has ratified and are enforceable by the courts in Pakistan’ conceals the lengthy process by which the rights provided for in international treaties are incorporated in Pakistan law after ratification and made operative. Human rights treaties ratified by Pakistan are not self-executing, they require an act of parliament to be brought into domestic law and then need to be notified in the official gazette in each of the areas where they are to come into effect. Further, rules of procedure need to be notified before a law becomes operational and enforceable by courts.

Importantly, the definition does not take into account that the jurisdiction of the courts of Pakistan does not extend to the designated tribal areas where human rights remain unenforceable.

Principle 2 of the Paris Principles provides: ‘A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence’. Amnesty International urges that the range of human rights which the NHRC is to protect and promote be defined clearly and in the broadest possible terms as set out in international human rights law and standards.

Amnesty International urges that Section 2(d) be reformulated to include in the scope of human rights to be protected and promoted by the NHRC all human rights provided in the International Bill of Rights<sup>(3)</sup> and other key human rights treaties and standards and that the jurisdiction of the NHRC clearly extend to all parts of Pakistan without distinction.

## **2. Composition, method of appointment and funding of the NHRC**

Amnesty International is concerned that the composition of the NHRC (section 3 of the bill) and its administrative support staff (section 10), the method of appointment of its chairperson and members (Section 4) and the funding of the NHRC (sections 20-21) as provided in the bill do not adequately ensure the independence, impartiality and competence of the NHRC.

### **a. Composition**

Amnesty International believes that the NHRC has to be manifestly and substantively independent of both the executive and the legislature if it is to be effective. It requires experienced, trained, skilled and dedicated staff and members as well as competent, independent and effective leadership. The

chairperson and members of the NHRC should represent all sections of society, including women, ethnic and religious minorities and people with disabilities, who may be underrepresented in other official bodies and who may have particular problems having their concerns heard and attended to. The chairperson and members of the NHRC should have, and should be known to have, knowledge and experience in human rights issues to ensure that victims of human rights violations turn to them with confidence.

Amnesty International also believes that the composition of the NHRC as provided for in the bill in sections 3(2)(ii) and 3(2)(iii) does not ensure sufficient representation of all sections of society and does not sufficiently emphasize the human rights credentials of the members of the NHRC.

Amnesty International recommends that in sections 3(2)(ii) and 3(2)(iii) which enumerate the members from various groups to be appointed to the NHRC, a phrase be added to ensure that all nominees have proven experience of and commitment to human rights and that all sections of society are adequately represented in the Commission.

Section 10 of the bill provides that staff who are to assist the NHRC in the discharge of its functions are drawn from amongst officers of the federal government. Amnesty International believes that the NHRC must be, and must be seen to be, independent in its functioning from the government. Its staff, like its members, should be independent and known for their knowledge of and commitment to human rights.

Amnesty International recommends that section 10 of the bill be amended to remove the requirement that staff must be former government employees, and ensure that the Commission appoints its staff from amongst persons with known commitment to human rights, and adequately representing all sectors of society.

#### **b. Appointment**

Section 4(1) of the bill vests the power to select, appoint and dismiss the chairperson and members of the NHRC exclusively with the President and makes it optional for the President to seek nominations and recommendations. Nominations and recommendations are to be sought from the federal government alone.

Amnesty International believes that for the selection to be fair and transparent and to ensure the appointment of persons of competence, impartiality and independence who command respect and confidence, civil society, including human rights defenders representing the interests of vulnerable sections of society, opposition politicians, trade unionists, social workers, journalists, should be involved as far as possible in nominating possible candidates and selecting from amongst them those most suitable to head and work as members of the Commission. This could be done by means of a specially constituted advisory committee whose function it would be to invite nominations and vet candidates or by the federal government directly inviting nominations from civil society organizations or persons working in the field on human rights.

The Paris Principles in Article 1 under section 'Composition and Guarantees of Independence and Pluralism' provides

*'The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of: (a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists; (b) Trends in philosophical or religious thought; (c) Universities and qualified experts; (d) Parliament; (e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).'*

Amnesty International recommends that selection and appointment of the chairperson and the members of the NHRC should be as open, transparent and inclusive a process as possible with ample scope for non-governmental human rights organizations to participate in the process.

Section 4 of the bill should be amended to provide that the chairperson and the members are appointed after thorough consultation with representatives of different sectors of society including human rights NGOs and other members of civil society, academic experts, and parliamentarians as provided in the Paris Principles.

The Committee may also consider including a provision in the bill in or before section 4 to set up an advisory body consisting of representatives of civil society whose function it is to vet and nominate members of the NHRC or for the federal government to directly invite nominations from civil society organisations working in the field of human rights.

### **c. Funding**

Amnesty International is concerned that the provisions in the bill for 'Finance, Accounts and Audit' (sections 20-21) may not secure sufficient funding for the NHRC and provide for too much control by the government of the NHRC's funding. In addition to establishing, and in effect running, the fund into which parliamentary allocations and all other contributions should be paid (section 20(1)), the government may also approve the 'financial institution' into which donations may be paid (section 20(2)) and appoint the officers who would do the administrative work (section 20(4)).

According to the Paris Principles, an NHRC should be funded so as 'to enable it to have its own staff and premises, in order to be independent of government and not be subject to financial control which might affect its independence'.

Amnesty International recommends that a provision be added to the bill to the effect that Parliament will make annual allocations to the NHRC which are adequate to allow it to carry out its mandated function properly, that the NHRC fully control and administer its funds and that accounting and auditing be performed by independent bodies. All subsections which vest such financial control functions in the hands of government officers should be deleted.

### **3. Functions and powers of the NHRC**

The functions and powers of the NHRC identified in the Bill are wide and varied. However, some important powers and functions have not been included.

#### **a. Power to research and report on any human rights issue**

While the bill in section 11(1)(a) authorizes the NHRC to undertake inquiries into complaints of human rights violations either on its own initiative or on receipt of a petition by a victim or any other person, it does not explicitly authorize it to undertake research on any human rights issue and to produce a report on its findings.

Article 3(a)(iii) of the Paris Principles lists amongst the responsibilities of the NHRC ‘the preparation of reports on the national situation with regard to human rights in general, and on more specific matters’.

Amnesty International recommends that a clause be added to section 11(1) to authorize the NHRC to undertake research on any human rights issue and to produce a report on its findings.

#### **b. Power to require production of information**

Amnesty International welcomes the fact that the powers of the NHRC to inquire into and investigate complaints of human rights violations are not limited in terms of when or where they occurred and who the perpetrators are. However, while the NHRC may under section 17 of the bill call for information from the government it does not provide for any sanction if such information is not forthcoming.

Amnesty International recommends that a clause be added to section 17 of the bill providing that suitable steps are to be taken against any government official or institution who refuses to respond appropriately to NHRC inquiries or requests to provide reports or information.

#### **c. Power to undertake jail visits**

Amnesty International believes that the provisions in section 11(c) of the bill relating to prison visits by the NHRC are too narrow to allow it to objectively ascertain the conditions of detention of all detainees in Pakistan.

The modalities of prison visits by ‘national preventive mechanisms’ (NPMs), have recently been elaborated in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Protocol).<sup>(4)</sup> In addition to requirements of independence, funding, expertise and representation (Article 18 of the Protocol), the Protocol lays down, among other things, the following modalities:

- NPMs should have unhindered access to all places where persons deprived of their liberty are held (Article 20(3)) and to all relevant information (Articles 20(1) and 20(2))
- In addition to jails, detainees in Pakistan are also held in police stations, military detention and often in undeclared places of detention where detainees are held under security legislation or on suspicion of 'anti-terrorist' activities. In addition, persons are deprived of their liberty in psychiatric institutions and other locations, all of which, without exception, should be within the Commission's remit.
- NPMs should be able to interview detainees without witnesses (Article 20(4))
- The bill fails to mention this essential requirement for obtaining testimonies of detainees about their treatment in custody.
- NPMs should have the liberty to select places they wish to visit and persons they wish to interview (Article 20(5))

The bill, by stipulating that state authorities are to be informed in advance of the NHRC's intention to visit a place of detention makes it possible for prison authorities to conceal conditions of detention or even detainees. Amnesty International believes that the NHRC should be able to make unannounced visits to provide the commission with a true picture of conditions of detention.

Amnesty International recommends that section 11(c) be amended to grant the NHRC authority to function as a national preventive mechanism as provided in Part IV of the Optional Protocol to the UN Convention against Torture. This includes being assured unhindered access to all places of detention and to all relevant information, authorized to interview detainees without witnesses and authorized to make unannounced visits to any place of detention.

#### **d. Power to review of laws and legal safeguards**

A review of existing laws as to their effectiveness in protecting human rights is provided for in sections 11(1)(d) and 11(1)(e) of the bill is an important function of national human rights institutions. Amnesty International believes that all relevant new legislative proposals should also be placed before the NHRC for it to examine their compliance with national and international human rights law and standards.

Amnesty International recommends that a phrase be inserted in section 11(1)(e) providing that the NCRC will also review new bills before parliament as to their compliance with national and international human rights law and standards.

