

# Easier Said than Done

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A report on the commitments and performances of the Commonwealth members of the UN Human Rights Council



**“I have spoken of the priority we place in the Commonwealth on words matching deeds. We expect the same of this new Council. [...] Today, I repeat our resolve to work with this Human Rights Council in any way possible.”**

- Hon. Don McKinnon, Commonwealth Secretary-General

Speech at the High Level Segment of the Fourth Session of the UN Human Rights Council, 14 March 2007



**Commonwealth Human Rights Initiative**

*Working for the practical realisation of human rights in the countries of the Commonwealth*

# Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the *practical* realisation of human rights in the countries of the Commonwealth. In 1987, several Commonwealth professional associations founded CHRI. They believed that while the Commonwealth provided member countries a shared set of values and legal principles from which to work and provided a forum within which to promote human rights, there was little focus on the issues of human rights within the Commonwealth.

The objectives of CHRI are to promote awareness of and adherence to the Commonwealth Harare Principles, the Universal Declaration of Human Rights and other internationally recognised human rights instruments, as well as domestic instruments supporting human rights in Commonwealth member states.

Through its reports and periodic investigations, CHRI continually draws attention to progress and setbacks to human rights in Commonwealth countries. In advocating for approaches and measures to prevent human rights abuses, CHRI addresses the Commonwealth Secretariat, member governments and civil society associations. Through its public education programmes, policy dialogues, comparative research, advocacy and networking, CHRI's approach throughout is to act as a catalyst around its priority issues.

The nature of CHRI's sponsoring organisations\* allows for a national presence and an international network. These professionals can also steer public policy by incorporating human rights norms into their own work and act as a conduit to disseminate human rights information, standards and practices. These groups also bring local knowledge, can access policy makers, highlight issues, and act in concert to promote human rights.

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## Commonwealth Human Rights Initiative

### CHRI Headquarters

B-117, First Floor  
Sarvodaya Enclave  
New Delhi - 110017, INDIA  
Tel: +91-11-2685-0523, 2686-4678  
Fax: +91-11-2686-4688  
E-mail: [chriall@nda.vsnl.net.in](mailto:chriall@nda.vsnl.net.in)

### CHRI London Office

C/o Institute of Commonwealth Studies  
28, Russell Square  
London WC1B 5DS, UK  
Tel: +44-020-7-862-8857  
Fax: +44-020-7-862-8820  
E-mail: [chri@sas.ac.uk](mailto:chri@sas.ac.uk)

### CHRI Africa Office

C/o The British Council  
PO Box GP 771  
Accra, Ghana  
Tel: +233-21-683068, 683069, 683070  
Fax: +233-21-683062  
E-mail: [CHRI@gh.britishcouncil.org](mailto:CHRI@gh.britishcouncil.org)

Website: [www.humanrightsinitiative.org](http://www.humanrightsinitiative.org)

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Commonwealth members of the UN Human Rights Council

Researched and Written by: R. Iniyar Ilango  
Edited by: Maja Daruwala, Caroline Sharp and Daniel Woods  
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## 1. Context

In May 2006, 13 members of the Commonwealth - Bangladesh, Canada, Cameroon, Ghana, India, Malaysia, Mauritius, Nigeria, Pakistan, South Africa, Sri Lanka, UK and Zambia- were successfully elected to the United Nations (UN) Human Rights Council. Together these 13 countries hold more than one fourth of the Council's 47 seats and approximately 27.5% percent of the world population. Though bound by common commitments to human rights and consensus building on global issues, these members failed to act together in the foundational stages of the UN Human Rights Council. Established in 2006, the UN Human Rights Council replaced the UN Commission on Human Rights created in 1946 to promote and advance international human rights standards. The new Council marked the beginning of a new UN human rights process that had for long been subsumed by international politics.

Yet, the proposal for the establishment of the Council was from the start tainted by some of the weaknesses that had debilitated the commission. Its drafting was dictated by political negotiations with insufficient sensitivity towards human rights.

The decision to replace the existing Commission resulted from a 2004 report of the High-level Panel on Threats Challenges and Change, mandated to look into the reform of the UN, and which highlighted problems in the Commission. For example, the Panel noted the presence of serious human rights violators in the Commission, especially some who used their membership to shield themselves from censure. One of the main recommendations of the Panel was to abolish the election of the members and to introduce universal membership. Given the extent of the problems observed and the level of criticism of the commission, the UN Secretary General, in his March 2005 report entitled 'In Larger Freedom: Towards Development, Security and Human Rights for All' proposed a new mechanism to replace the Commission. The proposed new Council would either be a principal organ of the UN or a subsidiary organ of the General Assembly, unlike the existing Commission, which was a subsidiary organ of the Economic and Social Council. It proposed that the members should be elected by a two-thirds majority of the General Assembly. In the report nothing was said about elections based on regional groupings.<sup>1</sup>

General Assembly Resolution 60/251 has been criticised for being a watered down version of the initial proposal for a Human Rights Council. The political negotiations preceding the resolution altered the initial proposals that required a two-thirds majority in the General Assembly to be elected into the Council. The resolution requires a simple majority. This may in fact facilitate the election of human rights abusers.

The same negotiations also allowed Council seats to be reserved for regional groupings, a practice that had encouraged politicisation in the erstwhile Commission.

These alterations have a crucial impact on the selection of the members whose mandate requires integrity and sincerity that cannot be hijacked by vested interests and political alliances.

On 20 September 2004, Heads of States assembled in a General Assembly summit session reached a consensus to move ahead with the deliberations on the Human Rights Council. In February 2006, following tricky negotiations, the President of the General Assembly presented the draft, approved on 15 March 2006 by the General Assembly Resolution 60/251.

The final version of the resolution reflects the alterations brought by prior political negotiations.

Resolution 60/251 provides that the Council, subsidiary organ of the General Assembly:

- Should ensure universality, objectivity and non-selectivity in the consideration of human rights issues, and to eliminate double standards and politicisation;
- Should adopt transparent, fair and impartial methods and to enable a genuine dialogue;
- Should be composed of 47 seats divided according to regional groupings, which are to hold a fixed number of seats according to the size of their regions;
- Must hold a minimum of three sessions per year.

On the question of the Council membership, the resolution states that:

- For the council elections, voting countries are requested to base their decision on the candidates' voluntary commitments, pledges and contributions for the advancement of human rights.
- During council elections, candidates are required to commit to upholding the highest standards in the promotion and protection of human rights and to cooperate with the Council Universal Periodic Review process, which monitors countries human rights situations.
- A absolute majority of the General Assembly is sufficient to elect the members, however each successful candidate has to get a minimum of 97 votes.
- Elected members can serve up to three years in one term but are not immediately eligible for re-election after two consecutive terms.
- The General Assembly has the power to suspend, by a two-thirds majority of the members present and voting, the rights of membership of a member committing gross and systematic violations of human rights.

The resolution has been criticised for being a watered down version of the initial proposal. In particular, observers were concerned by the new election process -including the change in the majority required to elect members and the backdoor entry afforded to regional alliances through the introduction of regional groupings.<sup>2</sup> There has been concerns also that of the two models proposed by the Secretary General, the weaker one was chosen, establishing the Council as a subsidiary organ of the General Assembly instead of a principal organ of the UN.

## The Council: Tasks for the First Year

During its first year of existence, the Council held five sessions largely focussed on institution building. The Council had to:

- Set up an agenda and rules of procedure governing its work.
- Review the Special Procedures: the Council inherited from the former Commission mechanisms and mandates known as the Special Procedures, which include thematic and country mandates. Thematic mandates analyse human rights from a thematic approach. Country specific mandates have been very controversial as they assess

particular countries suspected of gross human rights violations. Special Rapporteurs, Special Representatives and Working Groups all form a part of the Special Procedures.

- Decide on a system of special advice: The Council had to consider the Sub Commission on Human Rights to decide on whether to review or replace it with an alternative system of expert advice.
- Review the 1503 complaints procedure: The Council inherited this mechanism, whereby complaints against a state could be submitted by individuals and by states.
- Establish a Universal Periodic Review (UPR): The Council had to design a system to review regularly the human rights record of the UN member states.

## 2. Issues Addressed and Commonwealth Members' Involvement

The membership of the Commonwealth presupposes the will to act together and hold true to the founding principles. This however has not proved to be true with the Commonwealth members of the Council who have rather been disunited in the degree of their commitment to the Commonwealth's founding principles, and have often acted in accordance with alliances based on Real-politick moorings. In the Council, they failed to act together to promote their common Commonwealth commitments. Their performance has not in any way been consistent, both in the level of participation as well as in the positions taken.

Some Commonwealth members such as Bangladesh, Canada, India, Pakistan and the UK, were particularly active. Others, such as Ghana, Mauritius and Zambia, have preferred a more discreet or silent role. Furthermore Commonwealth members' positions have been conditioned by varied degrees of geopolitics. Individual contributions have also been often contrary to Commonwealth commitments.

In fact, given their commitments towards human rights at large, it is disturbing to note that none of the Commonwealth members have been able to meet all their pre-election pledges and obligations.

It is distressing to note that many Commonwealth members have taken worrying positions on the shaping of the Council's mechanisms -the strength and efficiency of which will determine both its the credibility and power of the Council. In many instances their proposals have attempted at undermining the independence of the Special Procedures, weakening country specific intervention, and creating a diluted Universal Periodic Review (UPR) system.

For example, some Commonwealth members have tried to prevent civil society from playing an active part in the UPR. Some have attempted to limit the basis of the UPR to nothing more than voluntary commitments while others have sought to international humanitarian law exclude from its basis. Some Commonwealth countries were even brazen enough to suggest that UPRs should not interfere with domestic law. Many went further and strongly opposed synchronising the Council's mechanisms (notably the Special Procedures and the complaints mechanism), with the UPR process, although it would facilitate a more comprehensive review.

Some Commonwealth members further tried to limit the scope of the Special Procedures by submitting them to a restrictive code of conduct. Some arguments suggest that the thematic mandates of Special Procedures should not contain any specific example of a country situation. Several members suggested that all country specific mandates of Special Procedures should be eliminated altogether. The complaints procedure has similarly come under attack, with some Commonwealth members suggesting the imposition of strict admissibility criteria for complaints.

Many debates in the Council remained stuck between contentious arguments between Commonwealth countries. For example, during reviews of the Special Procedures, developing Commonwealth members largely took positions supporting the election of Special Procedure mandate holders to ensure the democratic character of the process and an equitable representation of all regions. On the other hand developed members preferred for the President of the Council or the UN High Commissioner for Human Rights to appoint mandate holders to avoid their politicisation and ensure their independence. Both arguments are valid and the debates mostly illustrate the distrust between Commonwealth states affiliated to different sets of groups and alliances.

Commonwealth states took these stands despite their commitments to promote human rights as a fundamental political value under the Harare Declaration; to support the UN under the Singapore and, Nassau Declarations; and to promote the civil society under the Aso Rock and Coolum Declarations.

Although the overall performance of the 13 Commonwealth members remains grim and distressing, there have been some positive interventions. In certain issues Commonwealth members have played an important role. For example India pushed for the inclusion of national human rights institutions in the Council's processes. Ghana, Mauritius, Zambia played a key role in advocating for justice in Darfur. The UK and Canada actively supported the inclusion of civil society in the Council. Nigeria highlighted the importance of economic, social and cultural rights. Bangladesh supported deliberations against poverty and on corporate social responsibility and the right to development. Malaysia promoted the right to development. Pakistan, South Africa, Sri Lanka and Cameroon supported the Durban Declaration and Programme of Action and promoted the upgrading of the Convention on the Elimination of Racial Discrimination.

There is a clear need to monitor and assist Commonwealth participation in the Council. This is a role that both civil society and Commonwealth mechanisms could undertake.

## 3 The Report

### 3.1 Structure of the Report

The report provides an analysis of the performance of the 13 Commonwealth member states since their election to the UN Human Rights Council:

- In the Council
- At the UN level (outside the Council and in relation with UN human rights instruments)
- In the domestic sphere.

The report then compares the performances with the Council members' pre-election pledges and commitments.

The report also looks at ways in which the Commonwealth could assist the Council by strengthening the group of Commonwealth members in the Council.

### 3.2 Methodology

The report has been written using research based on secondary sources. To the maximum extent possible, care has been taken to ensure that information on domestic human rights situations predominantly comes from local sources.

The drafter's to provide a balanced judgement faced two main challenges. The first one was to measure vague, generalised and un-quantifiable pledges made by many Commonwealth governments. This has in some instances resulted in equally general compliance indicators. In other instances the report was able to assess specific pledges in consequently specific terms. This pattern is an indicator of the existence of loopholes in the pledge making process. It is also an indicator of the lack of efficient standards to govern this process. The second challenge was the difficulty of obtaining information on the countries in an equal scale. This has led to a variation in the quantity of information used in tallying compliance with pledges. The limited availability of reliable, objective and/or quantified information is in itself an indication of the lack of infrastructure in many Commonwealth states to monitor human rights situations. This has only heightened the necessity for an urgent need for both technical assistance and reinforced commitment to human rights on the part of Commonwealth governments. When using the report, it is advisable to take these factors into consideration and avoid comparing the different countries' situations and/or extent of the compliance with their pledges.

The report is also selective in its focus and considered a limited set of deliberations, resolutions and decisions, which were found particularly relevant for the assessment of the members' attitudes and performances. For example, while assessing countries' performances in the General Assembly, the drafter of the report focused on two important resolutions -the 'The Resolution on the Promotion of Equitable and Mutually Respectful Dialogue on Human Rights' (GA/RES/61/166), which aimed at eliminating the only tool available in the General Assembly to publicly identify countries abusing human rights, and the resolution to defer the passing of the UN Declaration on the Rights of Indigenous Peoples.

## 1. Background

### 1.1 Context

Bangladesh, carved out of Pakistan, became a separate sovereign state in 1971. In 1975, following the assassination of its President, Bangladesh slipped into military rule for 15 years, until 1991, when it eventually returned to democracy. The political situation has however remained tumultuous as intense political rivalry and violence set the rhythm of the country's volatile political history. A caretaker Government widely believed to be backed by the army currently administers Bangladesh. The country was scheduled to go to democratic elections in January 2007. Political violence targeting the caretaker Government and controversy over the Election Commission led however to the declaration of a state of emergency in January 2007. Elections were postponed and no date has yet been fixed. In April 2007, during a Government anti-corruption drive, a head of one of the major political parties was charged with murder.

### 1.2 UN treaties

Bangladesh is a party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention Against Torture (CAT), the Convention on the Rights of the Child (CRC) and its two Optional Protocols and the Convention on the Protection of the Rights of All Migrants Workers (CMW).

Bangladesh has not signed to the two Optional Protocols to the CCPR or the Optional Protocol to the CAT.

### 1.3 UN reporting history

Bangladesh has completed some reports due under international treaties, but has largely failed to satisfy its reporting requirements. There are currently eight reports overdue under five of the main international human rights instruments.

Bangladesh has owed one report under ICCPR since 2001 and has not completed any rounds of reporting. It has failed to submit any reports under ICESCR and owes reports for 2000 and 2005. Under CERD, Bangladesh has completed each of the eleven required rounds of reporting but has not yet submitted reports for 2002, 2004 or 2006. The country has completed five rounds of reporting under CEDAW but failed to submit the 2005 report. Bangladesh has completed one round of reporting under CAT, but one report has been overdue due since 2003.

Bangladesh has not extended an open invitation to the Special Procedures of the Council.

### 1.4 UN voting patterns and performance at the Council

At the Third Committee of the UN General Assembly Bangladesh abstained to vote on a resolution aimed at eliminating the only mechanism allowing the naming and shaming of countries abusing human rights in the General Assembly.

In 2006, both in the UN Human Rights Council and the General Assembly, Bangladesh consistently opposed the UN Declaration on the Rights of Indigenous Peoples.

At the Second Session of the Council, on 22 September 2006, the UN Special Rapporteur on the situation of human rights defenders presented her annual report. Bangladesh reacted to the report by highlighting the need to investigate the activities of non-government organisations.

At the Second Session of the Council, on 28 November 2006, two different decisions on Darfur were put to vote, one drafted by the European Union (EU) and the other by African members. Bangladesh supported the African submission although the EU contained stronger human rights safeguards. The draft put forth by the African members was a toned down version, containing very few opportunities for UN human rights intervention. At the Fourth Session of the Council, in March 2007, Bangladesh objected on procedural grounds to the report of the High Level Mission to Darfur.

At the Council Second Session, on 3 October 2006, Bangladesh advocated for a code of conduct to regulate the Council Special Procedures. Bangladesh reiterated at the Third and the Fourth Sessions its support for the adoption of a code of conduct.

On 6 December 2006, Bangladesh argued that in the case of the 1503 complaints procedure, evidence of the exhaustion of local remedies should be produced. The same day it questioned the inclusion of non-government organisations and other stakeholders in the selection process of the experts of the working groups dealing with complaints. On 7 December 2006, Bangladesh opposed linking the proposed expert group assisting the Council to the Universal Peer Review (UPR) mechanism. Bangladesh also supported an idea suggested by the African group calling for expert groups to focus on thematic rather than country specific issues.

At the Council Second Session, Bangladesh advocated for the outcome of the universal periodic review to be limited to a summary of discussions that the concerned state could follow up on a voluntary basis. At the same session, on 2 October 2006, Bangladesh actively lobbied against the inclusion of any naming and shaming processes in the UPR mechanism. Bangladesh further stated at the Fourth Session, on 26 March 2007, that a state must consent to the outcomes of the universal periodic review. At the Fourth Session, Bangladesh further joined a move by the non-aligned movement to oppose including other stakeholders in the implementation of the outcomes of a UPR.

## 2. Pledge

### 2.1 Context to election to the Council

Bangladesh was one of 18 Asian candidates that contested the May 2006 election to the Council. 13 seats were reserved for Asian states. Bangladesh won the election, coming third in the Asian group, with 160 votes. Thailand, Kyrgyzstan, Lebanon, Iran and Iraq were unsuccessful in securing a seat.

### 2.2 Pledge made<sup>3</sup>

In its pre-election pledge Bangladesh promised to establish a national human rights commission "as soon as possible". The country further promised to continue to work towards further

strengthening and consolidating institutional structures that promote good governance, democracy, human rights and the rule of law. Bangladesh also committed to further integrate the promotion and protection of human rights and fundamental freedoms into its national policies, including those on development and poverty eradication, with a special focus on the rights of women, children, minorities and persons with disabilities. Bangladesh also stated that, if elected, it would separate the judiciary and the executive “as soon as feasible”. It further promised that it would “contemplate” adhering to the remaining international and regional human rights instruments and that it would cooperate with efforts undertaken in the UN Human Rights Council. Finally, Bangladesh further highlighted its long involvement in the functioning of the Commission.

## 3. Compliance

### 3.1 Human rights in the past year

Policing in Bangladesh remains unreformed, under resourced grounded in archaic laws and is by and large provided a large amount of immunity from consequences of misconduct and criminal wrongdoing. Long periods of military rule have blurred lines between civilian policing and the military leading to brutal, unaccountable state policing actions and an erosion of police jurisdiction. In 2001, public reaction to the Government’s failure to control the law and order resulted in mob violence and vigilantism that rocked the country. In 2002, the Government launched the ‘Operation Clean Heart’ to clean up crime. The operation was widely criticised for heavy military deployment and human rights abuse including arbitrary arrests and custodial deaths. As a follow up to these efforts in 2004, the Government established the Rapid Action Battalion (RAB),<sup>4</sup> a paramilitary force made up of police and military personnel with commando training. The force does not have strong internal or external accountability mechanisms and a long-standing culture of police and military impunity allows it to engage in all too frequent misconduct and rights violations.<sup>5</sup> The RAB has been blamed for extra-judicial deaths, arbitrary arrests and torture. The military and the police have also been accused of similar misconduct. Between May and August 2006, 75 charges of extra-judicial killings by the RAB were reported.<sup>6</sup> 51 complaints of violent misconduct were made against the police. In the first nine months of 2006, the RAB reportedly killed on average 17.9 people each month.<sup>7</sup> RAB officers have been involved in encounter deaths, and the organisation has a reputation for leaving victim’s bodies in a public place to create a spectacle intended to create fear and suppress legitimate expressions of peaceful dissent.

Section 54(1) of the Code of Criminal Procedure 1898 allows, under certain circumstances, police officers to arrest any person without a warrant.<sup>8</sup> These powers are defined broadly. For instance, anybody found with an implement they could use to break into a house can be arrested. It is up to the person found in possession of such item to provide evidence of a lawful reason for the possession.<sup>9</sup> These laws, backed by weak government oversight at all levels leave the community at serious risk of rights violations.<sup>10</sup> While Bangladesh has acceded to CAT, it has reserved the right to apply Article 14(1) - which sets out that victims of torture can receive compensation “in consonance with the existing laws and legislation in the country”.

The right to peaceful assembly and free expression has frequently met with disproportionate response. On 29 May 2006, journalists gathered in Kushtia to protest against death threats they allegedly received from local ruling party legislator. Ruling party supporters attacked the protestors.<sup>11</sup> On 30 May 2006, in Kushtia, the same party supporters shut down a local newspaper.<sup>12</sup> On 31 May 2006, in Satkhira, eight journalists were injured when police dispersed a silent protest against the events in Kushtia.<sup>13</sup> On 26 August 2006, between five and seven people were reported

to have been killed and approximately three hundred injured when the police and military opened fire on demonstrators protesting against an open-pit coalmine project at Phulbari.<sup>14</sup> The group of demonstrators included women, farmers and indigenous people. According to reports, between 6 and 12 September 2006, around five opposition leaders were targeted and attacked by the police in street demonstrations.<sup>15</sup>

On 11 January 2007, following weeks of violence in the lead up to democratic elections on January 22, the caretaker Government announced a state of emergency while postponing the elections indefinitely. Between 12 January 2007 and 11 February 2007, a total of 29 people were reportedly killed and 52,027 arrested by security forces.<sup>16</sup> Reports state that out of the 29 deaths registered, 11 were killed by the RAB, 9 by police, 6 by the army and 3 by the joint forces (other than the RAB). According to reports, most of these deaths resulted from torture or claimed 'cross fire'.

Exploitative working conditions were reported in Bangladesh's textile industries and abusive conditions for women.<sup>17</sup> The laws designed to prevent child labour are reportedly poorly implemented.

Many children are illegally detained in jails instead of correction centres.<sup>18</sup>

### 3.2. Compliance with the pledge

Bangladesh's commitments to work towards strengthening and consolidating its institutional structures essential to the promotion of good governance, democracy, human rights and rule of law have not resulted in visible progress.

Law reform and the creation of independent accountability mechanisms (such as human rights institutions or independent police oversight bodies) are both required for Bangladesh to comply with its pledge. There has however been no law reform or establishment of accountability mechanisms.

The quest for a national human rights institution in Bangladesh has also been slow and beset by delay. The Government set out to establish a National Human Rights Institution in 1995 under much pressure. The process, which has now spanned over nearly twelve years, the rule of two political parties and one year of United Nations Human Rights Council membership<sup>19</sup>, has included political deliberation, drafting and redrafting of laws, election manifestos and a pledge to the international community to support the development of a human rights institution. At the time of the drafting of this report, there was no indication of progress.

The first democratic elections in Bangladesh were held in 1991. Since this time, promises to separate the judiciary and the executive have formed the basis of election manifesto after election manifesto. In 1999, the Supreme Court set down an order that the judiciary and executive be separated; the Government has made 23 applications to be given more time to comply with this order. Reports indicate that the caretaker Government is currently engaged in taking necessary steps to separate the two organs, although the process of separation could take many more years.<sup>20</sup>

Continuous abuses of freedom of expression, freedom of association, political freedom and the rights of vulnerable groups such as low income workers and women illustrate the Government's

failure to incorporate basic human rights standards into its work, laws and policies suggest that the country's pledge to integrate the promotion and protection of human rights and fundamental freedoms into its national policies has not been satisfied.

Bangladesh's pledge to "contemplate" adhering to the remaining international and regional human rights instruments has not yet fructified, with three key Optional Protocols still not signed.

Bangladesh's involvement in international human rights institution building in the Council has however been active. Bangladesh took many stands and advanced many positions in the Council. This may seem in keeping with Bangladesh's pledge to cooperate with efforts undertaken in the Council. It has to be noted though that a number of the country's stands, particularly on the role of civil society, Special Procedures, complaint mechanisms, Universal Periodic Review, country specific mandates and on Darfur, have in fact been non-cooperative with positive efforts in the Council to strengthen human rights compliance and have impeded the scope for future international human rights institution building.

# 1. Background

## 1.1 Context

In 1961 the British administered Southern Cameroons merged with the Republic of Cameroon, which had won its independence from French administrators a year before. The first president of the Federal Republic of Cameroon, Ahmadou Ahidjo, ruled over it for more than 20 years. During his repressive rule he converted the federal Cameroon into a unitary state by a national referendum, led it into single party rule in 1966 and re-christened it the United Republic of Cameroon in 1972. In 1982, Paul Biya, Ahidjo's Prime Minister, succeeded him as President and opened up the country to multiparty elections, which he won in 1992, 1997 and 2004. Commonwealth observers, while accepting the 2004 election results, stated that the electoral process lacked credibility in key areas. Divisions between the Anglophone Northwest and Southwest provinces and the remaining Francophone provinces began to surface strongly in the 1990s. Anglophones claim to be marginalised and have been advocating various solutions ranging from federalism to secession.

## 1.2 UN treaties

Cameroon is a party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and its first Optional Protocol, the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the Convention Against Torture (CAT) and the Convention on the Rights of the Child (CRC) and its two Optional Protocols.

Cameroon has not become a party to the Convention on the Protection of the Rights of All Migrants Workers (CMW), the Second Optional Protocol to ICCPR nor the Optional Protocol to CAT.

## 1.3 UN Reporting History

Cameroon has completed some reports due under the international treaties, but has largely failed to satisfy its reporting requirements. Cameroon has twelve reports due under six of the main international human rights instruments.

Cameroon has completed three rounds of reporting under CAT but has failed to submit its 2004 report. Under ICCPR the country has completed three rounds of reporting but one report has been overdue since 2003. Cameroon has completed one round of reporting under CEDAW but owes reports for 1999 and 2003. Under CERD Cameroon has completed thirteen rounds of reporting but still owes five reports for 2000, 2002, 2004, 2006 and 2008. It has also completed one round of reporting under obligations to ICESCR two reports have been overdue since 2001 and 2006. Under CRC Cameroon has completed one round of reporting but failed to submit the 2000 report.

Cameroon has not extended an open invitation to the UN Human Rights Council's Special Procedures.

## 1.4 UN Voting Patterns and Performance at the Council

Cameroon was absent at the Third Committee of the General Assembly for an important vote on a resolution aimed at eliminating the practice of naming and shaming countries abusing human rights.

In June 2006, Cameroon voted in the UN Human Rights Council to recommend the General Assembly pass the UN Declaration on the Rights of Indigenous Peoples. Five months later, in the General Assembly, Cameroon changed its stance and voted to defer the passing of the declaration.

On 22 September 2006, at the Third Session of the Council, during the interactive dialogue following the presentation of the report of the Special Rapporteur on the situation of human rights defenders, Cameroon highlighted cases where it felt that non-governmental organisations had gone about abusing the confidence of governments.

On 28 November 2006, at the Second Session of the Council, Cameroon was absent for the vote on the two draft decisions on Darfur put forth by the European Union and African members.

## 2. Pledge

### 2.1 Context to election to the Council

Cameroon was one of 13 African countries that contested the May 2006 elections for the 13 seats reserved for Africa. The election results were pre-determined. Cameroon came tenth among the African group with 171 votes.

### 2.2 Pledge made<sup>21</sup>

In its pre-election pledge Cameroon stated that its laws provide that “Tout acte discriminatoire à l’égard des personnes ou de groupes ou d’organisation est réprimé”.<sup>22</sup> It also stated that press freedom has been guaranteed in Cameroon and that the protection of minorities and indigenous people has been granted. The country pledged to promote and respect human rights and liberties and promised to work towards the effectiveness of civil and political rights. Cameroon added that it would work towards the effectiveness of economic, social and cultural rights including the right to development. The country promised to cooperate with regional organisations, national human rights institutions and civil society organisations promoting human rights. It committed to promote the respect of human rights obligations enshrined in various international instruments. Cameroon pledged to cooperate fully with the members of the Human Rights Council, and to work towards building the Council as a credible institution.

## 3. Compliance

### 3.1 Human rights in the past year

A dearth of credible data on human rights issues emanating from Cameroon over the past twelve months makes examination of Cameroon’s compliance to its pledges difficult. Available information however testifies of persistent problems.

For some time, the Southern Cameroons National Council (SCNC), an Anglophone secessionist movement, has alleged repression by the hands of the francophone majority Government. In

January 2007, security forces detained around 20 members of the proscribed SCNC.<sup>23</sup> A spokesman for the Ministry of Territorial Administration and Decentralisation was reported stating that “[w]hen the members of the SCNC have a meeting it is normal to arrest them. They are not arrested in an arbitrary manner because they are doing something illegal”.<sup>24</sup> Human rights groups indicate that those arrested were released without charges after brief detention. Local Anglophone news sources though claimed that arrested members of the SCNC were tortured while in custody.<sup>25</sup> Reports indicate that similar arrests and detentions occurred in April and May 2007.

In December 2006, security forces engaged with violent Anglophone students in the University of Buea and killed two persons.<sup>26</sup> In March 2007, eight Buea University students were arrested for staging a demonstration supporting the independence of Anglophone Cameroon. According to human rights groups they were released without charges.

Cameroon has maintained its discriminatory legislation towards sexual minorities. Homosexuality is crime punishable with a five-year jail term. In May 2005, the media reported the case of 11 men detained for homosexuality. Following international pressure, these men were acquitted on 21 April 2006 for lack of evidence.<sup>27</sup> Human rights groups reported that in February 2007 two men were sentenced to one-year imprisonment for practicing homosexuality. In March 2007, four young women were sentenced for practising homosexuality to a suspended three-year prison sentence and a fine. The same month 12 young women were expelled from school for being lesbian.

There have been several reports of attacks against media professional. In September 2006 for example, Duke Atangana Etotogo, Editor of ‘L’Afrique Centrale’, was allegedly secretly held by military security after writing an article on the corruption in the army.<sup>28</sup> He was released allegedly after having written a letter of apology to the Defence Minister and the President.<sup>29</sup> On 6 and 7 November 2006, three hooded men broke into her home and assaulted Agnes Taile, a radio presenter.<sup>30</sup> Three weeks before the incident she had received phone calls warning her to stop moderating the programme ‘Its Your Turn to Speak’, which invited callers to discuss news subjects. In November 2006, there were allegations that Andu Ezieh, Publisher of the private English-language weekly ‘The Heron’, was assaulted by police officers in retaliation of his critical coverage of the police response to student protests in Buea University.<sup>31</sup>

Security forces were reported to have recourse to torture and inhuman and degrading practices. In April 2007, Serges Ondobo reportedly died after being beaten in police custody. Allegations claim that no action has been taken on the policemen responsible for this. In October 2006 a number of people were allegedly arrested, detained in difficult conditions and subjected to indignities and physical violence.<sup>32</sup>

### 3.2. Compliance with the pledge

The guarantees that Cameroon declared having granted to protect press freedom, minorities and indigenous people are not sufficient. Sexual minorities are particularly vulnerable to human rights abuse, media professionals have been directly targeted and the Government failed to support the UN Declaration on the Rights of Indigenous Peoples.

Cameroon pledged to promote and respect human rights and liberties and to respect human rights obligations enshrined in various international instruments. Cameroon is also a party to the CAT. Cameroon security forces have however been accused of using torture.

Cameroon’s promise to actively participate in the Council is questionable given its silence or absence for crucial votes.

## 1. Background

### 1.1 Context

Canada has a federal system of government. It has been active in its attempts to promote human rights and democracy. Domestically, the country has legislated progressive reforms to better accommodate its French-speaking minority and internationally it is a major donor, financing a range of human rights activities. Canada however is not without its internal human rights issues. Despite a recent history of relatively progressive legislation, the Canadian indigenous community remains disadvantaged. Issues relating to migration and asylum claims also persist. More recently Canada has also been part of a group of countries using questionable methods in the conduct of the global “war on terror”.

### 1.2 UN treaties

Canada is a party to the International Covenant on Civil and Political Rights (ICCPR) and its two Optional Protocols, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the Convention Against Torture (CAT) and the Convention on the Rights of the Child (CRC) and its two Optional Protocols.

Canada has not signed the Convention on the Protection of the Rights of All Migrants Workers (CMW) nor the Optional Protocol to CAT.

### 1.3 UN Reporting History

Canada has nearly completed all its reporting requirements under international treaties with only one report overdue under CEDAW.

Canada has completed five rounds of reporting under CEDAW although it owes one report for 2003. Canada has fulfilled all its reporting obligations under CAT, ICCPR, ICESCR, CERD, CRC and the two Additional Protocols to CRC.

Canada has extended an open invitation to the Council’s Special Procedures.

### 1.4 UN Voting Patterns and Performance at the Council

At the Third Committee of the UN General Assembly Canada opposed a resolution aimed at eliminating the only mechanism in the General Assembly allowing the naming and shaming of countries abusing human rights.

Both in the UN Human Rights Council and the General Assembly Canada opposed the UN Declaration on the Rights of Indigenous Peoples due to the complexity of the issues related to autonomy and self-government of indigenous people. At the Third Session of the Council, on 1 December 2006, Canada denied “fear mongering” against the UN Declaration on Indigenous Peoples Rights. The country is the only Commonwealth country to have had a country specific resolution proposed against it, at the Third Committee of the General Assembly. The proposed resolution led by Iran

expressed concern over the situation of Canada's indigenous people and migrants. The resolution was widely dismissed as being in "retaliation" for Canada's stance on other countries and was not passed by the Assembly.

In the UN Human Rights Council Canada encouraged important initiatives for the strengthening of the Universal Periodic Review (UPR) system and the Special Procedures. At the Third Session of the Council, on 4 December 2006, it however opposed the idea of the UPR becoming a funding agency to assist countries in achieving their human rights targets and preferred that decisions on funding be left with the Council. On 6 December 2006, Canada took the view that the author of a 1503 complaint should provide required additional information within reasonably prompt time.

At the Second Session of the Council, on 20 September 2006, the Working Group on Arbitrary Detention brought Canada's system of security certificates under scrutiny. In its reply, the country stated that as far as asylum seekers are concerned, Canada has a right to detain any person posing a threat to its national security.

## 2. Pledge

### 2.1 Context to election to the Council

Canada was one of nine contestants for the seven seats reserved for the Western European and Other States Group. Canada won the election with 130 votes, the lowest score in this group. Portugal and Greece were unsuccessful in securing a seat.

### 2.2 Pledge made<sup>33</sup>

In its pre-election pledge Canada stated that promotion and protection of human rights is part of its domestic and foreign policies. It stressed that it had played a leadership role in the implementation of key human rights norms in areas that concern indigenous people, violence against women and mass exodus of refugees and migrants. Canada added that by May 2006 it would have no reports due before the relevant treaty bodies and that it would submit its future reports in time. Canada also pledged to "consider" signing or ratifying the Optional Protocol to CAT and "other human rights instruments". Canada committed itself to implement human rights in the domestic sphere including on issues concerning indigenous people and racism. Finally, Canada further stated that gender equality is being promoted and protected in Canada through the Canadian Charter of Rights and Freedoms.

## 3. Compliance

### 3.1 Human rights in the past year

Despite Canada's acknowledged positive approach to human rights there were in 2006 a number of practical issues that ran counter to their overall commitments. Canada's role in the global "war on terror" has been increasingly criticised. There were a number of specific examples that bring these issues into sharp focus.

On 26 March 2006 and 2 July 2006, Canadian citizens Mostafa Dadar and Sagi Bachan Singh were deported to Iran and India despite potential risks of torture at the hands of security services in

these countries. It was also undertaken despite requests from the UN Committee Against Torture to delay, if not halt, the deportation and a 2002 Canadian Supreme Court decision forbidding deportation of persons 'in need of protection' who face a risk of torture.<sup>34</sup> Subsequent to the deportation, Sagi Bachan Singh was allegedly beaten while in detention in the Indian state of Punjab.

In September 2002, Maher Arar, a Canadian citizen, was arrested in the US and secretly sent to Syria where he was allegedly tortured. He was arrested on the basis of questionable information provided by the Canadian security agencies suggesting that Arar was a terrorist. In 2003, he was released and returned to Canada, where his case sparked public outcry. In September 2006, a public inquiry into the case of Maher Arar criticised a number of Canadian government agencies and departments that contributed to Arar's incarceration and alleged torture.<sup>35</sup> The agencies were held responsible for implicating Arar with terrorism based on faulty and incorrect information. It has been reported that three other Canadian citizens remain in similar conditions. In 2005, the UN Human Rights Committee called for investigations into these cases. It has also been alleged that the aircraft used by the US for secret "extraordinary rendition" of "terror suspects" used Canadian facilities in Newfoundland, Northern Ontario and Nunavut at least 75 times.<sup>36</sup> "Extraordinary rendition" involves the transportation of suspects to undisclosed third countries destinations often into environments with harsh prison conditions and alleged torture. The Government has declined to comment or release information on its alleged complicity on the grounds of national security.

Prior to March 2007, Canada had a system in place allowing the Government to issue security certificates that enabled authorities to arrest foreigners and permanent residents named in the certificate. The system was found to be in violation of due process and principles of natural justice and the Canadian Supreme Court ruled on 23 February 2007 that the certificates violated Canada's Charter of Rights.<sup>37</sup> The Government subsequently allowed the law to expire in March 2007. Some individuals previously detained under the security certificate provision however remain in detention. For example, Mahmoud Jaballah, who was arrested in August 2001 under a security certificate, was released on 12 April 2007 from an immigration holding centre following a Federal Court decision. Despite this, he has now been placed under house arrest on the basis of evidence, which has not been communicated to him.<sup>38</sup> In March 2007, the UN Committee on the Elimination of Racial Discrimination (CERD Committee) noted with concern that Canadian authorities, when implementing the Anti-Terrorism Act and Immigrants and Refugee Protection Act, might be using racial profiling.<sup>39</sup>

Canada's military presence in Afghanistan has also come under the human rights spotlight. For instance, a human rights group filed a case in April 2007 to challenge the Canada-Afghanistan Detainee Agreement. The agreement allows Canadian forces to hand over detainees to Afghan authorities. It has been argued that this agreement does not have enough safeguards to prevent the Afghan authorities from mishandling or torturing detainees. In late April 2007, detainees, who had been handed over to the Afghans by Canada, were reportedly tortured.<sup>40</sup>

Canada's Safe Third Country Agreement with the US prevents those travelling through the US into Canada from claiming refugee status. Such refugee claimants have to claim asylum in the US. There are concerns that this makes Canada complicit in any abuse of refugees that takes place in the US.<sup>41</sup> Recent changes made to the Immigration and Refugee Board that bring in appeal safeguards are yet to be implemented.<sup>42</sup>

In October 2006, Canadian Government report stated that violence against women remains a problem.<sup>43</sup> Sexual assault was deemed to be one of the most under reported crimes. Indigenous

women and women living in the territories are most affected by violence. The report further echoed concerns of Human Rights groups on the absence of adequate statistical data regarding violence against women.

