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ADMINISTRATION OF JUSTICE, RULE OF LAW AND DEMOCRACY

Question of human rights and states of emergency

List of States which have proclaimed or continued a state of emergency

Report of the Office of the High Commissioner for Human Rights submitted in accordance with Commission on Human Rights decision 1998/108*

* The report was submitted after the deadline in order to complete necessary research.

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Introduction

1. The present report is prepared pursuant to decision 1998/108 of the Commission on Human Rights, in which the Commission requested the Office of the United Nations High Commissioner for Human Rights to submit to the fifty-first session of the then Sub-Commission on the Prevention of Discrimination and Protection of Minorities, and every second year thereafter, a list of States in which a state of emergency was proclaimed or continued during the reporting period.

2. Under article 4 (3) of the International Covenant on Civil and Political Rights (Covenant), States parties availing themselves of the right of derogation are to inform the other States parties immediately, through the Secretary-General, of the derogations it has made, including the reasons therefor and the date on which the derogations are terminated. However, for the period between June 2001 and May 2003, only some notifications were received by the Secretary-General.

3. The Office of the United Nations High Commissioner for Human Rights has relied on information provided by United Nations sources, non-governmental organizations and a national human rights institution to draw up the requested list of States.

I. COUNTRIES OR TERRITORIES IN WHICH A STATE OF EMERGENCY HAD BEEN PROCLAIMED BEFORE JUNE 2001 AND CONTINUED THEREAFTER

Algeria

The President of the High State Council issued Presidential Decree No. 92-44 of 9 February 1992, decreeing a state of emergency throughout the national territory for a duration of 12 months, in accordance with articles 67, 74 and 76 of the Algerian Constitution.

The state of emergency is still in effect.

Sources: Notification of the Government to the United Nations Secretary-General dated 13 February 1992; report to the Commission on Human Rights of the Special Rapporteur on freedom of religion or belief (E/CN.4/2003/66/Add.1, para. 50); Amnesty International *Annual Report 2003*.

Egypt

The state of emergency declared in 1981 is still in effect.

Source: Concluding observations of the Human Rights Committee, 28 November 2002.

Israel

The Government of Israel notified that the state of emergency proclaimed in May 1948 has remained in force. As the situation constitutes a public emergency within the meaning of article 4 (1) of the Covenant, the Government found it necessary to take measures to the extent strictly required by the exigencies of the situation for the defence of the State and for the

protection of life and property, including the exercise of powers of arrest and detention. Insofar as any of these measures are inconsistent with article 9 of the Covenant, Israel derogates from its obligations under that provision.

The state of emergency is still in effect.

Sources: Notification of the Government to the United Nations Secretary-General, received on 3 October 1991; United Nations Information Service, 27 March 2003.

Pakistan

On 14 October 1999, a state of emergency was proclaimed in Pakistan and the Chief Executive of Pakistan assumed office. The measure also suspended the Constitution while declaring that most of the fundamental rights would remain in force. The National Assembly, the Provincial Assemblies and the Senate were also suspended.

After the general election held in October 2002, the Constitution was restored.

Source: Human Rights Commission of Pakistan, May 2003.

Sierra Leone

On 1 March 2002, the President of Sierra Leone announced the lifting of a state of emergency in place since 1998.

Source: Thirteenth report of the Secretary-General on the United Nations Mission in Sierra Leone (S/2002/267, para. 28).

Sri Lanka

The Government of Sri Lanka notified of a declaration of a state of emergency and of derogation from articles 9 (2), 9 (3), 12 (1), 12 (2), 14 (3), 17 (1), 19 (2), 21 and 22 of the Covenant.

The state of emergency lapsed on 4 July 2001.

Sources: Notification of the Government to the United Nations Secretary-General dated 30 May 2000; Amnesty International *Annual Report 2002*.

Syrian Arab Republic

Legislative Decree No. 51 of 9 March 1963 declaring a state of emergency is still in force.