#### **e. Contributing to reports to UN bodies and defending Pakistan in international fora**

Under section 11 (1)(m) the NHRC is required to pursue or defend matters relating to human rights in Pakistan in national and international fora. Amnesty International believes that this function is incompatible with the independence

and impartiality which are core requirements of an effective NHRC. The intention to use the NHRC to defend the country's human rights record is also evident in the Statement of Objectives and Reasons attached to the bill which describes the NHRC as 'a driving force for negating the propaganda of human rights violations in Pakistan'

In pursuance of the NHRC's function to monitor the government's fulfilment of its international treaty obligations, the NHRC should submit reports to the UN treaty monitoring bodies on its own behalf, not on behalf of the government or as part of the state's submissions. In international fora the NHRC should participate as an independent human rights institution, not a representative of the government.

Amnesty International recommends that section 11(1)(k) be amended to provide that the Commission report independently to international human rights bodies including treaty monitoring bodies on the human rights situation in Pakistan, including Pakistan's fulfilment of its human rights treaty obligations. Amnesty International recommends that section 11(1)(m) be deleted.

#### **f. Reporting of activities and recommendations**

The bill does not clearly provide the NHRC with the authority to publicise its own reports and other findings. The provision under section 19 of the bill requiring the NHRC to submit its annual and other reports to the Federal Government which has to present these to Parliament within 90 days, is not sufficient to ensure the transparency of the NHRC's workings and the government's responses to its recommendations, if their publication is dependant on either the Federal Government's or Parliament's discretion.

Amnesty International believes that NHRC reports, including annual reports and reports of findings of inquiries, should be promptly made accessible to the public, both to render its working transparent and to inform the public of the issues it has taken up, the recommendations it has made and the initiatives that the state had taken on that basis. Only by being seen to be undertaking effective human rights work, will the NHRC gain the public trust which will persuade victims of human rights to turn to it for relief.

Article 3(a) of the Paris Principles in the section on 'Competence and Responsibilities' provides that a national human rights institution shall 'submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its powers to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matter concerning the promotion and protection of human rights; the national institution may decide to publicize them'. Article (c) in the section on 'Methods of Operation' provides that 'the national institution shall ... address public opinion directly or through a press organ, particularly in order to publicize its opinions and recommendations'.

Amnesty International recommends that a provision be added to section 19, to the effect that NHRC reports and other findings, including the annual reports and reports of findings of inquiries, of the Commission are to be made public, at the Commission's discretion, and be circulated widely.

#### **4. Other provisions lacking in the draft bill**

Amnesty International suggests that the following issues be considered for inclusion in the bill.

##### **a. Defining the relationship of the NHRC with other state institutions**

The relationship of the NHRC to other state institutions whose mandates include human rights promotion and protection is not clarified. These institutions include the National Commission on the Status of Women, the National Commission on Minorities, the Standing Committees on Human Rights of the General Assembly and the Senate and the Federal and Provincial Ombudsmen. The relationship between the various institutions needs to be defined in the bill so that the NHRC and these other institutions can develop such relationships, clarify respective mandates, avoid duplication and make co-operation fruitful.

Amnesty International recommends that the draft bill define the relationship of the NHRC with other national bodies having a human rights mandate so as to enable efficient coordination and collaboration among them.

##### **b. Defining the relationship of the NHRC with civil society**

The relationship of the NHRC to civil society is described in section 11(1)(j). The NHRC's function is defined somewhat restrictively, to 'encourage and facilitate the efforts of non-governmental organizations and institutions working in the field of human rights'. Amnesty International believes that this relationship should be more comprehensive and include exchanges of views, insights and information and whenever appropriate joint initiatives to end specific human rights violations.

The Paris Principles in Article (g) in the section on 'Methods of Operation' provides that the 'national institution shall ... in view of the fundamental importance played by non-governmental organizations in expanding the work of national institutions, develop relations with non-governmental organizations devoted to promoting and protecting human rights, economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas'.

Amnesty International recommends that the bill define the relationship which the NHRC should develop with civil society organizations in wider terms, to enable the full range of cooperation necessary for their mutual benefit.

##### **c. Location of the NHRC**

To be accessible to all victims or complainants, Commission offices must be easily accessible to the public and placed in appropriate locations, not too near to police stations or military installations, where complainants or victims must fear being noticed, monitored or even stopped. Within offices, there should be facilities such as private meeting rooms where complainants can discuss their concerns with Commission staff in confidence.

Amnesty International recommends that the draft bill specify that NHRC offices be suitably located and equipped to facilitate victims and complainants contacting them in confidence.

**Appendix:**

1. The Paris Principles
2. Human Rights Institutions: Amnesty International's recommendations for effective protection and promotion of human rights
3. Draft Bill of the Government of Pakistan for the setting up of a National Human Rights Commission

**The Paris Principles**

(Principles relating to the status of national institutions) Commission on Human Rights resolution 1992/54 of 3 March 1992, annex. 1 (Official Records of the Economic and Social Council, 1992 Supplement No.2 (E/1992/22). chap.11. sect. A); General Assembly resolution 48/134 of 20 December 1993, annex.

**Competence and Responsibilities**

1. A national institution shall be vested with competence to promote and protect human rights.
2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.
3. A national institution shall, inter alia, have the following responsibilities:
  - a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:
    - (i) Any legislative or administrative provisions, as well provisions relating to judicial organization, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures.
    - (ii) Any situation of violation of human rights which it decides to take up;
    - (iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;



- (iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;
- b) To promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;
- c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;
- d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations, and, where necessary, to express an opinion on the subject, with due respect for their independence;
- e) To co-operate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights;
- f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;
- g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness; especially through information and education and by making use of all press organs.

#### **Composition and Guarantees of Independence and Pluralism**

1. The composition of the national institution and the appointment of its members; whether by means of an election or otherwise shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights, particularly by powers which will enable effective co-operation to be established with, or through the presence of, representatives of:
  - (a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;
  - (b) Trends in philosophical or religious thoughts;
  - (c) Universities and qualified experts;
  - (d) Parliament;
  - (e) Government departments (if they are included, these representatives should participate in the deliberations only in advisory capacity).
2. The national institution shall have an infrastructure with is suited to the smooth conduct of its activities, in particular adequate funding. The purpose

of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

3. In order to ensure a stable mandate for the members of the institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

### **Methods of Operation**

Within the framework of its operation, the national institution shall:

- (a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner;
- (b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;
- (c) Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations;
- (d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly convened;
- (e) Establish working groups from among its members as necessary, and set up local regional sections to assist it in discharging its functions;
- (f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular, ombudsmen, mediators and similar institutions);
- (g) In view of the fundamental role played by non-governmental organizations in expanding the work of national institutions, develop relations with non-governmental organizations devoted to promoting and protecting human rights, economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

### **Additional Principles Concerning the Status of Commissions with Quasi-jurisdictional Competence**

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organization. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commission, the functions entrusted to them may be based on the following principles:

- (a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or where necessary, on the basis of confidentiality;

- (b) Informing the party who filled the petition of his rights, in particular the remedies available to him, and promoting his access to them;
- (c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;
- (d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

**Ai Index: IOR 40/007/2001, 1 October 2001**  
**National Human Rights Institutions**

**Amnesty International's recommendations for effective protection and  
 promotion of human rights**

**Introduction: Standards are a Pre-Requisite for Effective Action**

National human rights institutions (NHRIs) include institutions such as ombudspersons for the defence of human rights, and the institutions in Latin America known as '*defensorias del pueblo*' and '*procuradorias de derechos humanos*'. Such NHRIs can be distinguished from non-governmental human rights organizations by their very establishment as a quasi-governmental agency occupying a unique place between the judicial and executive functions of the state, and where these exist, the elected representatives of the people. The aim of their establishment should be to promote and protect human rights, through effective investigation of broad human rights concerns and individuals' complaints about human rights violations they have suffered, and through making recommendations accordingly.

Amnesty International has developed the following recommendations, based on the organization's observations of the work of NHRIs and their impact throughout the world. This document includes examples of good and bad practice. Amnesty International believes that these recommendations are essential elements to ensure the independent and effective establishment and functioning of national human rights institutions. They should be considered alongside other guidelines such as the 'Principles relating to the status of national institutions' (adopted in the UN Commission on Human Rights Resolution 1992/54, known as 'the Paris Principles') as a tool both to assess the effectiveness of existing national human rights institutions, and to ensure that new NHRIs are set up with the requisite ingredients for effective and independent functioning.

The recommendations set out in this document are Amnesty International's assessment of a foundation for effective work to promote and protect human rights. However, implementation of these recommendations on a formal level should not be seen as an end in itself - NHRIs should be judged on their results in effecting improvement in the human rights situation in their country, and in providing investigations and remedies in individual cases. The results of their investigations should be open to scrutiny by civil society,

including human rights defenders. They should work to combat impunity for all those who order, carry out, and cover up human rights violations. NHRIs should be judged on how they implement these goals, not solely on their legal or institutional framework. Amnesty International has received reports of many examples of good practices and good results in these aims, but also many shortcomings, and these recommendations are meant to encourage best practices in all NHRIs. It is Amnesty International's experience that those NHRIs which have been set up according to the principles in these recommendations and are functioning well and enjoy a level of credibility and trust which facilitates their relationship with the executive, the judiciary and most importantly, the victims of human rights violations, and makes their work even more effective.