Canada has been criticised for failing to properly implement its policies toward indigenous people. Specifically, it has been criticised for inadequate implementation of recommendations made by government Commissions, UN treaty bodies and special procedures.<sup>44</sup> The UN CERD Committee echoed these concerns in its recommendations in March 2007.<sup>45</sup>

In February 2007, a UN report on the follow up of recommendations made by the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous People<sup>46</sup> noted that Canada had not adequately allowed indigenous people to assert property rights over their land. It also noted that the Government's efforts to reduce the socio-economic gap between indigenous people and the rest of the population have not been adequate. The CERD Committee also expressed concerns on the lack of progress of the efforts to address discrimination against indigenous people, particularly women and children, on issues concerning Indian status and property rights in reserve lands.<sup>47</sup> The Committee also noted that indigenous people were disproportionately incarcerated in Canada.

Following the US example, the Canadian Government has been preparing a counter-insurgency field manual for its armed forces. It was reported that radical native groups have been classified as insurgents along with international terrorist organisations. Following objections raised by indigenous groups, fearing the use of security measures as a pretext to target indigenous people, the Defence Minister stated in April 2007 that this would be dropped in the final version of the manual.<sup>48</sup>

The CERD Committee also expressed concern over issues of inequality faced by racial and ethnic minorities in Canada<sup>49</sup> and noted there was a lack of data to assess the socio-economic conditions of these groups. The Committee urged Canada to drop the use of term "visible minorities" for public purposes, used widely in official documents including the Employment Equity Act 1995 and in the census to indicate people other than aboriginals or Caucasians. The Committee further pointed out that Canada does not have a law to criminalize racial violence as required by its obligations under Article 4 of the Convention on the Elimination of Racial Discrimination. The Committee also highlighted a disproportionate use of force by security forces against African Canadians. African Canadians allegedly face discriminatory practices in recruitment, remuneration and other employment related issues. The Committee added that Canada's decision on 25 September 2006 to cancel the Court Challenges Programme, which funds litigations, negatively affects minorities' access to justice.

Some Canadian businesses have come under increasing scrutiny for being complicit in human rights violations abroad. Human rights groups have, for example, noted the case of Ivanhoe Mines, a Canadian company engaged in business with the repressive military regime in Myanmar.<sup>50</sup> This was also recognised by the CERD Committee, which expressed concerns about Canadian resource companies being connected to violation of right to health, land, living environment and the way of life of indigenous people.<sup>51</sup>

In May 2006, as Canada joined the Council, the Committee on Economic, Social and Cultural Rights noted that, in 2004, 11.2 percent of Canadians lived in poverty while in 2005, 7.4 percent of Canadians lacked food security.<sup>52</sup> The Committee expressed concerns over Canada's non-implementation of most of its recommendations in 1993 and 1998. It stated that Canada's laws preventing public servants, employees of crown corporations, public school teachers and university

professors from exercising their right to strike were not in line with the Articles 4 and 8 of the ICESCR.

### 3.2. Compliance with the pledge

In its pre-election pledge document, Canada presented itself as a leader in the implementation of key human rights norms in the area of indigenous rights. As a member of the UN Human Rights Council though, Canada opposed the Declaration on the Rights of Indigenous Peoples both at the General Assembly and in the UN Human Rights Council.

Canada had also committed to implement human rights standards internally, with a particular focus on issues related to racism and indigenous communities' rights. The country has however been subject to heavy criticism in the 2007 recommendations of the UN CERD Committee.

Similarly, Canada has committed itself to addressing violence against women, yet a 2006 report of its own Government notes the persistence of the problem and its particular incidence for indigenous women.

Canada has a very satisfactory record of reporting before the treaty bodies. The country however still has one report due despite its own deadline to submit all pending reports by May 2006.

The pledge to "consider" ratifications the Optional Protocol to CAT and the CMW Canada has not yet fructified.

Canada's anti-terror policies and related practices abroad and its practices relating to refugees, have raised new and serious concerns. There is concern that recent legislation and practices erode long endorsed and revered basic human rights and fundamental principles.

Canada has been relatively active in strengthening the UN Human Rights Council. It has argued that the Council and not the UPR should decide on funding for promoting human rights agendas. This does not take account the risk posed by regional politics.<sup>53</sup> Canada's stand that the author of a complaint under the 1503 procedure must be reasonably prompt in submitting additional information, may not be in the best interests of all authors, especially those who come from developing countries where additional information may be hard to come by within any stipulated time frame.

## 1. Background

### 1.1 Context

In 1957, Ghana became the first country to achieve independence from colonial rule in sub-Saharan Africa. In 1966, Ghana's first President was deposed in a coup heralding a 26-year period of military rule, coups and counter coups. In 1992, Ghana adopted a new constitution, establishing multi-party democracy and placing Ghana on a more stable democratic footing. Between 1994 and 1995, land disputes caused ethnic violence in an otherwise peaceful country. Ghana continues to be one of the more successful models of African reform and promote its pan-African ideals across the continent.

### 1.2 UN treaties

Ghana is a party to the International Covenant on Civil and Political Rights (ICCPR) and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the Convention Against Torture (CAT), the Convention on the Rights of the Child (CRC) and its two Optional Protocols and the Convention on the Protection of the Rights of All Migrant Workers (CMW).

Ghana is not a party to the Second Optional Protocol to ICCPR or the Optional Protocol to CAT.

### 1.3 UN reporting history

Ghana has completed some reports due under international treaties but has largely failed to satisfy its reporting requirements.

Ghana has not completed any reporting under ICCPR (reports are outstanding for 2001 and 2006) or ICESCR (an initial report was due in February 2001). Ghana has completed 17 rounds of reporting under the CERD, but has not yet submitted its report for 2006. The country has not completed any reporting round under CAT and still owes its 2001 and 2005 reports. Under CMW Ghana has not completed any reporting and one report is overdue since 2004. It has completed its reporting requirement under CRC and CEDAW.

Ghana has not yet extended an open invitation to the Human Rights Council Special Procedures.

### 1.4 UN voting patterns and performance at the Council

At the Third Committee of the General Assembly Ghana abstained from voting on an important resolution on whether the General Assembly has the power to identify particular countries and admonish them for non-compliance with international human rights obligations.

In June 2006, at the First Session of the Council, Ghana abstained from voting on the UN Declaration on the Rights of Indigenous Peoples. In November 2006, sitting in the UN General Assembly, Ghana voted to defer the passing of the declaration.

At the Second Session of the Council, on 28 November 2006, two draft resolutions were submitted on the human rights situation in Darfur by the European Union (EU) and a group of African countries. Ghana supported the EU resolution, which had a stronger human rights focus. At the Fourth Session of the Council, on 30 March 2007, Ghana played a key role in building a consensus on the latest resolution passed on Darfur.

At the Fourth Session, on 28 March 2007, Ghana opposed a EU proposal to send on an urgent visit to Zimbabwe the UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment and the Special Rapporteur on freedom of promotion and protection of the right to freedom opinion and expression. Ghana objected that African countries must be the first to comment on another country of the continent.

## 2. Pledge

### 2.1 Context to election to the Council

Ghana was one of 13 African countries that contested the May 2006 elections to the Council. The number of candidates was the same as the number of seats for Africa. The election results were pre-determined. Ghana came first among the African group with 183 votes.

### 2.2 Pledge made<sup>54</sup>

In its pre-election pledge Ghana committed to cooperate fully with UN treaty bodies. It also pledged to participate actively in the work of the UN Human Rights Council and to cooperate for the establishment of an effective Universal Periodic Review (UPR) system. Ghana promised to extend standing invitation to the Council's Special Procedures and further committed to strengthen its policies for the advancement of women and to eliminate gender-discrimination from its law books. Finally, Ghana highlighted provisions of its 1992 Constitution, which guarantee fundamental rights and freedoms.

## 3. Compliance

### 3.1 Human rights in the past year

In April and March 2006, reports recounted the Government's eviction of the residents of Dudzorme Island. The residents were forcibly evicted from a land identified as forest reserve. The ferry used to transport the evacuees capsized during the eviction, causing 30 deaths. International human rights groups condemned the Government's actions.<sup>55</sup>

In March 2007, the Accra Metropolitan Assembly was denounced for closing down small businesses in order to beautify the city for Ghana's golden jubilee celebrations.

Ghana has also come under fire for supporting the activities of major corporations at the cost of the rights and health of communities and environmental degradation, particularly in the gold mine industry. Ghanaian security forces have been accused of committing human rights abuses against local communities, often in association with security providers of mining companies. According to reports, appropriate compensation is rarely provided<sup>56</sup> and the Government has

resorted to arrests to silence and disrupt peaceful public meetings organised by civil society groups in defence of the local communities.<sup>57</sup>

Women's rights in Ghana have been put under tight scrutiny during 2006. On 25 August 2006, the CEDAW Committee stated that the definition of discrimination enunciated in Article 17 (2) of the Constitution of Ghana did not conform with the broader definition provided in Article 1 of the CEDAW, that prohibits both direct and indirect discrimination.<sup>58</sup> The Committee also pointed out that women's access to justice, although granted by the law, is limited by the lack of information on women's rights and the lack of assistance for women to pursue their rights. The Committee expressed concern about the customary and Mohammedan law, which provide an unequal status of Ghanaian women in marriage and inheritance and allows polygamy. The Committee also expressed concern over the gender discriminatory nature of Article 7 (6) of the Constitution and 10 (7) of the Citizenship Act, which set out more onerous harder conditions for males who marry a Ghanaian woman to acquire citizenship than for women who marry a Ghanaian man.

While acknowledging the limited availability of financial and human resources to tackle the problems, the Committee expressed its concern over women's under-representation at the decision-making level and in public life in general. The Committee also addressed deeply rooted patriarchal standards and controversial cultural practices, such as female genital mutilation, *trokosi* (ritual slavery) and widowhood rites, all of which are absolute violations of women's rights. The Committee also pointed to the lack of data on violence against women in Ghana. The Committee addressed the lack of equal opportunities in Ghana, pointing out that 86 percent of women work in the informal sector, while only 4 percent work in the formal public sector and 6 percent in the private sector. Finally, the Committee found that women are lacking adequate access to healthcare.

Reports indicated that the Government has been hindering the freedom of association and expression of sexual minorities, highlighted by the Government's prevention of a conference looking at issues of sexuality in Western Africa in September 2006.<sup>59</sup>

Ghana has been under scrutiny by the Kimberly Process Certification Scheme, a system established in November 2002 to curb the illicit trading of precious stones that fund wars in Africa. In November 2006, the United Nations, which had imposed an embargo on the diamonds from Cote d'Ivoire, joined a Kimberly mission to Ghana and concluded that the country might be a transit path for the conflict diamonds from Cote d'Ivoire. The Kimberly process immediately called on Ghana to adopt a national plan to strengthen the control on the diamonds trade industry. A mission was organised in March 2007 to monitor Ghana's effort to implement the Kimberly recommendations.<sup>60</sup>

### 3.2. Compliance with the pledge

Despite its pre-election promises, Ghana has neither fulfilled its reporting requirement before the treaty bodies, nor extended an open invitation to the Council's Special Procedures.

Ghana has not pursued its commitment to actively participate in the Council's work and to make the UPR an effective mechanism. At the sessions of the UN Human Rights Council, Ghana has mostly desisted from taking strong stances. While Ghana did play a positive role by supporting the report of the High Level Mission on Darfur, its stance that Africa must lead solutions to

African problems has muted the response to Zimbabwe's deteriorating human rights situation and prevented it from being held deservedly accountable for its human rights record.

Ghana committed in its pledge document to advance women's rights and eliminate discriminatory legislation. The critical conclusions of the CEDAW Committee report have however highlighted the slow progress of the women's rights agenda. Similarly the rights and liberties guaranteed by the Ghanaian Constitution require better implementation given regular reports of discrimination against sexual minorities, women and other vulnerable groups, reports of fundamental rights regularly breached with impunity, particularly in the context of forced evictions and business sealing and reports of limited freedoms of expression and association.

# 1. Background

## 1.1 Context

India is the world's largest democracy. At the time of independence in 1947 from British colonial rule, British India was divided into newly created states - India, Pakistan and what would become Bangladesh. As Hindu and Muslim populations moved across the new borders the division led to the single largest mass movement of people in history. India is a plural society. It retains the second largest Muslim population in the world after Indonesia and has developed a solid democratic system, including a robust press and civil society. Nevertheless, given its traditional caste based society, majority minority tensions, frequent sectarian violence, endemic gender discrimination, flaring class conflicts, extreme poverty and economic disparities, India faces significant human rights issues. There is considerable evidence of human rights violations, denial of right, lack of access to justice including in particular weak systems of oversight of state forces and a significant degree of impunity for state actions.

## 1.2 UN treaties

India is a party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention Against Torture (CAT) and the Convention on the Rights of the Child (CRC) and its two Optional Protocols.

India has not signed the Convention on the Protection of the Rights of All Migrants Workers (CMW). It also has not signed the two Optional Protocols to ICCPR, the Optional Protocol to CAT and the Optional Protocol to CEDAW.

## 1.3 UN reporting history

India has completed some reports due under international instruments but there are currently four reports overdue under three of the main treaties.

India has completed three rounds of reporting under ICCPR but has owed one report since 2001. Under ICESCR it has completed five rounds of reporting but one report has been overdue since 2001. India has successfully completed one round of reporting under CEDAW but failed to submit the 1998 and 2002 reports. India has no reports due under CERD, the CRC or the two Optional Protocols to CRC.

India has not extended an open invitation to the Council's Special Procedures.

## 1.4 UN voting patterns and performance at the Council

At the Third Committee of the General Assembly, India voted in favour of a resolution aimed at eliminating the only mechanism available in the General Assembly to publicly condemn members engaged in human rights violations.

At the First Session of the UN Human Rights Council, in June 2006, India voted to recommend the General Assembly the passing of the Declaration on the Rights of Indigenous Peoples. Five months later, in the General Assembly, India abstained from voting on whether to defer the passing of the declaration.

At the Second Session of the Council, on 28 November 2006, India backed a draft decision on Darfur submitted by African members rather than a draft proposed by the European Union, which included better human rights safeguards. At the Fourth Session of the Council, on 16 March 2007, some states objected to the report of the UN High Level Mission to Darfur on procedural grounds. India suggested a compromise, which would delay action on Darfur by making the Mission undertake further visits and rewrite its report. This report would then be considered at the Fifth Session of the Council. This suggestion later became unnecessary, when a consensus was reached on a strong resolution on Darfur.

India advocated for a review of Council Special Procedures, calling for them to focus more on capacity building and technical assistance, and less on country specific identification of rights violations. At the Second Session, on 3 October 2006, India noted the proliferation of Special Mandates and called for their review. India repeatedly expressed its concerns and objections over the country specific mandates at the Second and Third Sessions. At the Fourth Session again, on 29 March 2007, in an informal consultation on the Special Procedures, India opposed country specific mandates and noted an unfair pattern in their implementation as only a few countries had been subjected to it.

India also pushed for strict admissibility criteria for the 1503 complaint procedure. The country noted that the current process of the Special Procedures lacks accountability and requires a code of conduct to regulate them. India further asserted that allegations received through Special Procedures must be handled through the complaints mechanisms instead of being handled by the concerned Special Procedure-which is the present practice. The country added that there should be consistent admissibility criteria and that cases must be properly verified before they are sent to governments.

India has also been an active participant in the debate around a Universal Periodic Mechanism (UPR). At the Third Session, on 6 December 2006, India supported the African group's submission that there should not be any link between the 1503 complaints mechanism and the UPR. At the Fourth Session, in December 2006, India proposed a long five-year cycle for the UPR and advocated that the UPR is the best mechanism for country specific issues, adding that cases of gross and systematic violations should be addressed through complaint mechanisms. On 19 March 2007, India joined a group of states that resisted the inclusion of international humanitarian law as a basis for the UPR, noting that it is different from international human rights law. India also opposed using commitments made by states in UN conferences and summits as a basis for the UPR. It held that such commitments are usually only aspirational statements made to facilitate a broader consensus on issues. On 26 March 2007, India held that the outcomes of the UPR should be agreed by the state under review.

On 28 March 2007, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance noted that he had been waiting for two years for an invitation to visit India since a request was submitted to the Government.

## 2. Pledge

### 2.1 Context to election to the Council

India was one of 18 Asian candidates that contested the May 2006 elections for the 13 seats reserved for Asia. India came first among the Asian states with 173 votes. Thailand, Kyrgyzstan, Lebanon, Iran and Iraq were unsuccessful in securing a seat.

### 2.2 Pledge made<sup>61</sup>

In its pre-election pledge India promised to stand by its national mechanisms and procedures to promote the rights of all its citizens. The country also pledged to foster a culture of transparency and accountability in governance in keeping with the requirements of its 2005 Indian Right to Information Act. India further pledged to “encourage” civil society to promote human rights. The country also promised to eliminate discrimination and violence against women through legislation and effective implementation of existing policies. In its pre-election pledge India highlighted the existence of an Indian National Human Rights Commission, which it described as “a powerful and independent body”. Finally, India pledged to support the Council and to strengthen the Special Procedures and the Universal Periodic Review mechanism.

## 3. Compliance

### 3.1 Human rights in the past year

The human rights situation in India has remained fragile. Abuse by security forces, capital punishment, unchecked violence against women, children, vulnerable groups and caste and gender based discrimination continue.

Rapid economic growth with its attendant corporate demands including a policy of land acquisition to create Special Economic Zone (SEZ) has caused tensions in several areas. Illustratively, in Nandigram, local people’s protest and opposition led to confrontations with state forces where, on 14 March 2007, police firing killed an estimated 14 people.<sup>62</sup> The police later admitted that officers had also raped local women during the suppression of protests.<sup>63</sup>

Examples of excessive use of force and police misconduct resonate across India’s Northeastern belt where there are long standing militant agitations against the State’s economic development model and foreign investment. Naxalites, as these Maoist-inspired groups are known, have also been charged with gross human rights violations. The conflict between state and non-state actors in Naxalite-affected areas continues to pose huge problems for local communities caught between.

Specific instances of torture and abuse by security forces across India have been reported in the past year. For example, in the North East of India, Manipur police commandos detained a woman, Maibam Naobi Chanu, and allegedly sexually and physically abused her on 21 February 2006. She was released from detention on 3 March 2006 when a Judicial Magistrate found that the police did not have sufficient evidence for her arrest.<sup>64</sup>

India statute books contain draconian laws that are not in conformity with international human rights standards.<sup>65</sup> For example, the Armed Forces Special Powers Act 1958, in force in the North East of India, maintains that members of the armed forces can only be prosecuted with central Government authorisation. The Act also affords the armed forces wide powers of search and arrest and permits unreasonable use of force. In March 2007, the Committee on the Elimination of Racial Discrimination (CERD Committee) recommended that India should repeal the Armed Forces Special Powers Act in accordance with the 2005 recommendations of a Review Committee set up by the Indian Ministry of Home Affairs.<sup>66</sup>

In the state of Jammu and Kashmir, there have been regular complaints of custodial death, extra-judicial killings and enforced disappearance at the hands of security forces. In April 2007, there were claims that the killing of civilians by security forces was staged as an encounter with militants. The State Government of Kashmir established in April 2007 a judicial enquiry to look into such abuses.

The impunity of the perpetrators of alleged human rights abusers remains a concern. For example, the Government has reportedly taken no effective action with regard to the Kalinganagr, shooting case.<sup>67</sup> This case centres on the 2 January 2006 shootings of 12 people by security forces, who indiscriminately fired at hundreds of indigenous people protesting against government plans for a private steel plant. After more than a year, no significant attempt has reportedly been made to provide justice to the victims of the incident.<sup>68</sup> The immense difficulty and long delays in bringing to book those involved in the communal violence in Gujarat in 2002, when Muslims were killed and many thousands more dispossessed, is illustrative of the Government's willingness and ability to ensure justice in all.

The conditions in the country's prisons have continued to deteriorate. In 2006, the number of pre-trial detainees has risen as the courts struggled with a backlog of cases. It is estimated that there are around 23 million cases pending before the Indian courts.<sup>69</sup> The National Human Rights Commission also faces a backlog of cases.<sup>70</sup>

In March 2007, the CERD Committee expressed concern over incidents of discrimination, violence and police abuse against scheduled castes and tribes in India.<sup>71</sup>

The bureaucracy has been reluctant to accept the Right to Information Act adopted in 2005 and there have been various setbacks in implementing it. It is yet to be completely implemented.

The Foreign Contribution Regulation Bill 2006, which is currently before the Parliament provides for severe restrictions on foreign funding for organisations that are classified as "organisations of a political nature, not being political parties". This classification and the power to grant a registration certificate authorising an organisation to receive foreign funds is left to administrative discretion in the Bill, which would massively decrease the space available for civil society work and advocacy in India.

### 3.2. Compliance with the pledge

India's pledge to stand by its national mechanisms and procedures to promote and protect human rights is seriously compromised by the enormous backlog in the Court system and at the National Human Rights Commission.

While several bodies have sat to deliberate on reforming the administration of justice, there have been few concrete steps in that direction. On the other hand a series of directions from the Supreme Court has obliged the States and the Union Territories to take steps toward reforming the police, removing it from direct political interference and increasing their accountability to law. These efforts are as yet nascent in some states and strongly resisted by others.

India's pledge to support civil society efforts in promoting human rights has been seriously compromised by the introduction into parliament of a new bill to restrict the flow of foreign funds to civil society organisations. The Foreign Contributions Regulation Bill, if passed into law, would provide large discretionary areas for government intervention in any civil society organisation and could seriously undermine the free and vibrant operation of civil society in India.<sup>72</sup>

India also promised to eliminate discrimination and violence against women through legislation and effective implementation of existing policies. Despite new legislations, violence and discrimination against women persist in India with regular reports of incidents of domestic violence<sup>73</sup> and abuses by security forces. Caste based discrimination remains a grave concern and challenges India's pledge to protect the rights of all its citizens.

Despite promises to strengthen the Council Special Procedures and the UPR, India's stances in the Council have sought to clamp down on country specific procedures. The country argued in favour of a code of conduct regulating the Special Procedures and rejected international humanitarian law as a basis for the UPR. India's statement that the commitments made in UN Conferences and Summits are only "inspirational" casts a serious shadow over the country's level of commitment and sincerity in international fora.

## 1. Background

### 1.1 Context

Malaysia achieved independence in 1957 as the Federation of Malaya. In 1963, three former British colonies, Sabah, Sarawak and Singapore, joined the federation. In 1965 Singapore withdrew and became a separate country, creating the Malaysia we know today, with 13 states in a federal structure. During the Second World War, Malaysia was occupied by the Japanese and immediately after the war it turned into one of the first Cold War battlegrounds. Between 1948 and 1960, as it moved towards independence, Malaysia largely remained under emergency laws, with British and Commonwealth troops on the ground and engaged in counter insurgency operations against Malaysian communist groups. Malaysia is a multiethnic country with a Malay majority and a minority of Chinese, Indians, indigenous and other groups. After race riots in 1969, the Government began a policy of positive discrimination towards the majority Malays. This context continues to inform the relationships between Malaysia's different ethnic groups today. Malaysia experienced strong economic growth, and remains an extremely strong economy, despite the 1997 South East Asian economic crisis.

### 1.2 UN treaties

Malaysia is a party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC).

Malaysia is not a party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention Against Torture (CAT) or the Convention on the Protection of the Rights of All Migrants Workers (CMW). Malaysia has not signed either the Optional Protocol to CEDAW or the two Optional Protocols to the CRC.

### 1.3 UN reporting history

Malaysia has completed two rounds of reporting under CEDAW but currently one report remains overdue. It has fulfilled its reporting requirements under CRC.

Malaysia has not extended an open invitation to the UN Human Rights Special Procedures.

### 1.4 UN voting patterns and performance at the Council

In December 2006, Malaysia voted for a resolution that weakened the only tool available in the General Assembly to hold countries accountable for their human rights records.

In June 2006, while sitting in the Council, Malaysia recommended the UN General Assembly pass the UN Declaration on the Rights of Indigenous Peoples. Five months later, in the General Assembly, Malaysia changed its position and abstained from voting on whether or not to defer the passing of the declaration.

At the Second Session of the UN Human Rights Council, on 22 September 2006, following a presentation by the UN Special Representative on the situation of human rights defenders, Malaysia stated that national laws are necessary to regulate the activities of human rights defenders.

On 28 November 2006, at the Second Session of the Council, Malaysia supported a draft resolution on the human rights situation in Darfur proposed by the African countries, rejecting a second resolution submitted by the European Union that contained stronger human rights safeguards. On 16 March 2007, Malaysia objected on procedural grounds to the report of the High Level Mission to Darfur.

At the Second Session of the Council, on 3 October 2006, Malaysia argued in favour of the adoption a code of conduct to regulate the Special Procedures of the Council. Malaysia has consistently argued in the Council that the compilation of documents on countries prepared by the Office of the High Commissioner on Human Rights (OHCHR) for the Universal Periodic Review (UPR) should not include any other source than the information provided by the treaty bodies and the Special Procedures. At the Third Session, on 4 December Malaysia opposed a suggestion that international customary law form the basis of the UPR system, arguing that customary law should not supersede domestic law, particularly the religious *shariah* law. Malaysia also opposed using material from UN conferences and on the basis that this material was too voluminous.

At the Fourth Session of the Council, Malaysia said that state commitments made during UN conferences and summits are usually only inspirational statements made to build broader consensus on issues, rather than specific obligations. At the Third Session of the Council, on 5 December 2006, Malaysia argued for the elimination of country specific mandates. On 6 December 2006, the country pushed to keep issues covered by treaty bodies or Special Procedures out of the 1503 complaints procedure. Malaysia also supported the African members' submission that there should be no link between the complaints mechanism and the UPR. At the Fourth Session of the Council, on 15 March 2007, Malaysia stated that the UPR system should be an inter-governmental process and that other actors - including non-governmental organisations - should be limited to an observer role. It also stated that there should be no role for experts in the UPR process. Concerning the review of the Special Procedures, Malaysia responded to a suggestion that they should be provided with unhindered access during country visits by saying that such access is not even available to state officials.

At the Fourth Session of the Council, on 20 March 2007 Malaysia rejected allegations of abusive treatment of migrants in the country and argued that adequate protection exists.

## 2. Pledge

### 2.1 Context to election to the Council

Malaysia was one of 18 Asian candidates that contested the May 2006 election to the Council for the 13 seats reserved for Asia. Malaysia came fifth in the Asian group, with 158 votes. Thailand, Kyrgyzstan, Lebanon, Iran and Iraq were unsuccessful in securing a seat for the Asian group.

### 2.2 Pledge made<sup>74</sup>

In its pre-election pledge Malaysia stated that it would work to make the Council a "strong, fair, effective, efficient and credible vehicle for the promotion and protection of human rights worldwide". It also promised that it would actively participate in the setting of norms, encourage a spirit of cooperation based on the principles of mutual respect and dialogue, and promote coherence in the Council. Malaysia stated that it would support the Office of the High Commissioner on Human Rights, as well as other UN agencies and actors to achieve internationally agreed

objectives. The country also promised to actively support international action to advance the rights of vulnerable groups, including women and children. Malaysia highlighted that in the context of the global threat of terrorism it has succeeded in achieving a balance between human rights and security requirements, drawing lessons from its own experience in combating armed insurgence.

## 3. Compliance

### 3.1 Human rights in the past year

Malaysia's human rights record has been under scrutiny for many reasons.

The Internal Security Act 1960 allows the police to detain people without trial for an indefinite period of time on the basis of a suspicion of a threat to national security. This means that police have the power to arbitrarily arrest and detain people for up to 60 days - and this takes place in secret locations, with solitary confinement in windowless cells.<sup>75</sup> The law reportedly applied regularly, despite its extraordinary character, which requires specific conditions for its use.<sup>76</sup> Another tool that has been used for arbitrary detention is the Emergency Ordinance (Public Order and Prevention of Crime) Ordinance 1969 -initially enacted as a temporary measure- that has been used to detain hundreds of people over a period of many years. SUHAKAM, the National Human Rights Commission of Malaysia, and various human rights groups have denounced the arbitrary character of both laws.<sup>77</sup> In a letter dated 15 January 2007, the Government replied to the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism's concern over the Malaysian legislation by stating that the Internal Security Act is necessary "to maintain peace and stability in the country".<sup>78</sup> Section 27 of Malaysia's Police Act 1958 has also come under criticism and was reportedly used In April 2007 to deny public gatherings and political speeches in the Liok by-election.<sup>79</sup> Many of these abusive legal provisions date from the Cold War and have not been repealed or reformed. While Malaysia joins much of the world in condemning the US military camp at Guantanamo Bay, many rights groups question why it has not done anything to reform its own laws.

Malaysia's human rights record has also been overshadowed by reports of suspicious custodial deaths. On 24 April 2007, the Prime Minister revealed in Parliament that 108 deaths had occurred in police custody between the year 2000 and 2006.<sup>80</sup> For 2006 alone, there were 14 deaths in police custody. Human rights groups expressed concern over Suresh Kunasekaran's death<sup>81</sup> on 27 October 2006 while in police detention in Serendah. Suresh was found oddly in a cell reserved for women, hanging from the window with a saree tied around his neck. The Police did not comment. According to reports, there is no clear information available on the number of inquiries into custodial deaths.<sup>82</sup> Besides custodial deaths, reports on the use of torture in police custody have highlighted the urgent need for an external police oversight mechanism.<sup>83</sup> The Government committed to setting up an Independent Police Complaints and Misconduct Commission in 2006, after the second Royal Commission into policing within two years recommended the Commission in its findings, but there has been little evidence of moves to actually establish a Commission.

Police officers are accused of using excessive force during the performance of their duties. In March 2007, SUHAKAM led a public inquiry into a police intervention in May 2006 that broke up a peaceful demonstration. The public inquiry concluded that the police unnecessarily arrested protestors and also used excessive force, causing injuries.<sup>84</sup>

Malaysia's policy towards migrants has come under increasing scrutiny over the past year. The country has used an armed civilian volunteer reserve known as Ikatan Relawan Rakyat Malaysia (RELA) to deal with illegal migrants.<sup>85</sup> RELA has been associated with abusive methods of apprehending illegal immigrants. Malaysian immigration laws are highly punitive and a person entering Malaysia illegally can be imprisoned for up to five years and further punished with six strokes of cane.<sup>86</sup> In February 2007, there were reports of a government plan to house migrant workers live in confined environments under government surveillance.<sup>87</sup> On March 2007, a report highlighted a plan to arrest half a million illegal foreign workers this year.<sup>88</sup> The UN Special Rapporteur on extra-judicial, summary or arbitrary executions stated on 6 March 2006 that he had sent a report to the Special Rapporteur on the human rights of migrants dealing with allegations that five migrant workers were killed following an assault by RELA officers. The Special Rapporteur indicated that he had provided the report to the Government, but had not yet received a response.

Malaysia's policy on refugees has also been in the spotlight in the past year. It was estimated that as of May 2006, Malaysia was hosting around 88,000 refugees. Human rights groups have often condemned the Government's negative attitude towards the UNHCR, with unsupportive statements by ministries, giving the impression that UNHCR is responsible for increased numbers of refugees.<sup>89</sup> Despite being a host country for refugees Malaysia is not yet a party to the 1951 Convention on Refugees and does not have a system of domestic laws to address the status of refugees.<sup>90</sup>

In August 2006, the Court of Appeal upheld a High Court ruling that allowed the Registrar of Societies to refuse to register a new political party, the *Parti Socialis Malaysia*. The High Court ruling rejecting the case was based on the rationale that the government had the power to refuse registration on the grounds of national security. The Court of Appeal found these grounds invalid it however upheld the decision to refuse registration on the grounds that the Party did not comply with government regulations. The case is now before the Federal Court on appeal. This reluctance to allow the Party to register is seen to be in contravention of the practices of open democracy and the right to association.

Malaysia's religious conversion laws have been the subject of regular condemnations by human rights groups. The laws set out that ethnic Malaysians are Muslims and state that people can only convert to other religions with government authorisation. The court system is split into regular courts and *Shariah* courts (known as *Syariah* in Malaysia) that deal with issues under Islamic law. *Syariah* courts have the power to send a Muslim accused of conversion to a rehabilitation centre. An example of the kind of treatment that a religious convert experiences in Malaysia can be seen in Lina Joy's case.<sup>91</sup> In 1990 Joy converted to Christianity and in 1998 she was baptised. She filed a request to change her name before the National Registration Department and was granted the change in October 1999. Her registered religious status remained however Muslim. According to Malaysian law, Muslims have their religious status declared on their identity documents, although this rule is not in place for other faiths. In 1999, the National Registration Board required her to produce a declaration from a *Syariah* Court that her conversion had been authorised. Joy, reluctant to appear before the *Syariah* courts, claimed that since she had converted she was now under the jurisdiction of secular courts. Her appeal to the High Court and the Court of Appeals were rejected on the ground that only the *Syariah* courts had the authority to declare and approve her conversion. On 13 April 2006, the Federal Court authorised an appeal as "novel issues" were involved and the matter was judged relevant to the public interest. The hearing of the case in June 2006 led to tense debate. On 25 July 2006, Prime Minister Abdullah Ahmad Badawi ordered the cessation of all public debate on religious issues, fearing civil unrest. On 17 August 2006 posters containing death threats against Joy's lawyer were used as part of an electronic media campaign against him.

In August 2006, the Prime Minister recommended that states that had not adopted laws on the prevention of the spread of other faiths among Muslims draft new laws in that regard. On 26 August 2006, Chief Justice Tun Ahmad Fairuz Sheik Abdul Halim announced that the Court would not rush into a decision and that they had to hear the submissions of various parties. According to latest reports the Court is expected to announce its decision on the in the near future.<sup>92</sup> On 27 March 2007, the Special Representative of the Secretary General on the situation of human rights defenders reported that, together with the Special Rapporteur on the independence of judges and lawyers, she had sent a letter on 23 August 2006 to the Government expressing concern that the threats made against Joy's lawyer were an attempt to intimidate lawyers who take on cases involving the defence of the right to freedom of religion and belief. The Special Representative stated that the Government had not replied to the letter.

There has also been high-level concern regarding the banning of religious books. In July 2006, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, in association with the Special Rapporteur on the freedom of religion or belief, sent a letter to the Government outlining concerns that the Government had banned 18 books related to the study of inter-religious matters for maintaining peace and harmony. The Rapporteur also sent a letter in December 2006 regarding an allegation that the Government had prevented 109 books (including several books by award winning authors) from entering the country. The Rapporteur stated that he had not received any response to the two letters.

In November 2006, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment communicated to the Government an allegation that Heng Peo, the former Police Commissioner of Phnom Penh and Personal Advisor to the Prime Minister of Cambodia, was at risk of being sent back to Cambodia from Malaysia to the Government, where he would be at risk of torture. The Rapporteur indicated that he received no reply from the Government on this matter.

On 31 May 2006, just after Malaysia was voted onto the Council, the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) expressed concern that the convention has not yet been incorporated into Malaysian law. It also expressed concern that the dual civil law system in Malaysia tends to negatively impact the rights of Muslim women. The Committee stated that despite Malaysia's positive policies there was still a low representation of women in public and political life and despite the high level of education among women, there is a lack of employment opportunities for them. The Committee also expressed concern over lack of efforts in Malaysia to criminalise marital rape. Finally the Committee pointed out that Malaysia does not have laws tackling human trafficking.

### 3.2. Compliance with the pledge

In the past, Malaysia has claimed that years of dealing with internal Communist insurgency mean that it is able to balance security and human rights issues. Unfortunately, the reality of this statement is that basic human rights protection has taken a back seat to the promotion of the Government's interest in the guise of national security.

While Malaysia's domestic human rights situation remains a concern, its pledge support for international efforts to advance the rights of vulnerable groups. This support is welcome, but must be matched by a push at home to ensure the protection of vulnerable groups, including women, migrants, ethnic minorities, religious minorities and refugees who are disadvantaged in various ways in Malaysia.

In its pre-election pledge Malaysia pledged support to UN agencies and their work. This support is however missing towards the UNHCR within its own borders.

Malaysia's pledge to make the council a "strong, fair, effective, efficient and credible vehicle for the promotion and protection of human rights worldwide" found little reflection in Malaysia's actions in the Council. The country's stand on the Council's Special Procedures and the future UPR mechanism has largely been aimed at systematically weakening the Council rather than strengthening it. Malaysia's stand on human rights defenders and its position on Darfur were disappointing and by no means poised at promoting and protecting human rights worldwide.

## 1. Background

### 1.1 Context

The Republic of Mauritius gained its independence in 1968, ending a colonial history of Dutch, French and British administration. The country has a multiethnic population composed of an Indo-Mauritian majority, a substantial Creole community and small Sino and Euro-Mauritian minorities. Before its independence, the British separated the Chagos Islands from Mauritius to form the British Indian Ocean Territory. Approximately 2,000 Chagos islanders were forcibly removed from their homes and sent to Mauritius. The Republic, along with the Seychelles, has been engaged in an international dispute over sovereignty over the Chagos Islands ever since. Following its independence, Mauritius has moved away from a plantation economy to develop its industrial, financial, and tourist sectors. Mauritius is now recognised as one of the few economic success stories in the African Union (AU).

### 1.2 UN treaties

Mauritius is a party to the International Covenant on Civil and Political Rights (ICCPR) and its First Optional Protocol, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the Convention Against Torture (CAT) and the Convention on the Rights of the Child (CRC) and its two Optional Protocols.

Mauritius has not signed the Convention on the Protection of the Rights of All Migrants Workers (CMW) nor the Second Optional Protocol to ICCPR.

### 1.3 UN reporting history

Mauritius has completed some of its reports under international treaties but has failed to satisfy all of its reporting requirements. There are currently seven reports overdue under five of the main international human rights instruments.

Mauritius has fulfilled its reporting requirements under ICCPR. Mauritius has completed one round of reporting under ICESCR but it has not yet submitted reports for 1995, 2000 and 2005. The country has completed fifteen rounds of reporting under CERD, but still owes reports for 2001, 2003 and 2005. Under CEDAW, Mauritius has completed five rounds. Mauritius has completed two rounds of reporting under CAT but one report has been overdue since 2002. The country has fulfilled its reporting requirements under CRC.

Mauritius has not extended an open invitation to the UN Human Rights Council's Special Procedures.

### 1.4 UN voting patterns and performance at the Council

At the Third Committee of the UN General Assembly, Mauritius abstained from an important vote on a resolution aimed at removing a General Assembly mechanism that allowed the identification of countries engaged in human rights abuses.

