

THE CENTURY FOUNDATION

GUIDING DEMOCRACY IN PAKISTAN: HAS THE INTERNATIONAL COMMUNITY FAILED?

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EVENT TRANSCRIPT

Panelists:

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LAURENTI: I want to welcome you to the Century Foundation, for what must be for you, as it certainly is for us, the last luncheon roundtable of the year 2007. Unless you have some invitation from some group that thinks it can pull something off on Christmas Eve, this must really close out the season.

And our program today is being jointly co-sponsored by Amnesty International, the Friedrich Ebert Stiftung, and of course the Century Foundation, and in particular its Project on Democracy that Morton Halperin, one of our presenters this afternoon, is heading for us. I'd like to turn first to Jürgen Stetten, who's the Director at the UN Office of Friedrich Ebert Stiftung for a brief word of welcome on behalf of our European partner.

STETTEN: Well, thank you very much, Jeff. It's always a distinct pleasure to be doing things together with the Century Foundation and be invited to do so. I'm wondering on what planet we are here on this table, because it seems to be one that has two moons. But we'll find out later, probably.

It is also a great pleasure to be involved in a debate on this particular topic. As some of you might know, we have been doing work in Asia for a long time on democracy promotion issues, and we have an office in Pakistan for many, many years. And of course, we are part of the international community, or see ourselves as part of the internationally communities being concerned about what is going on in Pakistan at the moment. And it is a real pleasure to have Ms. Hina Jilani here, who will talk about it in a minute.

I have this suspicious feeling about things going wrong, actually, in 2006, when the President of Pakistan came here to the United Nations. And I happened to have our office next to the hotel where he was staying at that time. And I jumped one day out of the office, and was greeted by demonstrators who held up signs – you know, we love Musharraf. And then you could go on another 100 meters, and then it would say, we want to put Musharraf into prison. And I think that was the first sign, the kind of self-assertiveness that President Musharraf in that year presented himself with in the UN, which showed that something is probably going wrong, and I think it has so far. So we're very much looking forward to the discussion, and happy to be joining this. Thank you.

LAURENTI: We're grateful to all of you for joining us today, and in particular for joining our two distinguished presenters who will lead off our discussion. The first, Hina Jilani, is the President of the Human Rights Commission in Pakistan. She's also a special representative of the Secretary-General on the Situation of human rights defenders, who ironically now is in the situation of being one of the embattled human rights defenders herself, given recent events in Pakistan. Her biography, along with Mort's, are attached to the back of your participants list, so I don't need to go into greater detail.

Mort Halperin's had a long career in public service, and as well in working with the Century Foundation in the past. Is perhaps best known from his days as the Director of Policy Planning at the State Department, for having been the inspirer-creator of a community of democracies to promote democracy and human rights.

And so I think between our two initial presenters, we will have a very vivid picture of a particular democracy situation in crisis, and what the international community may be in a position to do about it. So let's begin first with Hina. We've had this extraordinary spectacle out of Pakistan of seeing lawyers, of all people, demonstrating in the streets, marching to the barricades, and being beaten by policemen. We do not normally see lawyers in this situation. Yet they haven't seemed to spark, at least to the foreign eye, a broader movement to join them on the streets, as we've seen in some other situations. How widespread is the public dissatisfaction with the Musharraf regime? And how much do Pakistanis tie the United States and President Bush to what they dislike about Musharraf?

JILANI: First of all, Jeffrey, let me thank you and the Century Foundation, and – Ebert?

LAURENTI: Friedrich Ebert.

JILANI: Yeah, Friedrich Ebert Foundation for making it possible for me to talk to people here. Of course, as you may know, this is a very distressing time for anyone in Pakistan. It is not distressing only because I belong to the lawyer community who's being beaten on. It's distressing because we believe that the judicial crisis had a silver lining – that this judicial crisis I refer to the ouster of the Chief Justice earlier this year. And the silver lining in that was that instead of destroying the institution of the judiciary, in some ways it strengthened the institution.