Some of the recommendations concern the establishment of NHRIs and as such are aimed at governments, but others concern the operation of NHRIs, and are therefore aimed at governments, so that they can do all that is necessary to facilitate the efficient running of NHRIs, but also the NHRIs themselves. They may also be useful to those in civil society who are monitoring their performance.

The position of NHRIs as institutions within the state structure and yet independent - and where necessary, critical - is relatively new development in the protection of human rights. It is important to clarify their true role: NHRIs should never be seen as a replacement or alternative to an independent, impartial, properly resourced, accessible judiciary, whose rulings are enforced. NHRIs can however constitute an effective complement to the judiciary and other institutions within the state in promoting and protecting human rights standards. There can be no alternative to a determined government policy to holding the perpetrators of human rights violations accountable.

### **Amnesty International's Recommendations on Effective Protection and Promotion of Human Rights**

#### **1. Establishment of NHRIs to ensure independence and effective action**

The following recommendations on the establishment are to ensure that action can be taken by the NHRI in full independence and to ensure its ability to take effective action to address violations. Formal independence without effective action is not sufficient.

##### **1.1 Founding legislation**

NHRIs must be independent from the executive functions of government and its founding charter should reflect this. It is essential therefore that NHRIs should be established by law or, preferably, by constitutional amendment. Where NHRIs are established merely by presidential or other kinds of decree, it is easier to abolish them, or to limit powers which are necessary to their effective functioning.

### 1.2 Consultation with civil society

The consultation process on and about the establishment of NHRIs should include representatives of civil society, such as human rights organizations, human rights defenders, lawyers, journalists, academics, the medical profession, social workers, trade unionists, and non-governmental organizations generally. Members of sectors of the population such as women, children and those representing their interests, religious, ethnic and racial groups, and other groups which are vulnerable to human rights violations (and which may be under-represented amongst civil society bodies) should also be consulted about the kind of assistance they require to promote and protect their human rights. The consultation process should be transparent, adequate, effective and properly resourced to ensure proper consultation.

### 1.3 Effective jurisdiction in federal states

Amnesty International has frequently noted that NHRIs have difficulties in ensuring that they can address violations throughout the territory of federal states. In some federal countries, NHRIs have been established with mandates that only permit them to consider cases where federal personnel commit human rights violations, or where human rights violations take place during the enforcement of federal law.

Amnesty International recommends therefore that any legislation in federal systems setting up an NHRI is made explicitly applicable to all parts of the federal system so that there are no *de facto* gaps in jurisdiction. Any NHRI, whether in a federal state or otherwise, should be able to examine all human rights violations, as defined by international human rights law, throughout the country's territory and regardless of the identity of the perpetrator.

All citizens with complaints of human rights violations should be able to bring them to an NHRI.

### 1.4 Cooperation with other institutions

The founding legislation of an NHRI should include provisions whereby the NHRI is empowered, on its own initiative, to submit reports to, and where appropriate, to address in person, legislative bodies, the executive, or other political institutions.

The NHRI should be directed to establish effective cooperation with other human rights institutions, whether domestic or from other countries, non-governmental organizations, including human rights organizations, and UN human rights bodies. In some cases, it may be useful to develop memoranda of understanding between NHRIs and other institutions to facilitate such relationships. NHRIs should use such contacts to exchange first-hand information about reports of human rights violations and also to share expertise and experience of best practices.

The NHRI should consider using the NGO sector's wider social outreach mechanics, which in many cases is larger than that of the NHRI itself, to publicise its activities and to facilitate receiving complaints from sections of society who are either geographically, politically or socially remote. In all its

contacts with NGOs and other organs of civil society an NHRI must take steps to protect its independence and impartiality.

### **1.5 Referrals**

Where complainants raise problems which are outside the mandate of the NHRI, referrals may be appropriate to other organizations. This may be appropriate to help with, for example, medical, housing or social problems or consumer difficulties, particularly where complainants coming to the NHRI for help are having difficulties in obtaining assistance. In one case reported to Amnesty International, the NHRI gives the complainant a short letter on NHRI letterhead to bring to the referral agency outlining the problem and suggesting an appropriate response, which frequently leads to a quicker solution for the complainant and is a much appreciated service.

### **1.6 Assess priorities, measure goals, follow up**

NHRIs frequently have a broad remit and scarce resources. It is therefore important to assess priorities through consultation with those affected, and work on priorities strategically, ensuring that those goals are met before ending work on the issue.

Violations of the right to life and the right to physical and mental integrity frequently involve crimes under international law, such as extrajudicial and other unlawful killings, torture, 'disappearance', war crimes and crimes against humanity. In many countries NHRIs will need to prioritize work on such violations in order to be effective and credible in their work to protect and promote human rights.

NHRIs should also be empowered to take action on violations of other rights particularly social, cultural and economic rights.

NHRIs should assess priorities and needs through consultation with victims of human rights violations, and the availability of redress through other institutions within the country.

## **2. Membership**

NHRIs require experienced, trained and skilled staff, and particularly strong, independent and effective leadership. NHRIs workers include those who lead the NHRI and take main responsibility for the work. In many cases they are appointed by the legislative or executive parts of government. Amnesty International refers to them in this document as 'members.' NHRI workers also include the staff who assist them, either through administrative or substantive investigative and legal work.

### **2.1 Qualities of members of the NHRI**

Members should be selected on the basis of proven expertise, knowledge and experience in the promotion and protection of human rights. They should have practical expertise and abilities.

## **2.2 Leadership**

It is Amnesty International's experience that the leadership of NHRIs is particularly important, indeed vital, for the effective functioning of NHRIs, as frequently the actions of the senior leadership of the organization sets the tone for the activities of the institution as a whole. It is of primary importance that the highest calibre candidates, with proven expertise of practical human rights work, be appointed.

## **2.3 Selection procedures and consultation**

The independent procedures of selection, appointment, removal and terms of tenure of NHRI members and staff should be clearly specified, laid down in its founding legislation, so as to afford the strongest possible guarantees of competence, impartiality and independence.

The selection, appointment, and removal procedures of the members of the NHRI should not be handled exclusively by the executive branch of government.

The method of selection and appointment of the members of the NHRI should be fair and transparent, so as to afford all necessary guarantees of independence. Broad representation is also important, and steps should be taken to guarantee this – for example – by allowing members of civil society to nominate possible candidates for membership of the NHRI.

The selection and appointment process should involve representatives of civil society, especially human rights defenders representing the interests of particularly vulnerable sections of society (and members of those groups also), and may also include NGOs, opposition leaders, trade unionists, social workers, journalists.

Civil society should participate in the selection and appointment process as far as possible.

## **2.4 Representation of society**

The NHRI members and staff should as far as possible include representation of all sections of society, including women, ethnic minorities, and people with disabilities, who may be under-represented in other official bodies and would have particular relevant experience of the needs of those sectors of society. Non-nationals should not be deterred or specifically prohibited from taking up a post at the NHRI.

## **2.5 Freedom from bias and expectations for further career advancement**

The members and staff should consist of men and women known for their integrity and impartiality of judgement who shall decide matters before them on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences from any quarter or for any reason, for example, allegiances to political parties, or strong links with the executive part of government.

In some cases, there may be an expectation that office in an NHRI is a stepping stone leading to ministerial or other political office which limits the

independence of NHRI members and staff - as with such expectations, they may be less willing to criticize the executive.

Salaries and working conditions have a positive role to play in recruiting and retaining effective staff, and in ensuring independence. This, along with local factors, such as salary levels for similar positions, whether in the public or private sector, must be taken into account when setting and revising staff terms and conditions.

### **2.6 Effective support to fulfil tasks**

There should be sufficient staffing to fulfil the tasks allotted to the NHRI. The key issue is to ensure effective oversight and action. NHRIs must have a functioning and efficient secretariat to carry out the tasks entrusted to the members.

### **2.7 Privileges and immunities**

Like the judiciary, members of NHRIs should be immune from criminal or civil legal action for all tasks undertaken by them in the proper exercise of their official functions. However, decisions made by them in their official capacity should still be subject to judicial review by the courts.

## **3. Mandate and powers**

The mandate should make the NHRI truly independent in action, to promote and protect human rights in whatever manner is most appropriate. It should not be set up as a purely advisory body to advise the government, rather it should listen to victims of human rights violations, and have their concerns at the heart of its work. It should also work to promote a culture of respect for human rights through education and raising of awareness of human rights issues.

The scope of the NHRI=s concerns should be principally and clearly defined in terms of international human rights law. This should include states' obligations under international law to respect and also to ensure that rights are respected by all, that is, to take steps to ensure that domestic law and practice form a framework where the abuses of human rights by non-state actors are effectively addressed. NHRIs should make recommendations for changes in law and practice where states are not fulfilling their obligation be able to take reasonable steps to protect citizens from abuses of their human rights by other citizens.

### **3.1 Scope of human rights within an NHRI's jurisdiction**

NHRIs should enjoy the broadest possible mandate to address human rights concerns as set out in international human rights law and standards. The mandate should not be defined solely in terms of those rights that are specifically provided for in the country's constitution - particularly as some constitutions do not contain key rights such as the right to life. Rather NHRIs should take as their frame of reference the definitions of human rights as set out in international human rights instruments and standards, whether or not the state has ratified the relevant treaties. The mandate should include the power to



protect and promote economic, social and cultural rights, as well as civil and political rights.