At the First Session of the UN Human Rights Council, in June 2006, Mauritius recommended the General Assembly pass the UN Declaration on the Rights of Indigenous Peoples. Five months later, Mauritius changed its stance in the General Assembly and supported the deferring of the declaration's passage.

At the Second Session of the Council, on 28 November 2006, Mauritius abstained from voting on a crucial decision on the human rights situation in Darfur. At the Fourth Session of the Council, in March 2007, Mauritius appreciated a report of the High Level Mission to Darfur and helped build a consensus on a stronger resolution.

## 2. Pledge

### 2.1 Context to election to the Council

Mauritius was one of 13 African countries that contested the May 2006 elections for the Council. The number of candidates was the same as the number of seats reserved for Africa. The results of the elections were pre-determined. In the election, Mauritius came 13<sup>th</sup> among the African group with 178 votes.

### 2.2 Pledge made<sup>93</sup>

In its pre-election pledge Mauritius committed to uphold the primacy of democracy and good governance, to promote its citizens' human rights and to strengthen national institutions with a mandate to protect and promote human rights. Mauritius drew attention to the new sex discrimination division of its National Human Rights Commission as evidence of its commitment to human rights at home. Mauritius also pledged to advance human rights internationally. The country committed to contribute to the enhancement of UN human rights activities and to participate actively in the work of the UN Human Rights Council. Mauritius highlighted its experience as a multiethnic population to stress its commitment to enhance intercultural dialogue and understanding among civilisations.

## 3. Compliance

### 3.1 Human rights in the past year

The 2006 annual report of the Mauritius National Human Rights Commission provides a valuable account of human rights developments during 2006.<sup>94</sup>

The Commission's report stresses the need for the establishment of an independent police complaints mechanism. In 2006, the Police Complaints Investigation Bureau received 561 complaints against the police, while the Commission received 149 complaints. The National Human Rights Commission reported instances of police brutality and the Mauritius' Anti Drug Smuggling Unit's alleged failure to ensure due process during search and arrests.

The National Human Rights Commission also highlighted alleged brutality by prison guards. Other issues within jails include intravenous drug abuse within the premises of the jails. The Commission claims that authorities are allegedly blocking civil society from distributing free syringes to prisoners to curb the spread of HIV/AIDS for fear that this would expose the illegal activities that

take place in prisons. The Commission further stated that prisoners need to be given better psychological counselling and that the Government needs to do more to rehabilitate prisoners.

According to the National Human Rights Commission, sexual discrimination remains a concern in Mauritius. In 2006 the Sex Discrimination Division of the Commission received 72 complaints, out of which 14 were for sexual discrimination and 19 for sexual harassment. Similarly, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) noted in a report released on 25 August 2006<sup>95</sup> that Mauritius failed to incorporate the provisions contained in the Convention, including the abolition of gender-based discrimination. The country has also failed to fully implement Section 9 of the Mauritius Sex Discrimination Act, which provides for temporary measures to achieve substantial equality. The CEDAW Committee highlighted Mauritius' failure to criminalize marital rape and expressed concern at the level of violence against women. The Committee highlighted the difficulty for women to access justice and relief in cases related to family law, and recommended the establishment of family courts. The Committee expressed concern over the increasing rate of teenage pregnancy and the rise of HIV/AIDS among women. The Committee also found that Mauritius does not have comprehensive laws or policies to tackle the trafficking of women.

In its report, the Committee also drew attention to women's working conditions. Women mostly work in the low wage and unskilled sectors and there are wide wage inequalities between men and women. Maternity leave is only available for the first three births, while the law does not provide for paternity leave. Women's representation in political and public life remains low. The Committee found that the Sex Discrimination Division of the Mauritius National Human Rights Commission has been poor in implementing labour laws.

On 6 March 2006 the UN Special Representative on the situation of human rights defenders<sup>96</sup> stated that it had concerns that the authorities had been denying permission to hold demonstrations.

Mauritius' anti-terror laws have been a matter of controversy since 2002, when the President resigned after refusing to sign the Prevention of Terrorism Bill over human rights concerns. In January 2007, the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism sent a letter<sup>97</sup> to the Mauritius Government expressing concern over the country's Prevention of Terrorism Act 2002.<sup>98</sup> The Rapporteur drew attention to three aspects of the Act. Firstly, the definition of a terrorist act is too broad. Secondly, a person arrested under the law can be kept in detention for up to 36 hours before being produced before a judge. During this period, the arrested person has no access to a lawyer or contact with relatives. Those arrested on terrorism charges have a limited right to bail. Thirdly, the Minister in charge of national security has extremely wide and unilateral powers to declare any person to be a "suspected international terrorist" based on his "reasonable" suspicion that the person "(i) is or has been concerned in the commission, preparation or instigation of acts of international terrorism; (ii) is a member of, or belongs to, an international terrorist group; (iii) has links with an international terrorist group and he reasonably believes that the person is a risk to national security". As of 31 January 2007 the Rapporteur had not received any answer from the Mauritius Government to his enquiries of the Mauritius government on these issues.

Mauritius has been criticised for its policy on migrant workers or "guest workers"<sup>99</sup>, primarily from India, China and Bangladesh. The workers have little legal protection in Mauritius and many live in difficult conditions and often suffer as a result of exploitative arrangements with their employers. Protesting migrant workers face summary deportation.

### 3.2. Compliance with the pledge

In its pre-election pledge Mauritius promised to promote its citizen's rights. The 2006 report of the National Human Rights Commission and the report of the CEDAW Committee testify that grave abuses in the country have persisted and there has been a failure to reform discriminatory laws or redress contentious practices. The anti-terror laws challenge both pre-existing human rights safeguards and the country's sincerity with regard to its human rights promises.

Mauritius also pledged to strengthen its national institutions with a human rights mandate. The country failed, however, to put together the independent police complaints commission recommended by the National Human Rights Commission. The Sex Discrimination Division of the National Human Rights Commission has also been criticised for failing to implement efficiently the labour laws related to sex discrimination.

Mauritius promised to enhance intercultural dialogue and understanding among civilisations, yet the country took a negative stand on the UN Declaration on the Rights of Indigenous Peoples.

Finally, the country had committed to participate actively in the work of the UN Human Rights Council. Besides a strong and positive contribution to address the human rights situation in Darfur, Mauritius has mostly played a low-key role in the Council. For example Mauritius did fail to support positive action when, in March 2007, human rights violations in Zimbabwe were brought to the Council's attention.

## 1. Background

### 1.1 Context

Nigeria is a federal system, with executive power vested in the President. The country is resource rich and ethnically diverse, and is made up of 36 states and 1 federal capital territory. After several periods of military rule over a sixteen-year period, Nigeria returned to democracy in 1999. In 2003, President Olusegun Obasanjo won a second term in Nigeria's first civilian run election. The Commonwealth election observers concluded that the 2003 elections were largely representative of the will of the Nigerian people, but drew attention to concerns regarding vote rigging, violence and intimidation in some areas of the country. An attempt by Obasanjo to push through an amendment to the Constitution to allow a president to stand for elections for a third term - which would have allowed him to stand for a third term this year - was blocked by the Senate in May 2006. Nigeria went to the polls again in April 2007. International observers were critical of the elections and have reported that the elections failed to meet hopes and expectations of the Nigerian people or international standards for free, fair and credible elections.<sup>100</sup> The elections returned the People's Democratic Party into power for a third term, with Umaru Yar'Adua succeeding Obasanjo. Yar'Adua was described as an obscure national figure before being elected as the presidential candidate of the ruling party, due to the support of the former President Olusegun Obasanjo.

The Nigerian economy relies heavily on the presence of natural resources with an oil sector representing the vast majority of Nigeria's exports. This dependency has been worsened by a failure of the successive rulers of the country to diversify the economy.

### 1.2 UN treaties

Nigeria is a party to the International Covenant on Civil and Political rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the Convention Against Torture (CAT) and the Convention on the Rights of the Child (CRC) and its two Optional Protocols.

Nigeria has not signed the Convention on the Protection of the Rights of All Migrants Workers (CMW), the two Optional Protocols to ICCPR or the Optional Protocol to CAT.

### 1.3 UN reporting history

Nigeria has completed some reports due under international treaties but has failed to satisfy most of its reporting requirements, particularly under the Convention Against Torture. The country has had one report overdue under ICCPR since 1999, although it had completed one round of reporting under ICCPR before this. The country has completed one round of reporting under ICESCR, although the 2000 and 2005 reports are overdue. Despite five successful rounds of reporting under CEDAW, Nigeria still owes the 2006 report. Nigeria has not completed any round of reporting under CAT. Nigeria has fulfilled its reporting commitments under CERD and CRC.

Nigeria has not extended an open invitation to the UN Human Rights Council's Special Procedures.

## 1.4 UN voting patterns and performance at the Council

At the Third Committee of the UN General Assembly, Nigeria abstained from an important vote on a resolution that threatened the only mechanism that allows in the General Assembly the public identification of countries involved in human rights violations.

In June 2006, at the First Session of the UN Human Rights Council, Nigeria abstained from a vote on whether the General Assembly should pass the UN Declaration on the Rights of Indigenous Peoples. In November 2006, Nigeria voted in the General Assembly in favour of deferring the passing of this declaration.

At the Second Session of the Council, on 20 September 2006, the Special Rapporteur on extra-judicial, summary or arbitrary executions voiced concerns over the use of the death penalty in Nigeria, which can be imposed on convictions for adultery and homosexual acts including sodomy. In its reply, Nigeria accused the Special Rapporteur of exceeding his mandate by taking up this issue and noted that what may be inappropriate for some can be appropriate for others. During the Fourth Session of the Council, on 28 March 2007, Nigeria further stated that same sex marriages are an attempt to reverse the natural order of family life.

At the Second Session of the Council, on 21 September 2006, the UN Special Rapporteur on freedom of religion or belief stated that Nigerian society is polarising on religious grounds and that the Government is contributing to this polarisation. She particularly expressed concern that Islamic law is applied to non-Muslims and that the State provides financial subsidies to selected religious groups. Nigeria criticised the Rapporteur for her concern over the level of religious freedom in the country but added that it was contemplating removing subsidies for religious groups.

At the same Session, on 22 September 2006, the UN Special Representative on the situation of human rights defenders raised concerns that human rights defenders working in sensitive areas such as the oil rich Niger delta region in Southern Nigeria. The Special Representative particularly drew attention to 750 documented cases of extra-judicial killings. In its reply, Nigeria questioned the accuracy of the Representative's assertions and accused her of exceeding her mandate.

At the Second Session of the Council, on 28 September 2006, Nigeria decided to fight for equality between civil and political rights and economic social and cultural rights.

During deliberations on the Universal Periodic Review (UPR) system at the Third Session of the Council, on 4 December 2006, Nigeria supported a proposal submitted by African members and argued that the concerned regional groups should conduct the review process. Nigeria further proposed that the follow up to the Council's recommendations following the review report should be the primary responsibility of the concerned states under review.

At the Fourth Session of the Council, on 26 March 2007, the UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment declared that torture is widespread in Nigeria. The Rapporteur made the declaration following a country visit to Nigeria. A report on this visit is expected to be made public in the near future.

## 2. Pledge

### 2.1 Context to election to the Council

Nigeria was one of 13 African countries that contested the May 2006 elections to the Council. The number of candidates was the same as the number of seats reserved for Africa. The election results were pre-determined. In the election Nigeria came 12<sup>th</sup> among the African group with 169 votes.

### 2.2 Pledge made<sup>101</sup>

In its pre-election pledge Nigeria undertook to actively participate in the Council and to aim at making it a credible, strong, fair and effective United Nations human rights body. It notably committed to fully cooperate with the Special Procedures of the Council. The country pledged to maintain an open door policy while reaffirming its preparedness to welcome UN human rights inspectors, rapporteurs and representatives carrying out their mandates. Nigeria promised to work with treaty bodies and to submit timely periodic reports. It also committed to contribute actively to the development of a human rights culture and the mainstreaming of human rights in the UN and in regional organisations. Nigeria reiterated its commitment to strengthen its National Human Rights Commission to help the promotion of human rights within its own borders and pledged to uphold the principle of non-discrimination and the rights of all its citizens. Nigeria further committed to protect all human rights, including the right to development.

## 3. Compliance

### 3.1 Human rights in the past year

There has been no discernible improvement in the human rights situation in Nigeria.

As Nigeria took a position on the Council in May 2006, an international human rights group published a report denouncing Nigeria's policies of forced evictions, which has allegedly affected around 2 million people<sup>102</sup> since 2000.

There have also been continuous reports of abuses by security forces in oil rich Southern Nigeria - the reports note that the security forces act with absolute impunity and are not sanctioned by the police or the state. For example, the Government failed to order a proper investigation of incidents that took place in February 2005, when security forces allegedly used excessive force against the local community of Ugborodo, who were gathered to protest the activities of an international oil company, Chevron Nigeria. The villagers claimed Chevron failed to meet its commitment to provide the villagers with jobs and community development.<sup>103</sup>

Allegations of extrajudicial killings and torture continue. In August 2006, civil society organisations reported the alleged extra judicial killing of 12 suspected robbers, whose bodies were found, the day following their arrest by the police, dumped near a morgue. The 12 victims included a 13-year-old boy. Reports also indicated that security forces have been using rape and sexual slavery of women as weapons of intimidation.<sup>104</sup>

Sedition charges have been widely used against the media to subdue dissent. According to reports, in June 2006, a television presenter and a newspaper journalist were arrested for sedition

after they reported different aspects of Government policy.<sup>105</sup> The television presenter was involved in a programme critical of the President's attempts to extend the number of terms for his pos, while the newspaper journalist had been critical of the costs incurred in maintaining the presidential jet. In October 2006, a foreign photographer and his fixer were arrested for taking photographs of oil installations. On 22 December 2006, Godwin Agbroko, Editorial Board Chairman of the private daily 'This Day', was shot in his car. Agbroko had been critical of the ruling party.<sup>106</sup> Throughout January 2007 there have been reports of media workers being harassed, intimidated, arrested and raided. Early January 2007, the offices of the private daily 'Leadership' were sealed off and the staff detained for many hours. According to allegations this was the result of an article critical of the ruling party.<sup>107</sup>

On 19 June 2006, the Executive Secretary of the National Human Rights Commission, Mr. Bukhari Bello, was removed from his post, allegedly in retaliation for his criticism of the Government. In July 2006 security forces used force against a peaceful civil society meeting held to discuss Mr Bello's removal.

The April 2007 elections were held amid a climate of violence. Commonwealth observers indicated that the election fell short of the international standards that Nigeria had met during the 2003 elections. Observers further stated that "there were impediments in the ability of voters to express their will fully, freely and fairly"<sup>108</sup> and called on the Nigerian people not to lose faith in democracy. European Union observers claimed the elections "have fallen far short of basic international and regional standards for democratic elections and [...] cannot be considered to have been credible".<sup>109</sup>

Women's rights and sexual minorities' rights have continued to be abused over the past year. On 19 February 2006, the Nigerian Government advanced a draft law banning same sex relationships and proposing a punishment for homosexual acts in public or private places.

Nigerian Northern States have started applying the *Shariah* law to criminal offences, making it applicable in their criminal jurisdiction to Muslims and non-Muslims alike. This practice is in certain states unconstitutional as Nigeria's Constitution provides that the *shariah* law may be applied to criminal offences only if the National Assembly and the State House of Assembly enact the *shariah* offence and punishment. Several governors of Northern States have unilaterally extended *shariah* laws to criminal offences without following the legislative process required by the Constitution.<sup>110</sup> As a consequence of the implementation of the *Shariah* law courts have reportedly prescribed corporal punishments, such as limb amputation, and applied discriminatory standards against women in relation to the rules of evidence in adultery cases.<sup>111</sup>

### 3.2. Compliance with the pledge

Nigeria's promise to protect and promote all human rights and the rights of all its citizens has not been respected. The country's sincerity on this matter is challenged by serious allegations of abuse of power and excessive use of force, extra-judicial killings and torture, allegations of abuse against women by security forces, the criminalisation of homosexuality, regular violations of the freedoms of expression and association and the lack of civil society space.

Nigeria's did not meet its promise to strengthen its National Human Rights Commission. On the contrary, Nigeria undermined the independence of the Commission - a critical part of the effective operation of an oversight mechanism - by removing its most senior member and then attempting to silence opposition to its attack on the Commission's independence.

The conditions of the April 2007 elections also seriously challenge Nigeria's intent to promote human rights domestically.

Nigeria's pledge to cooperate with treaty bodies has not been met - it still has reports due under CEDAW, ICCPR and ICESCR and it continued to fail to comply with any of its reporting commitments under CAT.

Nigeria's commitment to fully cooperate and strengthen the Special Procedures has not been put into practice. Not only has Nigeria failed to extend an open invitation to all Special Procedures but the country has also consistently to weaken the Special Procedures through the Human Rights Council. Nigeria has submitted that the Special Procedures need to be subjected to a code of conduct. Nigeria has also advocated for mandate holders to be elected by the Council and strongly advocated for the abolition of country specific mandates. Nigeria undermined the UPR process when it pushed the African group's original proposal, which would have led to the mechanism being underpinned by regional bloc politics. Nigeria took an unfriendly stand towards the 1503 procedure by stating that the procedure should not cover matters reviewed by the Special Procedures. Furthermore, it stated that there should be a reasonable and prompt time frame for submission of additional evidence under the procedure. Any such standard may not cater to varied social conditions and political environments. Nigeria's propositions for the Council mechanisms could undermine the body, rather than making it a credible, strong, fair and effective institution.

Nigeria promised an "open door" policy on UN Special Rapporteurs but it rejected their concerns over Nigeria's human rights record or accused them of exceeding their mandate.

Nigeria's stances and votes in the UN have contradicted its promise to support the development of a human rights culture. Nigeria supported the elimination of the only General Assembly mechanism that allowed members to shame countries for their human rights record. Nigeria further weakened the General Assembly members' accountability to international human rights standards by refusing to deal adequately with the situation in Zimbabwe.

## 1. Background

### 1.1. Context

Pakistan has been under military rule since October 1999, when General Pervez Musharraf seized power from Nawaz Sharif. Following the military coup, the country was suspended from the Council of the Commonwealth. In 2002, the General legitimised his coup and obtained to remain at the Presidency for another 5 years through a carefully worded referendum. He then consolidated his power by forcing an amendment to the Constitution in 2003 that fixed rules for the future elections and gave him the power to dismiss the National Assembly. Parliamentary elections were held in 2002 and local elections in 2005. International observers declared that neither elections were free or fair. In October 2004, the President pushed for the adoption of a new bill authorising him to remain the Chief of Army Staff. In the same year, Pakistan was readmitted to the Commonwealth in recognition of the moves being taken towards democracy, although the Government still risks renewed suspension if the President remains Chief of Army Staff. The President has promised that democratic general elections will be held by the end of 2007.

### 1.2. UN Treaties

Pakistan is a party to the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol and the Convention on the Rights of the Child (CRC).

Pakistan is not a party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention Against Torture (CAT) nor the Convention on the Protection of the Rights of All Migrants Workers (CMW).

### 1.3. UN reporting history

Pakistan has completed some reports due under international treaties but has largely failed to satisfy its reporting requirements.

Pakistan has not completed any round of reporting under CEDAW, with the 1997 and 2001 reports still overdue. The country has completed 14 rounds of reporting under CERD, although it has failed to submit reports for 1998, 2000, 2002, 2004 and 2006. Pakistan has completed its reporting requirements under CRC.

Pakistan has not extended an open invitation to the Special Procedures of the UN Human Rights Council.

### 1.4. UN voting patterns and performance at the Council

At the Third Committee of the General Assembly, Pakistan voted in favour of a resolution aimed at eliminating the only mechanism available in the General Assembly to publicly condemn members engaged in human rights violations.

At the First Session of the Council, in June 2006, Pakistan voted to recommend the General Assembly the passing of the Declaration on the Rights of Indigenous Peoples. Five months later in the General Assembly Pakistan changed its stance and abstained from voting on the declaration.

At the Council Second Session, on 20 September 2006, Pakistan argued that non-government organisations should be kept out of interactive dialogues. On 2 October 2006 the country suggested again that civil society should be confined to an observer role during the review process. On 4 October 2006, following a statement by a non-government organisation on the state of the human rights in Baluchistan, Pakistan expressed its displeasure that non-government organisations had discussed country specific issues. On 4 December 2006, at the Third Session, Pakistan reiterated its position that non-government organisations and observer states could attend the Universal Periodic Review (UPR) sittings but should not participate any further.

At the Second Session of the Council, on 3 October 2006, Pakistan argued that thematic mandates should not include country specific situations and that any expert bodies constituted should only have the power to deal with thematic issues. At the Third Session, on 7 December 2006, Pakistan supported a submission by African members calling on the Council to focus on thematic issues rather than country specific issues.

At the Third Session of the Council, on 27 November 2006, Pakistan vehemently argued for a code of conduct for the Council's Special Procedures and guidelines for their interaction with the media. At the Fourth Session, on 15 March 2007, Pakistan reiterated its plea for the Council Special Procedures to be subject to a code of conduct.

At the Council Second Session, on 2 October 2006, Pakistan advocated for the UPR process to produce a summary of recommendations and that the compliance with these recommendations should be voluntary. Pakistan added that the UPR should not be used to publicly identify and raise the profile of human rights violations within individual countries. On 4 December 2006, in the Third Session of the Council, Pakistan agreed that voluntary commitments could be a basis for UPR but added that they should not be given the same status as legal commitments. Pakistan was also against using domestic and customary law as the basis for review of a country. On 7 December 2006, the country opposed linking the work of a proposed expert group assisting the Council to the UPR process. In the Fourth Session, on 15 March 2007, it argued that reports submitted by a country should be the only basis for review, as other information would not be credible. Finally, Pakistan asserted that there should be no link between Special Procedures and the UPR.

At the Fourth Session of the Council, on 16 March 2007, Pakistan objected on procedural grounds to the report of the High Level Mission to Darfur.

At the Fourth Session, on 27 March 2007, in the interactive dialogue following a presentation by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Pakistan argued that the freedom of expression is not absolute and further stressed that it entails certain responsibilities for the media.

On 28 March 2007, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance indicated that he has been waiting for an invitation to visit Pakistan for two years.

## 2. Pledge

### 2.1. Context to election to the Council

Pakistan was one of 18 Asian candidates that contested the May 2006 election at the Council for the 13 seats reserved for Asia. Pakistan came sixth in the Asian group with 149 votes. Thailand, Kyrgyzstan, Lebanon, Iran and Iraq were unsuccessful in securing a seat.

### 2.2. Pledge made<sup>112</sup>

In its pre-election pledge Pakistan committed to support the achievement of the universal ratification of core human rights treaties and to work towards an early ratification of ICCPR, ICESR and CAT. The country committed to actively participate in the UN Human Rights Council and to assist in implementing its mandate. Pakistan also stressed that its contribution to human rights includes the protection of women and religious minorities' rights as well as the promotion of human dignity, fundamental freedoms and human rights. It also pledged to establish an independent national human rights institution and promised to introduce a human rights curriculum in its educational system. Finally, Pakistan indicated that it has greatly contributed to the promotion of human rights nationally and internationally.

## 3. Compliance

### 3.1. Human rights over the past year

The human rights situation in Pakistan has not improved since the country's election to the UN Human Rights Council. Fundamental freedoms, including the rights to expression, association and movement have been regularly suspended or violated in order to suppress political dissent.<sup>113</sup> The judicial system is deeply flawed. Corruption, lengthy procedures, discriminatory laws and attitudes and inconsistency in rulings have all discredited the judicial system. Religious minorities and women are particularly disadvantaged. The recourse to the Muslim law of evidence in cases of rape particularly discriminates against women and religious minorities.

On 9 March 2007, the President suspended the Chief Justice of the Supreme Court, Iftikhar Muhammad Chaudry for misconduct. The action was well outside accepted international standards of judicial independence and accountability and many suspect that his suspension was decided in retaliation for his firm hand in cases of enforced disappearances involving the Government. The Supreme Judicial Council, a constitutional body mandated to hear cases of judges' misconduct and empowered to dismiss them, is hearing the case against the Chief Justice.

The Government has been increasing its control over the media in a general effort to silence opposition to the Government and to contain the availability of information on the army's operations in the troubled areas of Baluchistan and Waziristan. It is estimated that state security forces kidnapped nearly 10 media persons in 2006<sup>114</sup> - some of them were reportedly held only for a few hours, while others were held for long periods and were allegedly tortured during their detention. Hayatullah Khan, a correspondent for both Pakistani and foreign media, was allegedly murdered by security forces in June 2006 as a result of his work in Waziristan.<sup>115</sup> On 10 March 2007, Pakistani security forces stormed in and damaged the offices of Geo TV, allegedly in response

to the channel's coverage of the suspension of Chief Justice Iftikhar Muhammad Chaudry. The President publicly apologised for the incident and 14 police personnel were suspended.<sup>116</sup>

Basic rights for women are regularly denied and violated. The extent in Pakistan of violence against women highlights the failure of the government agencies to address the persistence of discriminatory traditional practices and to provide women with a legal remedy. A local civil society organisation, the Human Rights Commission of Pakistan, estimates that in the past year alone there were 10 cases of amputation, 2 cases of beating, 27 cases of injury, 2 cases of shaving, 9 cases of torture and 14 miscellaneous cases in Pakistan - all related to domestic violence.<sup>117</sup> The Commission statistics indicate that there were 424 victims of rape in 2006.<sup>118</sup> The Commission further estimates that there have been 270 women killed in honour killings in 2006.<sup>119</sup> The conditions of women jails are reported to be in a dire state.<sup>120</sup>

Religious minorities face various forms of discrimination, particularly in terms of access to justice and equality within the community. Sectarian intolerance has triggered both individual and systemic acts of violence, particularly against the Shia minority. Another minority Muslim group, the Ahmadis, has been specifically targeted by the Government through discriminatory laws, which declare them non-Muslims or, to be recognised as Muslims, force them to make statements in contradiction with their beliefs. This means that they are vulnerable to charges of blasphemy for calling themselves Muslims.

The deteriorating security situation in the province of Baluchistan has been accompanied by increasing records of human rights abuses. Political insurgency and Islamic militancy have forced security forces to intervene massively in the area. On 26 August 2006, air strikes by the Pakistani military killed many alleged members of the Balochistan Liberation Army and Balochi leader Nawab Akbar Bugti, who have been fighting the Government over claims for independence of the province. There has been significant criticism of the excessive nature of the military operation and the resulting deaths.<sup>121</sup> Since the law and order situation in Balochistan deteriorated, there have been numerous allegations that political activists have been disappearing or have been arbitrarily arrested or tortured.

The global anti-terror movement has also impacted strongly in Pakistan's internal human rights situation. There have been large numbers of disappearances that have taken place within the context of anti-terror operations. In December 2006, media groups estimated that around 700 people disappeared during the year.<sup>122</sup> As the number of disappearances swelled Pakistan's Supreme Court took action. On 10 November 2006, in a case involving 41 missing people, the Supreme Court asked the Ministry of Interior to provide information on their whereabouts by 1 December 2006. The Government's resistance to the process has led to several adjournments. On 26 March 2007, when the Court sat for an adjourned hearing in the case, the number of petitions had increased to cover around 400 missing persons.<sup>123</sup> Human rights organisations and media reports indicate that the disappearances in Pakistan are closely associated with the US led counter-terrorism offensive, with allegations that missing persons would have been handed over by the Government to the US in return for bounties. The President's recent autobiography has also been quoted as a source of information in this regard by the media.<sup>124</sup> Pakistan is allegedly one of the locations used by the US as part of its extraordinary rendition operations, where people suspected of infringements of US counter-terrorism laws and illegally detained and tortured in foreign prisons.

Under international pressure to pursue international terrorists, Pakistan has increased the operations of its security services in the previously semi-autonomous region of Waziristan. The heavy presence of security forces combined with their methods led the Waziris, a tribal group, to join hands with the terrorists and fight the Government's presence and operations. In April 2007, the Government, acknowledging its failure to control the area, signed a Peace Agreement with

the Waziris, thereby Pakistan pulled out its troops and tasked local tribal leaders to fight 'foreign militants'.<sup>125</sup> This agreement has introduced a technique of warfare directly militarising civilians.

### 3.2. Compliance with the pledge

In its pre-election pledge Pakistan indicated that it has contributed greatly to the promotion of human rights, both nationally and internationally. The country argued that its contribution includes the promotion of human dignity, fundamental freedoms and human rights. Pakistan's domestic human rights record runs counter to this assertion. General Musharraf's manoeuvres to legitimise his coup and to maintain a tight control over the country's institutions and provinces has undermined democratic institutions and led to the abuse of constitutional rights. Fundamental rights, such as freedom of the media and freedom of association, have officially been restrained in the name of national security. The numerous disappearances registered in Balochistan also challenge the Pakistani understanding of human dignity.

Pakistan's pledge also affirmed that religious minorities in the country are enjoying equal protection in accordance with the Constitution, and that the country has been promoting "equal status and rights of all religions". Religious minorities, however, are regular victims of sectarian intolerance, discrimination and violence.

Pakistan further stated in its pledge document that "[a]ttention is being given to the social and economic emancipation of women. All forms of violence against women are punishable under the law including the infamous honour killing". In contravention of this pledge, current laws continue to provide that a next of kin to a victim can settle an honour killing case by forgiving it in return for monetary compensation.<sup>126</sup> The Women's Protection Act that passed into law on 15 November 2006 failed to address this issue as well as failing to penalise marital rape. The bill also failed to change the grossly unjust evidence provisions currently in place for rape cases. Under the law, rape victims who cannot prove the crime can be charged with adultery.

Pakistan failed to meet its commitment to set up a national human rights institution as the National Human Rights Commission Bill presented in Parliament in February 2005 has not yet passed into law.

Pakistan highlighted its contributions in the previous UN Commission on Human Rights, especially with regard to the creation of international human rights norms in the civil, political, economic, social and cultural fronts. Yet Pakistan's commitment to "work towards the early ratification" of the ICCPR and ICESCR and to fully implement the conventions it has already signed up to has not fructified.

In its pledge, Pakistan committed to actively participate in the work of the Council "with a view to facilitate the implementation of its mandate." While it is correct that the country has been an active participant, its efforts have mostly aimed to weaken the Council and its mechanisms. Pakistan has argued in favour of a code of conduct that would regulate and hence limit the independence of the Special Procedures. It also argued in favour of limiting the media involvement in the Special Procedures and preventing civil society from participating in the UPR, while opposing the use of customary and domestic law as a basis for reviewing countries under the UPR. Finally, Pakistan repeatedly called for the UPR recommendations to be voluntary, not binding.

Instead of striving to consolidate the mandate of the Council, Pakistan has supported geopolitical alliances. Pakistan's proposals in the Council have often been either on behalf of the Organisation of Islamic Conference - which is not a part of the official regional grouping in the UN- or in solidarity with the Asian bloc. Block loyalties and politics have undermined the Council's human rights focus.

## 1. Background

### 1.1 Context

South Africa opened up to democracy in 1994 after 46 years of a white superiority policy known as apartheid. Under apartheid, a minority white government ruled the country and imposed a strict and brutal racial segregation and discriminatory policy. Since 1994, South Africa has successfully undertaken two free and fair elections and has made huge strides towards ensuring equality and equal representation for all. South Africa's achievements in the past 13 years, includes one of the most progressive modern constitutions, with a bill of rights, and a multicultural environment. Last year, South Africa also became one of the first countries from the global South to accept same sex civil union. Despite these achievements South Africa still has many human rights issues that need to be addressed.

### 1.2 UN treaties

South Africa is a party to the International Covenant on Civil and Political Rights (ICCPR) and its two Optional Protocols, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the Convention Against Torture (CAT) and the Convention on the rights of the Child (CRC) and its two Optional Protocols.

South Africa is not a party to the Convention on the Protection of the Rights of All Migrants Workers (CMW) or the Optional Protocol to the Convention Against Torture (CAT).

### 1.3 UN reporting history

South Africa has completed some reports due under international treaties, but has failed to satisfy all its reporting requirements.

Under ICCPR South Africa has not completed any rounds of reporting and one report has been overdue since 2000. The country has completed one round of reporting under CEDAW but owes its 2001 and 2005 reports. The country has completed one round of reports under CRC but one report has been overdue since 2002. Under the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Pornography, South Africa has not completed any reporting. South Africa has no reports due under CERD or CAT.<sup>127</sup>

South Africa has extended an open invitation to the Council's Special Procedures.

### 1.4 UN voting patterns and performance at the Council

On 19 December 2006, at the Third Committee of the UN General Assembly, a resolution was passed to eliminate country specific UN General Assembly resolutions condemning human rights violators. South Africa voted in favour of the resolution.<sup>128</sup> At the Fourth Session of the UN Human Rights Council, on 29 March 2007, South Africa expressed discomfort regarding country specific mandates.

At the Council First Session, in June 2006, South Africa voted to recommend the General Assembly to pass the UN Declaration on the Rights of Indigenous Peoples. Five months later, South Africa changed its stance in the General Assembly and voted to defer the passing of the declaration.

In January 2007, in the UN Security Council, South Africa voted to block a resolution on human rights in Myanmar<sup>129</sup>, arguing that the issue should be raised in a more appropriate forum such as the Human Rights Council. South Africa did not raise Myanmar's human rights situation in the Council or other forum. At the Fourth Session of the Council, in March 2007, South Africa attempted to block a request to brief the Security Council on the deteriorating situation in Zimbabwe.<sup>130</sup>

At the Third Session of the Council, on 28 November 2006, two different decisions on Darfur were put to vote, one drafted by the European Union (EU) and the other by African members. South Africa supported the African submission although the EU draft had called for wider access for the Office of the High Commissioner for Human Rights in Darfur and contained a provision for the Commissioner to follow up the issue and report at the following session of the Council. The draft put forth by the African members was a toned down version, containing very few opportunities for UN human rights intervention.

In the first four sessions of the Council, South Africa has often preferred to take a back seat in the Council and to act collectively with the African members.

## 2. Pledge

### 2.1 Context to election to the Council

South Africa was one of 13 African countries that contested the May 2006 elections to the Council. The number of candidates was the same as the number of seats reserved for Africa. The results of the election were predetermined. In the election, South Africa came fourth in the African group with 179 votes.

### 2.2 Pledge made<sup>131</sup>

In its pre-election pledge South Africa committed to protect the international human rights agenda and committed to submit any reports due to treaty bodies. It pledged to work for the right to development to be inscribed within the framework of ICCPR and ICESCR. Finally South Africa committed to advocate for balanced and sustainable development within a human rights framework.

## 3. Compliance

### 3.1 Human rights in the past year

According to reports, foreign migrants, particularly from Zimbabwe and Mozambique, have been arrested, detained and deported in ways that contravene South Africa's immigration laws and international standards. Amongst the abusers, the police, immigration officials and military border patrols have been specifically identified.<sup>132</sup> There is widespread discrimination against foreign migrants that led to incidents such as the acts of violence committed against Somali migrants reported in September 2006.<sup>133</sup> Foreign migrants employed by South African farmers

and casual workers are generally not granted the basic protections required under the country's employment laws.<sup>134</sup>

South Africa also is a major recipient of smuggled and trafficked individuals in Southern Africa. The trafficking is generally of women smuggled for sexual exploitation.

Incidents of domestic violence and violence against women and sexual minorities are regularly reported.<sup>135</sup> It has been estimated that in South Africa only one in nine women report sexual assault and that one woman is killed every six hours by her relationship partner.<sup>136</sup> The high rate of such incidents indicates that the authorities' response to gender-biased violence could be inadequate. The police have been directly held responsible for incidents of violence against women, including the abuse of sex workers.<sup>137</sup> Under the Domestic Violence Act, the Independent Complaints Directorate (ICD) must report to the Parliament on complaints received against the police every six months, but media reports that the ICD has failed to comply with this obligation.<sup>138</sup> The Sexual Offences Bill, approved early 2006 by Cabinet and expected to be passed by Parliament, has been criticised for making raped women's access to post-exposure prophylaxis (PEP) and antiretroviral drugs (that reduce the risk of contracting HIV) conditional on the filing of criminal charges.<sup>139</sup> The law would also exclude forms of counselling for victims. In March 2007, the UN Special Rapporteur on Violence Against Women expressed her dismay at the non-responsive and nonchalant attitude adopted by the South African Government in a communication to her. The communication with the Special Rapporteur concerned a case where a group of young individuals had assaulted two lesbians, killing one, because of their sexual orientation.<sup>140</sup> Sexual minorities, in particular those who are of African origin, allegedly face an increasing number of hate crimes.

Illegal evictions of black South Africans from white owned farms have continued. The number of farmers illegally evicted in the past ten years, through force and intimidation and often with the complicity of the local authorities, is estimated to approximately 950,000 people.<sup>141</sup>

South Africa's involvement in international counter-terrorism activities has raised new concerns. According to international civil society groups' allegations, late 2005, the South African Government apprehended a Pakistani national, Khalid Mehmood Rashid, and handed him over to Pakistani agents who took him away in an unmarked aircraft.<sup>142</sup> Rashid disappeared and international civil society groups allege that he could have been tortured. The South African Government has been criticised for this secretive disguised extradition in breach of its obligations under CAT.<sup>143</sup> The convention prohibits the extradition of a person to a place where s/he may be subjected to torture. On 18 August 2006, the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism and the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment queried the South African Government on whether Khalid Mehmood Rashid had been given an opportunity to appeal the decision to return him to Pakistan.<sup>144</sup> They also queried on steps taken by the South African Government to respect its international legal obligations. South Africa, in a reply dated 23 November 2006, stated that Rashid had waived his right to appeal and that South Africa could not assume that returnees to countries such as Pakistan would be subject to torture.

Reports have suggested that diamonds from Zimbabwe are being illegally smuggled into South Africa to be blended with blood diamonds from the Democratic Republic of Congo, in violation of the Kimberley Process.<sup>145</sup>

### 3.2. Compliance with the pledge

In its pre-election pledge South Africa declared it would take the international human rights agenda seriously. Yet its stances in the Human Rights Council, General Assembly and Security Council have supported resolutions that limit countries' accountability in the human rights field. South Africa supported the resolution eliminating the General Assembly mechanism to name countries with a concerning human rights record. The country blocked discussions in the Security Council on the human rights situation in Myanmar and in Zimbabwe on the ground that there are more appropriate bodies to address the issues but made no effort to bring those two cases on the agenda of the Human Rights Council. South Africa has adopted a soft approach to the situation in Zimbabwe in the Council as well as in other international and regional forums, possibly in an effort to preserve and promote regional alliances.

South African policies and practices on migrants and the dubious extraditions it operated in breach of the CAT also challenge the extent of the country's readiness to implement within its borders its international human rights commitments.

A balanced sustainable development within a human rights framework is not possible when part of the driving force of the economy, whether women or migrants, see their rights regularly abused, often with total impunity. Establishing a sound and unblemished human rights record is an important step towards achieving sustainable development.