Why do you see lawyers on the streets? I think the lawyers are not necessarily enamored of a judiciary that had obviously played a role that was legitimizing military coups in the past, has never really risen to the occasion when they could have protected democracy and they didn't. But at the same time, what happened with the Chief Justice's ouster was that at some point the conscience of the rest of the Supreme Court and the superior judiciary was nudged. And I think it was nudged because Musharraf had stepped beyond any limit that they could accept at that point.

We have always felt, as lawyers, that you don't fight or struggle for independence on the judiciary and get independence on the judiciary unless the judiciary wants that independence, and fights for it, and gets up and stands for it itself. This is the silver lining that I saw coming out of the crisis. And the subsequent events emerging from the emergency proclaimed on the third of November show that now there is a considerable section of the civil society who are the opinion-makers, who are willing to come out and sustain a movement which – there has never been a – this kind of a movement in Pakistan which has been sustained over the past ten months now.

Now, you say, why are we not seeing the people on the streets? Yes, we did see them on the streets, earlier this year, when the lawyers were holding their conventions at which the Chief Justice was speaking, inside the bar rooms and the court premises, and the people were outside. Because the political parties at that time were active, and showing the support actively.

Secondly, I will also tell you that Pakistan is a country where 38% of the population lives below the poverty line. People find it difficult – or we find it difficult to mobilize people who are in a situation where they will not be able to come out and demonstrate on the streets, for the reasons that they have to be out there earning their living, and these are mostly daily wage-earners.

Secondly – I mean, that's only one part of it. The kind of repression that we have witnessed during the period that the Chief Justice was mobilizing the legal community, or the legal community was mobilizing support for the Chief Justice, and now when the legal community is out – the kind of repression that the common person sees, it's not easy for them to come out and take that kind of repression.

Police brutality, imprisonment, total lack of access to any forum which could give them relief in that situation. It's difficult to expect people to come out onto the streets. They see people like the lawyers, who are an influential class in Pakistan, being beaten the way that they were beaten. Almost 6000 lawyers being arrested, and continue to be arrested even now. So it's difficult to imagine people coming out.

But if you look at the civil society that's involved – lawyers, journalists, teachers' associations, doctors' associations, students, trade unions – you'll see a fairly large section of the Pakistan population represented in this movement. Secondly, these are the opinion-makers, and they do reflect the mindset of the people. So I think it is more meaningful and useful to look at who is on the streets rather than look out for those who are not.

This movement is precisely for the rule of law and the independence of the judiciary. It is therefore the independence and freedom of the media. And the reason, and the objective, and the vision behind this movement is to ensure that there is more public awareness of Pakistan's political issues, but also that people should be able to relate the whole question of constitutional crisis to their everyday problems and everyday needs. It is for the first time that I, as a member of the civil society, have some consolation and confidence that we have been able to make people aware that the – for instance, the issue of the independence of the judiciary is very closely linked to their quest for access to justice, which is a normal, everyday problem of the person in the street in Pakistan.

We were helped in this by the media. We can't send a message out and have the outreach for that message unless the media is there. So the main kind of channel through which the awareness was taking place was the media. It played a very, very important role, and a very significant role.

On the question of the U.S. issue, well, I can understand the concerns. Let me say that at the outright. I don't either want to understate or dismiss the whole issue of terrorism in Pakistan. But also as a Pakistani, let me tell you that those who think that terrorism is a threat to Pakistan's democracy must realize that it is only one of the threats. We have other very pressing and very critical issues that we have to deal with. So there has to be a more holistic and broad understanding of Pakistan's problems, even to combat terrorism in Pakistan.

What we need, and what the civil society, let's say, hope and expectation is that by asking for a sound political process, we do two things. Firstly, we make sure that all political issues, and even the whole very difficult issue of countering terrorism in Pakistan and extremism in Pakistan is done with a definite political strategy in mind. We don't dismiss the role of the military as a security force or a defense force that helps that political strategy to be promoted. But that should be done under the political strategy, serving the imperatives of that political strategy, rather than military operations that have no other objective except to clean up and rout out

some militants. That is not what is going to sustain an environment in Pakistan where these kind of trends don't disturb our progress towards democracy, and don't confuse the more political and urgent and critical crises that we have to deal with to keep the country together. These are our objectives.