This is particularly important to ensure that human rights violations are monitored and acted upon in an accurate way. For example, Amnesty International has received reports that cases of torture are routinely described as ‘abuses of official position’ rather than torture, which leads to a misleading assessment of human rights violations occurring in the country, as well as a failure to take appropriate action.

### **3.2 Accountability to ensure effective action**

NHRIs should report publicly on their activities and be held accountable for their results - either to an independent civil society body, or to a functioning and exacting parliamentary body. This is particularly important as an ineffective NHRI which does not address human rights violations actively can be an instrument of impunity, rather than a tool to promote and protect human rights.

### **3.3 Asserting human rights for all**

The mandate should include the power specifically to promote and protect the rights those sections of society which are particularly at risk of violations of human rights, for example, children, women, people with disabilities, ethnic minorities, refugees, human rights defenders and non-nationals such as asylum-seekers and migrant workers. It should promote the right not to suffer discrimination, as this is often the source and motivation of other human rights violations, such as torture.

Frequently Amnesty International has received information indicating that NHRIs encounter difficulties because they are perceived to be promoting the rights of criminals because of their work on prison conditions, or the torture of criminal suspects. It is therefore important that all NHRIs emphasise the universal applicability of human rights standards to all persons.

### **3.4 Participation in international human rights law for a**

NHRIs should recommend and facilitate the signature, ratification or accession of its state to new human rights treaties.

The mandate should include the power to monitor government fulfilment of international and regional human rights treaties and human rights obligations under domestic law. This should include the power to monitor and report - independently on its own behalf, not on behalf of its government - on compliance with and implementation of relevant and necessary international human rights standards, essential to the promotion and protection of human rights, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the UN Declaration and Convention against Torture, the Convention of the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Elimination of All Forms of Racial Discrimination, as well as the Declaration on the Right and Responsibility of Individuals, Groups

and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, the UN Code of Conduct for Law Enforcement Officials, the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the UN Rules for the Protection of Juveniles Deprived of their Liberty, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary or Summary Executions. They should also assess compliance with standards relating to the administration of justice, such as the Basic Principles on the Role of Lawyers, the Basic Principles on the Independence of the Judiciary, the Guidelines on the Role of Prosecutors, and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

NHRIs should as far as possible attend and participate in international meetings and fora including the treaty monitoring bodies and UN political bodies concerned with human rights. When doing so, they should represent themselves as independent NHRIs, rather than representing their government.

NHRIs should have the power to take note of and ultimately apply international human rights law and standards in their work. It is essential therefore that NHRIs establish effective means to keep abreast of recent developments of international human rights law and standards. The NHRI should possess the power to follow-up on recommendations and reports made in relation to implementation and compliance with international human rights standards mentioned above. This should include a suitable framework within which the NHRI may compel the relevant authority to explain and report to the NHRI, within a reasonable period of time, as to why, for example, it has not followed and did not apply recommendations made by human rights treaty bodies or thematic mechanisms.

NHRIs should prepare ‘shadow reports’ (reports of their assessment of the human rights situation in their country) to submit to the UN human rights treaty monitoring bodies on their own behalf; they should not write the state's reports to treaty monitoring bodies.

### **3.5 Advising governments on domestic legislation**

The mandate should include the power to review the effectiveness of existing legislation or administrative provisions in protecting human rights and should be able to make recommendations for the amendment of such legislation or the introduction of new legislation as necessary.

This is especially important regarding internal security laws, administrative detention laws, and police detention and interrogation procedures, which can often facilitate human rights violations, or where enabling legislation implementing international standards does not implement the international obligations effectively.

The NHRI should also examine bills and proposals for new legislation put forward by the government or parliament to assess its conformity with international human rights standards and to ensure the state's compliance with international human rights standards.

### **3.6 Participation in domestic legal cases**

NHRIs should have the power to bring legal cases to protect the rights of individuals or to promote changes in law and practice. Amnesty International has received information about excellent work including the use of legal applications such as judicial review, constitutional applications and challenges, etc.

NHRIs should have the legal power to bring applications on behalf of those who may be unable to bring cases to protect their rights themselves (for example, children, those with mental health problems or otherwise lacking mental capacity, prisoners).

NHRIs should also have the legal power to bring cases (such as judicial review) to challenge the legality of executive action and to obtain judicial orders to remedy the situation, particularly where the executive has ignored the NHRIs recommendations on the subject.

NHRIs must also have the legal power to submit advice to the courts, such as *amicus curiae* briefs or third party interventions, on legal issues within its field of expertise in an independent capacity, without being a party to the case. This is important to ensure that the courts are informed about specialized human rights law concerns and to ensure that human rights standards are actively implemented in court decisions.

### **3.7 Effective communication with government to bring about change**

NHRIs should be mindful of their official position within state structures and communicate their recommendations confidently and with the expectation that the executive part of government, or the prosecuting authorities, should implement them. NHRIs should open strong and effective methods of communication with all agencies of government, the prosecuting authorities and the judiciary in order to promote their recommendations, and should ensure compliance with recommendations, and not accept recommendations being ignored. NHRIs should also make recommendations to parts of the state, for example, the judiciary and the legislative organs.

## **4. Investigations and Inquiries**

### **4.A General recommendations on investigations**

The NHRI should have the powers to conduct wide-ranging national enquiries on human rights concerns; they should have access to government information; they should respond to victims' concerns in their investigations.

#### **4.A.1 Time limits**

Although some reasonable time limits may be used to ensure that complainants come forward speedily with their complaints, NHRIs should undertake any investigation where there is evidence in existence to consider: they should not be inhibited by arbitrary time limits on investigations, and should not be inflexible in rejecting cases for being brought to their attention outside of time limits.

#### **4.A.2 Power to investigate on its own initiative**

NHRIs should have precisely defined powers to investigate on its own initiative situations and cases of reported human rights violations. It should be able to set clear priorities for its work in accordance with the seriousness of the violations reported to it, specifically including alleged violations of the right to life and security of the person, and the right to physical and mental integrity, including the right not to be tortured; as well as to the right not to be arbitrarily arrested or detained.

Many NHRIs lose credibility within their countries by failing to engage with such issues directly, and instead focussing almost exclusively on human rights education or promotion or implementation of those rights which involve less criticism of the government.

NHRIs should accept information from any reliable source, and should cooperate with national and international NGOs.

#### **4.A.3 Investigating individual cases and wider patterns**

Pending completion of investigations the NHRI should always identify any systematic pattern of human rights violations, and address the root causes, rather than solely treating each case in isolation. They should not look at individual cases in isolation, nor report abstractly on trends and developments - rather they should focus on the facts of individual cases, and identifying patterns, using well-researched, well-attested and evidenced cases.

#### **4.A.4 Persistent problems and root causes**

In their reports, NHRIs should conduct a critical analysis of the factors which have contributed to the persistence of human rights violations within the national territory. This should include an assessment of the failure of existing institutions and legal mechanisms to provide adequate human rights protection, and its links with impunity, the administration of justice, and for example, treatment of foreign nationals, women, and prisoners.

Recommendations for legal and institutional reform to address human rights violations should be proposed on the basis of the findings.

#### **4.A.5 Addressing all perpetrators without fear**

Many NHRIs undermine themselves and lose credibility by asking the alleged violators of human rights - such as the armed forces or the police - to investigate allegations of violations of human rights themselves, rather than the NHRI making an investigation itself. On some occasions, NHRIs simply forward the complainant's initial communication of his or her complaint to the alleged perpetrators (including the complainant's name, address, and other details) to ask the alleged perpetrators, or their colleagues, to investigate. This does not constitute an impartial investigation and can put complainants at risk.

Especially, NHRIs should be authorized to investigate the conduct of the police and the security forces throughout the national territory, and should promptly, effectively, independently and impartially carry out such

investigations – especially in situations of internal armed conflict, and during states of emergency. This authorization should not just be made explicit in its implementing legislation; it should also be made a practical reality in its work. NHRIs should not be debarred from operating during states of emergency.

NHRIs should also undertake investigations into human rights violations, even if those responsible include politicians or other powerful agents in society. To do this effectively, the NHRI should have adequate facilities to conduct thorough investigations, independent of the security forces, whose conduct it will be called upon to assess. It should also have effective powers to protect its own staff and witnesses engaged in such investigations.

This is an all too frequent failure of NHRIs around the world, and a major cause of frustration and cynicism towards NHRIs from victims and the general population within countries, as well as NGOs, especially when the actions of major violators of human rights have not been addressed in a satisfactory way.

#### **4.A.6 Compelling evidence**

State officials should be legally obliged to cooperate with the NHRI's investigations.

NHRIs should have full and effective powers to compel the attendance of witnesses and the disclosure and production of documents and other pieces of evidence. Effective sanctions should be in place to use when the NHRI's work is obstructed or otherwise interfered with.

#### **4.A.7 Accurate statistics lead to an accurate picture of human rights violations**

NHRIs should collect and publish accurate data on, for example, reports of 'disappearances', deaths in custody, rape and other forms of torture. Collection of data should be a by-product of day to day work, rather than an aim in itself. Statistics should detail the nature of the complaints, how and when they were investigated, the findings, and follow-up to recommendations.