Despite its promises to complete timely its reporting requirements under international treaty obligations, South Africa has not submitted all its reports.

## 1. Background

### 1.1 Context

Sri Lanka became independent in 1948. Subsequently ethnic Tamils claimed discrimination by the Sinhalese majority. Discriminatory government policies and three anti-Tamil riots in 1958, 1977 and 1983 led to polarisation of the two major ethnic communities in the country. One of the results was the creation of Tamil militant groups in the 1970s that advocated secession of the Tamil dominated North and East of the country. By 1983 space for political negotiation had rapidly deteriorated leading to the beginning of violent confrontation between Tamil militant groups and the Government. As conflict escalated many Tamils fled as refugees. In the meanwhile following spells of violent engagements and assassinations among the various Tamil militant groups, the Liberation Tigers of Tamil Elam (LTTE) emerged as the primary Tamil militant group. After many spells of violent military confrontation that saw the LTTE secure *de facto* control over The North and East of the country. The LTTE and the Government signed a ceasefire agreement in 2002, as part of a Norway brokered peace process. The ceasefire agreement created an opportunity for peace talks and the opening up of the North and East territories to civilian and developmental access. The situation again deteriorated in April 2006, with the resurgence of armed conflict, high numbers of civilian casualties and the displacement of tens of thousands of people.

### 1.2 UN treaties

Sri Lanka is a party to the International Covenant on Civil and Political Rights (ICCPR) and its First Optional Protocol, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention Against All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the Convention Against Torture (CAT), the Convention on the Rights of the Child (CRC) and its two Optional Protocols and the Convention on the Protection of the Rights of All Migrants Workers (CMW).

Sri Lanka has not signed the Second Optional Protocol to ICCPR nor the Optional Protocol to CAT.

### 1.3 UN reporting history

Sri Lanka has completed some reports due under international treaties but has failed to satisfy all its reporting requirements. The country owes ten reports under of six of the main international human rights instruments.

Sri Lanka has completed all reporting under ICCPR. Under ICESCR, the country has completed one round of reporting but the 1995, 2000 and 2005 reports are still due. Sri Lanka has completed nine rounds of reporting under CERD but has failed to produce the 2003 and 2005 reports. Under CEDAW the country has completed four rounds of reporting but two reports have been due since 1998 and 2002 respectively. Sri Lanka has completed two rounds of reporting under CAT but still owes one report for 2007. Under CMW, Sri Lanka has owed one report since 2004 and has not completed any reporting. Sri Lanka has completed all its reporting requirements under CRC but it has failed to complete any round of reporting under the Optional Protocol to CRC and owes a report for 2004.

Sri Lanka has not extended an open invitation to the Council's Special Procedures.

## 1.4 UN voting patterns and performance at the Council

At the Third Committee of the General Assembly, Sri Lanka voted in favour of a resolution aimed at removing the only mechanism in the General Assembly that allows the identification and public shaming of countries that are involved in human rights abuses.

In June 2006, at the First Session of the UN Human Rights Council, Sri Lanka voted to recommend the General Assembly to pass the UN Declaration on Rights of the Indigenous Peoples. Five months later, Sri Lanka changed its stance and abstained from voting on a resolution deferring the passing of the declaration.

On 19 September 2006, at the Second Session of the Council, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions stated that a pattern of extra-judicial executions similar to those witnessed in the 1980s and the 1990s was re-emerging in Sri Lanka. While welcoming the establishment of an Independent Commission of Inquiry he expressed doubts about its independence. Sri Lanka responded by taking note of the “alarming” tone of the Rapporteur’s report. On 20 September 2006, the Special Rapporteur reiterated his concerns and stated that the Commission of Inquiry would not be seen as a credible and impartial body without the involvement of international expertise. The country replied by stating that the Rapporteur had confused the matter and that it had always intended to bring international experts on board. At the Third Session of the Council on 3 December 2006, Sri Lanka denied allegations that a rebel faction that broke away from the LTTE, Tamil Makkal Viduthalai Puligal (TMVP) was committing human rights violations in collusion with state forces. Sri Lanka further stated that it had not supported any attempt by TMVP to recruit child soldiers and advised that it had instituted a high level investigation into the matter.

During the Second Session of the Council, on 28 November 2006, two different draft decisions on the human rights situation in Darfur were submitted by the European Union (EU) and the African members. The draft prepared by the EU contained proposals for stronger human rights safeguards in the area, including unrestricted access to the UN Office of the High Commissioner for Human Rights. Sri Lanka, along with other Asian members, chose however to support the African draft.

On 5 December 2006, at the Third Session of the Council, Sri Lanka pushed for the review of mandates and stated that country specific mandates should be used only as a last resort. It added that a code of conduct should be instituted to regulate the Council’s Special Procedures and should include comprehensive standardised guidelines for country visits. Sri Lanka asked for the Special Procedures to be required to highlight the positive steps taken by relevant countries towards compliance with their international human rights obligations.

At the Fourth Session of the Council, on 15 March, reacting to allegations made by non-governmental organisations on the state of disappearances in the country, Sri Lanka stated that killings and disappearances are decreasing and added that it is evolving permanent solutions for Internally Displaced Persons (IDPs). On 20 and 21 March 2007, the Special Representative on the human rights of internally displaced persons expressed concern over the state of IDPs in Sri Lanka. NGOs further stated that government threats to cut off humanitarian aid to IDPs aggravated their conditions and brought forward allegations of abductions in IDP camps and forcible re-settlement in places where tension still prevails.

On 21 March 2007, the Working Group on Enforced and Involuntary Disappearances stated that disappearances in Sri Lanka are on the increase - in conflict with the Government's claim - and raised concerns that they go unreported due to illiteracy, poverty and fear of reprisal. On 22 March 2007, Canada deliberated on how to help Sri Lanka tackle the problem of disappearances highlighted by the 5,749 cases documented in the report of the Working Group on Enforced and Involuntary Disappearances. It also referred to an increase of reported cases from the North east of the country. Similar concerns were raised by a group of non-government organisations, which circulated a statement on 27 March 2007 expressing regret that the Sri Lankan Government had not allowed the Working Group on Enforced and Involuntary Disappearances enter the country and called on the Government to allow visits under the Council Special Procedures. On the same day, the Special Rapporteur on extrajudicial, summary or arbitrary executions suggested that the UN should set up a fully-fledged international human rights monitoring body in Sri Lanka. The following day, 28 March 2007, he further expressed his concern over the impunity of those perpetrating extra-judicial killings in Sri Lanka and shared his feelings of discouragement over Sri Lanka's lack of response.

On 29 March 2007, the non-governmental organisation Action Contre La Faim made a submission that raised the issue of the impact of the ongoing conflict on efforts to combat the spread of the HIV virus. In the same submission, Action Contre La Faim asked the Council to monitor a Government inquiry into the killings of 17 of its humanitarian workers in Sri Lanka.

## 2. Pledge

### 2.1 Context to election to the Council

Sri Lanka was one of 18 Asian candidates that contested the May 2006 election to the Council for the 13 seats reserved for Asia. Sri Lanka won the elections with 123 votes, the lowest score among the Asian group. Thailand, Kyrgyzstan, Lebanon, Iran and Iraq were unsuccessful in securing a seat.

### 2.2 Pledge made<sup>146</sup>

In its pre-election pledge Sri Lanka promised to build the capacity of its national Human Rights Commission, as well as other independent statutory bodies. Sri Lanka also stressed that it would cooperate with treaty bodies by making timely submissions in the future. It further promised to become a party to the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography. Sri Lanka promised to further the protection of international standards on human rights and humanitarian law and to promote human rights in all parts of the world. The country argued that it had already invited a number of Special Rapporteurs, Special Representatives and Working Groups to visit the country. Finally, it stressed its active role in the promotion of international humanitarian law.

## 3. Compliance

### 3.1 Human rights in the past year

At the Fourth Session of the Council, Sri Lanka projected a picture of an improved human rights situation in the country. On the other hand, non-government organisations and other state

delegations have raised concerns over a number of sessions in the Council that the human rights situation in the country is deteriorating.

The 2002 ceasefire agreement was seriously undermined by the resumption of violence in April 2006. By August 2006, the ceasefire had given way to full-scale war. Rebels, breakaway rebel factions and the Government have all been accused of grave human rights violations during the course of the conflict. Rebels have been blamed for suicide bombings and indiscriminate mine attacks, while the Government has engaged in indiscriminate aerial bombing and shelling, which has resulted in civilian deaths. Tens of thousands of people have fled their homes or have been caught in crossfire. Both the rebels and Government forces have accused each other of using civilians as human shields. On 15 June 2006, an alleged rebel landmine attack on a bus claimed the lives of 63 civilians.<sup>147</sup> On 14 August 2006, the Government was accused of bombing a school in rebel held areas, killing an estimated 61 girls and young women (this figure has been the subject of much contention).<sup>148</sup> Human rights defenders and humanitarian workers have been under threat from both parties. On 5 August 2006, 17 aid workers from Action Contre La Faim were executed, allegedly by the military.<sup>149</sup> Despite international outcry the Government's efforts to investigate the incident have not brought much result.<sup>150</sup> On 12 August 2006, it was alleged that the LTTE assassinated the Deputy Head of the Government's Peace Secretariat, who was a Tamil, in Colombo.<sup>151</sup> The Government, on the other hand, has been blamed for the killing of a Tamil Member of Parliament, Nadaraja Raviraj, on 10 November 2006.<sup>152</sup> Father Jim Brown, a Catholic priest, disappeared from Kayts Island near Jaffna in August 2006, after alleged threats were made against him by the military.<sup>153</sup> On 9 April 2007, the International Committee of the Red Cross voiced concern over escalating civilian casualty in Sri Lanka and asked both the rebels and the Government to desist from violent conflict.<sup>154</sup>

The conflict's death toll for 2006 stands at an estimated 3,400 people - and many of these are civilians. Since the beginning of the conflict in the 1970s, it is estimated to have taken more than 65,000 lives.<sup>155</sup> There are an estimated 400,000 people internally displaced in the North and East where humanitarian conditions and aid continues to dwindle.<sup>156</sup> Tens of thousands refugees are spread in various parts of the world.

The conflict has led to a potential economic crisis. This has led to the Government broaching the possibility of opening up off shore oil reserves for exploration by foreign companies<sup>157</sup>. The rebels, who have added an air wing to their arsenal, conducted three attacks in the space of one month; the last attack in particular, targeted oil storage facilities near the Capital. No information is available to confirm that this was in retaliation to the announcement of this policy.<sup>158</sup> Such recent developments, along with Sri Lanka's lucrative geographical location in the midst of East-West shipping lanes, dangerously move the conflict close to international economics.

The UN Advisor on Children and Armed Conflict, Allan Rock, completed a mission to Sri Lanka in November 2006. On 13 November, he stated that Sri Lankan security forces were complicit in the recruitment of child soldiers.<sup>159</sup> He alleged that state security forces assisted the TMVP, also known as the Karuna Faction, to abduct children in the East of the country, to join the ranks of the military. Despite Government assurances to the UN Human Rights Council on 3 December 2006 that an investigation into this issue will be completed, there has not been any progress reported.

On 19 September 2006, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions stated in the Council that the emerging pattern of disappearances in Sri Lanka was worrying. The UN Working Group on Enforced and Involuntary Disappearances has for example reviewed 5,749 outstanding cases, hundreds of which were reported since the beginning of 2006.

Media freedom in Sri Lanka is under serious threat. Tamil journalists in particular have been targeted and killed allegedly by both sides. The Tamil language newspapers and their distributors have also been targeted.<sup>160</sup> On 20 August 2006, Sinnathamby Sivamaharajah, a member of the Tamil National Alliance and Managing Director of the Tamil language daily 'Namathu Elanadu', was killed in Jaffna.<sup>161</sup> He was allegedly pro-LTTE and the Government has been under suspicion for his death. On 2 July 2006, unidentified gunmen shot freelance Sinhalese journalist Sampath Lakmal de Silva, who was critical of the Government.<sup>162</sup> After these incidents, the Government stopped the supply of newsprint and ink to the embattled Jaffna peninsula, leading to an acute shortage in the capacity to print newspapers in the region.<sup>163</sup>

In June 2006, Commissioners to the Sri Lanka Human Rights Commission were appointed directly by the President, in contravention of the Constitutional requirement that members of the Commission are appointed by the Constitutional Council, a body set up as a buffer body between the Government and key bodies that require independent membership. The President's interference came at a time when the Constitutional Council itself had no members and was, as a result, not operational. This unlawful appointment challenges the independence of the Commission and its compliance with the Paris Principles, which are the internationally accepted basic standards that regulate the functioning of national human rights institutions.

On 15 September 2006, the Supreme Court of Sri Lanka ruled that the ICCPR and its Optional Protocol would not apply to individual citizens in Sri Lanka, in view of Sri Lanka's dualistic Constitutional framework. The logic used in this decision will apply to similar treaties such as CEDAW.

In November 2006, following international pressure, an independent Commission of Inquiry was formed to investigate allegations of human rights violations. The Commission is meant to take place under the close eye of an international Eminent Persons Group. The Commission has not yet done any significant investigation and the Special Rapporteur on extrajudicial, summary or arbitrary executions has expressed doubts about the independence of the Commission. On 31 March 2007, it was reported that the international Eminent Persons Group was blocked from accessing court records by the Chief Magistrate in Colombo.<sup>164</sup>

### 3.2. Compliance with the pledge

Prior to election to the UN Human Rights Council, Sri Lanka promised to strengthen its national human rights commission. In 2006 however, the Government's unlawful appointment of Commission members seriously discredited the Commission, challenging its independence and its compliance with the Paris Principles.

Sri Lanka has also failed to meet its commitments to promote human rights and humanitarian law. Indiscriminate bombing and shelling by security forces, allegations of government complicity in the recruitment of children as soldiers and alleged involvement of the military in the execution of humanitarian workers constitute gross violations of international humanitarian law. Allegations of Government involvement in extra-judicial killings and enforced disappearances, as well as the targeting of media professionals, seriously undermine the credibility of Sri Lanka's commitment to human rights. The Government's commitment to address human rights violations is similarly challenged by improper, incomplete and disappointing investigations and the impunity granted by the Government's failure to take action against perpetrators. The Sri Lankan Supreme Court set a concerning precedent for the whole world by declaring that the ICCPR does not apply to Sri Lankan citizens.

Sri Lanka's intentions to cooperate with and strengthen treaty bodies have not materialised, with ten reports still due under international treaties. Sri Lanka failed to become a party to the Optional Protocol to CRC on Children in Armed Conflict as promised in its pre-election document - a particularly concerning oversight given the internal conflict currently underway in the country. Sri Lanka's commitment to international humanitarian law cannot be taken seriously in light of the abuses that have taken place in the context of the internal conflict.

Sri Lanka's voting pattern in the General Assembly has been disappointing. In the Human Rights Council, Sri Lanka seems to have joined with UN voting bloc politics instead forming a position based on international human rights standards. The stances that have been taken have also attempted to undermine the Special Procedures of the Council by requesting a code of conduct and guidelines for country visits. Sri Lanka also sought to downplay the role of country specific mandates.

## 1. Background

### 1.1 Context

The United Kingdom (UK) is a constitutional monarchy, historically the world's largest colonial power, and today a major European and global player. The UK is a nuclear power and a permanent member of the UN Security Council. It is made up of four constituent countries, England, Northern Ireland, Scotland and Wales. For many years, a conflict between the Government and separatists in Northern Ireland led to widespread human rights violations and violent incidents. The conflict ended with the Good Friday Agreement in 1998. In response to calls for autonomy, the UK has embarked on a programme of devolving power to the constituent regions of Scotland, Wales and Northern Ireland.

In recent times, the UK has adopted a more conscious and positive stance towards human rights. Since 2001, however, this stance has been tarnished by the UK's questionable human rights record in terms of its anti-terrorism policies and strategies. The business ventures of some UK companies - including those in the arms trade - have also been increasingly subjected to negative scrutiny.

### 1.2 UN treaties

The United Kingdom is a party to the International Covenant on Civil and Political Rights (ICCPR) and its Second optional Protocol, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the Convention Against Torture (CAT) and the Convention on the Rights the Child (CRC) and its two Optional Protocols.

The UK is yet to become a party to the first Optional Protocol to ICCPR and the Convention on the Protection of the Rights of All Migrants Workers (CMW).

### 1.3 UN reporting history

The UK has completely nearly all its reports under the international treaties with the exception of two rounds of reports under CERD.

The UK has completed seventeen rounds of reporting under CERD but has two rounds of reports due since 2006. The country has fulfilled all its reporting requirements under CAT, ICCPR, ICESCR, CEDAW, CERD, CRC and the Optional Protocol to CRC on Children in Armed Conflict.

The UK has issued an open invitation to the UN Human Rights Council's Special Procedures.

### 1.4 UN voting patterns and performance at the Council

At the Third Committee of the UN General Assembly, the UK voted against a resolution aiming at eliminating the only existing mechanism available in the General Assembly to publicly identify countries condoning human rights abuse.

At the First Session of the UN Human Rights Council in June 2006, the UK voted to recommend the General Assembly to pass the UN Declaration on the Rights of Indigenous Peoples. In November 2006, in the General Assembly, the country maintained its position and opposed deferring the declaration.

On 4 December 2006, at the Third Session of the Council, the UK stated that for the procedure of the Universal Periodic Review (UPR), international humanitarian law and international customary law should only be used if they can be determined in the Universal Declaration for Human Rights and other instruments. Further, in an informal consultation on the UPR, the UK stated that it should not be made mandatory for states to file reports providing information about themselves for the assessing-mechanism. The UK stated that if such reports were to be mandatory it would perhaps be better to substitute it with an examination in case of inability to submit a report.

On 8 December 2006, the UK opposed a resolution on the establishment of a 'Durban Review Conference' to monitor the implementation of the Durban Declaration and Programme of Action on the elimination of racism, racial discrimination, xenophobia and related intolerance. On the same day, the UK also opposed a Decision on Global Efforts for the Total Elimination of Racism, Racial Discrimination, Xenophobia and Related Intolerance. The decision aimed at constituting an ad hoc committee to develop standards that would either lead to a new convention or an optional protocol to the CERD. At the Fourth Session of the Council, on 26 March 2007, the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism used the example of UK when referring to a new pattern of security profiling where states use national origin or ethnic appearance as criteria for religious-profiling.

## 2. Pledge

### 2.1 Context to election to the Council

UK was one of 9 contestants for the 7 seats reserved for the Western European and Other States Group. The UK was elected with 148 votes, the third highest score amongst the seven elected states. The UK will continue to hold its seat in the Council until 2008. Portugal and Greece were unsuccessful in securing a seat in this group.

### 2.2 Pledge made<sup>165</sup>

In its pre-election pledge the UK committed to make the UN Human Rights Council a success and to contribute actively to set up an effective Universal Periodic Review mechanism. It pledged to advance human rights internationally and to be open to new approaches to human rights. The country further promised to lead the international efforts to advance corporate social responsibility towards human rights. Internally, the country promised to improve the promotion and protection of human rights of all its citizens. It stated that it would continue to foster a culture of transparency, openness and dialogue in its pursuit of improved human rights standards. Finally, the UK highlighted the fact that it is working on a national preventive mechanism on torture and that it has signed the Optional Protocol to CAT. In that regard, the UK stated its readiness to share its experience in setting up a national preventive mechanism on torture.

## 3. Compliance

### 3.1 Human rights in the past year

In 2006, major concerns have been expressed about the UK's draconian terrorism related laws, which have given authorities wide and sweeping powers. For example, the Terrorism Act passed in 2006 allows for the detention of "terror suspects" for 28 days without charges. On 21 June 2006, the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism wrote to the UK Government expressing concern over two issues in the legislation.<sup>166</sup> Firstly, the use of broad and vague terminology that prescribes intent for crimes covered under the Act. The terminology includes "indirectly encouraging" acts of terrorism and "glorification", interpreted as including "any form of praise or celebration". Secondly, the length of the permitted maximum period of 28 days for detaining without charge those suspected of terrorism. The Rapporteur reported that as of 31 January 2007, the UK Government had not responded to his letter.<sup>167</sup> There have been further concerns over the provisions permitting arrest without warrant based on broadly defined terms of suspicion provided in UK anti-terror laws.<sup>168</sup> At the time of writing this report News reports indicate that the Government would be planning to introduce new anti-terror measures allowing security forces to interrogate suspects after being charged. It was also indicated that the Government is planning to use as evidence phone tap material obtained abroad although such material obtained in the UK is currently inadmissible in court. This law could lead to breaches of the right to privacy besides vesting the State with the power to keep individuals under surveillance.<sup>169</sup> This also comes at a time when the UK is planning to install closed circuit television (CCTV) cameras to monitor and speak back and possibly to use microphones. The UK already has a big CCTV camera system that monitors the urban areas. The new proposal has raised concerns ranging from infringement into privacy to the creation of an unnecessary climate of fear.<sup>170</sup>

In 2005 the UK allegedly sold arms to 11 of the 20 designated countries of human rights concern by its own Foreign Office human rights report.<sup>171</sup> Key arms markets include countries such as Saudi Arabia, Vietnam, Colombia, Iraq and Russia.<sup>172</sup> The UK is also alleged to have exported arms in 2005 to 17 countries engaged in major internal conflicts.<sup>173</sup> Recipient countries include Nepal, Sri Lanka and Uganda.<sup>174</sup> In the case of Sri Lanka it was alleged that there was a 60 percent rise in arms exports in 2005.<sup>175</sup> During Israel's attack on Lebanon between July and August 2006, AH-64 'Apache' helicopters and F16 bombers fitted with UK made spares were allegedly used for indiscriminate and un-proportional aerial attack.<sup>176</sup> Towards the end of 2006 human rights groups accused the UK Government of fuelling arms race in South Asia by supplying arms to both India and Pakistan.<sup>177</sup> Companies in the UK were also reported to have offered to sell stun guns, electric shock batons, leg irons, shackles and leg cuffs manufactured outside the EU.<sup>178</sup>

Early 2006<sup>179</sup> and in January 2007 reports denounced the Government's involvement in a corruption scandal over the supply of arms to Saudi Arabia. The UK Government stopped a Special Frauds Office (SFO) inquiry into the scandal on national security ground, although human rights groups alleged that the lobbying of the UK arms industry and Saudi officials were responsible for the order to stop the inquiry. The Government argued that Saudi Arabia is an important ally in its fight against terrorism, and whose partnership could "reduce a sense of grievance" in the "Muslim world", allowing in return the promotion of peace and stability in the Middle East.<sup>180</sup> Human rights groups replied that "future efforts by the UK to prescribe governance standards for developing countries in receipt of aid and debt relief are likely to be viewed as nothing less than double standards".<sup>181</sup>

The Government has been criticised for its alleged complicity in human rights violations committed overseas by national companies. In October 2006 reports revealed that the UK based Anglo American's subsidiary Anglo Gold Ashanti has been involved in human rights violations in Ghana. The company's gold mines would notably violate rights to health and pollute the environment.<sup>182</sup> The company has also allegedly used its security guards to commit human rights atrocities on local people living near the mines.<sup>183</sup> Since the mid 1990s both the company security and police would have resorted to shooting and beating local people besides aggressively using security dogs against local people for small crimes such as trespassing. The companies claim that those individuals are illegal miners. It is reported that none of these cases have been investigated.<sup>184</sup>

Women's rights are granted under British law. Despite the Government's efforts to strictly enforce the prohibition on domestic violence with high penalties, the problem persists. 2006 official figure are not available but 121,816 sexual assaults on women were reported between 2005 and 2006. Immigrant population from Africa and Asia have imported illegal and cruel practices against women such as genital mutilation and honour killings. The British Equal Opportunities Commission reports every year on the discrimination against women in the work place particularly in terms of wages.<sup>185</sup>

British law clearly prohibits the use of torture and the UK has been quite successful in the implementation of its obligations under CAT despite sporadic reports of police abuse in detention. The country's commitment was visible both internally and internationally, with the signature of memorandum of understanding with third countries so their citizens, deported from the UK would not be subjected to torture in the recipient country. Pressed by the new challenges and requirements of counter-terrorism after 9/11, the UK has been accused of adopting positions and taking actions that challenge the global ban on torture. The UK has particularly reviewed its policy on the extradition of terrorism suspects and appealed to the European Court of Human Rights to set aside judgments affirming an absolute ban on torture. In February 2007, a well-known international human rights group denounced the decision of the Special Immigration Appeals Commission (SIAC) to dismiss Omar Mahmoud Mohammed Othman's appeal against his deportation to Jordan, despite its full knowledge of the persistence of the use of torture in that country.<sup>186</sup> Similarly, in 2007, the UK has attempted to deport back to Algeria 17 asylum seekers and refugees, although up until August 2005 the British authorities were acknowledging that the risk of ill treatment, torture and other violations of fundamental rights, it would be unlawful to deport individuals to Algeria.<sup>187</sup>

A Commission for Equality and Human Rights is expected to become operational in October 2007. Racial tensions and violence in the UK are often reported in the news.<sup>188</sup> Security forces in the UK have been accused of using racial profiling to identify 'terror suspects'.<sup>189</sup> In April 2006, just before UK's entry into the Council, reports indicated that black people were more likely to be in a police database that contained DNA details of individuals arrested but released without charge or caution.<sup>190</sup> In March 2007 Commonwealth soldiers serving in the British army decided to form a union to overcome widespread racism, unfair treatment and lack of welfare support by the army.<sup>191</sup> In April 2007 it was reported for example that Commonwealth soldiers' spouses would have limited access to benefits and would face deportation should their husbands/ wives die the field.<sup>192</sup> The UK has increased its intake of Commonwealth soldiers in recent times, with an estimated 6,000 Commonwealth troops serving in the British army.<sup>193</sup>

In April 2007, a BBC report revealed how migrants in UK live under harsh conditions in an exploitative environment.<sup>194</sup> In May 2007, a national newspaper reported on a plan of the British Home Affairs to strengthen its policy towards illegal workers. The plan would involve notably the

strict obligation for job applicants, irrespective of their nationality, to submit their passports and birth certificates. Despite a specific warning by the Ministry of Home Affairs to treat all applicants equally, this law could create a procedure conducive for discrimination.<sup>195</sup>

### 3.2. Compliance with the pledge

Before the May 2006 elections to the UN Human Rights Council, the UK promised to contribute to the establishment of an effective UPR system. The country however has argued that international humanitarian and customary law could only be used for the UPR as long as they could be determined in international instruments. The UK has thereby attempted to restrict the UPR process by forcing the reviews to be conducted within the narrower legal ambit of the treaties, many of which have their own mechanisms to deal with violations. In addition, the UK's restrictive interpretation of the binding force of customary law tests its commitment to advance international human rights standards.

In its pre-election pledge the UK highlighted the fact that it is a party to the Optional Protocol to CAT and offered to share its experience in creating a national preventive mechanism against torture. Allegations of British companies selling instruments of torture highlight the need for adequate state mechanisms to monitor trades of this nature.

The UK had also pledged to make the Council a success, yet it attempted to move the Council's focus away from racism and racial discrimination issues by voting against both a decision and a resolution on the matter.

Prior to its elections in the Council, the UK promised to advance human rights internationally. It has however failed to set up a mechanism to monitor its arms trade, which caters to clients identified as human rights violators by UK's own standards.

## 1. Background

### 1.1 Context

Formerly Northern Rhodesia, Zambia became independent in 1964. At independence, the new country had an abundance of copper resources and significant economic potential. By the 1970s, Zambia's support for nationalist movements in Rhodesia (now Zimbabwe), South Africa, Angola and Mozambique led to tensions and the closure of its borders. In parallel, world copper markets slumped, with a devastating effect on an increasingly politically insular Zambia. By the mid 1990s Zambia was burdened with an increasing rate of per capita foreign debt and associated socio-economic problems. In recent years it has been on the verge of a food crisis and the country has received significant debt relief. From 1972 to 1991 Zambia endured a long period of single party rule, which ended with the adoption of the 1991 Constitution. Corruption has proved to be a major problem in Zambia's after its democratic resurrection. The country faced a failed coup in 1997. Coup leaders used corruption of the then regime as a pretext to justify their actions. Following a change of leadership after the 2002 elections, there has been a massive anti-corruption drive mainly targeting the previous regime.

### 1.2 UN treaties

Zambia is party to the International Covenant on Civil and Political Rights (ICCPR) and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention Against Torture (CAT) and the Convention on the Rights of the Child (CRC).

Zambia is not yet a party to the Convention on the Protection of the Rights of All Migrants Workers (CMW), the Second Optional Protocol to ICCPR, the Optional Protocol to CEDAW, the Optional Protocol to CAT or the two Optional Protocols to the CRC.

### 1.3 UN reporting history

Zambia has fulfilled most of its reporting requirement under international treaties.

The country does not have any reports due under CAT, ICCPR, CERD, ICESCR, or CRC. Zambia has completed 4 rounds of reporting under CEDAW but owes one report for 2002.

Zambia has not extended an open invitation to the UN Human Rights Council's Special Procedures.

### 1.4 UN voting patterns and performance at the Council

At the Third Committee of the General Assembly, Zambia was absent for a crucial vote on a resolution aimed at eliminating the only mechanism available in the General Assembly for publicly identifying member states involved in human rights abuses.

In June 2006, at the First Session of the UN Human Rights Council, Zambia voted to recommend that the General Assembly pass the UN Declaration on the Rights of Indigenous Peoples. However five months later, in the General Assembly, Zambia changed its position and voted to defer the passing of the declaration.

On 28 November 2006, at the Third Session of the UN Human Rights Council, Zambia abstained from voting on two draft resolutions on Darfur submitted by the European Union and African members. On 16 March 2007, Zambia was more engaged on the Darfur issue and played an active role in welcoming the report of the High Level Mission to Darfur. It also helped foster a consensus for a stronger Council resolution passed at the Fourth Session of the Council.

Zambia however failed to take an equally strong position when the human rights situation in Zimbabwe was discussed in the Council.

## 2. Pledge

### 2.1 Context to election to the Council

Zambia was one of 13 African countries that contested the May 2006 elections to the Council. The number of candidates was the same as the number of seats reserved for Africa. The election results were pre-determined. Zambia came second among the African group with 182 votes.

### 2.2 Pledge made<sup>196</sup>

In its pre-election pledge Zambia committed to respecting provisions of protocols relating to human rights in both the regional and global sphere. It also promised to “accelerate the process” of signing the two Optional Protocols to CRC and the Optional Protocol to CEDAW. The country committed to submit on time its reports to the treaty bodies. Finally Zambia highlighted its important role in the liberation struggles in Africa and its continuous assistance to countries emerging from conflict in the sub-region.

## 3. Compliance

### 3.1 Human rights in the past year

In a March 2006 report, the UN Secretary General’s Special Representative on the situation of Human Rights Defenders noted that there was a dearth of information on human rights issues in Zambia.<sup>197</sup>

In March 2007, the Committee on the Elimination of Racial Discrimination (CERD committee) voiced similar concerns and noted a lack of precise information on the legislative provisions prohibiting racial discrimination and promoting the enjoyment of civil, political, economic, social and cultural rights.<sup>198</sup> Similarly, the Committee regretted the lack of statistical information on cases of racial discrimination lodged before Zambian institutions. The Committee pointed out that Article 23 of the Zambian Constitution, which provides for exceptions to the principle of non-discrimination on matters of personal and customary law, does not comply with Article 1 of CERD. The Committee added that the Article 11 of the Zambian Constitution, which relates to non-discrimination, only covers a limited list of civil and political rights, and that the directive principles of state policy enshrined in the Constitution do not cover non-discrimination in the case of economic, social and cultural rights. The Committee also voiced its concern regarding a 1996 amendment to the Zambian Constitution, which stipulated that only a second generation Zambian could be President of the country. The Committee finally pointed out that de facto discrimination by non-state actors is also a concern in Zambia.

The CERD Committee raised its concern about the difficulties faced by the Zambian Human Rights Commission. In 2006, the Commission was reported to be operating at 30 percent of the recommended staff level.<sup>199</sup> It also lacked transport facilities to carry out effective investigation, field and prison visits and educational campaigns. The Commission faced difficulties obtaining speedy responses to its requests to the Government. An estimated 594 cases were pending at the Commission in March 2007.

On three separate occasions, on 8 September, 24 October and 11 November 2006, the police reportedly abusively used firearms resulting in the death and injury of a number of civilians.<sup>200</sup> In 2006, human rights groups in Zambia continued to highlight cases of alleged torture and abuse by police officers.<sup>201</sup> For example, in November 2006, police allegedly tortured Chisha Mwasumba to extract a confession.<sup>202</sup> There have also been reports of detention without trial.<sup>203</sup> Human rights groups have highlighted John Chishimba Mutale's case, who was granted bail in June 2006 after being detained without trial for 12 years.<sup>204</sup> There have also been concerns over congested and inhuman prison conditions.<sup>205</sup>

In November 2006, the Young Women's Christian Association of Zambia stated that around 12 women are raped every week in Zambia<sup>206</sup>, that half the married women over the age of 15 face domestic violence and that 53 percent of all women in Zambia experience physical violence. The dramatic level of the figures raises questions on the capacity of the state, particularly the police, to adequately address gender-based violence and on women's access to justice.

### 3.2. Compliance with the pledge

While Zambia pledged respect to human rights instruments in the global and regional sphere, the same commitment has not been extended to the domestic level. The absence of a domestic commitment becomes all the more conspicuous in the light of reports of police excesses and racial discrimination in Zambia.

Zambia's commitment to accelerate the process to adhere to the two Optional Protocols to CRC and the Optional Protocol to CEDAW has not fructified. The country has been very successful in completing its reporting obligations before the treaty bodies, but one report is still due under CEDAW.

In the Council, despite an initial negative stand on Darfur, Zambia later played a key positive role in forging consensus for a strong resolution on Darfur.

This however stands in contrast to its position when Zimbabwe human rights situation was discussed in the Council. Zambia remained silent, thereby avoiding to adopt an explicit position siding with the Western bloc or to break the solidarity adopted by African countries, which argue that Africa must be in the forefront of solving African problems.

Zambia highlighted in its pledge its support to liberation struggles in Africa and to countries emerging from conflict. Given its long history of supporting freedom movements in the region, the country has an active role to play in supporting its neighbours to recognise individual rights. It is however disappointing that despite its initial public condemnation of human rights violation in Zimbabwe, it was one of the countries that tacitly stood by the Southern African Development Community decision to engage with Zimbabwe in very soft terms.

## 1. Context

The Commonwealth and the United Nations (UN) have a common understanding of human rights rooted respectively in the Universal Declaration of Human Rights (UDHR) and the Harare Declaration, which are complementary in substance. The Commonwealth, which represents a third of the world's population, is very influential in UN fora. In the UN Human Rights Council, the Commonwealth states currently hold 13 seats accounting for more than one fourth of the 47 members. A close look at the performance of Commonwealth Council members however demonstrates no significant effort on their part to adhere to their common Commonwealth commitments.

### 1.2 The UN human rights context

The horrors and devastation of two world wars laid the foundation of the United Nations and its core common values. So important was the notion of human rights that it informed its fundamental values:

- There is a one universal minimum human rights core system that no state can derogate from;
- The individual can be a subject under international law and can therefore complain against a state in an international forum; and
- There should be a universal mechanism to assess states' activities and monitor international set of norms that govern the minimum universal core of human rights.

Over the decades, the UN and the international community evolved a carefully structured interconnected and interdependent regime made up of standards and mechanisms to promote, protect and realise human rights. A history that began with the UDHR today consists of an extensive body of UN treaties and compliance mechanisms that govern states and individual complaints. Principles that emerged out of military tribunals to try war crimes have been refined into what in 2002 became the International Criminal Court. More recently, in a bid to improve on the increasingly politicised and consequently discredited Commission on Human Rights, the UN created the Human Rights Council that began functioning in June 2006.

Operative paragraphs 2 and 3 of the General Assembly Resolution 60/251 describe the main objectives of the Council:

"The Council shall be responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner;

"The Council should address situations of violations of human rights, including gross and systematic violations, and make recommendations thereon. It should also promote the effective coordination and the mainstreaming of human rights within the United Nations system"

### 1.3 The Commonwealth human rights context<sup>207</sup>

The Commonwealth was created in 1965, following waves of decolonisation and the emergence of new states. With the ready availability of UN mandated human rights obligations already

established, this grouping of diverse newly independent states strove to find a harmonising common ideological frame of guiding principles able to accommodate the aspirations of states with varied political ideologies and vastly diverse economic, social and cultural systems. Slowly the Commonwealth formed itself into a well-knit system consisting of useful official agencies, cooperating professional civil society organisations, and periodic meetings that maintained links and allowed for dialogue across the varied landscape of the Commonwealth.

As it evolved the Commonwealth strove towards the establishment of core minimum fundamental political values. Garnering recognition for universal core minimum human rights was only one of these values and not perhaps the most important to its members.

Nevertheless, it cannot be too often reiterated that all the communiqués issued at the conclusion of every Heads of Government Meeting since the mid-Seventies, except one, have emphasised the importance of human rights.

Over three decades the Commonwealth armed itself with several strong statements - the Singapore Declaration of 1971, the Lusaka Declaration on Racism and Racial Prejudice 1979, the Melbourne Declaration of 1981, the Harare Declaration of 1991, and the Millbrook Action Plan of 1995. Successive secretaries-general have emphasised the need for human rights to be at the forefront of Commonwealth concerns. Sir Shridath Ramphal recalled in 1975 how Jawaharlal Nehru had hoped the Commonwealth would work in establishing human rights, political and economic, throughout the world. Nehru had said: *"If the Commonwealth can not only succeed in doing that in its own sphere but help to do that in the larger sphere of the world, then the Commonwealth will have given the best possible lead to the world... There is great scope for the Commonwealth to function in this way, and not only to help itself but help others also."*

In 1990 an expert working group chaired by Hassan Jallow, Attorney-General and Minister of Justice of The Gambia, concluded that *"The Commonwealth has a unique role to play in promoting the more effective enjoyment of human rights within and among its member states and in the international community at large [...] Human rights must remain a central tenet of Commonwealth co-operation in the 1990s and beyond."*

The Commonwealth action in suspending Nigeria in 1995 and Pakistan in 1999 from its membership and its ability to prompt Zimbabwe to leave its membership rather than risk suspension were bold steps that take disapproval of state behaviour much further than the UN could. These actions and the ability of the Commonwealth's Ministerial Action Group to keep countries in "serious or persistent violation"<sup>208</sup> of human rights under review, when taken together with the fact that the 53 member countries share for the most part common legal and governmental systems, have positioned the Commonwealth ideally to blaze a human rights trail for the world community.

In fact as newer regional groupings have come into being, economies have merged or got left behind in an increasingly globalised world and geopolitical alliances have changed. The Commonwealth, without any effective business goal or a military alliance, has become less relevant and needs a central binding core beyond a doubtful historical past.

