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SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on minority issues; and the Special Rapporteur on the human right to safe drinking water and sanitation.

REFERENCE: AL Food (2000-9) Health (2002-7) Minorities (2005-4) Water (2008-1)
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the right to food; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on minority issues; and Special Rapporteur on the human right to safe drinking water and sanitation pursuant to Human Rights Council resolutions 22/9, 24/6, 25/5, and 24/18.

In this connection, we would like to bring to your Excellency's Government's attention information we have received regarding the **alleged death of at least one hundred and thirty two children in the Thar desert, Tharparkar district, Sindh province as a result of malnutrition. The situation has allegedly been fuelled by food insecurity and inadequate health care as well as the lack of safe drinking water and undue delays in the distribution of relief efforts to vulnerable communities.**

According to the information received:

Since November 2013 at least one-hundred and thirty-two children have allegedly died in the Thar desert in Tharparkar district, Sindh province as a result of malnutrition. Thirty-eight of these deaths allegedly occurred at the Mithi Taluka hospital in December. Severe and chronic food and water shortages due to drought and extreme poverty are cited as the principal causes of death. It is reported that the majority of the victims belong to the minority Dalit community who are among the poorest of the poor in the region.

Reports suggest that Sindh province has been blighted by drought for several years with the lack of irrigation facilities preventing many families from feeding their livestock and growing crops. In recent months, ninety percent of water sources, including wells, have reportedly run dry, forcing many families to leave

their homes in search of food and fodder for their livestock as well as for water sources for their personal and domestic use. Inadequate infrastructure to provide sustainable water and sanitation services along with a lack of safe drinking water has also led many to share water sources with animals resulting in disease. Malnutrition in the province is widespread with fifty-seven percent of children under the age of five reportedly affected by stunting and seventy-two percent of households in the region considered as food insecure.

Reports suggest that the crisis has been exacerbated by a lack of commitment on behalf of the authorities to provide sufficient investment in developing healthcare facilities with long-standing vacancies in government run hospitals and health centres, limiting the provision of adequate medical services. A chronic lack of female doctors has also led to increased complications related to maternal health as women are reluctant to attend clinics run by male doctors this in turn, has had a direct impact on infant mortality. It is reported that health infrastructure is poor with just one hospital serving a population of one-and-a-half million in the province. Few roads link remote villages to more developed parts of the country where medical facilities may be more advanced.

While the province has experienced extreme weather conditions in the past, it is reported that the region usually receives subsidized food and animal fodder by August of a given year when rainfall is below average. Relief efforts were purportedly not initiated until November in this case despite the most recent drought being described as the worst since 1998.

According to reports, provincial authorities failed to fully report the facts surrounding the crisis, specifically neglecting to distribute sixty-thousand bags of wheat flour allocated to the region in December 2013. The wheat is reportedly still in storage as payment was not made to those hired to transport the produce.

Efforts have reportedly been made in recent weeks to tackle the crisis through the establishment of medical camps by the Pakistan Army, a health department and other state agencies. An investigation into allegations of corruption in relation to the distribution of wheat has also reportedly been initiated by the Prime Minister along with a reported one billion rupee aid package for the region.

Concern is expressed at reports suggesting that delays in implementing a relief programme to assist those affected by the drought in Sindh province has led to the death of at least one hundred and thirty two children. Further concern is expressed at reports highlighting insufficient medical facilities, lack of clean drinking water, as well as food insecurity and situations of extreme poverty, which are continuing to affect some of the most vulnerable groups in society including those belonging to the Dalit minority.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the applicable international human rights norms and standards.

Article 25 of the Universal Declaration of Human Rights (UDHR) recognizes the right of everyone “to a standard of living adequate for the health and well-being of himself and of his family, including food.” Furthermore, article 11.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) – which Pakistan ratified on 17 April 2008 - stipulates that States “recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions” and requires them to “take appropriate steps to ensure the realization of this right.”

The right to adequate food is also recognized in the Convention on the Rights of the Child (CRC) - ratified on 12 November 1990 - in articles 24.2(c) and 27.3. In the Convention, the right to adequate food is to be read in conjunction with the right to life, survival and development stipulated at article 6. States parties to the CRC commit themselves to combat “disease and malnutrition, including within the framework of primary health care, through, inter alia, (...) the provision of adequate nutritious foods and clean drinking-water.”

The Committee on Economic, Social and Cultural Rights, which monitors the implementation of the ICESCR, has further defined the core content of the right to food in its General Comment No. 12, along with the corresponding obligations of States to respect, protect and fulfil the right to food. The Committee considers that the core content of the right to adequate food implies, inter alia, availability of food which refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well-functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand, and accessibility of food which encompasses both economic and physical accessibility. The obligation to respect existing access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly.

The Committee states that especially disadvantaged groups may need special attention and sometimes priority consideration with respect to accessibility of food (E/C.12/1999/5, para. 13). The Committee makes special note of socially vulnerable groups such as landless persons and other particularly impoverished peoples, as segments of the population who may need specific attention from governments through for example, social programmes. While it is very positive that the government of Pakistan has instituted policies and programmes to help the most disadvantaged, social programmes fail to support the right to food, when through corruption vulnerable populations do not receive their allotted entitlements.

Corruption in government programmes can have other impacts on the right to food as well. According to the Committee, the formulation and implementation of national strategies for the right to food require full compliance with the principles of accountability and transparency (E/C.12/1999/5, para. 23). Accountability and transparency are deeply threatened by corruption.