We have also decided at some point not to fall back into the temptation of being skeptical and cynical about our political parties. We have no illusions about them. But for us, it is a structural issue. If we support a political process, then this is the material we work with, in the hope and expectations that on the way, we strengthen institutions in a manner in which the water gets going and the scum gets washed away. You cannot produce alternative leadership in a vacuum. So this is what we want. The vacuum should be filled up with a political process that takes us towards a situation where new leadership emerges.

Already this movement is producing potential for leadership. So these are the kind of movements that we want to happen. We want the political process to go on.

We do not want Musharraf. And this is very clear. Yet, this is not a demand that Musharraf should be ousted and then elections should take place. We want Musharraf to go, but we want him to go as a part of a process rather than as a sudden even which creates more chaos, more instability, and leaves a vacuum in which the wrong kind of elements can step in.

And I said this, and took your time to say it, in order to let people know that the civil society is not just dancing around the streets. There is a vision and an objective behind this movement, and that vision and objective has the potential of being logical. We never claimed that we are right, but what we are saying is, let us try it. Nothing else has worked. Our vision means a military that is committed to the promotion of a political strategy charted out by the political elements, with an honesty and an honest commitment to promote that, rather than stab the civilian government in the back.

So the major issue is not Musharraf. The major issue is how do we achieve a situation where the political decision-making is formally in the hands of democratic institutions and the civil political elements in Pakistan? It is a long-term haul, but we have to take the first steps towards it. I have read the statement that Ambassador Boucher made before the – I think it was the Foreign Relations Committee, and he said all the right things about what is the vision of Pakistan. Every Pakistani also shares that vision. The question is, you don't say that the right way is towards the West and go towards the East. Every action that the United States takes must – must be carefully analyzed in order to see whether the vision of Pakistan that Ambassador Boucher claims he has is going to be served or not. Deals brokered between the military establishment and different politicians do not make for a sound political process that gives more and more credibility to the process so that the process has more and more public support.

LAURENTI: I'm particularly struck by the image of cleaning out the scum. And that takes us, of course, to Washington.

(laughter)

There's something of a non sequitur there, perhaps. So I would ask Mort. During this crisis for Pakistani democracy, one has had the sense that the voices that have often been the firmest and the most outspoken in Washington for promoting democracy and for stifling dictatorships and evil regimes have been relatively silent, or muffled. Where have the NGOs been during this crisis, and more importantly, perhaps, where has been the U.S. government, executive branch, congressional branch?

HALPERIN: Well, I think one has to start here with what Florence Nightingale said when she was asked what hospitals should do. And she said, first of all, they should not spread disease. And I think the first task for the United States government – and this includes not only this administration, but I think every one that we've had – is not to be an instrument for the delay of democracy in Pakistan.

And the rhetoric has always been good. You can't do better than George Bush's Second Inaugural Address. Secretary of State went to the Middle East and said, American policy's been mistaken all these years. It's supported dictatorships and not democrats. And then she promptly forgot about it. And again, Mr. Boucher, who's a fine public servant, has said the right things.

We've done the wrong things continuously. The U.S. government has always taken the view that democracy was the right form of government for Pakistan, but not now. And we've always been persuaded, in my view incorrectly, that it was better to put it off.

But I think – and this, of course, is a very bad time for the U.S. government, not only because we're in our own election process, but because the question of the adherence of the United States to principles of human rights and rule of law is being questioned and challenged. So that when we press other governments, including the government of Pakistan, about disappearances, about lack of respect for the rule of law, it's not quite as persuasive as it has been in the past. And I think for many of us, getting back to that is the first challenge. And so I think to some extent, people have been preoccupied with fights about whether we will finally end torture as an instrument of our own policy, which we regrettably have still not done.

But I think, quietly, there has been more activity, and effective activity, in relation to the situation in Pakistan than has been visible in the press. As some of you may know, the Congress has just passed the Omnibus Appropriations Bill, and this turned out to be very good timing, because at the very last moment, it is always possible to do a few good things. And one of the few good things that we've done

in this bill was to fundamentally restrict and change the expenditure of money for Pakistan. There was a move away from funding for the government towards funding for civil society, and much of the money has been held up until the Security of State makes a number of certifications about the restoration of democracy and the independent judiciary and so on. It unfortunately does not say restoring the past judiciary, which I think does need to be the focus.