#### **4.B. Methodologies of investigation**

In carrying out investigations NHRIs should pursue all available sources of information. These may include statements from victims, witnesses and alleged perpetrators; medical reports; police investigation files; court files; media reports; information from NGOs, families of victims and lawyers.

This is particularly important as investigations that, for example, simply constitute an examination of an existing police investigations file, may lead to a repetition of failures in investigation and in such cases, this may promote or contribute to impunity.

Amnesty International has also received information about cases where the onus of proof is on the complainant to prove his case, rather than the NHRI carrying out an investigation. NHRIs should always take steps to investigate information independently.

**4.B.1 Independent investigation professionals**

NHRIs should have their own investigative machinery and should have access to expert assistance (forensic pathologists, forensic doctors, ballistic experts, specialists on sexual violence etc.) whenever required to investigate alleged violations of human rights, particularly those involving physical injury (including injuries from sexual violence) and death. It is also important to have access to relevant experts to assist with interviews with victims who may be suffering from the psychological effects of torture, including sexual violence, to identify and record the psychological effects, and to ensure that interviews are conducted in a manner which does not lead to further psychological damage.

Sometimes it will be necessary to bring expertise in from outside the country, where no trained expertise is available.

Wherever possible, such forensic expertise should be at hand at short notice so that effective investigations and recording of, for example, injuries caused by torture or sexual violence, or post mortem investigations, can be made efficiently. When such reliable forensic information is available, then it is much more likely that effective action can be taken in prosecutions of perpetrators.

Such experts should be truly independent - frequently Amnesty International has received reports that such experts have strong links with state officials such as the police, as most of their work is for such state officials. Amnesty International has received some reports of investigators for NHRIs who are actually police officers on secondment from the regular police forces - who were unwilling to investigate allegations against fellow police officers.

NHRIs should have adequate facilities to carry out on-the-spot investigations, including transport, to be able to obtain access to any place in the territory where human rights violations take place.

**4.B.2 Training**

Effective and practical training of staff working on investigations - especially sharing of skills and best practice from colleagues abroad - should be a priority. Frequently investigations undertaken with good will fail because of lack of training in investigative sciences and skills. They should also receive training in international human rights law so that they can identify and understand legal issues regarding their investigations.

**4.B.3 Protection of witnesses**

NHRIs should have full and effective access to mechanisms to ensure that witnesses, complainants, or others providing evidence to the NHRI are given appropriate protection. Mechanisms should be in place, which can be triggered by the NHRI, that can lead to the suspension or transfer of officials allegedly involved – without prejudice pending completion of investigations – to other duties where they would have no power over witnesses or complainants.

**4.B.4 Protection of evidence**

Evidence gathered during investigations, such as witness statements, reports (including reports such as post mortem examinations or other expert reports) and physical evidence (such as evidence gathered during exhumations) should be kept securely by the NHRI.

**4.C. Individual complaints****4.C.1 Who can complain?**

NHRIs should have powers to begin investigations on its own initiative. It should be able to receive communications not only from the complainants themselves but also, if the complainants themselves are unable or prevented from doing so, from lawyers, relatives or others acting on their behalf, including non-governmental groups. Individual complaints procedures should be free of charge.

It is important that all people have the opportunity to be represented in applications to NHRIs, regardless of their status under national law. Children, prisoners, the mentally ill, and foreign nationals, for example, must all have access to the NHRI.

**4.C.2 Reaching out to victims**

NHRIs should use networks of communication and outreach already existing among NGOs and civil society groups such as medical associations, to ensure that victims of human rights violations are aware of the procedures open to them.

**4.C.3 Keeping the interests of victims at the centre of the process**

Victims or relatives should have access to all relevant information and documents relating to the investigation into their complaints and be granted all necessary facilities to present evidence. Victims should in particular, be kept informed of the process of the NHRI's investigation, and be given reasons for decisions taken about their case, and consulted where there are choices as to how their case will develop.

NHRIs should be able to provide financial assistance to witnesses enabling them to travel and be accommodated in order to present their evidence before the NHRI.

Where the NHRI is unable to take up a case, for example, because it is outside its mandate, it should inform the complainant as soon as possible and give reasons for its decision.

**4.D. Addressing failed investigations effectively**

Where the police have made an inconclusive or otherwise unsatisfactory investigation, the NHRI should undertake a prompt, thorough, effective and impartial investigation and not be hampered or otherwise inhibited by following the conclusions of a previous investigation. Investigations should not simply constitute an examination of an existing police investigations file.

An NHRI which fails to investigate individual complaints effectively may be an instrument of impunity - rather than allowing a victim access to a remedy, it closes off opportunities to secure a remedy, deterring the reporting of abuses.

#### **4.D.1 Separation of roles of the NHRI and the judiciary**

A clear line should be drawn between appropriate roles for the NHRI and the judiciary. The NHRI should be able to investigate, but should not have judicial powers. The result of the NHRI's investigations should be referred to appropriate judicial bodies without delay so that they can take appropriate action.

Evidence obtained by NHRIs should not be made inadmissible in other proceedings simply by virtue of having been first given to the NHRI.

Amnesty International has received reports which indicate that some NHRIs consider that investigations by the police or the security forces *prima facie* are sufficient investigations. It is important that NHRIs make their own assessment of the effectiveness of such investigations and follow up themselves with prompt, effective, thorough and impartial investigations where existing internal police or army investigations, or judicial investigations are not effective.

Where the NHRI finds evidence that certain individuals may have been responsible for committing human rights violations or for ordering, encouraging or permitting them, the facts of the case should be investigated promptly, effectively, thoroughly and impartially by authorities empowered to bring criminal prosecutions, and if appropriate, those responsible should be brought to justice in legal proceedings which respect internationally-recognized rights to a fair trial, and do not lead to punishments involving torture or cruel, inhuman or degrading treatment, including the death penalty.

NHRIs should have powers to recommend that superior officers are brought to justice for acts committed under their authority and should be mandated to closely follow subsequent legal proceedings in the case, by monitoring trials, or if necessary appearing before the court to make legal submissions to press for appropriate legal action to be taken within a reasonable time. If the NHRI, in the course of its work, is able to identify short-comings in the law whereby it is not possible to hold such officers accountable, the NHRI should make recommendations for legal reform that would ensure that domestic law does not facilitate impunity.

The government should ensure that any prosecutions for crimes involving the abuse of human rights are brought by authorities which are distinctly independent from the security forces or other bodies allegedly implicated in human rights violations.

#### **4.D.2 Parallel jurisdiction of NHRI and the judiciary**

The fact that a complainant has been charged and a criminal prosecution is under way should not be a pretext for stopping NHRIs from acting on a complaint, or taking any other action within their mandate to address human rights concerns.



Where prosecutions are pending, the NHRI should not consider the substance of the criminal charge, but should be able to look at ancillary matters relating to the human rights of the accused person, for example, allegations that he or she has been tortured while in custody.

In some jurisdictions, the NHRI is not permitted to receive complaints from a person who has been charged with an offence or who is otherwise under judicial supervision; therefore if the judiciary is not taking appropriate steps to protect the accused person from human rights violations such as torture and ill-treatment in custody, then that person is without recourse to protect their rights.

#### **4.D.3 Role of NHRI in following up the actions of prosecutors and the judiciary in cases of criminal acts**

Although it is important to maintain independence of function between the judiciary and the NHRI, the NHRI should monitor whether its recommendations are followed up. Amnesty International frequently receives reports that an NHRI has recommended that, on the basis of their investigations, criminal investigations and prosecutions should be initiated - but the police or prosecuting authorities take no action.

NHRIs should not stand by in silence where recommendations to investigate and bring prosecutions are ignored. In such cases, the NHRI should continue to request that the authorities take up the case, if necessary through domestic and international publicity, or where possible, to bring judicial review action challenging the decision of the prosecuting authorities. NHRIs should not be complicit with impunity.

Where domestic remedies for human rights violations are exhausted or ineffective, NHRIs should raise the matter with the international bodies mandated to assess compliance with human rights standards, such as the human rights treaty monitoring bodies, or the United Nations' thematic mechanisms and special procedures, such as the Special Rapporteurs.

### **5. Recommendations and non-judicial remedies**

#### **5.1 Remedies and interim measures**

NHRIs should have powers to ensure effective non-judicial remedies, including interim measures to protect the life and safety of an individual and adequate medical treatment where necessary; it should ensure measures of redress and rehabilitation are taken in appropriate cases.

#### **5.2 Remedies but not impunity**

NHRIs should not broker agreements for only reparations, such as compensation, to be paid, where the appropriate response would rather be reparation and prosecution of the perpetrator – for example in cases of torture.

Amnesty International has received reports that some NHRIs order compensation for crimes such as torture, and where the government encourages this or other forms of conciliation rather than bringing cases forward for prosecution. Conclusion of a case through friendly settlement should not prevent

or hamper prosecutions for crimes under international law, such as torture, war crimes, or crimes against humanity.

### **5.3 Recommendations should be followed up**

The government should undertake an obligation to respond, within a reasonable time, to the case-specific as well as the more general findings, conclusions and recommendations made by the NHRI. The government's response should be made public.