A major strength that the Commonwealth possesses is its heritage of struggle against inequality and injustice: ills whose cure lies in adopting human rights as a paramount core value. Today it is clear that focus on promoting and protecting human rights could be one of the best ways to make the Commonwealth a germane and dynamic institution of value to the modern world. This

view in fact finds a clear reflection in the Commonwealth Secretary General's Speech to the High Level Segment of the Human Rights Council on 14 March 2007, where he stated that "the modern Commonwealth is, without doubt, a human rights organization".<sup>209</sup>

Yet in reality the pursuit of human rights as a central goal of the association has been weak and the stances of members uneven whether in condemnation of gross violations or in privileging human rights agendas. The key question remains whether the bloc of countries called the Commonwealth really has the cohesion, political will or common goal to act together to genuinely and markedly further the promotion, protection and realization of human rights either in the international sphere or in the everyday lives of ordinary people at home.

## 2. Commonwealth support to the UN Human Rights Council

The Commonwealth has several mechanisms, which could potentially further human rights within the new UN Human Rights Council and complement its work.

### 2.1 Existing support mechanisms

#### 2.1.1 Commonwealth agencies

##### 2.1.1.1 The Commonwealth Secretariat

The Commonwealth Heads of Government provide the Commonwealth Secretariat with specific mandates. The Commonwealth Secretariat has a Human Rights Unit (HRU) that primarily focuses on supporting the "Secretariat's strategic goal of strengthening democracy and respect for human rights within the Commonwealth".<sup>210</sup> Part of its work consists in strengthening national human rights mechanisms, institutions and groups in Commonwealth states and to help them to meet UN human rights requirements. The HRU has, amongst other activities, focused on the establishment and strengthening of national human rights institutions (NHRIs) and assisting countries to ratify core UN human rights instruments. In 1998, the HRU signed a Memorandum of Understanding and Cooperation with the Office of the High Commissioner for Human Rights (OHCHR). In addition, the HRU has been planning a model national human rights action plan for Commonwealth countries. In relation to the activities of the Council, the HRU was involved in the Commonwealth Secretary General's address to the High Level Segment of the Council.

In addition to this, the Political Affairs Division (PAD) and the Legal and Constitutional Affairs Division (LCAD) in the Commonwealth Secretariat also have various human rights roles to play in their functions. The PAD assists in consultation and consensus building in the Commonwealth, further it supports the Secretary-General's good offices role and facilitates the Commonwealth Heads of Governments Meetings. The LCAD facilitates cooperation in legal and constitutional affairs in the Commonwealth. It also provides assistance on the legal aspects of development and in the administration of justice. In its work, the LCAD places a lot of importance on human rights and the rule of law.

The Commonwealth Secretariat also has two human rights programmes: the Deepening Democracy Programme, which aims to implement parts of the Harare Declaration, and the activities of which include holding workshops on democratic processes; and the Gender Programme, which

concentrates on integrating gender issues in the Secretariat's work and on advancing women's rights.

The Commonwealth Fund for Technical Cooperation (CFTC) facilitates a part of the Secretariat's assistance, by enabling technical assistance from one Commonwealth country to another in areas that include human rights.

### **2.1.1.2 The Commonwealth Ministerial Action Group**

The Millbrook Action Plan on the Harare Declaration established the Commonwealth Ministerial Action Group in 1995. The agency, composed of nine Commonwealth Foreign Ministers, has the power to suspend or expel members who engage in serious or persistent violation of the Harare Declaration. To date, the body has displayed a tendency to act only in cases of overthrow of governments and has come under criticism for such a specific focus. There is currently no specific focus on the Council.

### **2.1.1.3 The Secretary General's Good Offices**

The Secretary General's good offices involve the appointment of Special Envoys who assist negotiations and consensus building in cases of crisis and/or serious violation of the Harare Declaration. There is currently no specific focus on the Council.

### **2.1.1.4 The Commonwealth Foundation**

The Commonwealth foundation is a Commonwealth agency that facilitates the participation of the civil society in the Commonwealth, also referred to as the unofficial Commonwealth or the people's Commonwealth. To this end the Foundation conducts civil society events and funds civil society activities.

## **2.1.2 Commonwealth meetings**

### **2.1.2.1 Commonwealth Heads of Government Meeting**

The Commonwealth Heads of Governments meet biannually and give policy directions to Commonwealth agencies in various matters. In the past, they have often concentrated on human rights and talked of collaboration between the Commonwealth and the UN. They are yet to make a collective statement on the Council.

### **2.1.2.2 Commonwealth Ministerial meetings**

Commonwealth Ministerial meetings involve a gathering of Commonwealth ministers dealing with specific issues. They provide recommendations to the Commonwealth Head of Governments, which later are incorporated into Commonwealth policy. These meetings have followed UN agendas but are yet to deal specifically with the Council.

## 2.2 Possibilities of meaningful Commonwealth support for the UN Human Rights Council

### 2.2.1 Technical assistance

The Council is mandated to provide technical assistance to countries and help them achieve human rights standards. In the past year of the Council's existence, during deliberations on institution building, a number of Commonwealth states expressed their desire for capacity building and technical assistance in human rights which would help them fulfil their commitments to the Council and the UN human rights mechanisms.<sup>211</sup> The Commonwealth Secretariat, in particular the HRU, is also well placed to provide necessary assistance to Commonwealth countries seeking it. The CFTC should also assist in transferring human rights expertise available within the Commonwealth to the Council Commonwealth members who seek it.

One of the HRU's existing areas of work is directed at strengthening human rights mechanisms. As part of this, it has already focused on assistance to NHRIs, whose presence may expand in the Council in the spirit of 5 (h) of General Assembly Resolution 60/251. The HRU is also assisting countries to ratify core UN human rights treaties. In a similar vein, the HRU could also help Commonwealth countries fulfil their obligations under the Universal Periodic Review (UPR) system once in place. These could be implemented through a revised Memorandum of Understanding between the HRU and the OHCHR.

The HRU, in association with the Commonwealth Foundation, could assist civil society movements across the Commonwealth to follow the new changes in the UN human rights system and understand the Council's functioning and work. The HRU and the Commonwealth Foundation could also help these organisations identify and campaign at the UN level for human rights issues of special concern to the Commonwealth.

The HRU working with PAD and LCAD could help integrate at the Council, level human rights assistance into the work of these divisions.

In its model national action plan on human rights the HRU should include measures to assist countries in effectively fulfilling their responsibilities to the Council.

The HRU's limited capacity should be recognised and expanded to enable it to provide more support and assistance at the Council level.

### 2.2.2 Consensus building

The Harare Declaration, which enunciates the fundamental political values of the Commonwealth, states that:

*"The Commonwealth way is to seek consensus through consultation and the sharing of experience. It is uniquely placed to serve as a model and as a catalyst for new forms of friendship and co-operation to all in the spirit of the Charter of the United Nations."*

It goes on to say that Commonwealth states pledge themselves to work towards “support of the United Nations and other international institutions [...] in the promotion of international consensus on major global political, economic and social issues.”

The Millbrook Action Plan on the Harare Declaration specifically states that facilitating consensus is one of the methods to fulfil Harare commitments. Part III of the Action Plan reads as follows:

### “III. Facilitating Consensus Building

7. We were convinced that the Commonwealth, with its global reach and unique experience of consensus building, was in a position to assist the wider international community in building bridges across traditional international divides of opinion on particular issues. We therefore agreed that there was scope for the association to play a greater role in the search for consensus on global issues, through:

- i. use of their governments membership of various regional organisations and attendance at other international gatherings to advance consensual positions agreed within the Commonwealth;
- ii. use, where appropriate, of special missions to advance Commonwealth consensual positions and promote wider consensus on issues of major international concern; and
- iii. use of formal and informal Commonwealth consultations in the wings of meetings of international institutions with a view to achieving consensus on major concerns.”

In addition, the Commonwealth Heads of Governments explicitly committed themselves to support the UN in the Singapore Declaration and the Nassau Declaration.

On 14 March 2007, in his speech to the High Level Segment of the Council, the Commonwealth Secretary General stated:

“Mr Chairman, I have spoken of the priority we place in the Commonwealth on words matching deeds. We expect the same of this new Council. [...] Today, I repeat our resolve to work with this Human Rights Council in any way possible. The Commonwealth accounts for more than a quarter of your membership”.<sup>212</sup>

The Secretary General’s statement stands in contrast to the fact that in terms of supporting the UN and building international consensus on human rights, many words of the Commonwealth still remain to be matched by deeds. While the Commonwealth resolve to support the Council is commendable there must be corresponding tangible action.

From the Commonwealth’s commitments, it is possible to discern a clear intention to both formulate positions based on Harare commitments and further them in other international fora, including the Council.

The Commonwealth has often met to discuss various UN initiatives. Ministerial Meetings and their agenda or discussions are sometimes closely related to UN action plans or agendas.<sup>213</sup> In many occasions, the Commonwealth has asserted that it is a consensus-building organisation.

In July 2005, a one-year study by the Commonwealth Policy Study Unit (CPSU) on the Commonwealth and the UN Developmental agenda concluded that there is room for creating Commonwealth

consensus on the UN developmental reform agenda.<sup>214</sup> It is not very difficult to apply the same idea on the recent UN reform agenda, which includes the establishment of the Council. It is also possible to encourage consensus-building processes in relation to human rights issues that may be brought to the Council.

However, the actualisation of Commonwealth consensus on human rights has been fraught with obstacles and has had, to a large extent, to face the threat of political and/or regional alliances adopting positions based on concerns other than human rights.

While regional groupings in the Council and other UN fora were created to ensure equitable geographical representation, this practice has often led to negative results. Major reasons have included negative processes such as vote trading practices and intra-voting bloc loyalty, all of which are usually based on considerations other than human rights. This was also one of the major contributors to the downfall of the former Commission. Various voting blocs and political alliances have manoeuvred their agendas in the UN, including UN reform activities. For example the Non Aligned Movement and the G77 are known to have their own UN reform initiatives.

Sadly, while politically motivated global blocs move ahead with UN reform initiatives, the Commonwealth, though equipped with a definite action plan to build consensus based positions on fundamental values, including human rights, is not effectively involved in UN reform or other UN activities connected with human rights. Despite the Commonwealth's open commitment to support the UN in its activities, no significant step has been taken at the policy level to support human rights issues in UN fora. The former Secretary General of the Commonwealth was once quoted saying that "the Commonwealth cannot negotiate for the world but can help the world negotiate".<sup>215</sup> Despite these various statements and declarations, the Commonwealth is yet to formulate a uniform system to build consensus based on the Harare principles and advance it in UN fora.

The paradox of a Commonwealth consensus was well reflected in a statement made by Ambassador Aminu Wali, Permanent Representative of the Permanent Mission of Nigeria to the United Nations on the occasion of a consultation organised on 1 June 2005 by the CPSU and the United National University with UN permanent missions in New York belonging to Commonwealth countries. In his speech the Ambassador said that:

"...[an] area where the Commonwealth does not and may not easily find a consensus, relates to the regional and group dynamics of the United Nations setting. Since the UN recognises regional and other negotiating groupings, and because the membership of the Commonwealth cuts across these regions and negotiating groups, it would be nigh impossible for the Commonwealth to forge a consensus among its members without weakening the processes and cohesion of the regional and group processes. For instance, how would the Commonwealth members of the African Group relate with JUNCANZ on globalisation, where G-77 has adopted a group position without upsetting the cohesion of G-77?

... Thus, existing groups dynamics such as within G-77, GRULAC, EU and JUSCANZ would continue to hold sway, and on occasions, act against a consensus in the Commonwealth. However, this does not detract from the fact that the Commonwealth can find ways to build a strong affiliation among its members within the United Nations. The biggest challenge would be how to forge such affiliation in the face of conflicting interests and processes".<sup>216</sup>

The Ambassador concluded in a more positive note by saying that:

“In conclusion, I would like to point out that, while the Commonwealth has certain potentials to elevate its impact on matters of peace and security and development, its limiting role as a negotiating platform in the UN and other international fora, should spur the association to find a platform and negotiating strategy at the United Nations. It would be necessary for such a strategy to aim to influence outcomes that are compatible with and complement the association’s consensus, where such exists, in the different groups to which, its members belong. By so doing, the Commonwealth will render itself a formidable bloc within the United Nations system”.<sup>217</sup>

Sidelining the UN system of regional groupings may affect substantial equality and equal representation in the UN. One of the best solutions to this problem may lie in the promotion of bodies such as the Commonwealth, who could build consensus across continents and cultures based solely on human rights values.

One of the major challenges for the Commonwealth today clearly lies in reinventing itself as an active, efficient and strong international negotiating bloc. This is also a role that is mandated by commitments undertaken by Commonwealth states. As opposed to other dominant and powerful blocs such as the EU, NATO or G-77, the Commonwealth has neither strong economic or military alliances nor mammoth institutional mechanisms. The strongest bond between states in the Commonwealth lies in their commitment to certain political values - in this sense, human rights occupies a prime role. To strive for an international negotiating position based on human rights is an ideal future direction for the Commonwealth. Today there is no better place to begin this process than in the Council.

As highlighted by Ambassador Wali, this is however a path riddled with difficulties. To achieve this goal the Commonwealth Heads of Government need to adopt clear policy directions. They must direct the Secretariat to hold extensive consultations to identify specific areas in human rights where a Commonwealth consensus exists or could be brought about. The HRU is in fact best placed within the Commonwealth Secretariat to organise such consultations in association with PAD. Besides identifying existing consensus, such consultations would also help civil society to identify areas where further action is required to gain consensus. Once such a list is established, the Heads of Government could issue directions to set up a system of civil society friendly intergovernmental consultations to build positions on the short listed issues prior to each Council session. The Heads of Governments could revise this list periodically, allowing for new human rights issues to be included.

The recent involvement of the Commonwealth Secretary General in the High Level Segment of the Council is a good start. This could become an annual process followed or preceded by substantial consultations on human rights issues (where consensus exists) with permanent representatives of Commonwealth states to the UN. Such consultations would both be an excellent support for any intergovernmental consultations among Commonwealth states and would also independently help in consensus building.

This should be additionally followed up in Ministerial meetings on a thematic basis. Country specific issues of concern to the Commonwealth should see close coordination between the Council and the CMAG and the good offices role of the Secretary General. The latter will help reinforce Commonwealth action against persistent violators of the Harare Declaration while supplementing the Council’s country specific mechanisms.

# RECOMMENDATIONS

CHRI believes that the vitality and relevance of the Commonwealth can only be tested against the willingness of its member states to adhere to and promote its highest values, and the ability of its official organs to support, encourage and promote such adherence.

The promotion, protection and realisation of human rights are fundamental Commonwealth values. The findings of this report raise grave concerns about the value that Commonwealth member states place on their commitments to the fundamental principles and to those made at various ministerial conferences and at the paramount Commonwealth Heads of Government meetings.

The findings also highlight once again the need for the Commonwealth to have mechanisms to monitor the progress of human rights' compliance as a means of indicating their commitment to the association.

CHRI reminds all Commonwealth Council members of their solemn commitments to the United Nations to make the new Human Rights Council a strong and effective body. CHRI urges them to strengthen the Council Special Procedures and to guarantee their independence and impartiality. CHRI also calls upon Commonwealth members to support linkages between the Special Procedures and the Universal Periodic Review mechanism. CHRI stresses that in the spirit of the people's participation required by the Harare Declaration, the Commonwealth Council members should support civil society participation in all of the Council's activities.

If the Commonwealth is not to be undermined, Commonwealth members of the Council must urgently bring their stances and voting in line with their Council voluntary pledges and with their Commonwealth commitments.

In this context CHRI recommends:

## 1. At the UN Human Rights Council

- CHRI calls upon the Governments of Commonwealth Council members to comply with their commitments to support the UN enshrined in the Harare Declaration, the Singapore Declaration and the Nassau Declaration, and to make the new Human Rights Council a strong and effective body. CHRI reminds Commonwealth countries that the Harare Declaration has a universal application and applies beyond Commonwealth fora, including at the Council.
- CHRI urges Commonwealth Council members to base their participation in the Council solely on human rights considerations and to abjure other considerations, which have the effect of weakening adherence to human rights, impugning and dishonouring commitments made at Commonwealth fora.

## 2. At the Commonwealth level

- CHRI urges Commonwealth members to meet their obligation under the Harare Declaration to “focus and improve Commonwealth co-operation in these areas [human rights]” by coordinating their interventions and positions with the sole objective of upholding the promotion and protection of human rights. To that end, CHRI calls upon the Commonwealth Heads of Government to state clearly in their next CHOGM communiqué

the practical steps for strengthening the Commonwealth's engagement with the Council. This is a vital step to implement Heads of Government's past promises to support the UN<sup>218</sup> and to build an international consensus on human rights issues.

- CHRI urges the Heads of Government to direct the Commonwealth Secretariat to identify periodically human rights areas where a Commonwealth consensus exists.
- CHRI also recommends Heads of Government to issue clear policy directions to set up a system of intergovernmental consultations prior to each Council session to adopt common Commonwealth positions where a consensus has been identified and/or in accordance with their commitments under the Harare Declaration.
- CHRI recommends for ministerial meetings to be held responsible for following up on the holding of consultation and the adoption of common positions that further human rights promotion and compliance.
- CHRI calls for a close coordination between the Commonwealth and the Council on specific and common human rights concerns. CHRI recommends particularly a close partnership between the Commonwealth Ministerial Action Group, the Commonwealth Secretary General's Good Offices and the Council's country specific processes, including the Special Procedure mechanisms.
- CHRI calls upon Commonwealth Heads of Government to provide necessary resources, mandates and directions to the Human Rights Unit of the Commonwealth Secretariat to technically assist Commonwealth to fulfil their obligations under the Harare Declaration.
- CHRI calls upon Commonwealth Heads of Government to unequivocally welcome and support the inclusion of civil society and its involvement at the Council and in the special procedures. This will honour their own commitments made at several Commonwealth Heads of Governments meetings, which privilege the participation of civil society in governance at home and in the international arena. CHRI calls for commonwealth states to demonstrate their commitment to such inclusiveness all across the Commonwealth Secretariat. CHRI urges in particular Commonwealth Governments to provide enhanced resources, mandates and directions to the Human Rights Unit and the Commonwealth Foundation, to ensure meaningful inclusion of civil society in all their work. CHRI urges that the progress in including civil society be benchmarked and reported on at every CHOGM.
- CHRI urges the Commonwealth Secretariat to assist countries in forging effective and transparent and civil society friendly national human rights action plans. CHRI stresses that the model national action plan being prepared by the Human Rights Unit of the Commonwealth Secretariat should include means by which to measure implementation and progress of the voluntary pledges undertaken by Commonwealth Council members.

### 3. At the national level

- CHRI calls on the Commonwealth members of the UN Human Rights Council to take demonstrable and quantifiable steps at home to implement their voluntary commitments to the UN and the Commonwealth.
- Recalling the spirit of public participation enshrined in the Harare Declaration and the many commitments made in the CHOGM communiqués, CHRI calls upon Commonwealth members of the Council to develop, resource and implement national human rights action plans that are inclusive of a wide range of civil society. The national action plans should include measures for the implementation of voluntary human rights pledges and commitments to the UN.
- CHRI recommends that to the Commonwealth Council members should put in place credible national monitoring and oversight bodies that benchmark and report independently on their progress towards upholding the highest standards in the promotion and protection of human rights.
- CHRI calls upon Commonwealth Council members to adopt, or strengthen and implement legislation that promote human rights and public participation, in particular access to information, freedom of speech, expression and association laws that enables citizens to effectively participate in human rights policy-making processes associated with the Council.

# Annexure I

Table on  
Commonwealth members of the UN Human Rights Council &  
their treaty obligations

COUNTRY	ICGPR	OP I ICGPR	OP II ICGPR	ICESCR	ICERD	ICRMW	CEDAW	OP CEDAW	CAT	OP CAT	CRC	OP CRC AC	OP CRC SC
Bangladesh	Acceded: 6 September 2000; Reservations & Declarations: Articles 10, 11 and 14	Non-Party	Non-Party	Acceded: 5 October 1998 Reservations & Declarations: Articles 1, 2, 3, 7, 8, 10, 13	Acceded: 11 June 1979	Signed: 7 October 1998	Accession: 6 November 1984 Reservations & Declarations: Article 2	Signature: 6 September 2000 Ratification: 6 September 2000	Acceded: 5 Oct 1998 Reservations & Declarations: Article 14 (1)	Non-Party	Signed: 26 Jan 1990 Ratified: 3 Aug 1990 Reservations & Declarations: Articles 14 (1), 21	Signed: 6 Sep 2000 Ratified: 6 Sep 2000 Declaration under Article 3(2)	Signed: 6 Sep 2000 Ratified: 6 Sep 2000
Cameroon	Acceded: 27 June 1984	Acceded: 27 June 1984	Non-Party	Acceded: 27 June 1984	Signed: 12 December 1966 Ratified: 24 Jun 1971	Non-Party	Signed: 6 June 1983 Acceded: 23 August 1994	Accession: 7 January 2005	Acceded: 19 Dec 1986 Declaration as per Articles 21 & 22	Non-Party	Signed: 25 Sep 1990 Ratified: 11 Jan 1993	Signed: 5 Oct 2001	Signed: 5 Oct 2001
Canada	Acceded: 19 May 1976	Acceded: 19 May 1976	Acceded: 25 November 2005	Acceded: 19 May 1976	Signed: 24 Aug 1966 Ratified: 14 Oct 1970	Non-Party	Signed: 17 July 1980 Ratified: 10 December 1981	Accession: 18 October 2002	Signed: 23 Aug 1985 Ratified: 24 Jun 1987	Non-Party	Signed: 28 May 1990 Ratified: 13 Dec 1991	Signed: 5 Jun 2000 Ratified: 7 Jul 2000	Signed: 10 Nov 2001 Ratified: 14 Sep 2005
Ghana	Signed: 7 September 2000 ; Ratified: 7 September 2000	Signed: 7 September 2000 ; Ratified: 7 September 2000	Non-Party	Signed: 7 September 2000 ; Ratified: 7 September 2000	Signed: 8 September 1966 Ratified: 8 Sep 1966	Signed: 7 September 2000 Ratified: 7 Sep 2000	Signed: 17 July 1980 Ratified: 2 January 1986	Signed: 24 February 2000	Signed: 7 Sep 2000 Ratified: 7 Sep 2000	Signed: 6 Nov 2006	Signed: 29 Jan 1990 Ratified: 5 Feb 1990	Signed: 24 Sep 2003	Signed: 24 Sep 2003
India	Acceded: 10 April 1979 Reservations & Declarations: In Chapter IV.3, Articles 1.9, 12, 13, 19 (3), 21, 22	Non-Party	Non-Party	Acceded: 10 Apr 1979 Reservations & Declarations: Articles 1, 4, 8, 7 (c)	Signed: 2 March 1967 Ratified: 3 Dec 1968	Non-Party	Signed: 30 July 1980 Ratified: 9 July 1983	Non-Party	Signed: 14 Oct 1997	Non-Party	Acceded: 11 December 1992 Reservations & Declarations: Progressively Implement Article 32, particularly paragraph 2 (a), in 1995 Reservations & Declarations: Articles 1, 2, 7, 13, 14, 15, 28.1 (a), 37	Signed: 15 Nov 2004 Ratified: 30 Nov 2005	Signed: 15 Nov 2004 Ratified: 15 Nov 2004
Malaysia	Non-Party	Non-Party	Non-Party	Non-Party	Non-Party	Non-Party	Acceded: 5 July 1995 Reservations & Declarations: 5 (a), 7 (b), 9, 16 [Withdraw for Articles 2(f), 9(1), 16(b), 16(d), 16(e) and 16(h)]	Non-Party	Non-Party	Non-Party	Acceded: 17 Feb 1995 Reservations & Declarations: Articles 1, 2, 7, 13, 14, 15, 28.1 (a), 37	Non-Party	Non-Party
Mauritius	Acceded: 12 December 1973	Acceded: 12 December 1973	Non-Party	Acceded: 12 December 1973	Acceded: 30 May 1972	Non-Party	Acceded: 9 July 1984	Signed: 11 November 2001	Acceded: 9 Dec 1992	Acceded: 21 Jun 2005	Acceded: 26 Jul 1990 Reservations & Declarations: Article 22	Signed: 11 Nov 2001	Signed: 11 Nov 2001
Nigeria	Acceded: 29 July 1993	Non-Party	Non-Party	Acceded: 29 July 1993	Acceded: 16 October 1967	Non-Party	Signed: 23 April 1984 Ratified: 13 June 1985	Signed: 8 September 2000 Ratified: 22 November 2004	Signed: 28 Jul 1988 Ratified: 28 Jun 2001	Non-Party	Signed: 26 Jan 1990 Ratified: 19 Apr 1991	Signed: 8 Sep 2000	Signed: 8 Sep 2000
Pakistan	Non-Party	Non-Party	Non-Party	Signed: 3 Nov 2004 Reservations & Declarations: Implementation keeping with the existing economic conditions and the development plans of the country and subject to the Constitution	Signed: 19 September 1966 Ratified: 21 September 1966	Non-Party	Acceded: 12 March 1996 Reservations & Declarations: Article 29 (1), Application of the Convention subject to the Constitution	Non-Party	Non-Party	Non-Party	Signed: 20 Sep 1990 Ratified: 12 Nov 1990	Signed: 26 Sep 2001	Signed: 26 Sep 2001

COUNTRY	ICPPR	OP I ICCPR	OP II ICCPR	ICESCR	ICERD	ICRMW	CEDAW	OP CEDAW	CAT	OP CAT	CRC	OP CRC AC	OP CRC SC
South Africa	Signed: 3 October 1994; Ratified: 10 December 1998	Acceded: 28 August 2002	Acceded: 28 August 2002	Signed: 3 October 1984 Declaration under Article 14 (1)	Signed: 3 October 1984 Ratified: 10 December 1998	Non-Party	Signed: 29 January 1993; Acceded: 15 December 1995	Acceded: 18 October 2005	Signed: 29 Jan 1993 Ratified: 10 Dec 1998 Declaration as per Article 30 Declaration as per Articles 21 & 22	Signed: 20 Sep 2006	Signed: 29 Jan 1993 Ratified: 16 Jun 1995	Signed: 8 Feb 2002	Acceded: 30 Jun 2003
Sri Lanka	Acceded: 11 June 1980	Acceded: 3 Oct 1997 Declaration as per Article 1	Non-Party	Acceded: 11 Jun 1980	Acceded: 18 February 1982	Acceded: 11 March 1996 Reservations & Declarations: Articles 8 (2), 29, 49, 54	Signed: 17 July 1980 Ratified: 5 October 1981	Acceded: 15 October 2002	Acceded: 3 Jan 1994	Non-Party	Signed: 26 Jan 1990 Ratified: 12 Jul 1991	Signed: 21 Aug 2000 Ratified: 8 Sep 2000 Declaration under Article 3(2)	Signed: 8 May 2002 Ratified: 22 Sep 2006
UK	Signed: 16 September 1968 Ratified: 20 May 1976 Reservations & Declarations: Articles 1, 10 (2) (a), 10 (2) (b), 10 (3), 11, 12 (1), 12(4), 13, 14, 14 (3) (d), 20, 23, 23 (3), 24 (3), 25 (b), 25 (c)	Non-Party	Signed: 16 Sep 1968 Ratified: 20 May 1976 Reservations & Declarations: Article 1, 2 (3), 6, 7 (a) (i), 8 (1) (b), 9, 10 (2), 13 (2) (a), 14,	Signed: 11 Oct 1966 Ratified: 7 Mar 1969 Reservations & Declarations: Articles 1, 5, 4, 8, 15, 20 & related Articles in Part III Reservations: To Yemen, Turkey and Thailand	Non-Party	Signed: 22 July 1981 Ratified: 7 April 1986 Reservations & Declarations: Articles 1, 2, 4(1), 9, 11, 13, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100	Acceded: 17 December 2004	Signed: 15 Mar 1985 Ratified: 8 Dec 1988 Reserves the right to formulate any Reservations & Declarations or interpretative declarations which it might consider necessary. Declaration as per Article 21	Signed: 26 Jun 2003 Ratified: 10 Dec 2003	Signed: 19 Apr 1990 Ratified: 16 Dec 1991 Reservations & Declarations: Convention applicable only following a live birth, definition of parents, apply laws as it deems on those who do not have the right under the law of the UK to enter and remain in the UK, and to the acquisition and possession of citizenship, Article 37 (c), reserves the right to extend the Convention at a later date to any territory for whose international relations the Government of the United Kingdom is responsible, Article 22	Signed: 7 Sep 2000 Ratified: 24 Jun 2003 Declaration under Article 3(2)	Signed: 7 Sep 2000 Ratified: 24 Jun 2003 Declaration under Article 3(2)	Signed: 7 Sep 2000
Zambia	Acceded: 10 April 1984	Acceded: 10 April 1984	Non-Party	Acceded: 10 Apr 1984 Reservations & Declarations: 13 (2) (e)	Signed: 11 Oct 1968 Ratified: 4 Feb 1972	Non-Party	Signed: 17 July 1980 Ratified: 21 June 1985	Non-Party	Acceded: 7 Oct 1998	Non-Party	Signed: 30 Sep 1990 Ratified: 6 Dec 1991	Non-Party	Non-Party

## Annexure II

Voluntary pledges made by Commonwealth members of the  
UN Human Rights Council, prior to the May 2006 Council election



## PERMANENT MISSION OF BANGLADESH TO THE UNITED NATIONS

227 East, 45th Street, 14th Floor, New York, NY 10017  
Tel: (212) 867-3434 • Fax: (212) 972-4038 • E-mail: bangladesh@un.int  
web site: www.un.int/bangladesh

No. PMBNY/Elections/HRC/06

The Permanent Mission of the People's Republic of Bangladesh to the United Nations presents its compliments to the Permanent Mission of all Member States to the United Nations and with reference to the General Assembly resolution A/60/L.48 has the honour to inform that the Government of Bangladesh has decided to present its candidature for membership of the Human Rights Council (HRC) for the term 2006-2008, elections for which will be held on 09 May 2006 during the 60<sup>th</sup> session of the General Assembly.

The Permanent Mission of Bangladesh, while seeking support for this candidature, has the further honour to highlight the following:

- a. Bangladesh is currently a member of the Commission of Human Rights for the term 2006-2008;
- b. Bangladesh's deep commitment to the promotion and protection of human rights of all its citizens emanates from its constitutional obligation;
- c. Bangladesh has been at the forefront of promotion and protection of all human rights at national, regional and international levels. This has been reflected in Bangladesh's adherence to all major human rights instruments;
- d. Bangladesh has actively and constructively participated in the work of the CHR. During her membership of the Commission from 1983 to 2000, Bangladesh fully cooperated with the Commission in fulfilling its mandate. She underscored the importance of genuine dialogue and cooperation among nations as well as of capacity building of the Member States as essential elements towards promotion and protection of human rights;
- e. As Vice-Chair of the Bureau of the Human Rights Commission in 1998, Bangladesh was actively involved in the review process aiming at enhancing the efficiency of the working methods of Commission and rationalize its work;
- f. Bangladesh also hosted several Special Rapporteurs in the recent years in further demonstration of her willingness to cooperate with UN human rights machinery;
- g. At the national level, Bangladesh, a democratic and pluralistic polity, is fully committed to the principles of good governance, democracy, rule of law and promotion and protection of human rights and fundamental freedom of all her citizens, with particular attention to the rights of women, children and minorities.

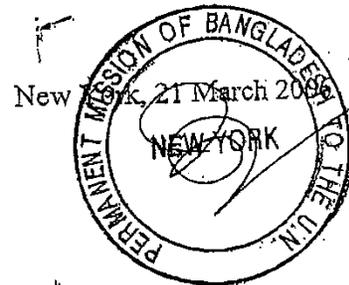
h. If elected to the Council:

- I. Bangladesh would fully cooperate with the Council in its work of promotion and protection of all human rights through dialogue, cooperation and capacity building;
- II. Bangladesh would remain prepared to be reviewed under the universal periodic review mechanism.
- III. Bangladesh would endeavour to further integrate the promotion and protection of human rights into her national development policy with special attention to the rights of women, children, minorities and persons with disabilities;

In view of the above and given the excellent bilateral relations and cooperation between our governments and peoples, the Government of Bangladesh would be grateful for the valuable support of your Governments to the candidature of Bangladesh for election to the Human Rights Council for the term 2006-2008.

The Permanent Mission of the People's Republic of Bangladesh to the United Nations avails itself of this opportunity to renew to the Permanent Mission of all Member States to the United Nations the assurances of its highest consideration.

Permanent Missions of all Member States  
to the United Nations  
New York



**BY FAX/SPECIAL MESSENGER**



**PERMANENT MISSION OF BANGLADESH  
TO THE UNITED NATIONS**

227 East, 45th Street, 14th Floor, New York, NY 10017  
Tel: (212) 867-3434 • Fax: (212) 972-4038 • E-mail: bangladesh@un.int  
web site: www.un.int/bangladesh

No. PMBNY/Elections/HRC/06

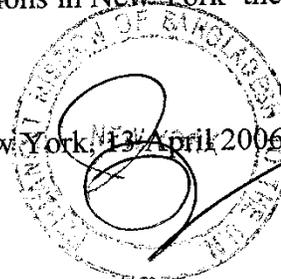
The Permanent Mission of the People's Republic of Bangladesh to the United Nations presents its compliments to the Department of General Assembly and Conference Management of the United Nations in New York and has the honour to refer to our Note Verbale of even number dated 21 March 2006 announcing candidature of Bangladesh to the Human Rights Council for the term 2006-2008, the elections to which are scheduled for 09 May 2006 during the 60<sup>th</sup> session of the General Assembly.

The Permanent Mission has the further honour now to elaborate on Bangladesh's voluntary pledges towards human rights in the form of an Aid-Memoire.

**The Permanent Mission would deeply appreciate if the Aid-Memoire is posted in the website as an additional element to the two pages posted already.**

The Permanent Mission of People's Republic of Bangladesh to the United Nations avails itself of this opportunity to renew to the Department of General Assembly and Conference Management of the United Nations in New York the assurances of its highest consideration.

New York, 13 April 2006



The Department of General Assembly and Conference Management  
of the United Nations  
General Assembly Affairs  
Room #S-2925A  
New York

(Attention: Mr. Ion Botnaru, Chief of Branch, Phone:212 963-2336  
Fax: 212 963 4230)

## AIDE MEMOIRE ON BANGLADESH'S VOLUNTARY PLEDGES TOWARDS HUMAN RIGHTS

### INTRODUCTION

Bangladesh is committed to ensuring all human rights—civil, political, economic, social and cultural rights, including the right to development—and fundamental freedoms to all its citizens and without any discrimination.

Bangladesh is committed to building a society free from exploitation in which the fundamental human rights and freedom, equality and justice, political, economic and social rights, are secure.

Bangladesh believes in indivisibility, universality, non-selectivity and interdependence of human rights. We favour a holistic approach in this respect with particular emphasis on the right to development.

It is because of her commitment to the promotion and protection of human rights and fundamental freedoms of all its citizens that Bangladesh actively and constructively participated in the negotiations leading up to the creation of the Human Rights Council.

Bangladesh served the Commission on Human Rights, with distinction, during 1983–2000, and was elected to the Commission for the term 2006–2008.

### HUMAN RIGHTS IN THE CONSTITUTION OF BANGLADESH

The constitution of Bangladesh, which embodies the principles and provisions of the Universal Declaration of Human Rights, is the supreme law of the Republic. It guarantees the following rights, among others, to all its citizens without any discrimination:

- **Democracy and human rights:** The Republic shall be a democracy in which fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed and in which effective participation by the people through their elected representatives in administration at all levels shall be ensured.
- **Provision of basic necessities:** The provision of the basic necessities of life, including food, clothing, shelter, education and medical care are responsibilities of the State.
- **Free and compulsory education:** The State shall adopt effective measures for the purpose of establishing a uniform, mass-oriented and universal system of education and extending free and compulsory education to all children.
- **Non-discrimination:** (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth. (2) Women shall have equal rights with men in all spheres of the State and of public life. (3) No citizen shall, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution. (4) Nothing in this article shall prevent the State from making special provision in favour of women or children or for the advancement of any backward section of citizens.

- Equality of opportunity.
- Equality before law.
- Protection of right to life and personal liberty.
- Prohibition of forced labour.
- Freedom of movement, of assembly, of association, of thought and conscience, of speech, of profession or occupation, and of religion.
- Rights to property.

#### ACHIEVEMENTS OF BANGLADESH IN FULFILLING HER CONSTITUTIONAL OBLIGATIONS

Bangladesh has been endeavouring to meet its constitutional obligations as well as its international commitments towards promoting and protecting human rights of its citizens through, among others, enacting legislations and adopting administrative measures to implement them, as well as through implementation of several socio-economic development programmes. Some of the steps taken by Bangladesh are:

- Bangladesh has, through legislative and executive measures, ensured freedom of speech and expression, freedom of the press, and freedom of thought and conscience. Every citizen enjoys the right to religion, education, association, assembly, occupation, trade, etc. without any discrimination. Bangladesh has one of the most independent print and electronic media in the world.
- Bangladesh has established itself as a democratic and pluralistic polity through its unwavering commitment to the principles and practices of good governance, democracy, rule of law, and promotion and protection of all human rights and fundamental freedoms of all her citizens with particular attention to the rights of women, children, minorities, disabled and other vulnerable sections of her population.
- Bangladesh has made significant progress in economic emancipation of her people in terms of sustained economic growth, improvement of per capita income, increasing food security, enhanced disaster management capability, and high achievements in social sector particularly women empowerment and health care including reduced maternal and child mortality rates. Indigenous concepts such as micro-credit and non-formal education have played significant role for these achievements. A vibrant civil society including the NGOs played a complementary role.
- Bangladesh believes that ensuring the right to education is an essential step in providing her people with the right to development. "Education for All" is, therefore, the highest priority of the Government of Bangladesh, particularly of the girls. Education for girls up to 12<sup>th</sup> grade is free in Bangladesh.