And unfortunately, the State Department and the U.S. government again has a long history of certifying whatever it has to certify, and so the certifications don't necessarily carry weight. But I think that there is a determination on the part of the Congress, led by Senator Leahy and Senator Biden – who may soon be back in Washington and more focused on these issues, but maybe not.

(laughter)

And so I think that there has been some effective attention to this issue, maybe not as much public attention as there might have been.

LAURENTI: Well, I was struck by Mort's comment about democracy being good for Pakistan, but not yet. Reminds me of St. Augustine praying, give me chastity, o Lord, but not yet.

(laughter)

And also his observation about the willingness to step up to this plate at some point. What are the ways, in fact, in which external actors are potentially successful in influencing Pakistan's military and security establishment to kind of rein in their behavior, particularly in the current crisis? And what influence in particular does the U.S. have, given its own somewhat tarnished human rights credibility, and the sense among much of the Muslim world that at least under its current leadership, the U.S. is fundamentally anti-Muslim?

JILANI: You know, Jeff, I think you will have to hold a seminar on its own, with this as a theme on its own, because this whole question of what is Pakistan's security doctrine that has been developed over the past many decades by the Pakistan military, and they've stuck to it to an extent where Pakistan's integrity is now threatened because of the security doctrine that they have adopted. Today I think the way that the military conducts the security and monopolizes the definition of what is the security of Pakistan is very clear to everyone. But on the other hand, what is not as clear is that that very security doctrine now has become the biggest security threat for Pakistan.

And I'm explaining this, then I'll go on to how the outside influences have either exacerbated or used or taken advantage of the way that the military conducts itself in Pakistan, or have tried to rein it in.

I think that in Pakistan it is one of the countries which, if you look at it, not only political decision-making, but all kinds of security decision-making had been taken over by the military as early as 1958, when the first coup happened. In fact, people argue that it was even earlier than that, and started from 1953, when different kind of regional and international groups were joined by Pakistan. But anyway, I won't go into that. But this is a country which is at, if not war, then very difficult relationship with all its neighbors. And why did that happen? Because the military wants to make itself indispensable. Direct or indirect, the military takes up almost 63% of our budget. Our best friends in the international community give almost five times the aid to the military than it does for economic development in our country.

So this is a military that monopolizes not just political power, it monopolizes all benefits of international cooperation. It also monopolizes now economic power in Pakistan. It is now – I don't know if people have read this book called *Military Inc.* It gives a very good view, in my sense – in my opinion, it gives a very good view of how now military has taken the economic control, and now almost operates like a neocolonial power. So even if they don't have direct political power, they are using it through their so-called civilians. And we like to say that there is always a sherwani – you know, this long Pakistani coat which is the Pakistan dress – so they always have a person with the sherwani over a uniform. Or a person with the sherwani behind whom there is the uniform force.

So whatever happens, even if they don't do that directly now, they control everything through the economics in Pakistan. Pakistan, now military has the biggest commercial interest, the biggest economic power now in Pakistan.

Now, it had chosen to fight the war with India through indirect means, and therefore this whole engagement in a war turned into this infiltration and jihad through privately motivated people. Where did it get this idea? And here is where the international issues come in. The very militants who are today the terrorists were assets that were created during the invasion of Afghanistan by the Soviet Union. And at some point when that particular purpose was served, Pakistan decided that these people can be put to better use. And they started putting them to better use. Now comes 9/11, and they either reversed it – I'm not convinced about it, but let's say – let's just give them the benefit of the doubt and say they reversed it. But within the Pakistan intelligence structures, there are still people who have association with the so-called assets they were responsible for. Within the Pakistan political structures, there are people who were used at that time, and are committed to a certain regime for Pakistan. They still remain very close to Zia-ul-Haq – sorry, Musharraf.

And I'll give you the example of the Red Mosque, and I don't know – I won't go into details, but that is an example that shows how much they are implicated into the whole creation of these militants. And then have to use them in a certain way, and force them to toe the line, and where the line is not toed, then we see killings,

we see excessive arbitrary and extrajudicial killings, we see people just coming up. And I think one thing that Benazir had said is very important also, is, notice the way that one cleric or militant becomes very visible, and does all kinds of things, like Fazalullah, and suddenly they become very big. They care controlling territory, and then they are eliminated, and they are killed.