In cases where the government fails to respond, or refuses to respond or implement recommendations, the NHRI should continue to take all possible measures to press the government, for example, through pressure by the media, through parliament, and through international pressure of opinion and bringing the case to the attention of the international human rights bodies, such as the treaty monitoring bodies and the special mechanisms. Cases should remain open and as far as practically possible, the members and staff who dealt with the case up to the NHRI giving its recommendation should remain actively involved with the case and monitoring the implementation of the recommendation to ensure that the situation has been remedied. Continuity of staff is important to ensure that the initial problem has been addressed effectively.

## **6. Human rights education**

Amnesty International has noted that a population which is educated in their human rights is an asset to assist NHRIs to carry out their task. Educating the population on human rights is a task that NHRIs working even under the most repressive governments are able to attempt, so it is important that it is done effectively.

General human rights education should be undertaken in a practical, illustrative way – if possible using media broadcasts to illustrate or dramatise human rights issues – rather than producing glossy, but abstract, promotional material which simply sets out general principles. It is also vital to ensure that material is disseminated to suitable target audiences.

Human rights training should be targeted at people who may have to consider and apply human rights issues in their work - law-makers, administrative decision-makers, judges, lawyers, the medical profession, teachers, social workers, prison officers and police officers, and the armed forces – and they should be encouraged to promote human rights standards among their colleagues. Again, this professional education should be undertaken in a practical way to illustrate the transformative effect of using human rights standards in daily professional life. NGOs and victims groups should be encouraged to participate in such training to ensure that a variety of viewpoints are expressed within the education process.

## **7. Visits to places of detention**

An important role that NHRIs can fulfil is as independent professional body empowered to visit places of detention, with the aim of making

recommendations to change conditions in order to prevent the incidence of torture and other cruel, inhuman and degrading treatment or punishment.

Amnesty International has received reports of a wide range of competence in fulfilling this role among NHRIs around the world. Amnesty International has received information regarding cases where an NHRI has given assurances that a certain individual although reported to have been tortured, was fine and in good health, only for the organization's representatives to visit the same individual shortly afterwards to find him showing signs of torture consistent with earlier reports - giving rise to the possibilities that either the NHRI had not visited, or had mis-reported their findings, or lacked the necessary expertise to carry out visits. Thorough training is essential.

On the other hand, Amnesty International has received excellent general reports by NHRIs detailing the conditions of detention, and making recommendations which have led to a decrease in the incidence of torture and cruel, inhuman and degrading treatment and punishment. Unfortunately, recommendations are frequently not implemented by governments.

Even in cases where NHRIs undertake effective visits to places of detention, they are not provided with the human and practical resources (such as transport to all places of detention in all regions) so that they can ensure effective coverage and assessment of all places of detention.

### **7.1 Modalities of visits**

The modalities of visits provided for in the Geneva Conventions of 1949 – Article 126 of the Third Geneva Convention, and Article 143 of the Fourth Geneva Convention – should be used by NHRIs in setting out the modalities for visits to places of detention.

These modalities are that:

1. the visiting mechanism shall have access to all places of detention, and have access to all premises in which detainees may be held.

Frequently, NHRIs are denied access to particular categories of places of detention, such as police stations, military prisons, or prisons where detainees are held under security or 'anti-terrorist' legislation. These are frequently the very institutions from which many reliably attested complaints of torture are received, so it is vitally important that independent monitors have access to those places to assess conditions and make recommendations for change.

2. the visiting mechanism shall be able to interview detainees without witnesses, either personally or through the mechanism's own interpreter.

3. the visiting mechanism shall have liberty to select the places they wish to visit.

Frequently NHRIs are required to seek permission or give long notice of their visit. NHRIs should be able to visit 'any place, at any time' without prior authorization in order to make a true assessment of conditions of detention.

4. the duration and frequency of visits shall not be restricted.

The only reason for denying access to a particular place of detention should be physical danger equal to the provision within the Geneva Conventions regarding compelling military necessity - which in practice means that a place of

detention should only be out of bounds for visits if it is under weapon fire, and only during the period of danger. State security should not be an issue which would affect visits. The NHRI itself should assess and take appropriate precautions regarding any other risks, such as risk to health through disease prevalent within a certain institution.

## **8. Publicity**

### **8.1 Media**

NHRIs should ensure that they have access to the media in order to publicise their work to ensure that the population as a whole is aware of the services that the NHRI can provide; that they have human rights that can be protected and enforced; and to ensure a forum for discussion of human rights and publicity (therefore transparency) of the NHRI's activities. It is very important that the NHRI be seen by all to be taking effective action. NHRIs should also publicise their role as an institution independent from the executive part of the government, and its policies regarding confidentiality and security.

The NHRI should use the most effective media available to make contact with as many people as possible - so, for example, in places where illiteracy is high or where newspapers are hard to obtain, radio broadcasts should be used.

### **8.2 Annual reports**

NHRIs should ensure that their reports, particularly their annual reports, are published and circulated widely.

Amnesty International recommends that NHRIs should be empowered to publish their materials at any time. Amnesty International has received reports that some NHRIs must present their reports to parliament or other political bodies before they are empowered to publish their reports, and frequently parliamentary time is not made available for this purpose. Therefore the NHRI is effectively silenced.

Many NHRIs do not produce annual reports - it is very important that they do so in order to be accountable and transparent, and to be seen to be fulfilling its role, evaluating its results, and planning its future activities. Statistics on the numbers and types of cases received, action taken and results achieved by the NHRI in resolving the cases should be included.

### **8.3 Confidentiality**

Although there should be an assumption in favour of transparency, particularly in reports and the findings of investigations, in such publicity, care should be taken that sensitive details which could lead to complainants, their families, witnesses and human rights defenders being put in danger, or which leads to an invasion of their privacy, should not be released. However this need for confidentiality for sensitive information should not be used as an excuse not to publish any information at all, as this could be an excuse to cover up evidence of human rights violations.

## **9. Accessibility**

### **9.1 Regional offices**

Local and regional offices are vitally important to the effective functioning of NHRIs in a large country, or a country with isolated and inaccessible centres of population, or where transportation is difficult. Mechanisms should allow local offices a positive role in following up cases. Unfortunately Amnesty International has received reports of local offices undertaking prompt and effective investigations, but they are not empowered to follow up with local authorities: instead they have to refer cases to a central office. This can frequently become a 'black hole' of bureaucracy, and effectively, cases are not followed up. Where there is a network of local and central offices, effective coordination and communication between all should be ensured. Responsibility for following up on cases must be clearly allocated and periodic evaluations should ensure that follow-up is taking place.

### **9.2 Accessible premises**

NHRI offices must be stationed in appropriate places - unfortunately Amnesty International has received reports of NHRI offices being located near military installations or police stations. In such cases, potential complainants may fear being noticed or monitored by the security forces if they bring their complaints. Amnesty International has received other reports of offices being intimidatingly smart or located in very up-market areas, so that the poor and other disadvantaged groups feel too uncomfortable and conspicuous to be seen going there. Other reports indicate that some offices are located in inaccessible areas where it is difficult for complainants to visit.

Within offices, there should be facilities such as private meeting rooms where complainants can discuss their complaints with NHRI staff in confidence.

### **9.3 Communication with victims**

NHRIs should take steps to ensure effective communications between itself and potential complainants.

Amnesty International has received reports of excellent initiatives to facilitate such contact – such as free-phone (toll-free) telephone lines, email and internet access, and travelling offices (one example was a specially adapted bus) or travelling field officers who can go to very isolated areas. NGO networks can also facilitate contacts with victims and witnesses.

In countries where some complainants are likely only to be able to speak minority or local languages, these should be catered for. When using interpreters, careful consideration should be given to issues of confidentiality and impartiality. Cultural sensitivities should also be taken into account, which may include the gender of the interpreter. Interviewees (including complainants and witnesses) should consent to the use of interpreters.

In countries where there is widespread illiteracy, there should be common use of oral communication techniques, such as radio, and NHRI staff should take care to explain their procedures verbally, rather than relying on explanatory leaflets.

### **10. Budget**

The government must provide the NHRI with adequate funding and resources in order to be able to fully carry out, and without restrictions and limitations, the aims and functions set out within the mandate, and particularly, to address the demands of the caseload that has been brought to its attention. The NHRI should have all necessary human and material resources to examine, thoroughly, effectively, speedily and throughout the country, the evidence and other case material concerning specific allegations of violations reported to it.

NHRIs are mandated by international standards, such as the Paris Principles, and by recommendations of civil society, such as the recommendations in this document, to cover a wide range of human rights issues, and clearly some prioritization of activities by NHRIs is required. Professional training and sharing of working skills so that NHRIs can maximise effective action within the bounds of resource constraints is therefore important.

Amnesty International has received reports that restrictions in NHRI budgets are used as a punitive measure to control an NHRI which is deemed to be too critical of government. AI has received reports of many examples where once set up, NHRIs are under funded to the extent that they cannot function effectively - leading to reasonable doubts about how serious the government was in the first place about improving the implementation human rights through the NHRI.

The mandate should specifically and explicitly include the power to be able to establish effective and alternative routes to receive funding, either from private donors or international agencies, for whatever human rights activities the NHRI is undertaking. NHRIs should develop guidelines to ensure that any such fundraising does not compromise its independence and impartiality.