- Bangladesh is committed to its fight against corruption, which she considers an obstacle to ensuring a better living standard of her people. We have established an Independent Anti-Corruption Commission headed by a retired High Court judge. The Commission can conduct investigations into the offences under Anti Corruption Act 2004 and for the punishable offences under Prevention of Corruption Act 1947 through its own investigation unit. It can also initiate *suo moto* investigation into any case of malpractice.
- Bangladesh, in fulfilling its obligation to furthering the promotion and protection of human rights has decided to establish an independent National Human Rights Commission. Much work in this regard has already been done and the Commission is expected to be functional soon.
- Bangladesh is convinced that independence of judiciary is critical in ensuring good governance and rule of law, and by extension protection of human rights and fundamental freedoms of its citizens. The separation of the Judiciary from the Executive is currently under active process.
- Bangladesh believes that terrorism is antithetical to promotion and protection of human rights. In fulfilling her commitment to combat terrorism, she has ratified twelve of the thirteen UN Conventions on terrorism, and is contemplating constitutional procedure for the remaining one. She is also a party to SAARC (South Asian Association for Regional Cooperation) Regional Convention for Terrorism.
- Bangladesh has put in place appropriate legislative measures to promote the rights of children and women, focusing mainly on their protection from violence, abuse, and discrimination. A National Advisory Committee has been established to combat trafficking. Stringent laws have been enacted to protect the women and children, in particular girls, from being trafficked and abused. These include the Suppression of Immoral Trafficking Act of 1993, the Suppression of Violence Against Women and Children Act 2000, which was amended in 2003, Acid Crimes Control Act 2002 and Speedy Trial Tribunal Act 2002.
- Bangladesh is one of the few countries that have a separate Ministry solely devoted to the welfare of women and children.
- Both the Prime Minister and the Leader of the Opposition in the National Parliament of Bangladesh are women. In addition, we have 45 women members in the 345-member unicameral national legislature.
- The nation also has in its credit some 12,000 women elected members in the local government bodies.
- At the regional level, Bangladesh adheres to the Kathmandu understanding on children.
- Bangladesh has ratified the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution in 2002.

#### BANGLADESH'S CONTRIBUTION TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AT GLOBAL LEVEL

- In different international fora, particularly at the UN, Bangladesh plays a constructive role through the promotion of cooperation and dialogue as well as a consensus-builder.
- Bangladesh is a State Party to more than 18 major international human rights instruments, including:
  1. International Covenant on Civil and Political Rights;
  2. International Covenant on Economic, Social and Cultural Rights;
  3. The Convention on the Rights of the Child (CRC); and its two optional protocols;
  4. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); and its optional protocol;
  5. International Convention on the Elimination of All Forms of Racial Discrimination (CERD);
  6. Convention for the Suppression of the Trafficking in Persons and of the Exploitation of the Prostitution of Others;
  7. Convention on the Prevention and Punishment of the Crime of Genocide;
  8. International Convention on the Suppression and Punishment of Crime of Apartheid;
  9. Slavery Convention of 1926 and subsequent protocols.
  10. Convention on the Political Rights of Women;
  11. Convention on Consent to Marriage, Minimum Age for and Registration of Marriage; and
  12. Convention Against Torture and other Cruel Inhuman or Degrading Treatment or Punishment.
- Bangladesh is contemplating constitutional procedures to adhere to the remaining international human rights instrument.
- Bangladesh has always actively and constructively participated in the work of the Commission on Human Rights (CHR).
- During her membership in the Commission from 1983 to 2000, and in 2006, Bangladesh made significant contribution to the Commission's work in fulfilling its mandate. She attached particular importance to the necessity of genuine dialogue and cooperation among nations as well as capacity building of Member States as essential elements towards the promotion and protection of all human rights for all.
- Bangladesh has always extended full cooperation to the human rights treaty bodies, and made good use of their advices in improving her human rights situations.
- Bangladesh's significant contribution to the work of the Commission on Human Rights has earned laurels. She has hosted, and extended full cooperation to, several special rapporteurs in recent years in further demonstration of her willingness to cooperate with the UN human rights machinery.

- Bangladesh has fully cooperated with the Commission's special procedures and mechanisms. Some of the recent interactions were with:
  - I. The Special Rapporteur on the independence of judges and lawyers;
  - II. The Special Representative of the Secretary-General on the situation of human rights defenders;
  - III. The Special Rapporteur on freedom of religion or belief;
  - IV. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression;
  - V. Working Group on Enforced or Involuntary Disappearances;
  - VI. The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
  - VII. Working Group on Arbitrary Detention;
  - VIII. The Special Rapporteur on the question of torture;
  - IX. The Special Rapporteur on the sale of children, child prostitution and child pornography;
  - X. The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people;
  - XI. The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living; and
  - XII. The Special Rapporteur on the right to food.
  
- Bangladesh is a leader in UN peacekeeping. Our soldiers are working in difficult circumstances to protect the lives and human rights of peoples in conflict situations, particularly women and children. The UN Secretary-General has rightly said that Bangladesh is a model member of the UN providing leadership among the least developed countries and other forums and contributing substantially to peacekeeping and humanitarian operations.

#### VOLUNTARY PLEDGES

It is from this perspective that Bangladesh has proposed her candidature for election to the newly created Human Rights Council. She hopes that through cooperation and dialogue as well as through promoting capacity building of the States, Bangladesh will be able to build on the past achievements and contribute more and more to the mandated task of the Council. Bangladesh would utilise the opportunity to further promote and protect all human rights both at home and abroad.

If elected to the Human Rights Council, Bangladesh would:

- I. Extend its fullest cooperation to the Council in its work of the promotion and protection of all human rights and fundamental freedoms for all without distinction of any kind and in a fair and equal manner.
- II. Support the Council in its work guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation.
- III. Emphasise on meaningful dialogue and cooperation with the Member States, as well as on advisory services, technical assistance and capacity building required to fulfil their human rights obligations.

- IV. Actively participate in the Council's work to review and rationalise and improve the Commission's mandates, mechanisms, functions and responsibilities.
- V. Remain prepared to be reviewed under the universal periodic review mechanism during its tenure in the Council under terms, conditions and modalities to be developed by the Council.
- VI. Continue its journey towards development of its entire people with particular attention to empowerment of women and other vulnerable sections of the population, primarily through the application of indigenous concepts.
- VII. Strengthen its fight against corruption and also against terrorism. She would continue to ensure independence of the Anti-Corruption Commission.
- VIII. Intensify its efforts, while framing its national policies and strategies, to uphold the fundamental principles enshrined in the constitution, those of the Universal Declaration of Human Rights, as well as those of the international and regional human rights instruments to which she is a party.
- IX. Strengthen its efforts to meet its obligations under the treaty bodies to which she is a party.
- X. Contemplate adhering to the remaining international and regional human rights instruments.
- XI. Continue to cooperate with the special procedures and mechanisms of the Council with a view to further improve its human rights situations.
- XII. Continue to promote the constructive role of the NGOs in the work of the Council, and would strive to promote effective participation of the NGOs from developing countries in the work of the Council.
- XIII. Endeavour to further integrate the promotion and protection of human rights and fundamental freedoms into her national policies, including that on development and poverty eradication, with special focus on the rights of women, children, minorities and persons with disabilities.
- XIV. Continue to work towards further strengthening and consolidating the institutional structures that promote good governance, democracy, human rights and rule of law.
- XV. Continue to endeavour, through its national development policies, to ensure provision of the basic necessities of her people including food, clothing, shelter, education and primary health care.
- XVI. Establish the National Human Rights Commission as soon as possible.
- XVII. Separate the judiciary and the executive as soon as feasible.

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/pmf/-  
 Mission Permanente de la  
 République du Cameroun  
 auprès des Nations Unies



Permanent Mission of the  
 Republic of Cameroon  
 to the United Nations

APR 19 2006  
 New York, La.

No. 167, DCN

22 East 73rd Street  
 New York, N.Y. 10021

Tel: (212) 794-2295

Fax: (212) 249-0533

La Mission Permanente de la République du Cameroun auprès des Nations Unies à New York présente ses compliments au Secrétariat Général des Nations Unies et a l'honneur de porter à sa connaissance que le Gouvernement camerounais a décidé de présenter la candidature du Cameroun au Conseil des Droits de l'Homme dont les élections auront lieu le 9 mai 2006.

Attaché aux droits de l'homme, le Cameroun est conscient des actions importantes à consolider pour bâtir une véritable société de droit et pour accélérer l'avènement d'une culture des droits de l'homme voulue, partagée et vécue par tous. Il œuvre sans relâche à cet égard, aux niveaux national, régional et international.

- Au niveau national, le préambule de sa Constitution qui en est une partie intégrante, proclame la reconnaissance à tout être humain sans distinction de race, de religion, de sexe ou de croyance, des droits inaliénables et sacrés ; il affirme l'attachement du peuple camerounais aux libertés fondamentales inscrites dans la Déclaration universelle des droits de l'homme, la Charte des Nations Unies, la Charte africaine des droits de l'homme et des peuples et toutes les conventions internationales y relatives.

Fort de ce qui précède, le Cameroun a ratifié la quasi-totalité des instruments juridiques internationaux relatifs aux droits de l'homme. Le 9 novembre 1990, il a été créé un Comité National des droits de l'homme et des libertés chargé d'assurer les droits du peuple camerounais, son éducation aux droits de l'homme et de coordonner l'action des ONG dans ce secteur ainsi que de protéger les minorités et les populations autochtones. A ce titre, il reçoit toute dénonciation des cas de violations de ces droits et libertés et procède à cet effet à des enquêtes et investigations. Il étudie toute question qui se rapporte à la défense et à la promotion des droits de l'homme, et vulgarise les instruments relatifs à ces droits.

Il convient de souligner également que bien que la Loi n° 65/LF/24 du 12 novembre 1965 et la Loi n° 97/009 du 10 janvier 1997 modifiant certaines dispositions du Code Pénal prévoient la peine capitale (tout comme le nouveau code de procédure pénale du 12 juillet 2005), celle-ci, dans les faits, n'a pas été mise à exécution depuis 1984.

CAMEROON

Toute cette action sur le plan national procède de la conviction que seule la pratique quotidienne du respect des droits et des libertés fondamentales de l'homme peut assurer la paix.

- Sur le plan sous-régional, le Cameroun est co-initiateur du projet du Centre Sous-régional pour les Droits de l'Homme et la Démocratie en Afrique Centrale. Ce Centre qui a été créé en 2001 et qui a son siège à Yaoundé, a pour objectif de contribuer au renforcement des capacités pour la promotion et la protection des droits de l'homme et d'appuyer la création d'institutions nationales et leur renforcement ; il œuvre également en faveur du développement d'une culture des droits de l'homme et de la démocratie en Afrique Centrale afin de prévenir les conflits et de promouvoir une paix et un développement durables.

- Sur le plan africain, le Cameroun est partie à la Charte africaine des droits de l'homme et des peuples qu'il a du reste, intégrée dans sa Constitution.

- Au niveau international, comme souligné plus haut, le Cameroun est partie à la quasi-totalité des instruments juridiques internationaux relatifs aux droits de l'homme. C'est le lieu de rappeler que selon l'article 45 de la Constitution, "les traités et accords internationaux régulièrement approuvés ou ratifiés ont, dès leur publication, une autorité supérieure à celle des lois".

Par ailleurs, le Cameroun, membre de la Commission des droits de l'homme depuis le 1<sup>er</sup> janvier 2006 a apporté sa contribution tant à Genève qu'à New York à la création du Conseil des droits de l'homme ; il s'engage à poursuivre avec détermination son action pour l'exercice effectif et la pleine jouissance par tous de tous les droits fondamentaux et des droits civiques, politiques, économiques, sociaux et culturels et à se conformer en tous points à la Résolution A/RES/60/251 du 15 mars 2006 sur le Conseil des droits de l'homme.

Le Secrétariat Général des Nations Unies voudrait bien trouver en annexe, l'aide-mémoire (en Français et en Anglais) relatif à la candidature camerounaise.

La Mission Permanente du Cameroun serait reconnaissante au Secrétariat Général de bien vouloir en assurer la diffusion.

La Mission Permanente de la République du Cameroun auprès des Nations Unies remercie le Secrétariat Général des Nations Unies pour sa collaboration habituelle et saisit cette occasion pour lui renouveler les assurances de sa très haute considération.

**Secrétariat Général de  
L'Organisation des Nations Unies  
New York**



**AIDE-MEMOIRE**  
**LE CAMEROUN ET LES DROITS DE L'HOMME**

« Dans le monde d'aujourd'hui qui a tendance à reléguer l'homme au second plan, notre Organisation se doit de relever le défi des valeurs éthiques... Grâce à elles, la centralité de l'Homme dans nos politiques et actions sera consacrée »  
**(Discours du Président Paul BIYA au Sommet du Millénaire)**

1 Le Cameroun qui est membre de la Commission des Droits de l'Homme depuis le 1<sup>er</sup> janvier 2006 a décidé de présenter sa candidature au nouveau Conseil des droits de l'homme lors des élections qui auront lieu le 9 mai 2006, au cours de la 60<sup>e</sup> session de l'Assemblée Générale.

2 Pays épris de paix et défenseur des droits de l'homme, le Cameroun a apporté son soutien actif à la création par les Nations Unies du nouveau Conseil des droits de l'homme, tant lors des négociations à Genève qu'à New York.

3 C'est donc tout naturellement qu'il a joint sa voix à celle des autres Etats membres le 15 mars 2006 à l'Assemblée Générale pour la création de ce Conseil.

4 Cette position participe des idéaux humanitaires auxquels le Cameroun a très tôt adhéré et pour la réalisation desquels il œuvre sur les plans national, sous-régional et mondial.

## **I - POLITIQUE NATIONALE DE PROMOTION DES DROITS HUMAINS**

5 L'engagement du Cameroun en faveur des droits de l'homme qui trouve son fondement dans la Constitution se traduit par la mise en place d'un cadre juridique et institutionnel et l'adoption des mesures qui en assurent la protection.

### **A/ Au plan constitutionnel**

6 Depuis son accession à la Magistrature suprême, le Président Paul Biya n'a eu de cesse de multiplier des mesures politiques pour l'avènement d'une culture des droits de l'homme au Cameroun. Ces actions trouvent leur couronnement dans la Constitution du 18 janvier 1996. Avec l'adoption de celle-ci, on assiste en effet, au sacre des droits de l'homme.

6.1<sup>o</sup>) Tout d'abord cette Constitution leur confère un caractère constitutionnel grâce à l'incorporation explicite de la Déclaration Universelle des droits de l'homme dans le bloc de constitutionnalité.

Le préambule pose que :

« Le peuple camerounais,

Proclame que l'être humain, sans distinction de race, de religion, de sexe, de croyance, possède des droits inaliénables et sacrés ;

Affirme son attachement aux libertés fondamentales inscrites dans la déclaration universelle des droits de l'homme, la Charte des Nations Unies, la Charte

africaine des droits de l'homme et des peuples et toutes conventions internationales y relatives et dûment ratifiées, notamment aux principes suivants :

- l'égalité des hommes en droits et devoirs,
- l'obligation pour l'Etat d'assurer à tous les citoyens les conditions nécessaires à leur développement,
- la protection des minorités et des droits des populations autochtones,
- la liberté et la sécurité des individus dans le respect des droits d'autrui et de l'intérêt supérieur de l'Etat,
- la liberté de mouvement,
- l'inviolabilité du domicile, et le secret de la correspondance,
- la non rétroactivité de la loi
- le droit de se faire rendre justice,
- la présomption d'innocence
- le respect des droits de la défense,
- le droit à la vie et à l'intégrité physique,
- le respect des origines, des opinions ou croyance en matière religieuse, philosophique ou politique,
- la laïcité de l'Etat, sa neutralité et son indépendance vis é vis de toutes les religions,
- la liberté du culte et le libre exercice de sa pratique,
- la liberté de communication, la liberté d'expression, la liberté de presse, de réunion, d'association, la liberté syndicale et el droit de grève,
- la protection et l'encouragement de la famille,
- la protection de la femme, des jeunes, des personnes âgées et des personnes handicapées,
- le droit à l'instruction de l'enfant,
- l'enseignement primaire obligatoire,
- le droit de propriété,
- le droit à un environnement sain,
- la défense et la promotion de l'environnement,
- le droit et le devoir de travailler,
- la participation aux charges publiques en proportion des capacités,
- la défense de la patrie ».

6.2°) Cette Constitution facilite aussi l'intégration des conventions internationales dans l'ordre juridique interne et leur accorde une place qui en assure la transcendance. Aux termes de l'article 45 en effet, «des Traités ou Accords internationaux régulièrement approuvés ou ratifiés ont dès leur publication une autorité supérieure à celle des lois... ».

6.3°) Enfin grâce à la réforme constitutionnelle du 18 janvier 1996, la justice camerounaise a vu accroître sa capacité à garantir les droits de l'homme et les libertés fondamentales et à sanctionner les violations.

## **B/ Aux plans pénal et institutionnel**

### **B.1. Code camerounais et droits humains**

7 Le code pénal camerounais prévoit et réprime les infractions portant atteinte aux droits fondamentaux de l'homme.

8 Tout acte discriminatoire à l'égard des personnes ou de groupes ou d'organisations est réprimé.

9 Le code pénal, le code d'instruction criminel, le code civil et le code de procédure civile assurent l'égalité d'accès devant les tribunaux à tous les citoyens.

### **B. 2. Divers comités mis en place**

10 Depuis Juin 1998, il a été institué *un Comité technique* chargé de suivre des instruments internationaux relatifs aux droits de l'homme et libertés. Ce Comité facilite et prépare la signature desdits instruments et veille à la mise en œuvre des obligations conventionnelles qui en découlent. Il s'agit d'une structure de premier plan en vue de l'acceptation et du respect du droit international. Cette instance vient compléter et appuyer le Comité National des Droits de l'Homme et des Libertés.

11 *Un Comité national des droits de l'homme et des libertés* a été créé par décret n°90/1459 du 8 novembre 1990 ; il a pour mission la défense et la promotion des droits de l'homme et des libertés. A ce titre, il reçoit toute dénonciation des cas de violations de ces droits et libertés et procède à cet effet à des enquêtes et investigations. Il étudie toute question qui se rapporte à la défense et à la promotion des droits de l'homme, et vulgarise les instruments relatifs à ces droits.

### **C/ Mesures de renforcement du respect des droits humains**

12 D'autres importantes mesures sont prévues qui viennent, au quotidien, renforcer le respect et la protection des droits de l'homme.

- Le multipartisme institué au Cameroun depuis 1990 est intégral. Plus d'une centaine de partis politiques fonctionnent en toute liberté sur l'ensemble du territoire national.
- La liberté de presse est garantie et le pays compte à ce jour plus d'une centaine de titres de journaux privés et plusieurs stations privées de radio et télévision.
- L'Etat camerounais assure la protection des minorités et préserve les droits des populations autochtones.
- Les efforts déployés par le Cameroun en faveur de la promotion et de la protection des droits de l'homme sont appréciés par les nombreux étrangers vivant au Cameroun et dont le nombre ne cesse d'augmenter.
- Le Cameroun en vertu de cette politique d'accueil et de respect des droits de l'homme constitue pour les nombreuses populations qui fuient les pays africains en conflits une terre de prédilection.
- Par ailleurs, le Cameroun participe activement aux travaux du Comité des droits de l'homme à qui il adresse régulièrement les rapports requis. Son engagement en faveur du respect des droits de l'homme lui a valu à maintes reprises les félicitations du Comité contre la torture, et les recommandations dudit comité constituent des principes directeurs pour les autorités camerounaises en la matière.
- Bien que prévue dans le Code pénal de 1965 (tout comme dans le nouveau Code de procédure pénale du 12 juillet 2005), la peine capitale, dans les faits, n'a pas été mise à exécution depuis 1984.
- Depuis plusieurs années, le Cameroun développe une campagne de vulgarisation des instruments internationaux relatifs aux droits de l'homme, à travers des séminaires, conférences et ateliers, la formation des policiers, gendarmes et militaires.
- Dans les différents niveaux d'enseignement, sont prévus des cours sur les droits de l'homme et sur le droit humanitaire. L'objectif visé est l'acquisition par tous les camerounais de cette véritable culture du droit et surtout des droits de l'homme dont les fondements ont été patiemment et obstinément mis en place par le Président Paul Biya.

## **II - POLITIQUE DE COOPERATION EN MATIERE DES DROITS HUMAINS**

13 Fort de cette expérience, le Cameroun conjugue ses efforts avec les Etats de la région et ceux membres des Nations Unies pour hâter l'avènement d'une société respectueuse de la personne humaine et de ses droits.

**14 Sur le plan sous-régional**, le Cameroun est co-initiateur du Centre Sous-régional pour les Droits de l'Homme et la Démocratie en Afrique Centrale. Ce Centre qui a été créé en 2001 et qui a son siège à Yaoundé, a pour objectif de contribuer au renforcement des capacités pour la promotion et la protection des droits de l'homme et d'appuyer la création d'institutions nationales et leur renforcement ; il œuvre également en faveur du développement d'une culture des droits de l'homme et de la démocratie en Afrique Centrale afin de prévenir les conflits et de promouvoir une paix et un développement durables.

**15 Sur le plan continental africain**, le Cameroun est partie à la Charte Africaine des droits de l'homme et des peuples qu'il a du reste intégrée dans sa Constitution. Par ailleurs, il est partie à la Cour Africaine des droits de l'homme.

**16 Au niveau mondial**, le Cameroun, qui est attaché à la primauté du droit dans les relations entre les Etats et entre les peuples, est fier d'avoir ratifié la quasi-totalité des instruments internationaux de protection des droits de l'homme.

**16.1°) Il est partie aux conventions ci-après :**

- La Déclaration Universelle des droits de l'homme
- La Convention internationale sur l'élimination de toutes les formes de discrimination raciale, adoptée à New York le 7 mars 1966 ;
- Le Pacte international relatif aux droits économiques, sociaux et culturels adopté, à New York le 16 décembre 1966 ;
- Le Pacte international relatif aux droits civils et politiques, adopté à New York le 16 décembre 1966 ;
- Le Protocole facultatif se rapportant au pacte international relatif aux droits civils et politiques, adopté à New York le 16 décembre 1966 ;
- La Convention sur l'imprescriptibilité des crimes de guerre et des crimes contre l'humanité, adoptée à New York le 26 novembre 1968 ;
- La Convention internationale sur l'élimination et la répression du crime d'apartheid, adoptée à New York le 30 novembre 1973 ;
- La Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes, adoptée à New York le 18 décembre 1979 ;
- Le Protocole facultatif à la convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes, adoptée à New York le 6 octobre 1999 ;
- La Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants, adoptée à New York le 10 décembre 1984

- La Convention relative aux droits de l'enfant adoptée à New York le 20 novembre 1989 ;
- Le Protocole de 1953 amendant la convention relative à l'esclavage de 1926 ;
- La Convention relative au statut des réfugiés ;
- La Convention supplémentaire relative à l'abolition de l'esclavage, de la traite des esclaves et des institutions et pratiques analogues à l'esclavage ;
- La Convention pour la répression de la traite des êtres humains, de l'exploitation et de la prostitution d'autrui ;
- L'amendement au paragraphe 2 de l'article 43 de la convention relative aux droits de l'enfant adopté à New York le 12 décembre 1995.

16.2°) En attendant leur ratification, *le Cameroun a déjà signé les instruments ci-après :*

- La Convention internationale contre l'apartheid dans les sports, adoptée à New York le 10 décembre 1985 ;
- le Protocole facultatif à la convention relative aux droits de l'enfant, concernant l'implication d'enfants dans les conflits armés, adopté à New York le 25 mai 2000 ;
- le Protocole facultatif à la convention relative aux droits de l'enfant concernant la vente d'enfants, la prostitution des enfants et la pornographie mettant en scène des enfants, adopté à New York le 25 mai 2000.

16.3°) Le Cameroun est fier d'avoir très tôt plaidé et œuvré en faveur de la création de *la Cour Pénale internationale* dont il est l'un des premiers signataires.

### **III – LES ENGAGEMENTS FUTURS DU CAMEROUN A L'EGARD DES DROITS HUMAINS**

17 En décidant de présenter sa candidature aux élections au Conseil des Droits de l'Homme, le Cameroun entend confirmer sa détermination à poursuivre résolument sa politique d'épanouissement de la personne humaine ainsi que de la promotion et du respect de ses droits et libertés. Pour le Cameroun, en effet, la centralité de l'homme doit être consacrée dans nos politiques et actions. C'est cette conviction qu'avec force le Chef de l'Etat du Cameroun S.E. Paul BIYA, a défendue et a voulu faire partager à la Communauté internationale lors du Sommet du millénaire.

18 Le 07 septembre 2000 en effet, le Chef de l'Etat déclarait à la Tribune des Nations Unies ce qui suit :

*« Dans le monde d'aujourd'hui qui a tendance à reléguer l'Homme au second plan, notre Organisation, pour remplir sa mission de façon efficiente, se doit de relever le défi des valeurs éthique. Si la mondialisation ne s'accompagne pas d'un nouvel ordre moral, si elle manque de ce supplément d'âme que constitue la solidarité entre les Nations et les peuples, elle risque de mettre en danger la paix si chère à notre temps.*

*A la vérité, notre monde a besoin d'éthique. En tant qu'ensemble de valeurs morales, elle constitue une attente essentielle de l'ensemble de la communauté humaine. Grâce à l'éthique, la centralité de l'Homme dans nos politiques et actions sera consacrée : En effet, comment parler des Droits de l'Homme sans Droit au développement ? Quelle démocratie et quelle bonne gouvernance sans une éthique de solidarité internationale n'est-elle pas nécessaire dans le traitement de la dette des pays pauvres.*

*Nous en appelons à la création au sein du Secrétariat Général de l'ONU d'un comité ou d'un observatoire international d'éthique chargé précisément, de promouvoir entre les nations et à l'intérieur de celles-ci, les valeurs humaines fondamentales universelles. »*

19 Le Cameroun, qui respectera les obligations prévues dans la résolution constitutive du Conseil des Droits de l'Homme, s'engage à :

- œuvrer pour l'effectivité des droits de l'homme, civils, politiques, économiques, sociaux et culturels, y compris le droit au développement ;
- coopérer à cet effet avec les organisations régionales, les organismes nationaux des droits de l'homme et la société civile;
- œuvrer par le dialogue et la coopération constructive à l'échelle internationale en vue de la jouissance et du rayonnement effectifs des droits de l'homme
- poursuivre ses efforts en vue de rendre effectif le respect intégral des obligations découlant des instruments juridiques internationaux en matière des droits de l'homme ;
- coopérer pleinement avec les Etats membres de l'ONU et particulièrement ceux membres du Conseil des droits de l'homme pour que ce nouvel organe remplisse avec efficacité les tâches qui découlent

- de ses missions, et cela dans le respect des principes d'universalité, d'impartialité, d'objectivité et de non sélection.
- Œuvrer inlassablement pour la crédibilité du Conseil des droits de l'homme./

The Permanent Mission  
of Canada to the United Nations



La Mission permanente du  
Canada auprès des Nations Unies

Note 0168

The Permanent Mission of Canada to the United Nations presents its compliments to the President of the 60<sup>th</sup> Session of the General Assembly and, following its note no. 1050, dated 4 April 2006, announcing Canada's candidacy to the Human Rights Council, and in accordance with resolution A/RES/60/251, has the honour to enclose herewith a document detailing Canada's contribution to the promotion and protection of human rights and its voluntary pledges and commitments made thereto.

The Government of Canada is committed to making a positive contribution to ensuring that the Human Rights Council becomes an effective body for the promotion and protection of human rights.

The Permanent Mission of Canada to the United Nations avails itself of this opportunity to renew to the President of the 60<sup>th</sup> Session of the United Nations General Assembly the assurances of its highest consideration.

NEW YORK, 10 April, 2006



## **Human Rights Council Canada's Commitments and Pledges**

The promotion and protection of human rights is an integral part of Canada's foreign and domestic policy. Canada is a strong supporter of the UN human rights system.

### **Canada's engagement with the Human Rights Council**

The Human Rights Council will be at the heart the UN human rights architecture and thus, Canada pledges:

- to work with all stakeholders to put in place an *efficient and effective Human Rights Council* that builds on the strengths and lessons learned of the Commission on Human Rights;
- to give effect to the Council's *mandate to promote and protect human rights*, including by responding appropriately to human rights violations, by contributing to its work on norm development, and by encouraging cooperation and dialogue;
- to engage with all UN member states to find new and creative ways to ensure that the Council's work has a *direct, concrete, and positive impact* on promotion and protection of the rights of people around the world;
- to participate constructively *in the mandate review process and in developing modalities of a universal periodic review mechanism*, and to submit itself to periodic review;
- to ensure that the Council benefits from the *involvement and contributions of civil society*, including non-governmental organizations and national institutions;
- to work with all stakeholders for a *system of special procedures*, which is essential for the Council's emphasis on the implementation of human rights obligations;
- to re-extend its *open invitation to special procedures* to visit Canada.

In 1999, Canada was one of the first countries to give an open invitation to special procedures of the Commission on Human Rights. Since that time, the Special Rapporteurs on Toxic Waste, the Rights of Migrants, Indigenous Peoples, Racism, the Right to Health and, most recently in 2005, the Working Group on Arbitrary Detention have made official visits.

Canada was re-elected to the Commission on Human Rights for the 2005-2007 term. During its tenures, Canada played a leadership role in the establishment and implementation of *norms and standards* on key human rights issues including the rights of indigenous peoples, violence against women, freedom of expression, mass exoduses, the work of treaty bodies, as well as rights of the child.

Canada has also taken a leading role in the fight against *impunity*, including by becoming a party to the Rome Statute of the International Criminal Court and strongly supporting various international and hybrid criminal tribunals. Its commitment to international humanitarian law and the protection of refugees is unwavering.

### **Support for the Office of the High Commissioner for Human Rights and international cooperation**

Canada's strong support to the important work of the OHCHR was re-affirmed recently when we increased our unearmarked funding for the Office, making Canada one of the top donors. We have also supported efforts to double the funds available to the Office from the UN regular budget. Canada pledges:

- to provide the OHCHR with additional *unearmarked contributions* for its work;

- to pursue *international cooperation programs* on human rights, gender equality, child protection, democracy, good governance, and the rule of law - this, in response to the interest expressed by many states for dialogue and cooperation.

### Canada and UN human rights instruments

Canada has ratified key UN human rights instruments: International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); International Convention on the Elimination of all Forms of Racial Discrimination (CERD); Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT); Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW); and Convention on the Rights of the Child (CRC), and its Optional Protocol on Children in Armed Conflict. As well, Canada *recently ratified* the Second Optional Protocol of the ICCPR aimed at the abolition of the death penalty and the Optional Protocol to the CRC on the Sexual Exploitation and Sale of Children. Canada has agreed to the jurisdiction of the *individual complaint mechanisms* established by the First Optional Protocol to the ICCPR, CAT and the Optional Protocol to the CEDAW.

Canada is one of only six States that is fully up-to-date in its reporting to the treaty bodies and, by May 2006, Canada will have presented its reports before all six of these Committees in the past four years. Consultation mechanisms are in place to ensure that federal, provincial and territorial governments are aware of, and give serious consideration to, the recommendations of treaty bodies, and further, that such recommendations are available to Canadians.

As regards UN human rights instruments, Canada pledges:

- to submit its *reports to the treaty bodies* in a timely fashion and to participate in meaningful dialogue with the treaty body members;
- to work with the treaty bodies and key stakeholders on the *renewal and reform* of the UN treaty body system;
- to consider signing or ratifying *other human rights instruments*, such as the Optional Protocol to the CAT.

### Human Rights in Canada

At the domestic level, human rights and gender equality are promoted and protected through the Canadian Charter of Rights and Freedoms. At the federal, provincial, and territorial levels, there are also human rights codes and human rights bodies, such as the Canadian Human Rights Commission, which play a key role in furthering equality rights in Canada.

Canada has a vigorous civil society, which plays an important role in the promotion of human rights, both at the national and international level. The government and civil society engage on a range of issues relating to human rights, in a spirit of cooperation and dialogue.

All governments in Canada carry out public education programs in the area of human rights, including through formal education curricula.

Based on this solid institutional and legislative background, Canada commits to actively pursue the *implementation of human rights domestically*, including with respect to racism, indigenous people and the protection of children.



Note n° 0168

La Mission permanente du Canada auprès des Nations Unies présente ses compliments au Président de la soixantième session de l'Assemblée générale des Nations Unies et suite à sa note no. 1050 du 4 avril 2006, annonçant la candidature du Canada aux élections au Conseil des droits de l'homme, et conformément à la résolution A/RES/60/251, a l'honneur de transmettre un document explicitant le concours que le Canada a apporté à la cause de la promotion et de la défense des droits humains et les contributions volontaires qu'il a annoncées et les engagements qu'il a pris en la matière.

Le gouvernement du Canada s'engage à contribuer d'une manière positive pour s'assurer que le Conseil des droits de l'homme devienne un organe efficace pour la promotion et la défense des droits humains.

La Mission permanente du Canada auprès des Nations Unies saisit cette occasion pour renouveler au Président de la soixantième session de l'Assemblée générale des Nations Unies les assurances de sa très haute considération.

NEW YORK, le 10 avril 2006



## Conseil des droits de l'homme Engagements du Canada

La promotion et la protection des droits de la personne fait partie intégrante des grands objectifs poursuivis par le Canada tant au plan national qu'en matière de politique étrangère. Le Canada est un ardent promoteur du système des droits de la personne des Nations Unies.

### Action du Canada en faveur du Conseil des droits de l'homme

Le Conseil des droits de l'homme est une pièce maîtresse de l'appareil onusien relatif aux droits de la personne et, à ce titre, le Canada s'engage à :

- mettre en place, avec le concours de tous les intéressés, un *Conseil des droits de l'homme efficace et efficace*, qui met à profit les points forts et les enseignements de la Commission des droits de l'homme;
- réaliser le *mandat du Conseil* en matière de promotion et de protection des droits de la personne, et ce, par une action adéquate face aux violations des droits de la personne, par l'élaboration de normes, ainsi que par un accent sur la coopération et le dialogue;
- collaborer avec tous les États membres des Nations Unies à la recherche de méthodes nouvelles et inédites pour que les travaux du Conseil aient une incidence *directe, concrète et constructive* sur la promotion et la protection des droits de la personne dans le monde;
- participer de façon constructive à l'*examen des mandats* ainsi qu'à l'*élaboration des modalités d'un mécanisme d'examen périodique à caractère universel*, et à se soumettre à un tel examen;
- faire en sorte que le Conseil bénéficie de la *participation et de la contribution de la société civile*, y compris des organisations non gouvernementales et des institutions nationales;
- œuvrer, avec le concours de tous les intéressés, à la mise en place d'un régime de *procédures spéciales* essentiel à la réalisation d'un objectif prioritaire du Conseil, à savoir la mise en œuvre des obligations en matière de droits de la personne;
- renouveler son *invitation permanente à toutes les procédures spéciales* de visiter le Canada.

En 1999, le Canada a été l'un des premiers pays à émettre une invitation permanente aux procédures spéciales de la Commission des droits de l'homme. Depuis, il a reçu la visite des rapporteurs spéciaux chargés des déchets toxiques, des droits des migrants, des droits des peuples autochtones, de la lutte contre le racisme et du droit à des soins de santé, y compris, en 2005, celle du Groupe de travail sur les détentions arbitraires.

Le Canada a été réélu à la Commission des droits de l'homme pour la période de 2005 à 2007. Pendant tous ses mandats, le Canada a joué un rôle d'impulsion dans la création et la mise en œuvre de *normes et standards* face à des enjeux cruciaux liés aux droits de la personne, y compris les droits des peuples autochtones, la violence contre les femmes, la liberté d'expression, les exodes massifs, les organes créés par les traités internationaux, ainsi que les droits de l'enfant.

Le Canada joue un rôle de premier plan dans la lutte contre *l'impunité*. C'est ainsi qu'il est devenu partie au Statut de Rome de la Cour pénale internationale et qu'il appuie fermement différents tribunaux pénaux internationaux et hybrides. Par ailleurs, le Canada demeure résolument attaché au respect du droit humanitaire international et à la protection des réfugiés.

### Soutien au Haut Commissaire des Nations Unies aux droits de l'homme et à la coopération internationale

Le Canada appuie le travail important réalisé par le Haut Commissariat des Nations Unies aux droits de l'homme. Le Canada a récemment augmenté sa contribution financière au profit du Haut Commissariat, de sorte qu'il est désormais l'un de ses principaux donateurs. Notre pays a en outre appuyé les efforts visant à doubler les crédits consentis au Haut Commissariat, au titre du budget ordinaire des Nations Unies. Le Canada s'engage à :

- fournir des *contributions financières* additionnelles, sans condition, au Haut Commissariat;

- appuyer des programmes de *coopération internationale* en matière de droits de la personne, égalité entre les sexes, protection des enfants, démocratie, bonne gouvernance et primauté du droit - le tout à suite de l'intérêt manifesté par de nombreux États envers le dialogue et la coopération.

### **Le Canada et les instruments de droits de la personne des Nations Unies**

Le Canada a ratifié d'importants instruments des Nations Unies dans le domaine des droits de la personne: le Pacte international relatif aux droits civils et politiques (PIDCP); le Pacte international relatif aux droits économiques, sociaux et culturels (PIDESC); la Convention internationale sur l'élimination de toutes les formes de discrimination raciale (CEDR); la Convention contre la torture et autres peines ou traitements, cruels, inhumains ou dégradants (CCT); la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes (CEDEF); la Convention relative aux droits de l'enfant (CDE), et son Protocole facultatif concernant les enfants dans les conflits armés. De même, le Canada a récemment ratifié le Deuxième Protocole facultatif au PIDCP qui vise à abolir la peine de mort, ainsi que le Protocole facultatif à la Convention relative aux droits de l'enfant, contre l'exploitation sexuelle et la vente des enfants. Le Canada souscrit en outre aux compétences dévolues au titre des *mécanismes de plaintes* institués en vertu du Premier Protocole facultatif annexé au PIDCP et à la Convention relative aux droits de l'enfant, et aux termes du Protocole facultatif à la CEDEF.

Le Canada fait en outre partie des six pays dont les rapports à l'intention des organes institués en vertu des traités sont à jour. En mai 2006, le Canada aura ainsi complété, sur une période de quatre ans, la présentation de tous les rapports prévus aux six comités institués en vertu des traités. Des mécanismes de consultation ont été mis sur pied pour s'assurer que les gouvernements fédéral, provinciaux et territoriaux prennent connaissance des recommandations formulées par les organes institués en vertu des traités et les examinent attentivement. Les recommandations des comités sont également accessibles au public.

S'agissant des instruments des droits de la personne des Nations Unies, le Canada s'engage à:

- présenter, dans les délais appropriés, ses *rapports* aux organes créés en vertu d'instruments internationaux, et à participer à un dialogue constructif avec les membres de ces mêmes instances;
- oeuvrer, avec le concours de ces instances et des principaux intéressés, au *renouvellement et à la réforme* du système onusien au regard des organes conventionnels;
- envisager la signature ou la ratification ultérieure d'*autres instruments* des droits de la personne, tel que le Protocole facultatif à la Convention contre la torture.

### **Droits de la personne au Canada**

Au plan national, le Canada s'attache à promouvoir et à protéger les droits de la personne et l'égalité entre les sexes par l'application de la *Charte canadienne des droits et libertés*. Les pouvoirs publics fédéraux, provinciaux et territoriaux ont aussi mis en place des normes de droits de la personne et des instances chargées de les faire appliquer, telles que la Commission canadienne des droits de la personne qui joue un rôle crucial dans la promotion du droit à l'égalité au Canada.