Now, the U.S. thinks Musharraf is indispensable for fighting terrorism in Pakistan. I think you should here try and see what has happened in the past 40 years. Musharraf has been in power for seven years. For the first two or three years, terrorism was not an issue for him. When he came into power, he gave a seven-point agenda. Terrorism was not a part of that. After 9/11, look at the situation. There was the presence of militants in Pakistan, and I witnessed them coming out of Afghanistan, truckloads of them, on the 7th of October, 2001, just before the American bombings. I was there, at (inaudible). They are there. They were there. But they didn't control the territory. Now they control territory. Not only in the tribal areas. They are out in the settled areas, in Sawad, in Kohat, in Bannu.

These are facts that need to be properly analyzed. Has the counterterrorism strategy under Musharraf worked, or not worked? If it has not worked, and militancy has increased in Pakistan – they are now in Islamabad. The Red Mosque happened in Islamabad, right next to the office of the ISI. And there were serious allegations about ministers of the government, on how they had helped the Red Mosque to become strong. So I think these facts need to be very closely looked at, to assess the indispensability of Musharraf.

And I think in this country that's something that should be very clearly said to the administration. I'm not saying they are wrong on everything. They are not idiots, obviously. People who are analyzing it, there are security experts there, everybody – but they must see that elimination of terrorism in Pakistan has to be done in a manner in which they are seen as partners of those who have a genuine commitment within Pakistan to do it.

Let me also say to you that when an American person, whether in the administration or outside, raises this issue of terrorism before me and says, you know, we are worried because – and we act in a certain way because we are very much afraid that Pakistan has terrorism and has the nuclear bomb, it hurts me. Because we were the first people who were countering terrorism in Pakistan. We see that as a problem more than anybody else in the world sees it. And there must be some credence given to Pakistanis who feel that they may have an answer to it. If you injure and damage Pakistan's institutions, you don't fight terrorism by weakening institutions, by removing judges who have shown the streak of independence for the first time. You don't fight terrorism by giving the – sending out the perception or the message that terrorists are victims of injustice. So I think these are some of the things that I think I should have said.

Outside sources have, in many ways, taken advantage of the trends within the Pakistan military to be adventurers. And these are adventurers. These are people who have stepped into Pakistan's governance and Pakistan's politics time and again. These are people who have even had more serious adventures, like Kargil, where Pakistan and India almost came to a nuclear conflict. So these adventurers in the military need to be understood by the people outside, and of course, need to be put in their place by the people inside. That is our responsibility. But when we try and take the first step towards that responsibility, we should enjoy the support of the outside, the powers and sources of influence (inaudible) any obstructions in that way.

LAURENTI: Let me pick up on that last thought more, Mort, and ask if you could address the capacity of international institutions, or even more ad hoc groupings, to try to create that kind of outside pressure? You've been instrumental in the creation of a community of democracies. To what extent is this not the kind of poster child number one of where the international community, or at least that share of it that shares democratic values, should be in the front lines, trying to point a way, supporting the Pakistani civil society in its pressures against the military overlords and pressuring the military regime? And where are the Europeans, and can one expect anything of Pakistan's northeasterly friend, China?

HALPERIN: Well, I think it's – the situation in Pakistan is extremely difficult for this set of institutions because the paradox is, Pakistan was moving from a military dictatorship to a military dictatorship. And we have this bizarre situation of a general carrying out a military coup against his own military dictatorship. And so in my view, the real fault line for the international community was in the first military coup, and the willingness of the United States and ultimately the whole international community to be persuaded that somehow this move against a democratic government was in the interest of promoting democracy in Pakistan. And people were persuaded you could not go back and insist on the restoration of the democratic process, and that somehow our security interests required us to support this military coup.

And I think we do need to try to strengthen the institutions of the international community, so that we respond more coherently to this process. The Commonwealth, for example, suspended Pakistan as a result of this act – not something, I think, very well known in the United States. But it was done without consultation with and coordination with other democratic institutions. And so I think over the long term, we need more effective international responses.