Funding should be secured with a long term perspective to enable the NHRI to plan and develop its activities with confidence about being able to fulfil them.

### **A Bill**

To provide for the setting up of the National Commission for Human Rights  
Whereas it is expedient to set up National Commission for Human Rights for better protection and promotion of human rights and for matters connected therewith or incidental thereto;

It is hereby enacted as follows:-

### **Chapter-1 Preliminary**

**1. Short title, extent and commencement;** (1) This Act may be called the National Commission for Human Rights Act 2005.

(2) It extends to the whole of Pakistan

(3) It shall come into force at once.

**2. Definitions:** In this Act, unless there is anything repugnant in the subject or context;

- (a) 'Chairperson' means the Chairperson of the Commission;
- (b) 'Commission' means National Commission for Human Rights constituted under section 3;
- (c) 'Federal Government' means the Law, Justice and Human Rights Division;
- (d) 'Human Rights' means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Instruments on Human Rights, which Government of Pakistan has ratified and are enforceable by the courts in Pakistan;
- (e) 'member' MEANS A MEMBER OF THE Commission and includes the Chairperson; and
- (f) 'Prescribed' means prescribed by rules made under this Act.

## Chapter-II

### THE NATIONAL COMMISSION FOR HUMAN RIGHTS

**3. Constitution of National Commission for Human Rights.** (1) The Federal Government shall constitute a Commission to be known as the National Commission for Human Rights to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.

(2) The Commission shall consist of:

(i) The Chairperson who **is a retired Judge of the Supreme Court** or an eminent person of known integrity and competence, having at least twenty years experience, knowledge and background of Human Rights.

**(ii) Two members of Parliament one from National Assembly and one from Senate;** one member from each Province who has been a judge of the High Court of said Province or a person qualified to be judge of the High Court or a Government Servant having retired from service in BPS-21 or above;

(iii) Two members from minorities, **at least** two women members, one member each from Islamabad Capital Territory and FATA and one member from each Province, having the knowledge, experience and background of Human Rights;

(iv) The Secretary of the Commission who shall be the ex officio member of Commission; and

(v) Not more than two persons as ad-hoc members of the Commission to be appointed by the Chairperson, with the approval of President, having regard to the working of the Commission.

(3) No member shall be less than **thirty** years of age.

(4) The headquarters of the Commission shall be at Islamabad and Regional Offices shall be set up at all Provincial Headquarters as well as in Interior Sindh and Southern Punjab and in any other part of the country as the Commission may determine. The Regional Offices at Provincial Headquarter shall be headed by retired Judges of the High Courts or the Supreme Court.

(5) The quorum for the meeting of the Commission shall not be less than simple majority of the total membership.

(6) The Commission shall be a body corporate having perpetual succession and a common seal with powers among other to acquire, hold and dispose off any property and shall by the said name sue and be sued.

**4. Appointment of Chairperson and other member;** (1) The President shall appoint Chairperson and the members and for that may seek nominations and recommendations through the Federal Government.

(2) Constitution of the Commission shall not be invalid merely by reason of any vacancy or defect in the constitution of the Commission.

**5. Removal of a member of the Commission: The President may remove from office the Chairperson or any other member if the Chairperson or such other Member, as the case may be;-**

**(a) is accused of misconduct;**

**(b) is adjudged an insolvent;**

(c) engages during his term of office in any paid employment out side the duties of office;

(d) is unfit to continue in office by reason of infirmity of mind or body;

(e) is of unsound mind and stands declared as such by a competent court; or

(f) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

**6. Term of office of member: -** (1) A person appointed as Chairperson or a member, other than ex officio member, shall hold office for a term of four years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

(2) The Chairperson or a member may resign his office in writing under his hand addressed to the Federal Government.

**7. Acting Chairperson:-** At any time when the Chairperson is absent or unable to perform functions of his office due to any other cause, or in the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Federal Government shall appoint a person who is or has been a Judge of the Supreme Court to act as Chairperson until the Chairperson resumes his office, or as the case may be, until the appointment of a new Chairperson to fill such vacancy.

**8. Terms and conditions of service of members:-** The salaries and allowances payable to, and other terms and conditions of service of, the members, other than ex officio member, shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of a member shall be varied to his disadvantage after his appointment.



**9. Procedure to be regulated by the commission:-** (1) The Commission shall meet at such time and place as the Chairperson may deem fit.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorized by the Chairperson in this behalf.

**10. Office and other staff of the Commission:** (1) The Commission, in consultation with the Federal Government, shall appoint:

a. a retired government employee, of the status of the Secretary or an Additional Secretary to the Government of Pakistan, who has the knowledge, experience and background of working in the field of Human Rights as Secretary of the Commission who shall also be the Principal Accounting Officer; and

b. such other staff including Director Generals, Directors, Deputy Directors and Assistant Directors from amongst Federal Government officers holding BS 20-17, on deputation basis or otherwise, as may be prescribed.

(2) without prejudice to the provision of sub-section (1) the commission, with the previous consent of Federal Government, may utilize the services of any officer, employee or agency of the Government if such services are required by the Commission for the purpose of discharging its functions.

(3) Without prejudice to the provisions of sub-section (2), the officers and other employees who were in the staff of Human Rights Wing before its constitution as a Commission, shall continue to be in the employment of the Commission if not found otherwise unfit.

Provided that the civil servant appointed to working in the Human Rights Wing shall upon their transfer to the Commission continued to be governed by civil servant Act, 1973 except those who may opt otherwise in pursuance of sub-section (4).

(4) The officers and staff of Human Rights Wing shall be given right of option for such appointments within a period of six months of the enforcement of this Act.

(5) The salaries, allowances and conditions of service of the officers and other staff appointed under this section shall be such as may be prescribed and shall not be less or to their disadvantage as already admissible.

### Chapter – III

**11. Functions and Powers of the Commission** (1) The Commission shall perform all or any of the following functions, namely:-

(a) inquire into, suo-moto or on a petition submitted by a victim or any person on his behalf into complaint of violation of human rights;

(b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;

(c) visit any jail, under intimation to the Provincial Government where persons are lodged for purposes of treatment, reformation or protection, to study the living conditions of the inmates and make report thereon;

(d) review the laws, including laws of terrorism which inhibit the enjoyment of human rights, and to recommend appropriate remedial measures;

(e) review the safeguards provided by or under the constitution or any law for the time being in force for the protection of human rights and recommend adoption of new legislation, the amendment of the existing laws and the adoption or amendment of administrative measures for their effective implementation;

(f) study treaties and other International Covenants and Instruments on human rights and make recommendations for their effective implementation;

(g) encourage ratification of International Human Rights Instruments or accession to those instruments, and ensure their implementation;

(h) assist in the formation of programmes for teaching of, and research into, human rights and to take part in their execution in educational and professional institutions;

(i) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;

(j) encourage and facilitate the efforts of non-governmental organizations and institutional working in the field of human rights;

(k) contribute to the reports which Pakistan is required to submit to the United Nations bodies and committees pursuant to its treaty obligations, and where necessary, may express an opinion on the subject, with due respect for their independence;

(l) refer and recommend investigation and inquiries in respect of any incident of violation of human rights;

(m) pursuing or defending issues, complaints, representations and matters for and against Pakistan relating to human rights before any official or non Governmental organization, body or forum in Pakistan and, in consultation with Foreign Affairs Division, before any international organization and foreign Government or non-Governmental organization; and

(n) Such other functions as it may consider necessary for prevention of human rights violations and or for promotion of human rights.

(2) Subject to the provisions of this Act, the Commission shall have maximum administrative and financial autonomy in the discharge of its functions under this Act.

**12. Power relating to inquiries:** (1) The commission shall, while inquiring into complaints under this Act, have all the powers of a civil court trying a suit under the code of civil procedure, 1908 (Ordinance V of 1908) and in particular in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of witnesses and examining them on oath;

(b) discovery and production of any document;

- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witness or documents;
- and
- (f) any other matter which may be prescribed.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to the subject matter of inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Pakistan Penal Code.

(3) The Commission or any other officer, not below the rank of a Gazetted officer, specially authorized in this behalf by the commission may enter any building or palace where the commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copy there from subject to the provisions of section 102 of the code of criminal procedure, 1898 in so far as it may be applicable.

(4) The Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Pakistan Penal Code is committed in the view or presence of the Commission the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for the code of criminal procedure, 1898 forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 482 of the code of criminal procedure, 1898.

**13. Investigation;** (1) The Commission may, for the purpose of conducting any investigation pertaining to inquiry, utilize the services of any officer or investigation agency of the Provincial or Federal Government.

(2) For the purpose of investigation into matter pertaining to inquiry, any officer or agency whose services are utilized under sub-section (1) may, subject to the direction and control of the Commission:-

(a) Summon and enforce the attendance of any person and examine him,

(b) Require the discovery and production of any document, and

(c) Requisition any public record or copy of thereof from any office.

(3) The provision of this section shall apply in relation to any statement made by a person before any officer or agency whose services are utilized under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(4) The officer or agency whose services are utilized under sub-section (1) shall investigate into matter pertaining to inquiry and submit a report thereon

to the Commission within such period as may be specified by the Commission in this behalf.

(5) The Commission shall satisfy itself about the correctness of the facts stated and conclusion, if any, arrived at in the report submitted to it under sub-section (4) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation ) as it thinks fit.