Le Canada compte en outre une société civile très dynamique qui joue un rôle important dans la promotion des droits de la personne, tant au niveau national qu'international. Le Canada collabore avec la société civile en ce qui concerne de nombreux aspects des droits de la personne, et ce, dans un esprit de coopération et de dialogue.

Tous les gouvernements au Canada mettent en oeuvre des programmes d'éducation publique reliés aux droits de la personne, y inclus dans le système d'éducation formel.

S'appuyant sur cette solide base législative et institutionnelle, le Canada s'engage à travailler activement à la *mise en oeuvre des droits de la personne au niveau national*, incluant en matière de racisme, peuples autochtones, et protection de l'enfant.



PERMANENT MISSION OF GHANA TO THE UNITED NATIONS

19 EAST 47TH STREET  
NEW YORK, N.Y. 10017  
TEL. NO. 212-832-1300

**SCH-1/2**

The Permanent Mission of the Republic of Ghana to the United Nations presents its compliments to the President of the General Assembly and with reference to the first election of the members of the newly established Human Rights Council scheduled to be held on 9 May, 2006, has the honour to submit an Aide Memoire on Ghana's voluntary pledges and commitments for the promotion and protection of human rights in accordance with operative paragraph 8 of resolution A/RES/60/251 of 15 March, 2006.

The Permanent Mission of the Republic of Ghana to the United Nations avails itself of this opportunity to renew to the President of the General Assembly the assurances of its highest consideration.

NEW YORK/27 APRIL, 2006

**PRESIDENT OF THE GENERAL ASSEMBLY  
ROOM C-204  
UNITED NATIONS  
NEW YORK**



cc: General Assembly Affairs Branch  
Room S-2925A  
United Nations  
New York

## AIDE MEMOIRE GHANA'S VOLUNTARY PLEDGES AND COMMITMENTS

Respect for human rights has constituted a strong basis of Ghana's foreign policy from independence to date and still remains a high priority. During her membership for three consecutive terms, Ghana effectively participated in the work of the Commission on Human Rights (CHR).

The strides we have made in the area of democracy, human rights and the rule of law and good governance have also carved for us the image of a highly democratic African country. Ghana was both the first member of the African Union to subscribe to the African Peer Review Mechanism of NEPAD and the only country so far to be peer reviewed.

At the national level, the 1992 Constitution of the Republic of Ghana which remains a fundamental law of the land reaffirms the fundamental importance of respecting all human rights and fundamental freedoms of all its citizens, consistent with international law. Every person in Ghana, whatever his race, place of origin, political opinion, colour, religion, creed or gender is entitled to:

- ❖ Fundamental human rights and freedoms
- ❖ Protection of right to life
- ❖ Protection of personal liberty
- ❖ Protection from slavery and forced labour
- ❖ Equality and freedom from discrimination
- ❖ Protection of privacy of home and other property
- ❖ Fair trial
- ❖ Protection from deprivation of property
- ❖ General fundamental freedoms
- ❖ Property rights of spouses
- ❖ Administrative justice
- ❖ Economic rights
- ❖ Educational rights
- ❖ Cultural rights and practices

- ❖ Women's rights
- ❖ Children's rights
- ❖ Rights of disabled persons
- ❖ Rights of the sick

In order to further prevent violations of human rights and fundamental freedoms, the **Commission for Human Rights and Administration of Justice (CHRAJ)** was established as a redress machinery, under our 1992 Constitution. The functions of the Commission among others include:

- ❖ investigating complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duty;
- ❖ investigate complaints concerning the functioning of the Public Services Commission, the administrative organs of the State, The Armed Forces, the Police Service and the Prison Service;
- ❖ investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under the Constitution;
- ❖ take appropriate action to call for the remedying, correction and reversal of instances of human rights abuse through such means as are fair, proper and effective and
- ❖ to educate the public as to human rights and freedoms by such means as publications, lectures and symposia.

In contributing to the agenda of human rights at the international level, Ghana is party to key international instruments relating to the universal respect for all human rights as outlined below:

- ❖ **International Covenant on Civil and Political Rights (ICCPR)**
- ❖ **Optional Protocol to the ICCPR**
- ❖ **Second Optional Protocol to the ICCPR**
- ❖ **International Covenant on Economic, Social and Cultural Rights (ICESCR)**

- ❖ **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**
- ❖ **Optional Protocol to the CEDAW**
- ❖ **Convention on the Elimination of All Forms of Racial Discrimination (CERD)**
- ❖ **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**
- ❖ **Optional Protocol to the CAT**
- ❖ **Convention on the Rights of the Child (CRC)**
- ❖ **Optional Protocol to the CRC on children in armed conflict**
- ❖ **Optional Protocol to the CRC on the sale of children, child prostitution and child pornography**
- ❖ **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**
- ❖ **Rome Statute of the International Criminal Court**
- ❖ **Convention Relating the Status of Refugees**
- ❖ **Protocol relating to the Status of Refugees**

Ghana has over the last decade worked closely with UNHCR to serve as an oasis of peace, security and stability for refugees in the West Africa sub-region and fulfilled its obligations in respect of international humanitarian law. In this connection, Ghana is a member of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees.

Ghana has contributed to the resolution of West Africa's intra-state conflicts which had foisted an image of instability on the entire sub-region.

As eloquent manifestation of our commitment to gender balance and the protection of children, the Government of Ghana has created a Ministry of Women and Children's Affairs, which is currently headed by a lady of cabinet rank.

In line with its long-standing commitment to the promotion and protection of human rights, the Government of the Republic of Ghana voluntarily commits itself to the following:

- ❖ to participate actively in the work of the new Human Rights Council;
- ❖ to cooperate with the new Council to establish an effective and efficient universal periodic review mechanism;
- ❖ to continue to strengthen policies for the advancement of women to eliminate laws that continue to discriminate against women;
- ❖ to promote the rights of the child;
- ❖ to continue to contribute actively in the negotiation process for the early adoption of the draft "International Convention for the Protection and Promotion of the Rights and Dignity of persons with Disabilities";
- ❖ to extend standing invitations to United Nations Special Procedures;
- ❖ to continue to cooperate fully with UN human rights treaty bodies and promptly submit its periodic reports.

NEW YORK, APRIL 21, 2006



संयुक्त राष्ट्र स्थित भारत का स्थायी मिशन  
न्यूयॉर्क

PERMANENT MISSION OF INDIA  
TO THE UNITED NATIONS  
235 EAST 43RD STREET  
NEW YORK, N.Y. 10017  
TEL: (212) 490-9650  
FAX: (212) 490-9656

No. NY/PM/161/1/2006

19 April 2006

The Permanent Mission of India presents its compliments to the Secretariat of the United Nations and has the honour to refer to its letter of even number dated 5 April 2006 announcing India's candidature to the Human Rights Council, and to forward a document detailing India's voluntary pledges and commitments for promotion and protection of human rights.

2. The Government of India is committed to make a positive contribution to make the Human Rights Council a strong, effective and efficient body capable of promoting and protecting human rights and fundamental freedoms for all.
3. The Permanent Mission of India avails itself of this opportunity to renew to the Secretariat of the United Nations the assurances of its highest consideration.

The Secretariat of the United Nations  
General Assembly Affairs Branch [Room No. 2925]  
New York



INDIA

## **VOLUNTARY PLEDGES AND COMMITMENTS BY INDIA**

India is seeking election to the Human Rights Council at the elections to be held at the United Nations in New York on 9 May 2006.

India has a long tradition of promoting and protecting human rights. It was privileged to be in the forefront of the struggle against apartheid since even before India's independence. India's commitment to promoting and protecting human rights flows from the realization that in a truly pluralistic society, the growth and well being of citizens can only be guaranteed through a culture of protection and promotion of human rights.

The Indian Constitution enshrines India's commitment to human rights by guaranteeing to its citizens fundamental political and civil rights. Special provisions for the progressive realization and enforcement of economic, social and cultural rights have also been provided for constitutionally. India has taken an important initiative for the empowerment of women by reserving one-third of all seats for women in urban and local self-government, thus bringing over one million women at the grassroots level into political decision making. With the launch of the National Rural Employment Guarantee programme on February 1, 2006, the right to work has been operationalised in India.

The independent and impartial Indian judiciary has delivered far-reaching pronouncements on the protection and promotion of human rights. The National Human Rights Commission, a powerful and independent body, monitors human rights developments in India and shares its experience and expertise with its counterparts in other countries. The free and independent media in India plays a crucial role in promoting respect for and monitoring of human rights. Civil society in India is among the most vibrant anywhere the world.

India is a committed supporter of the UN human rights system and the promotion and protection of human rights is ingrained in its domestic and foreign policy. It has been active in deliberations on

human rights in international fora and in the development of widely accepted international norms. India is a large, democratic, multi-ethnic, multi-religious, multi-lingual, and multi-cultural society, whose presence on the new Human Rights Council would bring a perspective of straddling all divides of pluralism, moderation and balance from a country that has consistently demonstrated in practice its commitment to human rights and fundamental freedoms.

Against this backdrop, India voluntarily makes the following pledges and commitments:

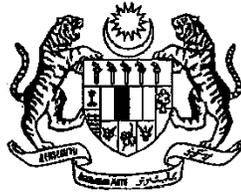
- India will continue to abide by its national mechanisms and procedures to promote and protect the human rights and fundamental freedoms of all its citizens.
- India will maintain the independence, autonomy as well as genuine powers of investigation of national human rights bodies, including the National Human Rights Commission, National Commission for Women, National Commission for Minorities, National Commission for Scheduled Castes and Scheduled Tribes, and National Commission for Backward Classes, as mandated by Indian constitution and laws.
- India will continue to foster a culture of transparency, openness and accountability in the functioning of the Government, as enacted in the path-breaking Right to Information Act.
- India will continue to encourage efforts by civil society seeking to protect and promote human rights.
- India will continue to work towards progressive realisation of the right to work.
- India will be expanding the implementation of its recently instituted Rural Employment Guarantee Programme, which provides for 100 days of assured employment annually to every rural household in the country.

- India will continue to promote the social, economic and political empowerment of women in India by affirmative actions, gender mainstreaming in national planning, gender budgeting and formation of women self-help groups. India will work towards elimination of discrimination and violence against women through legislative measures as well as effective implementation of existing policies.
- India, having actively and constructively participated in the multilateral negotiations that led to the establishment of the new Human Rights Council, will work to make the Human Rights Council a strong, effective and efficient body capable of promoting and protecting human rights and fundamental freedoms for all.
- India will engage constructively in the evolution of modalities and mandates of the Human Rights Council as envisaged in UNGA Resolution A/RES/60/251, and in the reform of the United Nations human rights machinery.
- India will participate actively in the work of the Human Rights Council in norm-setting in the field of human rights.
- India will participate constructively in developing modalities for universal periodic review by the Human Rights Council and in reviewing and strengthening the system of Special Procedures and other expert mechanisms of the Council.
- India will continue to support the Office of the UN High Commissioner of Human Rights, including through making regular voluntary contributions, so as to strengthen the promotion and protection of human rights worldwide.
- India will strive for the full realisation of civil, political, economic, social and cultural rights, including the right to development.

- India will continue to support UN bodies such as UNICEF, UNIFEM, UNFPA, UN Democracy Fund, etc. that have a role in contributing to the protection and promotion of human rights. India recently contributed US \$ 0.9 million to UNICEF and US \$ 10 million to the UN Democracy Fund.
- India will work actively with other UN Member States and relevant UN bodies for renewal and reform of the UN treaty-body system;
- India will work towards promotion and protection of human rights based on the principles of cooperation and genuine dialogue.
- India will cooperate with States, upon request, in their implementation of human rights obligations through capacity building by way of technical cooperation, human rights dialogues and exchange of experts.
- India will continue to actively support domestic and international processes that seek to advance empowerment of women and women's rights and gender equality.
- India will continue to actively support domestic and international processes that advance the rights of the child.
- India will work for the implementation of the Beijing Declaration and Platform of Action, the Copenhagen Declaration and Plan of Action, and other outcomes of the major UN international Conferences.
- India will continue to actively participate in and support the negotiations for a new UN Convention for Persons with Disabilities.

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MALAYSIA



HA 24/06

The Permanent Mission of Malaysia to the United Nations presents its compliments to the secretariat of the United Nations and, with reference to its note no. HA 20/06 dated 12 April 2006 informing the Secretariat of the candidature of Malaysia to the Human Rights Council, has the honour to enclose herewith an Aide Memoire detailing Malaysia's voluntary pledges and commitments in accordance with Resolution A/RES/60/251 of 15 March 2006.

The Permanent Mission of Malaysia highly appreciates the kind assistance of the Secretariat in posting the enclosed Aide Memoire on Malaysia's candidature to the Human Rights Council on the General Assembly website.

The Permanent Mission of Malaysia to the United Nations avails itself of this opportunity to renew to the Secretariat of the United Nations the assurances of its highest consideration.

New York, 28 April 2006



**Secretariat of the United Nations  
New York**

Attn: Department of General Assembly  
and Conference Management

Room: S-2925A

Fax: (212) 963 2155

## **MALAYSIA'S CANDIDATURE TO THE UNITED NATIONS HUMAN RIGHTS COUNCIL**

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### **AIDE-MEMOIRE**

Malaysia, a member of the Commission on Human Rights prior to it being dissolved, is seeking election to the new Human Rights Council (HRC) at the elections to be held by the United Nations General Assembly on 9 May 2006.

2. Malaysia, since attaining independence in 1957, upholds that the promotion and protection of all human rights as an indispensable aspect in the process of nation building. Consistent with the Universal Declaration of Human Rights (UDHR), successive Malaysian Governments have made the guarantee of the individual's fundamental rights and liberties, as enshrined in the Constitution, the cornerstone of its policies and programmes; while noting that all individuals have duties and responsibilities to the community to ensure the continued enjoyment of peace, stability and prosperity.

3. The respect that the Malaysian Government has for each individual's rights is clearly manifested in the fact that free, fair and peaceful General Elections have been held consistently without fail since independence for the people to elect their representatives to the various branches of Government within the nation's democratic system. Universal suffrage has been a principal feature in each election.

4. Another manifestation of the importance that the Government attaches to the enjoyment of all human rights and fundamental freedoms is the promotion of a free media, including in cyberspace, as well as the encouragement of vibrant and active civil societies.

5. As a nation with a multi-ethnic and multi-religious society, Malaysia is confident that its experience in managing a plural society would bring an important dimension to the work of the new Human Rights Council. Malaysia recognizes that the stability of any multiethnic society depends on a spirit of mutual tolerance and respect for diversity which is based on an inclusive and responsive political and legal system, which balances civil and political rights such as the freedom of expression and opinion and the wider needs of such a society.

6. Laws, regulations and institutions related to human rights in Malaysia continue to evolve in step with the increasing aspirations of a democratic society. One of the measures was the establishment of the National Commission on Human Rights (SUHAKAM) in 1999. SUHAKAM monitors human rights developments in Malaysia and is entrusted *inter-alia* with powers to investigate complaints regarding alleged human rights violations. Over and above its investigative function, SUHAKAM is also active in promoting a culture of human rights, particularly through education not only in schools but also within government institutions, such as the police force. SUHAKAM is also involved in activities at the regional and international levels.

7. The increasing threat posed by terrorism worldwide has highlighted the importance of balancing security concerns with the preservation of individual liberties. Malaysia believes that it has achieved this balance, drawing on its experience in combating the armed insurgency by forces aiming to dismantle the democratic government in the early years of its independence. The events of September 11 have also given rise to the misperception that democracy and human rights are incompatible with Islam and countries in which Islam is the dominant religion. Malaysia's record in this regard disproves this misperception. These achievements would not have been possible if individual rights and freedoms are not respected.

8. Beyond civil and political rights, the Malaysian Government has also sought to fulfill its responsibilities with regard to economic, social and cultural rights. As an example of this commitment, the Malaysian Government has consistently allocated the largest proportion of the annual budget to education. Having achieved many of the goals set out in terms of primary education, the Government is now endeavoring to expand the tertiary education system, not only as a means of strengthening the right to education but also in order to better equip Malaysians to meet the challenges posed by globalisation.

9. Malaysia is fully aware that good governance, integrity in the public sector and transparency in the Government's activities are essential if the goals of full enjoyment of human rights and fundamental freedoms are to be achieved. Towards this end, the National Integrity Plan (PIN) was launched on 23 April 2004, which is aimed at, among others, to:

- 9.1 Continuously and effectively combat and reduce the incidence of corruption, malpractices and abuse of power;
- 9.2 Enhance efficiency in the delivery system of the civil service and to reduce unnecessary inefficiencies;
- 9.3 Improve corporate governance and business ethics; and
- 9.4 Strengthen the family institution.

10. To ensure that these aims are achieved, the Government formed the Malaysian Integrity Institute, whose functions include to:

- 10.1 Undertake research and conduct training and education pertaining to community and institutional integrity;
- 10.2 Develop a database on ethics and integrity;
- 10.3 Formulate policies to enhance ethics and integrity as well as advising the Government on programmes to enhance integrity; and
- 10.4 Continuously monitor and ensure the implementation of the Plan.

11. Malaysia will continue to take proactive and innovative measures to further promote and protect human rights and fundamental freedoms in the country.

12. At the international level, Malaysia has been a member of the Commission on Human Rights (CHR) for four terms, and was a member of that body for the term 2005-2007 when the Commission on Human Rights was dissolved, to be replaced by the Human Rights Council. As an active and committed member of the Commission, Malaysia has contributed constructively in its deliberations. Malaysia is determined to continue to do so in the work and activities of the newly established Human Rights Council if elected to the membership.

13. Malaysia believes that the new Human Rights Council has an important role to play in the universal promotion and protection of human rights and in ensuring the effective enjoyment by all of all human rights. In order to achieve these lofty goals, the Human Rights Council needs to be made strong, fair, effective and efficient, and free of acrimony and undue politicization.

14. Towards this end, Malaysia pledges to:

- 14.1 Engage constructively in evolving modalities of work of the Human Rights Council with the aim of making it a strong, fair, effective, efficient and credible vehicle for the promotion and protection of human rights worldwide;
- 14.2 Support the work of the Office of the High Commissioner for Human Rights;
- 14.3 Continue to participate actively in the norm-setting work of the Human Rights Council;
- 14.4 Work towards fostering a spirit of cooperation in the Human Rights Council, free from acrimony and politicization, based on the principles of mutual respect and dialogue;
- 14.5 Promote greater coherence between the work of the Human Rights Council with other United Nations agencies and actors in achieving internationally agreed targets and goals, such as the Millennium Development Goals and those contained in the Vienna Declaration and Plan of Action, the Beijing Declaration and Platform of Action, the Copenhagen Declaration and Plan of Action as well as the Cairo Declaration and Programme of Action;
- 14.6 Actively support international action to advance the rights of vulnerable groups such as women, children and the disabled.

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PERMANENT MISSION OF THE REPUBLIC OF MAURITIUS TO THE UNITED NATIONS  
MISSION PERMANENTE DE LA REPUBLIQUE DE MAURICE AUPRES DES NATIONS UNIES

Note No. 7394/06 (Ref: NY/UN/957/E)

6 April 2006

The Permanent Mission of the Republic of Mauritius to the United Nations presents its compliments to the President of the 60<sup>th</sup> Session of the United Nations General Assembly and has the honour to inform that the Government of the Republic of Mauritius has decided to present its candidature for membership to the United Nations Human Rights Council at the elections to be held during the General Assembly of the United Nations session in New York on 9 May 2006.

Mauritius attaches the utmost importance to the promotion and protection of human rights and supports all international and regional efforts aimed at the advancement of human rights and fundamental freedoms, democracy and good governance and rule of law.

Mauritius is a party to all major international human rights instruments and always upholds the primary role of the United Nations in the promotion and protection of human rights. The establishment of the Human Rights Council strengthens further the human rights system within the United Nations and in seeking membership in the newly created Council, Mauritius underscores its firm commitment to contribute effectively in the work and activities of the Council.

The Government of the Republic of Mauritius is also deeply committed to uphold the highest standards in the promotion and protection of human rights and will shortly submit its voluntary pledges and commitments in accordance with resolution A/RES 60/251.

The Permanent Mission of the Republic of Mauritius to the United Nations avails itself of this opportunity to renew to the President of the 60<sup>th</sup> Session of the United Nations General Assembly the assurances of its highest consideration.

President of the 60<sup>th</sup> Session of the  
United Nations General Assembly  
New York



211 East 43rd Street • New York, N.Y. 10017 • Tel: (212) 949-0190 • Fax: (212) 697-3829



PERMANENT MISSION OF THE REPUBLIC OF MAURITIUS TO THE UNITED NATIONS  
MISSION PERMANENTE DE LA REPUBLIQUE DE MAURICE AUPRES DES NATIONS UNIES

Note No. 7526 /06 (Ref: NY/UN/957/E)

21 April 2006

The Permanent Mission of the Republic of Mauritius to the United Nations presents its compliments to the President of the 60<sup>th</sup> Session of the United Nations General Assembly and with reference to the Note No. 7394/06 of 6 April 2006, regarding the candidature of the Republic of Mauritius to the United Nations Human Rights Council, has the honour to forward herewith its voluntary pledges and commitments in accordance with Resolution A/RES/60/251.

The Permanent Mission of the Republic of Mauritius to the United Nations avails itself of this opportunity to renew to the President of the 60<sup>th</sup> Session of the United Nations General Assembly the assurances of its highest consideration.



The President of the 60<sup>th</sup> Session  
of the United Nations General Assembly  
New York

211 East 43rd Street • New York, N.Y. 10017 • Tel: (212) 949-0190 • Fax: (212) 697-3829

## MAURITIUS

### Voluntary Pledges and Commitments in accordance with Resolution A/RES/60/251

The Republic of Mauritius has always been committed to the promotion and protection of Human Rights at national, regional and international levels. The Government of Mauritius strongly believes that citizens should be at the core of all forms of human rights including the right to economic, cultural and social development and that the people should enjoy all their political and civil rights indiscriminately and irrespective of their status. Mauritius is party to most of the core international human rights instruments and has enacted comprehensive legislation for the protection and promotion of human rights and fundamental freedoms and ensures their implementation.

#### National Level

- The respect and protection of human rights is enshrined in the Constitution of Mauritius and since its independence, the Republic of Mauritius remains deeply committed to building a civil society based on democracy, good governance, rule of law and protection of human rights and fundamental freedoms.
- The National Human Rights Commission was set up in April 2001 under the Protection of Human Rights Act 1998 in line with the United Nations guidelines governing such institutions.
- The Commission ensures that there is compliance with the fundamental rights and freedoms of the individual enshrined in Chapter II of the Constitution. It also has the power to enquire into any written complaints from any person alleging that any of his human rights has been, is being or is likely to be violated by the act of omission of any other person acting in the performance of any public function conferred by any law or otherwise in the performance of the functions of any public office or any public body. The Commission can equally enquire into any other written complaint from any person against an act or omission of the police force in relation to him. Visits can be effected to any police station, prison or other place of detention under the control of the State to study the living conditions of the detainees and the treatment afforded to them. In 2003, a Sex Discrimination Division was

created within the National Human Rights Commission under the Sex Discrimination Act 2002 to deal with cases of sex discrimination and sexual harassment. The Sex Discrimination Division also has the power to deal with complaints within the private sector as well.

- The Office of the Ombudsperson for children was established under the Ombudsperson for Children Act in 2003. The Ombudsperson for Children has the duty of promoting compliance with the Convention on the Rights of the Child (CRC) and investigating possible violations of the rights of a child.
- In December 2005, the Child Protection Act was amended in order to provide for the offences of 'child trafficking', 'abandonment of child' and 'abducting child'.
- Regarding the issue of child abuse and child prostitution, Mauritius signed in 2001 the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. Mauritius also acceded to the United Nations "Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime" in September 2003.
- Mauritius is currently considering the following legislative measures to promote Human Rights :
  - (i) The Equal Opportunities Bill;
  - (ii) A Draft Bill for the Family Court;
  - (iii) An amendment to the law on custodial sentences for civil debtors;
  - (iv) A Disability Discrimination Bill which will include inclusive education for disabled children;
  - (iv) An HIV/AIDS Bill;
  - (v) Reform of the law dealing with administration of juvenile justice;
  - (vi) A Children`s Act which will review all legislations pertaining to children.

- With the help of UNDP, Mauritius has developed a national human rights strategy on 10 December 2005. There is provision for setting up a HUMAN RIGHTS CENTRE with regional sub-centre all over the island and one in Rodrigues. The Centre will be a Resource Centre to sensitize people about Human Rights and International Instruments.

### Regional Level

- Mauritius has signed the African Charter of Human and People's Rights and ratified the said Charter on 19 June 1992. Mauritius has equally signed the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa at the Abuja AU Meeting in January 2005. Mauritius has, however, made reservations on Articles 6(b), 6(c), 10(2)(d), 11 and 14(2) (c). Mauritius has further ratified the African Charter on the Rights and Welfare of the Child and the Protocol to the African Charter on Human and People's Rights on the establishment of the African Court on Human and People's Rights.
- Mauritius has hosted a series of conferences/meetings on human rights issues. In relation to the African Court of Justice, Mauritius hosted both the meeting of Experts/Judges and Permanent Representatives from 4 – 6 June 2003 and the First Ministerial Meeting of Ministers of Justice of the African Union from 7 – 8 June 2003 at the Grand Bay International Conference Centre. A seminar was organized on « *Sensibilisation sur la ratification et la mise en oeuvre du statut de Rome de la Cour Pénale internationale* » from 27 – 29 May 2002 jointly by the Attorney-General's Office and the « Agence Intergouvernementale de la Francophonie ».

From 10 – 12 September 2003, the Office of the United Nations High Commissioner for Human Rights in collaboration with the Attorney General's Office, organised a Regional Workshop on Human Rights and Good Governance.

Mauritius has also hosted the « *Rencontre Conjointe du Bureau du Comité de Suivi de la Conférence des Structures Gouvernementales Chargées des droits de l'Homme dans l'Espace Francophonie et des Réseaux Institutionnels de la Francophonie* » from 19 – 21 July 2005.

- Mauritius is one among the first African countries to have volunteered to be reviewed under the NEPAD Peer Review Mechanism.

### International Level

- Mauritius pursues a policy of active cooperation with international organizations and their respective bodies and institutions in the field of human rights and fundamental freedoms. It is deeply committed to uphold the highest standards in the promotion and protection of human rights.
- Mauritius upholds the primary role of the United Nations in the promotion and protection of human rights.
- Mauritius was a member of the Commission on Human Rights in 1971-1973, 1993-1995 and 1999-2001.
- Mauritius is party to six of the seven core international human rights treaties as follows -
  - (i) The International Convention on the Elimination of All Forms of Racial Discrimination;
  - (ii) International Covenant on Civil and Political Rights;
  - (iii) International Covenant on Economic, Social and Cultural Rights;
  - (iv) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and
  - (v) Convention on the Rights of the Child (CRC).
  - (vi) Convention on the Elimination of All Forms of Discrimination against Women.
- Mauritius has ratified the Optional Protocol of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Mauritius is also party to the Rome Statute of the International Criminal Court.
- Despite its limited resources, Mauritius has consistently fulfilled its reporting obligations by submitted regularly periodic reports to the various human rights treaties. Mauritius has also submitted reports to the various Committees monitoring the international treaties.

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If elected to the Human Rights Council,

the Government of Mauritius undertakes to -

- continue to uphold the primacy of democracy, good governance and development as key tenets in the promotion of human rights of its citizens and strengthen national institutions that guarantee best these rights;
- continue to play a constructive role in the advancement of human rights and fundamental freedoms and further contribute to the enhancement of United Nations human rights activities;
- participate actively in the work of Council for the promotion and protection of all human rights in a spirit of impartiality, objectivity and non-selectivity, constructive dialogue and cooperation;
- be reviewed under the universal periodic review mechanism; and
- support international efforts to enhance inter cultural dialogue and understanding among civilizations, cultures and religions with a view to facilitate the universal respect for all human rights given that Mauritius is a multi-racial and multi-ethnic country.



Note No.125/06

The Permanent Mission of the Federal Republic of Nigeria to the United Nations presents its compliments to the President of the General Assembly and further to its Note No.85/06 of 11 April 2006 by which the Government of Nigeria announced its candidacy to the Human Rights Council, has the honour to forward herewith, as indicated in the said Note, text of the Pledges and Commitments of the Government of the Federal Republic of Nigeria in support of its candidacy to the Human Rights Council at elections to be held in New York on 9 May 2006 and to request that the text be publicized.

The Permanent Mission of the Federal Republic of Nigeria to the United Nations avails itself of this opportunity to renew to the President of the General Assembly the assurances of its highest consideration.

New York, 24 April 2006

Office of the President of the General Assembly  
United Nations  
New York



**HUMAN RIGHTS COUNCIL:**  
**NIGERIA'S VOLUNTARY PLEDGES AND COMMITMENTS**

**The Government of the Federal Republic of Nigeria**

Strongly welcomes the establishment of the Human Rights Council;

Commits itself to the purposes and objectives of the Human Rights Council;

Undertakes to cooperate fully with the Human Rights Council and through active participation in the work of the Council, and in cooperation with members of the Council, non-members as well as regional organizations and civil society, to make the Council a credible, strong, fair and effective United Nations human rights body;

Expresses its readiness to submit itself to the universal periodic review mechanism;

Pledges to cooperate with the treaty monitoring bodies of the Council, including through submission of timely periodic reports and the implementation of concluding observations and recommendations;

Pledges to contribute actively to the development of human rights culture and the integration of human rights into United Nations activities as well as regional organizations such as the African Union and the Economic Community of West African States;

Reaffirms its determination and commitment to continue to promote and protect human rights at home by strengthening and actively supporting the work of the National Human Rights Commission, in order to make it more effective in carrying out its mandate;

Expresses its determination to continue to play, at regional and international levels, a responsible and leading role in the promotion and protection of peace, stability and democracy;

Commits itself to the promotion and protection of all human rights, particularly civil and political rights, and economic, social and cultural rights including the right to development;

Reaffirms its commitment to work for the strengthening of the Office of the United Nations High Commissioner for Human Rights;

Reaffirms its commitment to the maintenance of an open door policy on human rights issues and to this end, reaffirms its preparedness to welcome human rights inspectors, special rapporteurs and representatives to visit Nigeria in order to carry out their respective mandates without hindrance;

Reaffirms its commitment to cooperate fully with other special procedures of the Council and to work towards upholding the rule of law and to encourage constructive dialogue and international cooperation in the field of human rights;

Reaffirms its commitment to uphold the principles of non-discrimination and the protection and promotion of the human rights of all its citizens and to this end, to accelerate the process of full domestication of relevant international human rights conventions including the African Charter on Human and Peoples' Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child;

Reaffirms its commitment to the following international human rights instruments which it has ratified without any reservations:

- ✓ International Covenant on Civil and Political Rights;
- ✓ International Covenant on Economic, Social and Cultural Rights;
- ✓ Convention on the Elimination of All Forms of Racial Discrimination;
- ✓ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- ✓ Convention on the Rights of the Child;
- ✓ ILO Convention 182 on Elimination of Child Labour;
- ✓ Convention on the Elimination of all forms of Discrimination Against Women;
- ✓ African Charter on Human and Peoples' Rights;
- ✓ Convention Against Transnational Organized Crimes ;
- ✓ Protocol Against the Smuggling of Migrants by Land, Sea and Air;
- ✓ Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children;
- ✓ Protocol Against Manufacture, Sale and Trafficking in Firearms and their parts;
- ✓ Convention Against Corruption;
- ✓ Rome Statute of the International Criminal Court;

Undertakes to accede, as soon as practicable, to the International Convention on the Protection of all Migrant Workers and Members of their Family and to examine the possibility, in the near future, of signing, ratifying or acceding to human rights instruments to which Nigeria is not yet a signatory, including the Convention on the Prevention and Punishment of the Crime of Genocide;

Undertakes to continue to uphold the provisions of the Conventions, Protocols or Covenants to which it has ratified and pledges to regularly report on their implementation to the treaty monitoring bodies of the Human Rights Council.



PAKISTAN MISSION TO THE UNITED NATIONS

PAKISTAN HOUSE  
8 EAST 65TH STREET  
NEW YORK, N.Y. 10021  
PHONE: (212) 879-8600  
FAX: (212) 744-7348

No Third-9/2/06

24 April 2006

The Permanent Mission of Pakistan to the United Nations presents its compliments to the Secretariat of the United Nations and has the honour to state that the Government of Pakistan has decided to present its candidature for election to the Human Rights Council for one of the thirteen (13) Asian seats for the term 2006-2008, elections for which will be held on 9 May 2006.

In accordance with the GA Resolution A/RES/60/251 of 15 March 2006, the Permanent Mission of Pakistan has the further honour to enclose a summary of Pakistan's contribution as well as its commitments and voluntary pledges to promote human rights.

The Permanent Mission of Pakistan to the United Nations avails itself of this opportunity to renew to the Secretariat of the United Nations the assurances of its highest consideration.



The Secretariat of the United Nations  
(Department of General Assembly and  
Conference Management),  
New York.  
Fax No: 212-963-2155

Copy to: Ms. Alicia Santomauro  
Fax No: 212-963-3783

PAKISTAN

## **PAKISTAN'S CONTRIBUTION, COMMITMENTS AND VOLUNTARY PLEDGES TO PROMOTE HUMAN RIGHTS**

Pakistan has decided to present its candidature for election to the Human Rights Council (HRC) for one of the thirteen (13) Asian seats for the term 2006-2008, elections for which will be held on 9 May 2006.

In accordance with the provisions of General Assembly Resolution 60/251, in particular paragraph 8, following is a digest of Pakistan's contribution, voluntary pledges and commitments to promote human rights:

### **Contribution at the international level**

- Pakistan has consistently played an active role in the Commission on Human Rights (CHR) as well as in the relevant human rights forums, and contributed positively to the adoption of Universal Declaration of Human Rights and formulation of most of the International conventions and universal norms in the promotion of civil and political as well as economic, social and cultural rights including the right to development.
- Pakistan was in the forefront in the struggle against apartheid. Pakistan continues to promote greater international recognition of the people's right to self-determination.
- Pakistan is a part of all major global initiatives in promoting inter-cultural dialogue and harmony to facilitate universal respect of all human rights in all societies and cultures.
- Pakistan was among the six initiators of the World Summit for Children and was also one of the first countries to ratify the Convention on the Rights of the Child.
- Pakistan is a party to the International Convention on the Elimination of Racial Discrimination (CERD), International Convention on the Elimination of all forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC), and is a signatory to the International Covenant on Economic, Social and Cultural Rights.
- Pakistan played an active role in the negotiations of the decision to establish the Human Rights Council (HRC). Many of the

formulations in the resolution A/60/251 reflect Pakistan's proposals and suggestions, which helped in forging international consensus.

- Pakistan looks forward to making a constructive contribution to the task of reviewing, rationalizing and improving the human rights machinery.

#### Contribution at the domestic level

- Promotion of human dignity, fundamental freedoms and human rights, equal status and rights of the followers of all religions and prohibition of discrimination on account of religion, race, caste or creed etc are enshrined in Articles 9-29 of the Constitution of Pakistan.
- Sustainable democracy and empowerment at grass root level, through good governance, have been established at the local, provincial and national levels, with notable 33 per cent representation of women.
- Minorities in Pakistan represent 3.32 per cent of the total population. According to the Constitution of Pakistan, they enjoy equal rights and participate in the mainstream politics both through joint electorates and 5 per cent seats reserved for them in the Parliament and other elected bodies.
- Attention is being given to the social and economic emancipation of women. All forms of violence against women are punishable under the law including the infamous 'honour killing'.
- A national Plan of Action for child welfare, elimination of child labour and their rehabilitation through education and vocational training, is being implemented.

#### Pakistan's commitments and voluntary pledges to further advance human rights both at the national and international levels.

- Pakistan will continue to support all international efforts to achieve the universal ratification of core human rights treaties.

- Pakistan is working towards early ratification of the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, and Convention Against Torture.
  - Upon the conclusion of the Parliament's ongoing consideration, an independent national human rights institution will be established with broad powers to investigate human rights violations in all aspects of its domestic constituencies.
  - Pakistan will continue to promote awareness of human rights in the society by introducing human rights component in educational curricula at all levels and mass awareness campaigns through media and civil society with particular emphasis on the rights of vulnerable groups including women, children and minorities.
  - Pakistan will actively participate in the work of the Human Rights Council (HRC), with a view to facilitate the implementation of its mandate.
-

Note no. 143/06

The Permanent Mission of the Republic of South Africa to the United Nations presents its compliments to the Office of the President of the General Assembly and has the honour to convey herewith Note no. 142/06 dated 2 May 2006 related to the candidature of South Africa to the Human Rights Council and the aide mémoire outlining South Africa's voluntary pledges and commitments with respect to the promotion and protection of human rights.

The Permanent Mission of the Republic of South Africa to the United Nations avails itself of the opportunity to renew to the President of the General Assembly to the United Nations the assurances of its highest consideration.

New York  
2 May 2006

Note no. 142/06

The Permanent Mission of the Republic of South Africa to the United Nations presents its compliments to the Permanent Missions of Member States to the United Nations and following its Note verbale no. 85/2006 dated 4 April 2006 related to the candidature of South Africa to the Human Rights Council, has the honour to convey, herewith, the aide-mémoire outlining South Africa's voluntary pledges and commitments with respect to the promotion and protection of human rights.

Since its return to the international community in 1995, the South African Government has played an active role within the United Nations Commission on Human Rights. In this short time, South Africa chaired the 54<sup>th</sup> Session of the Commission on Human Rights in 1998, and served as a Vice-Chair to the 58<sup>th</sup> Session in 2002 as well as serving as the human rights co-ordinator on behalf of the African Group during the 59<sup>th</sup> Session in 2003. South Africa has also played a cardinal role in the processes that created the Human Rights Council throughout 2005 which culminated in the country's Permanent Representative to New York serving as one of the Co-chairs and assisting the President of the General Assembly in the creation of the Human Rights Council. Additional to the promotion and protection of human rights and fundamental freedoms, South Africa strongly upholds the principle of fulfillment of human rights consistent with the provisions of international human rights law.

The Permanent Mission of the Republic of South Africa to the United Nations herewith encloses an Aide Mémoire outlining South Africa's voluntary pledges and commitments with respect to the promotion and protection of human rights as a requirement of the United Nations General Assembly resolution 60/251 of 15 March 2006, and would appreciate the valuable support of the Permanent Missions of Member States to the United Nations at the elections for the Human Rights Council to be held during the 60<sup>th</sup> session of the General Assembly on 9 May 2006.

The Permanent Mission of the Republic of South Africa to the United Nations avails itself of the opportunity to renew to the Permanent Missions of Member States to the United Nations the assurances of its highest consideration.