Source: Concluding observations of the Human Rights Committee, 5 April 2001: no information to the contrary available.

Sudan

The Government of the Sudan informed the Secretary-General that the state of emergency in place in the Sudan has been extended until 31 December 2001.

The Government further informed the Secretary-General that the state of emergency in the Sudan has been extended for another year, until 31 December 2002.

Sources: Notifications of the Government to the United Nations Secretary-General received on 17 August 2001 and dated 19 December 2001.

Turkey

The state of emergency which had been in force in certain provinces was lifted on 30 November 2002.

Sources: Conclusions and recommendations of the Committee against Torture, 13 May 2003; Amnesty International *Annual Report 2003*.

II. COUNTRIES OR TERRITORIES IN WHICH A STATE OF EMERGENCY WAS PROCLAIMED BETWEEN JUNE 2001 AND MAY 2003

Argentina

Decree No. 1678/2001 of 19 December 2001 proclaimed a state of siege for 30 days in the territory of Argentina.

Decree No. 1689/2001 of 21 December 2001 suspended the state of siege declared by Decree No. 1678/2001.

Decrees Nos. 16, 18 and 20/2001 of 21 December 2001 declared a 10-day state of siege in the provinces of Buenos Aires, Entre Rios and San Juan.

On 31 December 2001, martial law in the provinces of Buenos Aires, Entre Rios and San Juan was lifted.

Sources: Notifications of the Government to the United Nations Secretary-General dated 21 and 23 December 2001, 4 and 18 January 2002.

Colombia

Decree No. 1837 of 11 August 2002 declared a state of internal disturbance throughout the national territory.

Decree No. 2555 of 8 November 2002 extended the state of internal disturbance declared by Decree No. 1837 of 11 August 2002 for 90 calendar days.

Decree No. 245 of 5 February 2003, renewed the extension of the declaration of internal disturbance throughout the national territory.

Sources: Notification of the Government to the United Nations Secretary-General dated 12 August 2002, 8 November 2002 and 12 February 2003.

On 29 April 2003, the Constitutional Court of Colombia overturned Decree No. 245.

Ecuador

Executive Decree No. 2404 of 26 February 2002 declared a state of emergency in Sucumbios and Orellana provinces due to the serious situation arising out of problems relating to the conflict in Colombia on the border areas.

Executive Decree No. 2421 of 4 March 2002 abrogated Executive Decree No. 2404 and declared that the state of emergency in Sucumbios and Orellana provinces over.

Executive Decree No. 2492 of 22 March 2002 declared a state of emergency in Esmeraldas, Guayas Los Rios, Manabi and El Oro provinces due to a severe storm on the Ecuadorian coast. On 22 May 2002, the state of emergency was lifted pursuant to the legal provision embodied in article 182, paragraph 2, of the Ecuadorian Constitution to the effect that "a decree of a state of emergency shall remain in force for up to a maximum of 60 days".

Executive Decree No. 2625 of 7 May 2002 declared a state of national emergency in respect of land transport. The decree was to last until 7 July 2002, unless the President declared in advance that it would be lifted.

Source: Notification of the Government to the United Nations Secretary-General received on 17 July 2002.

Ghana

On 27 March 2002, a state of emergency was declared in the Dagbon area of northern Ghana. On 15 April 2003, the state of emergency was lifted because it was not supported by Parliament. On 17 April 2003, the President of Ghana again declared a state of emergency in the Dagbon area.

Sources: United Nations Integrated Regional Information Network (IRIN), 16 October 2002, 17 April 2003 and 18 April 2003.

Guatemala

Government Decree No. 2-2001 extended the state of emergency throughout the national territory declared by Government Decree No. 1-2001 for an additional 30 days.

Source: Notification of the Government to the United Nations Secretary-General dated 26 July 2001.