With respect to the human right to safe drinking water and sanitation, we would like to remind your Excellency's Government that ICESCR, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child entail human rights obligations attached to access to safe drinking water and sanitation.

On 28 July 2010 the UN General Assembly explicitly recognized water and sanitation as a fundamental human right. In 2010 the Human Rights Council (resolution 15/9) explicitly reaffirmed that safe and clean drinking water and sanitation are a fundamental human right, derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable of physical and mental health, as well as the right to life and human dignity. This resolution was adopted by consensus. Moreover, in 2013, the Human Rights Council (resolution 24/18) explicitly recognized that the human right to safe drinking water and sanitation entitles everyone, without discrimination, to have access to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use and to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure and acceptable, and that provides privacy and ensures dignity. This resolution was adopted by consensus.

The Committee on Economic, Social and Cultural Rights (CESCR) has clarified the content of this right in its General Comment N°15 (2002) and stated that “the water supply for each person must be sufficient and continuous for personal and domestic uses, (...) including, drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene. (...) Some individuals and groups may also require additional water due to health, climate, and work conditions”. It also states that “the water required for each personal or domestic use must be safe, therefore free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person's health”.

Furthermore as a State party to the ICESCR Pakistan has an immediate minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of all economic, social and cultural rights including the right to food (CESCR, General Comment 3, para.10). The obligation to achieve these minimum essential levels is not dispensed with during times of crisis and recovery. Even during times of severe resource constraints, when available resources are demonstrably inadequate, the obligation remains for Pakistan to demonstrate that every effort has been made to use all resources that are at its disposal, in an effort to satisfy, as matter of priority, core obligations to ensure minimum essential levels and to protect the most disadvantaged and marginalized members or groups of society by adopting relatively low-cost targeted programmes

(CESCR, Statement on Allocation of Resources, E/C.12/2007/1 paras. 4 and 6. See also CESCR, General Comment 3, para. 12, General Comment 12, para. 28; General Comment 14, para. 18.)

We also draw the attention of your Excellency's Government to the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which requires under article 4.1 that "States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law".

We would also like to recall the report by the Independent Expert on minority issues to the Human Rights Council on 6 January 2015 (A/HRC/25/56), addressing the theme "Ensuring the inclusion of minority issues in post-2015 development agendas", where it is highlighted that among the factors exacerbating the exclusion of minorities are the "unequal regional distribution of resources and services and a lack of basic infrastructure in regions where minorities live", which "often have the effect of preventing them from fully exercising their economic and social rights". The report notes that in many South Asian countries, including Pakistan, in the event of natural disasters, Dalits "are frequently the worst affected and also often systematically excluded from relief and recovery efforts". The report further underscores that "minorities are frequently in a vulnerable situation in regard to hunger, food security and nutrition", and states that "high levels of poverty and extreme poverty, lack of access to employment or secure forms of employment, land or land tenure all impact on their food security". Minorities are also often deprived of adequate healthcare and suffer from higher rates of disease, and many times the infrastructure ensuring safe drinking water and hygienic facilities are not available in minority areas; According to the report, "new attention to minorities and strategies to address their health situations are urgently required" and "minorities should be among the first targets of development strategies, yet frequently there are among the last".

We would further like to draw the attention of your Excellency's Government to the existence of the Guiding Principles on extreme poverty and human rights (A/HRC/21/39), adopted by the Human Rights Council by consensus at its 21st session (resolution 21/11), in particular paragraphs 75 and 76.

With regard to allegations of inadequate access to health care, we wish to refer your Excellency's Government to article 12 of the ICESCR, which specifically provides for the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, as well as to article 24 of the CRC, which recognizes that children and adolescents have the right to the enjoyment of the highest standard of health and access to facilities for the treatment of illness. This includes an obligation on the part of all States parties to ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially the most vulnerable or marginalized sections of the population, without discrimination.

We also wish to refer your Government to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which provides that States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons to preventive, curative and palliative health services. Furthermore, we wish to draw the attention of your Excellency's Government to General Comment No. 15 of the Committee on the Rights of the Child, which observes that the core obligations, under the children's right to health include ensuring universal coverage of quality health services, including prevention, health promotion, care and treatment services, and essential drugs.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts of the case summarized above accurate?
2. Has a legal complaint been lodged by or on behalf of the affected community? If so, please provide details and outcomes of these proceedings.
3. What measures have been taken to tackle the crisis in a sustainable and long term manner including by addressing the structural causes of poverty, safe drinking water and sanitation and food insecurity?
4. What measures, if any, have been taken to ensure the enjoyment of the right to the highest attainable standard of health by the affected community in the Sindh province, including ensuring access to adequate health care for women and children?
5. What mechanisms are in place to monitor the fair distribution of adequate food supplies, and in particular the implementation of the wheat distribution programme?
6. What measures have been taken to ensure safe drinking water and sanitation for the population?
7. What mechanisms are in place for communities to request investigations into corrupt activities in government services in relation to food distribution?
8. Are there mechanisms in place to ensure the participation of local communities in the development of policies affecting them, in particular, for those belonging to minority groups?

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the inhabitants of the Sindh province, particularly those affected by the above mentioned crisis, are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Olivier De Schutter
Special Rapporteur on the right to food

Anand Grover
Special Rapporteur on the right of everyone to the enjoyment of the
highest attainable standard of physical and mental health

IZSÁK Rita
Special Rapporteur on minority issues

Catarina de Albuquerque
Special Rapporteur on the human right to safe drinking water and
sanitation