In the short term, I think the United States needs to be the leader here, and we need an American government that understands that its role is to support the people in Pakistan struggling for democracy, and not to persuade itself that moves away from democracy are somehow in the American interest.

LAURENTI: One last question from me before we engage all of our participants here in the discussion, Hina, and that is where Pakistan's political parties are right now in terms of trying to grasp power back from the military dictatorship, and the degree to which they have some shared common interest they all recognize, and the degree to which they are still playing each other off against each other and the military regime. What hope may we repose, and may Pakistanis in particular repose, in the political parties that have – that are supposedly the vessels of democracy here?

JILANI: You see, the biggest expectation of the political parties is to just start and get the political process rolling. We don't expect them to give a very wise leadership to the Pakistanis at this point. It would have been wise – if they were interested in wresting power back from the military, this would not be the way that they would go. They are still playing the same game, of the military sponsoring one political party against the other, and one wanting more favor from the military than the other.

But I think what has changed this time is not the nature of the political parties, but the nature of the population in Pakistan, and this element of the civil society becoming more actively engaged in processes that go towards accountability. I think that's important. Not only the judiciary in Pakistan is aware that it has to keep that principle of independence before itself, because there is this legal community, which is just the face of the movement, but the public is watching what they're doing. And the public has appreciated the streak for independence, and that's what will make them get more and more support institutionally.

And let me emphasize here, it's not the Chief Justice or the 69 justices who have lost their jobs that are important. They are only important because they have, for the first time, collectively taken a decision that gives a kind of an expectation of what you can see for a future judiciary in Pakistan. So this (inaudible) urge for demanding accountability by the population, either through the independent media or through the independent judiciary and courts, where people were just going and petitioning. Why had the Chief Justice to take all the suo motu notices? Because the institutions had failed. And access to justice was not possible through the normal judicial process. So people were petitioning the Chief Justice, saying, my son has been taken away by the police. I haven't – I don't know where he is. And the Chief Justice had to step in.

And let me say it very categorically that our constitution gives that role to the Supreme Court. It may be that, because of the circumstances, it has to be used more frequently than it should be used at a particular time, or less. But that role he never stepped out of. I may not have agreed with a lot of his judgments, but the point is that he was acting within his constitutional role.

So I do believe that this urge for accountability, and demanding accountability, is the only factor that gives me the kind of expectation that the political parties will have to act in a certain manner. We don't know what the dispensation is going to

be like once the elections have been conducted. We do believe that very serious and very difficult constitutional questions will still remain to be answered, and that's one of the pragmatic reasons behind our insistence on the restoration of the judiciary. The current judiciary will have no authority, and no authoritative voice that will be acceptable to the people once they start giving judgments on these very difficult constitutional questions. The constitution today is in a mess, and any – it would be a nightmare for any judiciary to resolve those issues.

But a judiciary that is now receiving the support of the people, for whom people are fighting, with the legal community also looking over their shoulders, it might be possible for them to give authoritative judgments. It may be possible for them. If – they'll find it very difficult to do it. How do you turn a military dictator into a civilian president within the constitutional framework? I mean, this is the magic that Musharraf wanted the Chief Justice to perform, and he couldn't oblige.

LAURENTI: Judicial alchemy. We'll now turn to our other participants, Hina and Mort, if we can, and I'd ask you to wait until the microphone is brought to you, and if you would identify yourself by name and affiliation. So, Felice, why don't we start with you?

GAER: Thank you very much. Felice Gaer, the Jacob Blaustein Institute. Hina, first of all, thank you very much for this presentation, and for being here, and for everything you've been doing to advance human rights in your own country, and to teach the rest of us how to do it right.

I wanted to probe on this question of what pressure points there are in order to influence the Pakistani government to respect those very human rights which it doesn't. And I specifically wanted to focus in on the fact that the Pakistani government has been, I would say, one of the leaders in the current struggle in the United Nations to produce either a worthless human rights system, or one that has worth – that is to say, one that ignores human rights in favor of corporate entities and destroying rights, or one that is actually advancing human dignity, rights, and empowerment.

In this situation, does the United Nations have any influence over Pakistani events? Are you satisfied with the actions of the High Commissioner and the UN human rights entities? And if they don't have it – other than the Commonwealth, which Mort spoke about – who does?

