

Submission of the Commonwealth Human Rights Initiative (CHRI) to the Commonwealth Ministerial Action Group meeting, 22 November 2007

CHRI submission

The Commonwealth Human Rights Initiative (CHRI) welcomes the Commonwealth Ministerial Action Group's (CMAG) statement dated 12 November 2007 expressing grave concern following the imposition of an unconstitutional state of emergency in Pakistan on 3 November 2007. CHRI supports the CMAG's decision that the declaration of emergency has led to a serious breach of the Harare Declaration and the Latimer House Principles.

CHRI commends CMAG for reaffirming that democracy, democratic processes and institutions, the rule of law and just and honest government are the fundamental political values of the Commonwealth as enshrined in the Harare Declaration. CHRI further commends CMAG for taking swift action to reinforce that membership of the Commonwealth is predicated on the absolute promise to protect and promote these values, while also providing General Musharraf and his government an opportunity to ensure that Pakistan complies with its obligations as a member of the Commonwealth.

On 12 November 2007, CMAG set out a number of measures that the Government of Pakistan was required to implement. CMAG agreed that if General Musharraf and his government failed to implement the measures by 22 November 2007, Pakistan would be suspended from the Councils of the Commonwealth.

General Musharraf and his government have not taken any steps to implement the measures. Pakistan remains in a state of crisis and in serious violation of the Harare Declaration.

CMAG must

- 1 Reiterate its call for the immediate, absolute and unconditional end of the state of emergency, the restoration of the rule of law and the reinstatement of the Constitution of Pakistan.
- 2 Reiterate its call for the immediate, absolute and unconditional restoration of judicial independence and also call for the reappointment of judicial officers to their rightful offices.
- 3 Reiterate its call for General Musharraf to commit to holding credible parliamentary elections as planned in January 2008, following the end of the state of emergency and the restoration of the constitutional rights of the people, political parties and independence of the judiciary.
- 4 Suspend Pakistan from the Councils of the Commonwealth until the state of emergency is ended, while signaling continued support for civil society.

The situation in Pakistan

The imposition of an illegal state of emergency has led to interference with the judiciary, dismissal, intimidation and detention of members of the Supreme Court and high courts, mass arrests, escalating police brutality and targeting of human rights defenders. The state of emergency aimed to stifle democracy and peaceful dissent. Political workers and lawyers across the country have also been arrested to prevent any organised opposition to the emergency. The freedom of the media has also been attacked as private news channels have been banned and laws are being amended to further control the press.

On 20 November 2007, there was further brutal police action against journalists demonstrating against the media restrictions imposed under the state of emergency. Despite General Musharraf's announcement on 20 November 2007 of the release of 3,400 people detained under emergency laws, further journalists and demonstrators were detained during the police action shortly after the announcement.

Previous CMAG action in relation to Pakistan

Pakistan has been of long-term and continuing concern to CMAG.

In October 1999, CMAG held an emergency meeting following a military takeover of government in Pakistan. CMAG acted and suspended Pakistan from the Councils of the Commonwealth, including the 1999 Commonwealth Heads of Government Meeting in Durban, South Africa, pending restoration of democracy.

Pakistan was returned to full membership of the Commonwealth in May 2004, following progress made in restoring democracy and rebuilding democratic institutions in the country, as well as the restoration of the 1973 Constitution (as amended by the 17th Amendment). Pakistan's return to the Commonwealth was accepted on the basis that the offices of President and Chief of Army Staff would be separated.

Pakistan remained on the CMAG agenda.

On 12 November 2007, an extraordinary meeting of CMAG was convened to consider the situation in Pakistan following the imposition of a state of emergency. CMAG found that Pakistan was in serious breach of the Harare Declaration and required the Government of Pakistan to implement the following measures:

- immediate repeal of the emergency provisions and full restoration of the Constitution and of the independence of the judiciary, including full restoration of fundamental rights and the rule of law that have been curbed under the Proclamation of Emergency;
- President Musharraf to step down as Chief of Army Staff as promised;
- immediate release of political party leaders and activists, human rights activists, lawyers and journalists detained under the Proclamation of Emergency;
- immediate removal of all curbs on private media broadcasts and restrictions on the press;
- move rapidly towards the creation of conditions for the holding of free and fair elections in accordance with the Constitution.

CMAG agreed that if the Government of Pakistan did not implement these measures by its next meeting on 22 November, it would suspend Pakistan from the Councils of the Commonwealth.

Previous Commonwealth Heads of Government action in relation to Pakistan

At the Commonwealth Heads of Government Meeting in Malta in 2005, the Heads noted that where a person is both Head of State and Chief of Army Staff, the basic principles of democracy and the spirit of the Harare Principles are contravened.

The Heads reiterated that until the two offices are separated in Pakistan, the process of democratisation continued to be at risk.

CMAG and civil society

CHRI, as the main Commonwealth human rights civil society organisation, is committed to providing a civil society perspective on the issues and countries considered by CMAG.