Indonesia

Presidential Decree No. 28/2003, which declared a military emergency in Aceh province, reportedly came into force on 19 May 2003. The decree was signed after the failed peace talks.

Source: Amnesty International, 23 May 2003.

Liberia

On 8 February 2002, the President of Liberia declared a state of emergency. On 14 September 2002, the state of emergency was lifted by the President.

Sources: United Nations Integrated Regional Information Network (IRIN), 14 September 2002 and 16 September 2002; Amnesty International *Annual Report 2003*.

Nepal

On 26 November 2001, a state of emergency was declared in the entire Kingdom of Nepal, in accordance with article 115 of the Constitution. The rights contained in the following articles of the Constitution were suspended: 12.2a; 12.2b; 12.2d; 13.1; 15; 16; 17; 22; and 23. However, the right to the remedy of habeas corpus was not suspended. The Government further informed the Secretary-General that while suspending certain rights and freedoms, it has fully observed the provision of article 4, paragraphs 1 and 2, of the Covenant. Accordingly, the rights and freedoms as contained in articles 6, 7, 8 (1), 11, 15, 16 and 18 of the Covenant, which are also guaranteed by the Constitution of the Kingdom of Nepal, remain in effect.

The Government further informed the Secretary-General that it extended the state of emergency by three months in view of the security situation in the country caused by the Maoist insurgency. The Government declared that it is committed to lifting the emergency as soon as there is an improvement in the security situation, in order to facilitate free and peaceful general elections.

On 20 August 2002, the Government lifted the state of emergency in the country pursuant to article 4 (3) of the Covenant.

Sources: Notifications of the Government to the United Nations Secretary-General received on 8 March 2002 and 31 May 2002, and dated 19 November 2002.

Peru

Supreme Decree No. 052-2002-PCM of 16 June 2002 declared a state of emergency in the Department of Arequipa, in the south of the country, for a period of 30 days, with the suspension in that region of the rights relating to inviolability of domicile, freedom of movement and freedom of assembly and to liberty and security of person provided for in article 2, paragraphs 9, 11, 12 and 24 (f), respectively, of the Political Constitution of Peru.

Decree No. 054-2002-PCM of 21 June 2001 revoked the state of emergency declared in the Department of Arequipa.

Decree No. 055-2003-PCM of 29 May 2003 declared a state of emergency in the entire territory of Peru for 30 days. The rights contained in article 2, paragraphs 9, 11, 12 and 24 (f) of the Constitution were suspended.

Sources: Notifications of the Government to the United Nations Secretary-General, received on 18 June 2002 and 25 June 2002.

Serbia and Montenegro

The Decision and Order of 12 March 2002 declared a state of emergency in the Republic. The Order provided for the derogation from rights guaranteed by articles 9, 12, 14, 17, 19, 21 and 22 (2) of the Covenant.

Decision No. 29 declared a termination of the state of emergency in the Republic.

Sources: Notifications of the Government to the United Nations Secretary-General dated 12 March and 23 April 2003.

United Kingdom of Great Britain and Northern Ireland

A public emergency, within the meaning of article 4 (1) of the Covenant, was declared in the United Kingdom due to the existence of a terrorist threat to the United Kingdom from persons suspected of involvement in international terrorism.

As a result of the public emergency, provision was made in the Anti-terrorism, Crime and Security Act 2001, inter alia for an extended power to arrest and detain a foreign national subject to certain conditions stipulated therein. The Government further informed the Secretary-General that it had considered whether the exercise of the extended power to detain contained in the Anti-terrorism, Crime and Security Act 2001 could be inconsistent with the obligations under article 9 of the Covenant. To the extent that the exercise of the extended power might be inconsistent with the United Kingdom's obligations under article 9, the Government decided to avail itself of the right of derogation conferred by article 4 (1) of the Covenant and will continue to do so until further notice.

Source: Notification of the Government to the United Nations Secretary-General of 18 December 2001.