LAURENTI: OK, right next to Felice, we'll group these in three. Renzo Pomi of Amnesty International.

POMI: I don't have a complete question. I just wanted to say that I'm very happy to be here with Hina Jilani, and Amnesty is very also pleased to co-sponsoring this event, and we congratulate the organizers for putting this together.

Amnesty has a long history of cooperation with Hina Jilani, and we have admired her work for years, way before she was appointed by the Secretary-General as his special representative. So we look forward to continue working with you, and hopefully to help bringing back human rights to Pakistan. Thanks.

LAURENTI: And then – yes, in that corner.

RIZVI: Thank you very much. My name is Saleem Rizvi. I'm here in my personal capacity, but at the same time, I represent a group of Pakistani-American attorneys called Pakistani-American Attorneys for Constitutional Supremacy. Well, first of all, on behalf of the organization, I truly want to thank you for standing up to this authoritarian government in Pakistan, which is increasing becoming totalitarian. I mean, obviously that's a academic question. I leave that question to other participants.

But my question to you is whether your organization, or any other organization in Pakistan, is doing anything to collect and gather information about people who are victimized by the Musharraf government. In order to be more specific, my question is whether you have any information as to how many people were arrested, detained, and how many people were injured, and the kind of injuries they sustained. Because I think it's very important to have that information at hand, because the perpetrators eventually needs to be held responsible for what they have done to the Pakistani civil society.

And now, a comment about what the judiciary can and cannot do in Pakistan. I would just like to add that, at this point, we don't have an independent judiciary to stop Musharraf from – preventing him from doing what he is doing right now. He has lifted his so-called emergency, which is in fact a martial law, but at the same time he has amended the constitution once again. Unless we have an independent judiciary, we would not be able to stop this man from doing what he is doing right now. My question to you is what we can do collectively to stop him from embarking on this kind of course. Thank you.

LAURENTI: All right, we have between Felice and Saleem a couple questions that maybe you'd want to respond to right now – what pressure points are there on the Pakistani government, does the UN have any influence in Pakistani events, like the High Commissioner for Human Rights, and what about those who are victimized by the Musharraf government, how to stop him. Did I, Renzo, overlook a question that you had in your comments?

POMI: (inaudible) my question (inaudible).

LAURENTI: OK, very good.

JILANI: Well, on Felice's question, thank you, first of all, Felice. You are a friend, so I know that you would look at what we are doing with a great deal of sympathy. Let

me say that friends outside – and this is also a response to what our friend from Amnesty has been saying – have been very supportive. And it is our interest to be able to show particularly to the people inside Pakistan that there is not one USA, like there is not one Pakistan. There are people – there is a civil society in the United States, there are legislators, there are lawyers and a legal community who do support what is happening in Pakistan, and the movement that the lawyers are at the face of in Pakistan. So thank you for what you said, Felice, and for all your support, and the support of everyone here, especially Human Rights First, Amnesty, and all the other groups who we have been working with for a long time.

On pressure points, now, look at the situation in Pakistan. Musharraf has fractured his relationship with the judiciary. He has fractured his relationship with the press. He has fractured his relationship with the legal community. He has fractured his relationship with a large section of the civil society, including students now. So inside Pakistan, there is nobody who will either have an influence or want to exercise it by talking directly to Musharraf.

It has always been his intention to create an image of Pakistan, and he has been preoccupied with that image, rather than having any commitment for changing the realities in Pakistan, even to the extent of his claims that he worked for human rights and for women's rights. These are hollow claims, and I can go on and on and explain to you how ineffective anything that he has done has been for human rights and women's rights.

So the pressure points are, in some ways, if there are any, are outside. Why Musharraf's totalitarian and authoritarian trends have increased, and he is so vocally and so openly authoritarian now even in his speech and his rhetoric is because he thinks that this administration is behind him. And he thinks that Americans will clear the way for him, and keep him there. And because of the Americans' relationship with the Pakistan military. He doesn't care about the civilians. It is the Pakistan military that he wants to keep in hand, and he is fairly confident that the Americans will help him do that. So the pressure point is there.