New York  
2 May 2006

## **AIDE-MEMOIRE**

### **IN SUPPORT OF SOUTH AFRICA'S CANDIDATURE OF THE HUMAN RIGHTS COUNCIL**

Following the first democratic elections in 1994, South Africa returned to the international community in 1995 to assume its rightful place among the community of nations. The experience in this relatively short period has been richly rewarding and South Africa has played a key role in the shaping of the international human rights agenda including the constant development of international human rights and humanitarian law. A central consideration in South Africa's foreign policy is the commitment to the promotion, protection and fulfillment of human rights and fundamental freedoms and the advancement of democracy.

#### **South Africa's Constitution and Bill of Rights**

The first democratic elections of 1994 placed South Africa firmly on the path of constitutional democracy. The Republic of South Africa Constitution Act 108 of 1996 is the supreme law of the land. In keeping with the international Bill of Human Rights, the South African Constitution entrenches and constitutionally guarantees all the universally recognized human rights and fundamental freedoms.

Whereas the South African democracy is relatively young, the heroic struggle by South Africans for democracy, social justice and human rights and fundamental freedoms is very old and extends over a period of 350 years. During this period South Africans were subjected to successive repressive regimes ranging from conquests, colonialism and the worst form of institutionalized racism and racial discrimination, namely, apartheid.

The 1994 democratic elections in South Africa created a political space for all the rights enumerated in the Constitution to be practically enjoyed. In this regard, the political vision of the democratic government in South Africa is predicated on a fundamental principle which affirms the inextricability between economic, social and cultural rights on the one hand, and the civil and political rights on the other. Also consistent with the fundamentals of the international human rights law, South Africa strongly upholds the notion of i) promotion, ii) protection and iii) fulfillment of all human rights and fundamental freedoms. South Africa's human rights value system is founded on this notion. South Africa has lodged its National Action Plan for the Promotion and Protection of Human Rights at the United Nations on 10 December 1998.

The South African Constitutional Court decisions have produced significant judgments and adjudications which underline the justiciability of the economic, social and cultural rights. The South African case law is currently being used at the international level to give impetus and momentum to the strengthening of the international human rights instruments dealing with economic, social and cultural rights.

Between 1995 and 2006 South Africa has been a member of the Commission on Human Rights on

three occasions. In this period, South Africa chaired the 54<sup>th</sup> Session of the Commission on Human Rights in 1998, became a Vice-Chair to the 58<sup>th</sup> Session in 2002 and acted as a Co-ordinator on Human Rights issues on behalf of the African Group during the 59<sup>th</sup> Session in 2003.

### **Institutions supporting South Africa's democracy**

National institutions, established in terms of the constitutional provisions to support constitutional democracy in the country, are actively involved in the monitoring of South Africa's compliance with respect to the implementation of international human rights instruments of which South Africa is a party.

The South African Constitution of 1996 makes provision, through its Chapter 9, for the establishment of the following state institutions to strengthen constitutional democracy in the Republic of South Africa. These institutions are independent and subject only to the Constitution and Parliament:

- (i) the Public Protector,
- (ii) the South African Human Rights Commission,
- (iii) the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities,
- (iv) the Commission for Gender Equality,
- (v) the Auditor-General, and
- (vi) the Electoral Commission.

### **UNDERTAKINGS/PLEDGES**

It should be underlined that South Africa by its very nature and for historical reasons is among the countries within the United Nations that takes the international human rights agenda very seriously. As a member of the new Human Rights Council, the South African Government undertakes to abide by the following principles:

- (1) continue to receive the CHR's Special Procedures and Mechanisms (consistent with its decision of 22 October 2002) wishing to visit the country in keeping with their various mandates. Since the issuance of this open invitation, the following mechanisms have visited South Africa without any restrictions or impediments;
  - (a) Special Rapporteur on the Situation of Human Rights and Fundamental of Indigenous Peoples,
  - (b) Working Group on Arbitrary Detentions, and
  - (c) Special Rapporteur on the Sale of Children, Child Pornography and Child Prostitution, and
  - (d) Special Rapporteur of the African Commission on Human and People's Rights (ACHPR) on the Conditions of Prisons and Detention in Africa,

- (ii) respect for the integrity and dignity of the Office of the High Commissioner for Human Rights. The South African Government will work to ensure that the High Commissioner for Human Rights (HCHR) and her personnel are above the manipulation and influences of States,
- (iii) continue contributing financially to the OHCHR. Such contributions shall not be in any way earmarked, as the earmarking of funding to the OHCHR has a limiting effect on the operations of the OHCHR,
- (iv) continue to support important funds and programmes within the OHCHR aimed at advancing the cause of human rights globally, such as the Voluntary Fund for Victims of Torture, the Voluntary Fund for the Victims of the Contemporary Forms of Slavery and the recently established United Nations Democracy Fund (UNDEF),
- (v) continue with its unwavering position to advocate for a balanced Sustainable Development Programme within the human rights framework as underlined in the Vienna Declaration and Programme of Action (VDPA) as well as the United Nations General Assembly resolution 48/141. In this regard South Africa will be one of the chief proponents of a balanced agenda of the HRC which reflects, among others, the primacy of achieving the realisation of the right to development as well as moral human rights issues such as the eradication of poverty and underdevelopment. As it will be recalled, South Africa hosted the World Summit on Sustainable Development in Johannesburg in November 2002 whose Programme of Action is globally regarded as an instructive document for achieving sustainable development,
- (vi) work to ensure that one of the first preoccupations of the substantive sessions of the HRC will be to update the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), through an amendment protocol, placing the right to development on par with all other rights enumerated in these instruments,
- (vii) work to promote, within the Human Rights Council, a common understanding that human rights can only be practically enjoyed through an effective partnership with all the relevant stakeholders at all levels,
- (viii) continue to submit country reports to the human rights Treaty Monitoring Bodies. To this end, South Africa will present its country reports to the CERD and the CAT during 2006. South Africa has also presented, during 2005, its country report to the African Commission on Human and Peoples' Rights, and
- (ix) undertake to submit in the near future a National Action Plan (NAP) exclusively covering the area of racism and racial discrimination as required by the Durban Declaration and Programme of Action (DDPA). As it will be recalled, South Africa hosted the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) on 31 August to 08 September 2001.

## **INTERNATIONAL INSTRUMENTS TO WHICH SOUTH AFRICA IS A STATE PARTY**

The South African Government signed most of the international human rights instruments on 10 December 1995, and have since ratified/acceded to the following instruments:

- (a) the International Covenant on Civil and Political Rights (ICCPR)
- (b) the Rome Statute of the International Criminal Court (ICC)
- (c) the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- (d) the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- (e) the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- (f) the Convention on the Rights of the Child (CRC)
- (g) Optional Protocol to the ICCPR
- (h) Second Optional Protocol to the ICCPR
- (i) Optional Protocol to the CRC on the Sale of Children, Child Pornography and Child Prostitution
- (j) Optional Protocol to the CRC on the Use of Children in Armed Conflict, and
- (k) Optional Protocol to the CEDAW.

## **REGIONAL INSTRUMENTS TO WHICH SOUTH AFRICA IS A STATE PARTY**

South Africa is also a State Party to the following regional (African) human rights instruments:

- (a) the African Charter on Human and Peoples' Rights
- (b) the African Charter on the Rights and Welfare of the Child, and
- (c) Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

South Africa has volunteered and is next in line to be peer reviewed under the African Peer Review Mechanism on the New Partnership for Africa's Development (NEPAD).

### **Commitment to international human rights instruments**

South Africans are serving or have served on the following Treaty Monitoring Bodies:

- (i) the Committee on the Elimination of Racial Discrimination (CERD)
- (ii) the Committee on the Rights of the Child (CRC), and
- (iii) the Committee on the Elimination of Discrimination Against Women (CEDAW),  
and
- (iv) the African Commission on Human and Peoples' Rights (ACHPR).

South Africa plays a key role in advocating the agenda for development through intergovernmental structures of the Non-Aligned Movement (NAM) and the Group of 77 and China (G77).

### **INSTRUMENTS IN THE PROCESS OF RATIFICATION**

The South African Government is in the process of ratifying the following important human rights instruments:

- (i) the International Covenant on Economic, Social and Cultural Rights (ICESCR)
- (ii) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and
- (iii) the Optional Protocol to the Convention Against Torture and other Cruel Inhuman or Degrading Treatment or Punishment (OPCAT).



PERMANENT MISSION OF THE DEMOCRATIC SOCIALIST  
REPUBLIC OF SRI LANKA TO THE UNITED NATIONS

FAXED  
10-4-06

Tel: (212) 986-7040  
Fax: (212) 986-1838  
E-Mail: SLPMNY@aol.com

630 THIRD AVENUE (20TH FLOOR)  
NEW YORK, N.Y. 10017

Ref. No POL/G/279

The Permanent Mission of the Democratic Socialist Republic of Sri Lanka to the United Nations presents its compliments to the Secretary-General of the United Nations and with reference to its even numbered note dated 6<sup>th</sup> April 2006 announcing Sri Lanka's candidature to the Human Rights Council, has the honour to present an **Aide Memoire** in accordance with Resolution A/RES/60/251 detailing pledges and commitments on human rights in support of Sri Lanka's candidature, and if elected, as to how Sri Lanka aims to play a constructive role in the Human Rights Council.

The Permanent Mission of the Democratic Socialist Republic of Sri Lanka avails itself of this opportunity to renew to the Secretary-General of the United Nations, the assurances of its highest consideration.

New York, 10<sup>th</sup> April 2006

Secretary-General of the United Nations  
United Nations  
New York  
(Room S-2925A)



PERMANENT MISSION OF  
SRI LANKA TO THE U. N.

SRI LANKA

### *Aide Memoire*

Sri Lanka has decided to present its candidature to the Human Rights Council at the election to be held at the United Nations General Assembly on 9<sup>th</sup> May 2006.

2. Sri Lanka attaches great importance to the work of the Human Rights Council. If elected, Sri Lanka will make a constructive contribution to the deliberations of the Council for the promotion and protection of human rights.

3. Sri Lanka served in the Commission on Human Rights during the periods; 1957-1959, 1985-1990, 1992-2000 and 2003-2005 and played an active and constructive role, including as Vice-Chairman and Coordinator of the Asian Group.

4. Sri Lanka is a Party to all seven major human rights instruments and to the First Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Optional Protocol to the Convention on the Rights of the Child (CRC) on the involvement of children in armed conflict. Accordingly, Sri Lanka has maintained a consistent policy of co-operation and open and constructive engagement with all UN Human Rights Treaty Bodies, through the submission of periodic reports.

5. Throughout, the Government of Sri Lanka has also followed a consistent policy of co-operation and open and constructive engagement with the special procedure mechanisms of the Commission on Human Rights as demonstrated by extending regular invitations to such mechanisms to undertake missions in Sri Lanka.

6. The Government of Sri Lanka invited the UN Working Group on Disappearances to undertake missions in 1991, 1992, and 1999 and to the UN Committee Against Torture in 2000. The Special Rapporteur on extra-judicial, summary or arbitrary executions (two visits) and the Special Rapporteur on the freedom of religion or belief have undertaken missions in Sri Lanka on the invitation of the Government. Furthermore, the Special Representative of the UN Secretary-General on Internally Displaced Persons and the Special Representative of the UN Secretary-General for children and armed conflict have also undertaken missions in Sri Lanka on the invitation of the Government:

7. Sri Lanka also plays an active role in the promotion of International Humanitarian Law (IHL). The National Committee on IHL and the Directorate of Human Rights and IHL of the Sri Lanka Army have been lauded by ICRC for their contribution in this field and in particular the recent passage of legislation to give effect to the Geneva Conventions of 1949 and for the protection of the ICRC symbols.

8. As a manifestation of the Government's deep commitment for the promotion and protection of human rights, the President of Sri Lanka has now appointed a Cabinet Minister in charge of the subject of human rights.

9. In pursuit of its commitment to the further promotion and protection of human rights, Sri Lanka will soon be undertaking the following activities:

- Take appropriate implementational measures in respect of relevant recommendations made by the Human Rights Treaty Bodies after considering the Periodic Reports submitted by Sri Lanka in the past,

through the Permanent Standing Committee on Human Rights Issues, Co-Chaired by the Ministers of Foreign Affairs and Human Rights.

- Build capacity of the Ministry of Human Rights, Human Rights Commission of Sri Lanka and other independent statutory bodies established as a part of the national human rights protection system.
- Introduce a Human Rights Charter in line with the policy statement made by the President of Sri Lanka soon after assuming office.
- Invite the Special Rapporteur on the freedom of expression and opinion and also the Special Rapporteur on the question of torture to undertake missions in Sri Lanka.
- Co-operate with Human Rights Treaty Monitoring Bodies by submitting future Periodic Reports on time.
- Become a Party to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.
- Make a financial contribution towards the Voluntary Fund for Technical Co-operation in the Field of Human Rights.

10. Recognizing that development, peace and security and human rights are interlinked and mutually reinforcing, if elected, Sri Lanka, as a member of the Human Rights Council, will:

- continue to play its traditional role as a consensus-builder and participate actively and constructively in all deliberations of the Council for the promotion and protection of human rights in all parts of the world and for the furtherance of international human rights and humanitarian law. In this regard, Sri Lanka will also keep in mind the mandate given by the resolution A/RES/60/251 to the Human Rights Council and in particular that the Council will be responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner.
- work with like minded countries to assist the Office of the High Commissioner for Human Rights to formulate proposals for treaty body reform with a view to strengthening and making the UN treaty body system more effective and in line with present day requirements of member States.
- play an advocacy role to broad base the adherence to all seven major human rights instruments with a view to promoting human rights of all sections of society worldwide.

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## UNITED KINGDOM VOLUNTARY PLEDGES AND COMMITMENTS ON HUMAN RIGHTS

### 1) Commitment to work in partnership to make the Council a success

The UK will participate actively in the work of the Council, in a spirit of openness, cooperation and dialogue with all partners; will promote the Council as a forum for dialogue on thematic issues on all human rights, and will work to broaden understanding among civilisations, cultures and religions.

The UK will actively consult across the UN membership on the Council's decisions and seek to support states' efforts to implement the Council's recommendations.

The UK will continue to work closely with regional organisations, national human rights institutions and civil society, to support and advance their contributions to the work of the new Council, and will seek their views in advance of major UN human rights meetings.

The UK will contribute actively to reaching agreement on the creation of an effective universal periodic review mechanism for the Human Rights Council.

### 2) Commitment to support UN bodies

The UK will maintain its institutional support to the Office of the High Commissioner on Human Rights (OHCHR) over the next three years including through over £2.5 million annually in un-earmarked funds, giving OHCHR full independence to decide how to use those funds to meet their mandate.

The UK will maintain its standing invitation to all Special Procedures to visit the UK, and will continue to cooperate fully with them. The UK will work to maintain its record of submitting full and timely reports to Treaty Monitoring Bodies.

The UK plans to contribute over £400 million over the next two years (2006-2008) in institutional support to UN bodies, including those that have a key role in protection and promotion of human rights, for example the UN High Commissioner for Refugees (UNHCR), the UN Children's Fund (UNICEF), the UN Democracy Fund and the International Labour Organisation (ILO).

### 3) Commitment to advance human rights internationally

The UK will continue to encourage governments around the world to ratify the UN human rights treaties and, through its development and other assistance programmes, to help them abide by the obligations that those treaties place on states.

The UK will continue to support country-led development strategies, and to work with partners to integrate human rights principles of participation, inclusion and accountability into development. The UK will continue to provide technical and financial assistance to states to build the capacity of their security and justice systems, with over £225 million currently committed to security and justice sector programmes in developing countries.

The UK will continue to be at the forefront of new approaches to human rights issues, such as:

- as the third country to have ratified the Optional Protocol on the Convention Against Torture, the UK is already preparing to establish its National Preventative Mechanism before the Protocol comes into force. The UK stands ready to share its experience of creating a national preventative mechanism with other states working towards the same goal.
- the UK will continue to take a lead in international efforts to advance the issue of corporate responsibility and human rights in consultation with all stakeholders, consistent with our role in leading UN negotiations to establish a Special Representative of the Secretary-General, and through initiatives such as the Voluntary Principles on Security and Human Rights.
- the UK will continue to support international processes to advance gender equality, including implementation of the Beijing Declaration and Platform for Action. The UK will support the UN to strengthen its ability to promote gender equality and women's empowerment. We remain committed to the full implementation of UN Security Council Resolution 1325 on Women, Peace and Security, and will take this forward through our National Action Plan.
- The UK will continue to support the negotiations for a new UN Convention on disability rights, including the active involvement of civil society in the process.
- The UK will maintain its efforts to counter the devastating effects of HIV-AIDS in many parts of the world, and to improve the promotion and protection of the rights of those affected. The UK's strategy for accelerated action on HIV-AIDS promises increased resources of £1.5 billion over three years from 2005-2007.

The UK recognises that development, peace and security and human rights are interlinked and mutually reinforcing. The UK will maintain its aim to eliminate poverty in developing countries, in particular through achievement by 2015 of the Millennium Development Goals (MDGs). The UK's support for the achievement of the MDGs can contribute to the realisation of human rights, such as the achievement of universal primary education (MDG 2), the promotion of gender equality (MDG 3), and the reduction of child mortality (MDG 4). We will continue to tackle exclusion and discrimination through our development programmes, and promote equal rights for all.

#### **4) Commitment to uphold human rights standards at home**

The UK will continue to strive for the highest standards in promotion and protection of human rights. To this end, it will work to maintain full implementation of its international obligations under the UN Covenants, Conventions and Optional Protocols to which it is party.

The UK will continue to aim to improve the promotion and protection of the human rights of all its citizens. This will include through initiatives such as the

Discrimination Law Review, which is currently reviewing all aspects of domestic discrimination and equality legislation with the aim of consolidating it into a single comprehensive Equality Act before 2009. We will continue to implement National Strategies to increase race equality and community cohesion in Great Britain and Northern Ireland, in accordance with commitments undertaken at the 2001 Durban World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

The UK will continue to aim for the constant improvement of mechanisms and procedures to promote and protect the human rights and fundamental freedoms of all its citizens. As part of the Belfast (Good Friday) Agreement, the Northern Ireland Human Rights Commission was formally established in March 1999. A new National Human Rights Institution for Great Britain is also being established in the form of the Commission for Equality and Human Rights. This Commission will be based on three core pillars – equality, human rights and good relations, working towards fairness throughout our society by removing unfair barriers and extending opportunities to all. Similarly, legislation has been introduced to the Scottish Parliament to create a new human rights body for Scotland.

The UK will continue to protect the rights of disabled people. We have already extended our extensive Disability Discrimination legislation and we have a clear aim that by 2025, disabled people should have the full opportunities and choices necessary to improve their quality of life. We are focusing our strategy on promoting independent living – giving disabled people choice, empowerment and freedom. To make this a reality, in December 2005 we established an Office for Disability Issues which will develop and drive a cross government strategy to deliver equality for disabled people. We will work closer with disabled people and their organisations and ensure that they have a voice at the heart of policy- and decision-making by setting up a National Forum to engage directly with government, and we will pilot and promote new ways of improving service delivery to disabled people to support their independence and choice.

The UK will continue to foster a culture of transparency, openness and dialogue in its pursuit of improved human rights standards. The UK Government will continue to invite the contribution of NGOs, and will maintain dialogue on its human rights work, including with Parliament and civil society.

## **CONSEIL DES NATIONS UNIES DES DROITS DE L'HOMME : ELECTION DU ROYAUME-UNI : DECLARATION D'ENGAGEMENTS**

### **1) L'engagement de travailler en partenariat pour que le Conseil soit un succès**

Le RU participera activement aux travaux du Conseil des droits de l'homme dans un esprit d'ouverture, de coopération et de dialogue, avec tous les partenaires ; il fera la promotion du Conseil en tant qu'instance de dialogue sur les questions thématiques portant sur tous les droits de l'homme et n'épargnera aucun effort pour élargir la compréhension parmi les civilisations, les cultures et les religions.

Le RU consultera activement tous les membres des Nations unies sur les décisions du Conseil et il cherchera à encourager les efforts déployés par les États pour appliquer les recommandations du Conseil.

Le RU continuera à travailler en étroite collaboration avec les organisations régionales, avec les institutions nationales qui s'occupent des droits de l'homme et avec la société civile en vue de soutenir et de faire progresser leurs contributions aux travaux du nouveau Conseil et il sollicitera leurs points de vue bien avant les réunions importantes sur les droits de l'homme qui se dérouleront dans le cadre des Nations unies.

Le RU contribuera activement à aboutir à un accord sur la création d'un mécanisme universel efficace chargé de l'examen périodique du Conseil pour les droits de l'homme.

### **2) L'engagement de soutenir les agences de l'ONU**

Le RU maintiendra son appui institutionnel à l'Office du Haut Commissaire des Nations unies aux droits de l'homme (OHCHR) au cours des trois prochaines années y compris par le biais de plus de deux millions et demi de livres sterling par an en fonds non désignés, donnant à l'OHCHR l'indépendance totale de décider comment utiliser ces fonds pour remplir son mandat.

Le RU maintiendra l'invitation permanente adressée à toutes les Procédures spéciales de visiter le RU et il continuera à coopérer pleinement avec celles-ci. Le RU s'efforcera de maintenir sa tradition de soumettre des rapports complets et opportuns aux organes de suivi des traités.

Le RU prévoit de contribuer plus de quatre cents millions de livres sterling sur les deux prochaines années (2006-2008) sous forme de soutien institutionnel aux agences de l'ONU, y compris celles qui jouent un rôle essentiel dans la protection et dans la promotion des droits de l'homme, comme par exemple le Haut Commissaire des Nations unies pour les réfugiés (HCR), le Fonds des Nations unies pour l'enfance (UNICEF), le Fonds des Nations unies pour la démocratie et l'Organisation internationale du travail (OIT).

### 3) L'engagement de faire progresser les droits de l'homme au plan international

Le RU continuera à encourager les gouvernements du monde entier à ratifier les traités des Nations unies sur les droits de l'homme et, à travers ses programmes de développement et d'autres formes d'assistance, à les aider à respecter les obligations que ces traités imposent aux États.

Le RU continuera à encourager les stratégies de développement menées par les pays et à collaborer avec ses partenaires pour incorporer au développement les principes des droits de l'homme en matière de participation, d'inclusion et d'obligation de rendre compte. Le RU continuera à fournir une assistance technique et financière aux États pour qu'ils renforcent la capacité de leurs systèmes de sécurité et de leur appareil judiciaire, avec plus de deux cents vingt-cinq millions de livres sterling engagées actuellement pour des programmes consacrés à la sécurité et au secteur de la justice dans les pays en développement.

Le RU continuera à être au premier plan des nouvelles approches en ce qui concerne les droits de l'homme, telles que :

- en tant que troisième pays à avoir ratifié le Protocole facultatif à la Convention contre la torture, le RU se prépare d'ores et déjà à instaurer son Mécanisme national de prévention avant que le Protocole n'entre en vigueur. Le RU est prêt à partager son expérience concernant la création d'un mécanisme national de prévention avec les autres États qui cherchent à aboutir au même objectif.
- le RU continuera à prendre l'initiative dans les efforts déployés au plan international pour faire progresser la question de la responsabilité collective et des droits de l'homme en concertation avec toutes les parties prenantes, en accord avec le rôle qui est le nôtre de mener les négociations au sein des Nations unies en vue d'instaurer un Représentant spécial du Secrétaire général et par le biais d'initiatives telles que les principes directeurs sur la sécurité et les droits de l'homme.
- le RU continuera à apporter son appui aux processus internationaux visant à faire progresser la parité, dont l'application de la Déclaration de Beijing et sa plateforme d'action. Le RU apportera son soutien aux Nations unies pour renforcer leur capacité à promouvoir la parité et la responsabilisation des femmes. Nous demeurons attachés à l'application pleine et entière de la Résolution 1325 du Conseil de sécurité sur la femme, la paix et la sécurité, et nous la ferons progresser à travers notre Plan d'action national.
- Le RU continuera à soutenir les négociations pour une nouvelle convention des Nations unies sur les droits des handicapés, y compris la participation active au processus de la société civile.
- Le RU maintiendra les efforts qu'il déploie pour enrayer les effets dévastateurs du VIH-sida dans de nombreuses régions du monde et pour améliorer la promotion et la protection des droits des personnes affectées. La stratégie du RU pour une action accélérée contre le VIH-sida promet des moyens accrus s'élevant à un milliard et demi de livres sterling sur trois ans pour la période 2005-2007.

Le RU reconnaît que le développement, la paix et la sécurité, d'une part, et les droits de l'homme, de l'autre, sont liés et qu'ils se renforcent mutuellement. Le RU maintiendra son objectif visant à éliminer la pauvreté dans les pays en développement, en particulier grâce à la réalisation d'ici 2015 des Objectifs de développement du Millénaire (ODM). Le soutien du RU pour atteindre les ODM peut contribuer à la réalisation des droits de l'homme, à l'instar de la réalisation de l'éducation primaire universelle (ODM 2), la promotion de la parité (ODM 3), et la réduction de la mortalité infantile (ODM 4). Nous continuerons à lutter contre l'exclusion et la discrimination à travers nos programmes de développement et à promouvoir des droits égaux pour tous.

#### **4) L'engagement de faire respecter des normes en matière de droits de l'homme au RU**

Le RU continuera à rechercher les normes les plus élevées en matière de promotion et de protection des droits de l'homme. A cette fin, il n'épargnera aucun effort pour maintenir l'application pleine et entière des obligations internationales qui sont les siennes au titre des Pactes, Conventions et Protocoles facultatifs des Nations unies auxquels il est partie.

Le RU continuera à s'efforcer d'améliorer la promotion et la protection des droits de l'homme de tous ses citoyens. Ceci englobera des initiatives telles que l'examen de la législation sur la discrimination (*Discrimination Law Review*) qui, à l'heure actuelle, est en train de passer en revue tous les aspects de la législation interne sur la discrimination et l'égalité dans le but de la regrouper avant 2009 en une seule et unique loi globale sur l'égalité. Nous continuerons à appliquer les Stratégies nationales pour accroître l'égalité entre les races et la cohésion sociale en Grande-Bretagne et en Irlande du Nord, en accord avec les engagements pris à la Conférence mondiale de Durban en 2001 contre le racisme, la discrimination raciale, la xénophobie et l'intolérance qui y est associée.

Le RU continuera à viser à l'amélioration constante de mécanismes et procédures destinés à promouvoir et à protéger les droits de l'homme et les libertés fondamentales de tous ses citoyens. Le RU est en train d'instaurer une nouvelle Institution nationale pour les droits de l'homme pour la Grande-Bretagne sous la forme de la Commission pour l'égalité et les droits de l'homme. Cette Commission reposera sur trois piliers fondamentaux – l'égalité, les droits de l'homme et les bons rapports, recherchant une équité à travers tous les niveaux de notre société en retirant les obstacles injustes et en élargissant les chances pour tous. De même, une nouvelle commission pour les droits de l'homme sera instaurée en Ecosse cette année.

Le RU continuera à protéger les droits des personnes handicapées. Nous avons d'ores et déjà élargi notre vaste législation sur la discrimination face au handicap et nous avons pour objectif clair que d'ici 2025 les personnes handicapées devraient avoir toutes les chances et tous les choix nécessaires pour améliorer la qualité de leur vie. Nous concentrons notre stratégie sur la promotion d'une vie indépendante – donnant aux personnes handicapées le choix et la liberté et qui leur permette de se prendre en charge. Pour que ceci devienne réalité, en décembre 2005, nous avons créé un Office chargé de se pencher sur les problèmes liés au handicap, l'*Office for Disability Issues*, qui mettra

au point une stratégie gouvernementale transversale (et en sera l'élément moteur) pour assurer l'égalité des personnes handicapées. Nous travaillerons en collaboration plus étroite avec les personnes handicapées et leurs organisations et nous veillerons à ce qu'elles aient une voix au cœur de la politique et de la prise de décision en instaurant un Forum national pour communiquer directement avec le gouvernement et nous lancerons et promouvoir de nouvelles façons d'améliorer les prestations de services aux personnes handicapées afin de soutenir leur indépendance et leur choix.

Le RU continuera à encourager une culture de transparence, d'ouverture et de dialogue dans sa poursuite de meilleures normes en matière de droits de l'homme. Le Gouvernement britannique continuera à solliciter la contribution des ONG et il maintiendra le dialogue sur ses travaux liés aux droits de l'homme, y compris avec le Parlement et la société civile.

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Permanent Mission of The Republic of Zambia To The United Nations  
237 East 52nd Street, New York, NY 10022  
Tel: (212) 888-5770 Fax: (212) 888-5213  
E-mail: zambia@un.int

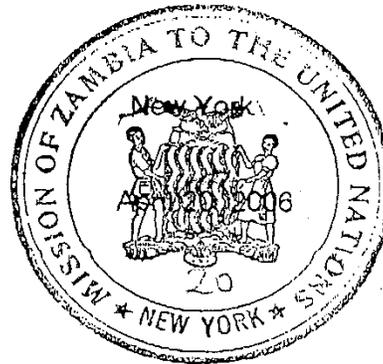
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58/2006

The Permanent Mission of the Republic of Zambia to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to inform that the Government of the Republic of Zambia has decided to present its candidature to the membership of the United Nations Human Rights Council at the elections to be held during the United Nations General Assembly on 9th May, 2006.

The Mission of Zambia in accordance with resolution A/RES/60/251 is therefore attaching an Aide Memoire concerning its commitments to the Human Rights Council.

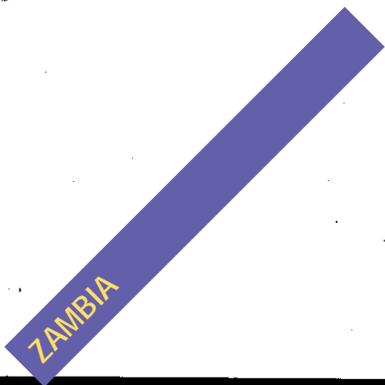
The Permanent Mission of the Republic of Zambia to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations, the assurances of its highest consideration. *Mut*



The Secretary-General  
of the United Nations  
NEW YORK

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**AIDE MEMOIRE****Zambia's Candidature for Human Rights Council**

Zambia welcomes the establishment of the Human Rights Council and views this achievement as an opportunity for the International Community to further strengthen the human rights regime. Zambia in that regard supports the critical role of the United Nations in the advancement of human rights and will endeavour to contribute to the Council to enable it effectively promote and protect all human rights.

**Zambia's Constitution**

Zambia's Constitution which is the fundamental law of the land contains the Bill of Rights, which makes provisions for fundamental rights and freedoms enjoyed by every person in Zambia regardless of place of origin, political opinion, colour, creed or sex.

Zambia's Constitution emphasises democracy, respect for human rights and limitation of Government power. The Zambian people have the right to elect a leader of their choice. Zambia has separation of power with the Executive, legislature and judiciary as independent arms of Government. Zambia has also endeavoured to create an enabling environment for effective participation of civil society in the affairs of the nation. Furthermore, the country has since achieving independence in 1964, regularly held elections at both national and local levels. Independent observers have generally declared these elections free and fair. In the Presidential and General elections of 2001, there were eleven presidential candidates including two high profile women. This year, Zambia once again goes to the polls and it is envisaged that there will be several presidential candidates including women.

Economic, social and cultural rights are also provided for in the Constitution although they are not justiciable. The Constitution also provides that the State shall be based on democratic principles and endeavour to create an economic environment which shall encourage individual initiative and self reliance among the people and promote private investment; create conditions under which all citizens shall be able to secure adequate means of livelihood; provide social amenities, equal and adequate educational opportunities; provide for persons with disabilities and recognise the right of every person to fair labour practices.

**General framework within which Human Rights are Protected***Human Rights Commission*

The establishment of the Zambian Human Rights Commission in 1996 has further enhanced the promotion and enjoyment of human rights. The Commission is mandated, inter alia, to investigate human rights violations; mal-administration of justice; and to propose effective measures to prevent human rights abuses. The creation of the

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Commission is clearly a milestone in Zambia's history and indicates the State party's willingness to promote the enjoyment of human rights by Zambian people. Although the Commission has no enforcement powers its presence is noticeable in that it highlights abuses of human rights wherever perpetrated by the State party or any other body and therefore discourages further abuses.

*Law Association*

The Law Association of Zambia which was established pursuant to an Act of Parliament also has a Human Rights Committee which plays a similar role as the Human Rights Commission and reports to the Council of the Association.

*Media*

The media in Zambia enjoys an increasing high degree of freedom, which allows the press, radio and television to play a significant role in exposing breaches of human rights and fundamental freedoms and exert pressure for remedial action. The media is free to report Parliamentary proceedings as well as court proceeds relating to human rights matters.

*NGOs/Civil Society*

Churches and NGOs play a prominent role in the promotion and protection of human Rights standards among the members of the public and are involved in various human rights activities.

*Foreign Policy*

The main guiding principle of Zambia's Foreign policy relates to Human rights and fundamental Freedoms. Zambia is convinced that there can be no meaningful development without the full protection of fundamental human rights and freedoms. In that regard we have signed and ratified the major international and regional instruments relating to the promotion and protection of human rights including:

- International Convention on the Elimination of all Forms of Racial Discrimination (CERD);
- International Covenant on Economic, Social and Cultural Rights (ICESCR);
- International Covenant on Civil and political Rights (ICCPR)
- Optional Protocol to the International Covenant on Civil and Political Rights;
- Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW);
- Convention on the Political Rights of Women;
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- Convention on the Rights of the Child (CRC);
- African Charter on Human and People's Rights (ACHPR);

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- United Nations Convention relating to the Status of Refugees;
- Protocol Relating to the Status of Refugees;
- Four Geneva Conventions of 1949;
- Protocols to the Geneva Conventions;
- Seven International Labour Organisation Fundamental Human Rights Conventions;
- Rome Statute of the International Criminal Court (ICC).

### **Zambia's Role in International Relations**

#### *Zambia's Role in Contributing to the Liberation Struggle in Africa*

Zambia underscores the right of all people to self determination. Zambia's steadfast belief in the principle of the Right to self determination had compelled us to contribute to the liberation struggle in Southern Africa and other parts of Africa and has continued to help countries emerging from conflict in the sub-region. In that regard Zambia has played centre stage in brokering peace agreements in the Southern African region in particular. Zambia will continue to propagate this principle at the international and regional levels.

#### *Zambia's Assistance to Refugees*

As a result of the Liberation struggles in Southern Africa and civil wars that have emerged in some neighbouring countries, Zambia has played host to several refugees fleeing from conflict. Zambia in that regard has implemented the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees to the letter and hosted several refugees since its independence in 1964. In its attempt to address the long refugee situation, Zambia has been implementing durable solutions. For those refugees that have not been voluntary repatriated, Zambia in close collaboration with UNHCR, has initiated a development programme known as the "Zambian Initiative," to spur economic development in the western province of Zambia which has a large concentration of refugees, as a pilot project. This is a holistic approach which is designed to assist both the host communities and refugees. The ultimate goal is to make both parties self-sufficient. Those refugees, who do not return, can therefore remain in the area with dignity, being self-reliant and contribute to national development in a positive way.

#### *Zambia's Contribution to Peacekeeping Missions*

Zambia supports the notion that security and peace, development and human rights are essential pillars in international relations. As a firm believer in the role that the United Nations should play in the maintenance of International peace and security, Zambia has significantly contributed to United Nations peacekeeping operations by providing military, police and civilian personnel to peacekeeping missions around the world. Zambia has participated in 15 peacekeeping missions and is currently involved in 9 missions.

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**Zambia's commitments to advance the protection and promotion of human rights at the national and International levels**

- Zambia was a member of the Commission on Human Rights (CHR), for 3 terms. With this experience Zambia hopes to work closely with members in the Council and non members in formulating rules and structures including the peer review mechanism, designed to ensuring a strong Council that is transparent, non selective and promotes dialogue and cooperation with Member States.
- Zambia will continue to respect the provisions of protocols relating to human rights both regionally and globally.
- Zambia will accelerate the process of signing such protocols as the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Optional Protocol to the Convention on the rights of the Child on the sale of children, child prostitution and child pornography.
- Zambia will also speed up the process of signing the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women.
- Zambia shall endeavour to incorporate the provisions of international instruments e.g. CEDAW, CAT, CERD into domestic legislation as a clear demonstration of its commitment to the promotion and protection of human rights.
- Zambia will continue to cooperate with UN human rights treaty bodies by meeting deadlines for submission of periodic reports and acting on their concluding observations and recommendations.
- The just ended comprehensive review of the Zambian Constitution which was embarked upon in 2003 through a Constitutional Review Commission (CRC), has recommended appropriate ways of entrenching and protecting human rights in the country.

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# Endnotes

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- 4 "Judge, Jury and Executioner: Torture and Extrajudicial killings by Bangladesh's Elite Security Force", Vol. 18 No.16 (c), Human Rights Watch, December 2006. P.17
- 5 Id., Also see: "Bangladesh: The Human Rights Situation in 2006", Asian Human Rights Commission, December 2006. "An articulate compilation on law enforcers and extrajudicial killings", Elyus Rahman, *Law & Our Rights* (Issue No: 254 September 16, 2006), The Daily Star, <http://www.thedailystar.net/law/2006/09/02/index.htm> (Accessed on 28-02-07)
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- 7 Supra note 1 at P. 9
- 8 "Bangladesh: The Human Rights Situation in 2006", Asian Human Rights Commission, December 2006. P. 2
- 9 Similar provisions can also be found in Section 86 of the Dhaka Metropolitan Police Ordinance. "Bangladesh: The Human Rights Situation in 2006, Asian Human Rights Commission", December 2006. P.3
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See also: <http://web.amnesty.org/library/Index/ENGASA130072006?open&of=ENG-2AS>
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- 17 "RMG worker's rights: Law and reality", Elyus Rahman, *Law & Our Rights* (Issue No: 240, June 3, 2006), The Daily Star <http://www.thedailystar.net/law/2006/06/01/analysis.htm>
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- 19 "Human Rights Commission: Always in manifesto, never in agenda", Sultana Razia, *Law & Our Rights* (Issue No: 265, December 9, 2006), *The Daily Star*, <http://www.thedailystar.net/law/2006/12/02/desk.htm>
- 20 <http://www.thedailystar.net/2007/02/08/d7020801033.htm>
- 21 See Appendix II for the full text of the pledge
- 22 'all discriminatory act against a person, a group or an organisation is repressed'
- 23 [http://www.humanrights-geneva.info/article.php?id\\_article=1172](http://www.humanrights-geneva.info/article.php?id_article=1172)
- 24 Id.
- 25 [http://www.postnewsline.com/2007/01/scnc\\_southern\\_z.html](http://www.postnewsline.com/2007/01/scnc_southern_z.html)  
[http://www.postnewsline.com/2007/01/scnc\\_detainees\\_.html](http://www.postnewsline.com/2007/01/scnc_detainees_.html)
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# Easier Said than Done

A report on commitments and performances of the  
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