**14. Statement made by persons to the Commission:-** No statement made by a person in the course of given evidence before the Commission shall subject him to or be used against him, in any civil or criminal proceedings except for prosecution for giving false evidence by such statements.

Provided that statement-

(a) is made in reply to the question which he is required by the Commission to answer or

(b) is relevant to the subject-matter of the inquiry

**15. Person likely to be prejudicially affected to be head:-** If at any stage of the inquiry;

(a) considers it necessary to inquire into the conduct of any person or

(b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defense.

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

#### Chapter-IV

**16. Independence of the Commission:** (1) The Commission and every member of its staff shall function without political or other bias or interference and shall unless this act expressly or otherwise provides the independent and separate from any party government administration or any other functionary or body directly or indirectly representing the interest of any such entity.

(2) if at any stage during the course of proceedings at any meeting of the Commission it appears that a member has or may have a financial or personal interest which may cause a substantial conflict of interest in the performance of his or her functions as such the member shall forthwith and fully disclose the nature of his or her interest and absent himself or herself from that meeting so as to enable the remaining members to decide whether the member should be precluded from participating in the meeting by reason of that interest. Such a disclosure and the decision taken by the remaining members shall be entered on the record of the proceedings.

(3) If a member fails to disclose any conflict of interest as required by sub-section (2) and is present at a meeting of the Commission or in any manner participates in the proceedings, such proceedings in relation to the relevant matter shall, as soon as such nondisclosure is discovered, be reviewed and be

varied or set aside by the commission without the participation of the member concerned.

(4) Notwithstanding any personal opinion, preference or party affiliation, the member shall serve impartially and independently and perform his or her duties in good faith and without fear, favour, bias or prejudice.

(5) No member of the commission shall:-

(a) by his membership of the commission, association, statement, conduct or in any other manner jeopardize his independence or in any other manner harm the credibility, impartiality or integrity of the Commission;

(b) make private use of or profit from any confidential information gained as a result of his membership of the commission, or

(c) divulge any such information to any other person except in the course of the performance of his functions as such a member of the Commission.

## CHAPTER V

### Procedure

**17. Inquiry into complaints:-** The Commission while, inquiring into the complaints of violation of human rights may;

(i) call for information or report from the Government or any other authority or organization subordinate thereto within such time as may be specified by it:

**Provided that:**

(a) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;

(b) if, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the Government or authority, it may not proceed with the complaint and inform the complainant accordingly;

(ii) without prejudice to anything contained in clause (i) if considers it necessary, having regard to the nature of the complaint, initiate any inquiry.

**18. Steps after inquiry:-** The Commission may take any of the following steps upon the completion of any inquiry held under this Act, namely:-

(i) Where the inquiry discloses, the commission of violation of human rights or negligence in the prevention of human rights by a public servant, it may recommend to the Government or authority the initiation of proceedings for prosecution or such other action on as the commission may deem fit against the concerned person or persons;

(ii) approach the Supreme Court, or the High Court concerned, for such direction, orders or writs as that Court may deem necessary;

(iii) recommend to the Government or authority for the grant of such immediate interim relief to the victim or the members of his family as the commission may consider necessary;

(iv) subject to the provisions of clause (5) provide a copy of the inquiry report to the petitioner or his representative;

(v) the commission shall send a copy of its inquiry report together with its recommendations to the Government or authority and the Government or authority shall, within a period of one month, or such further time as the commission may allow, forward its comments on the report including the action taken or proposed to be taken thereon, by the commission;

(vi) the commission shall publish its inquiry report together with the comments of the Government or authority, if any, and the action taken or proposed to be taken by the Government or authority on the recommendations of the Commission.

**19. Annual and special report of the Commission:-** (1) The Commission shall submit an annual report to the Federal Government and may at any time submit special reports on any matter which, in its, opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The Federal Government shall cause the annual and special report of the Commission to be laid before the Parliament along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any. The report shall be laid before the Parliament within (ninety) days from the date of its submission.

## **Chapter –VI**

### **Finance, Accounts & Audit**

**20. Grants by the Government etc.** (1) The Federal Government may, in such manner as it may deem fit, establish a Fund into which shall be paid;

(a) all money appropriated by the parliament for the purposes of the fund; and

(b) all money donated or contributed to the Fund or accruing to the Fund from any source:

Provided that pay and allowances, etc. and other expenditure of the Commission shall be incurred from this Fund.

(2) Donation or contributions received from the sources other than the Government may be invested with the financial institution approved by the Federal Government and may be withdrawn when required.

(3) Any unexpended balance of the money of the Fund at the end of the financial year, shall be carried forward as credit to the Fund for the next financial year and non shall be lapsable.

(4) The administrative work, including the receipt of money appropriated by the Parliament for, or donated for the purposes of the fund or accruing to the fund from any source and making payments from the fund in compliance with recommendations in the terms of this Act shall be performed by officers in the public service designated by the Federal Government.

(5) The Federal Government shall appoint an officer designated under sub-section (5) as accounting officer in respect of the fund.

**21. Accounts and audit:-** (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Government in consultation with the Auditor General of Pakistan.

(2) The accounts of the Commission shall be audited by the Auditor General at such intervals as may be specified by him, and any expenditure incurred in connection with such audit shall be payable by the Commission to the Auditor-General.

(3) The Auditor General and any person appointed by him in connection with the audit of the accounts of the commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Auditor General generally has in connection with the audit of Government accounts and in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the commission.

(4) The accounts of the Commission as certified by the auditor general or any other person appointed by him in this behalf together with the audit report thereon shall be submitted by the Auditor General to the President who shall cause it to be laid before the National Assembly in terms of article 171 of the Constitution.

## Chapter – VII

### Human Rights Courts

**22. Human Rights Courts:-** For the purpose of providing speedy trial of offences arising out of violation of human rights, the provincial Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district a Court of Session to be a Human Rights Courts to try the said offences:

Provided that nothing in this section shall apply if:-

(a) a Court of Session is already empowered or specified as a special court, or

(b) a special court is already constituted, for such offences under any other law for the time being in force.

**23. Special Public Prosecutor:** For every Human Rights Court, Provincial Government shall, by notification, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than ten years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

## Chapter – VIII

### Miscellaneous

**24. Constitution of special Investigation Teams:-** Notwithstanding anything contained in any other law for the time being in force, where the Government considers it necessary so to do, it may constitute one or more special investigation teams, consisting of such police officers as it thinks necessary for

purpose of investigation and prosecution of officers arising out of violations of human rights.

**25. Protection of action taken in good faith:-** No suit or other legal proceedings shall lie against the Federal Government, Commission, any member or any person acting under the directions either of the Federal Government or Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or any order made there under or in respect of the publication by or under the authority of the Government or the Commission of any report, paper or proceedings.

**26. Members and officers to be public servants:-** Every member of the Commission and, every officer appointed or authorized by the Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code.

**27. Appointment of Advisor and Consultants.-** The Commission may appoint such advisors and consultants as it may consider necessary for the efficient performance of its functions on such term and conditions as may be prescribed.

**28. Advisory Committee.-** The Commission may setup NGOs Advisory Committees consisting of human rights activists, civil society organizations and representative of Federal Ministries/Divisions and Provincial Departments concerned with the human rights issues.

#### **Statement of Objectives and Reasons**

1. In pursuance of UN General Assembly Resolution No. 48/134 of 20th December, 1993, and such other relevant resolutions of the UN Commission on Human Rights, the UN Member States are under obligation to establish independent National Human Rights institutions which is considered as a singular criterion to judge a state's commitment towards the protection and promotion of human rights. Presently, the National Human Rights Commissions are functioning in 54 countries of the world out of which 13 are the Asian Countries, including India.

2. The formation of National Commission for Human Rights would not only fulfil the international obligation of establishment of such a Commission it shall also serve as driving force for negating the propaganda of human rights violations in Pakistan.

3. The President of Pakistan also made an announcement for early establishment of a National Commission on Human Rights on May 15 on the occasion of 'the National Convention on Human Rights Sensitization and Adoption of Human Rights Standards in Pakistan'.

4. The decision to establish an independent National Commission on Human Rights affirms government's firm commitment to the promotion and protection of human rights in the country.

5. The Bill is designed to achieve the aforesaid objects.



## Minister-in-Charge

(1) UN Commission on Human Rights Resolution 1992/54, 3 March 1992 (E/1992/22); UN General Assembly Resolution 48/134, 20 December 1993.

(2) National Human Rights Institutions: Amnesty International's recommendations for effective protection and promotion of human rights, AI Doc: IOR 40/007/2001, dated 1 October 2001.

(3) The International Bill of Right includes the Universal Declaration of Human Rights (UDHR), 1948, the International Covenant of Civil and Political Rights (ICCPR), 1966 and the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966.

(4) Adopted on 18 December 2002 by the UN General Assembly and yet to come into force. See Amnesty International, Preventing Torture Worldwide - The Optional Protocol to the Convention against Torture, AI index: IOR 51/002/2003; Preventing Torture at Home - A Guide to the Establishment of National Preventive Mechanisms, AI Index: IOR 51/004/2004, 1 May 2004.

*Amnesty International*, 21 July 2005. AI Index: ASA 33/019/2005.