As I said, I don't want to give – to exchange one general for another. So we have always to keep this in mind, that the clear message to the military, which is composed, by and large, of adventurers, is to ensure that they get the message that we don't want their inclusion in Pakistan's political decision-making. They must play a role, but their role is prescribed by the constitution, and they remain within that role. And that pressure point will come from this government, or from other governments who are at the moment his allies in countering terrorism. So that, I think, is important. And it is for this reason that I was in – earlier this – well, in November, I was in Britain and in France, trying to talk to the foreign ministers, and at least get the message through to them.

On the UN system, I liked what the High Commissioner for Human Rights said in her statement before the Council. She mentioned Pakistan, and she did say that the

damage to Pakistan's institutions is long-term damage. And to correct that damage, there must be a restoration of an independent judiciary, with full guarantees for the respect of that independence even in the future. But understand also that the United Nations is an entity made up of governments. And the human rights system has the most difficult task of pointing out the shortcomings of governments to the governments. So it becomes a difficult system. The United Nations doesn't work on its own, so it's governments that have to be convinced. So within the United Nations human rights system there must be a complete political support for the human rights agenda, for any government to be made aware of its human rights violations and the necessity for them to correct their behavior.

When I was there at the Council, after the High Commissioner's statement, I think every NGO that spoke, spoke about Pakistan, and the situation in Pakistan. So the voices were heard. There's no question that the members of the Council did not hear about the situation in Pakistan. What they are willing to do now is the question, and whether they stand up to that responsibility which comes to them by the members of the Council is another question.

Mr. Rizvi raised the question of whether Pakistani organizations are doing something to collect information on the victims and how the government has behaved. Yes, you understand that with 7000 lawyers, almost, being arrested, there was a time when everything was totally disorganized. But now they are organizing things, and they are trying to collect information. The government has never issued an official list of those that they arrested, or a list of those that they released. Every day they're arresting more people, releasing them, arresting them, and releasing them. Only two days ago 40 students were arrested from a rally which was tear-gassed and baton-charged. Eight women were arrested. They took them to a police station and issued a warning to human rights activists that if you come near this police station, we'll arrest you as well. So how do we collect that information? It's a difficult task, but we are aware that this needs to be done.

We are, after all, lawyers. We are not going to sit back and take the beatings that they have given us without finding the appropriate time to take legal action against them. I think there will be a time where every police officer, and senior members of Musharraf's government, and he himself, will be answering these charges that we will lay before them. This is my hope, and I hope that they do that.

The role of the judiciary is absolutely imperative at this point. And as I said, for very pragmatic reasons, apart from the fact that stronger institutions will only promise a transition towards democracy, not what Musharraf is clearly. Democracy will never come from the pocket of a dictator's uniform, let me tell you this much, and anybody who believes that is absolutely misguided. And history is full of incidents where – which gives the lie to these kind of hopes.

LAURENTI: OK. Edith? Just one moment until the microphone arrives.

LEDERER: Ms. Jilani, you made some com –

LAURENTI: (inaudible).

LEDERER: I'm sorry. I'm Edith Lederer, the Associated Press Bureau Chief at the United Nations. You made some comments about numbers of people who have been arrested. There've been reports that quite a number of people have disappeared, and I wondered whether you could comment on whether you have any information on numbers of people who've disappeared, on whether there are secret prisons, and whether there's any foreign involvement in these prisons by the United States or anyone else.

JILANI: Well, I think –

LAURENTI: We'll take three. The gentleman at the table back here.

KHAN: Hi, my name is Majid Khan (sp?). I am a journalist, and being a Pakistani, I am (inaudible) we don't have any – we don't have not only bad people in Pakistan, we do have good people like Hina Jilani, too. So – well, my question is, when you look back to the disappearances and the people that the Pakistani military handed over – I'm talking about the Guantánamo, the people in Cuba, there's more than 200 people been picked up by the Pakistani military and handed over to the Americans, and after they've been released without any charge. Do you have any information about that, or any data about where these people can go, because they can't go to any court of law, and get question about the human right violation. Thank you.

LAURENTI: OK, and over here, Elaine Pearson.

PEARSON: Thanks very much, Hina, for a really interesting presentation. I'm Elaine Pearson, from the Asia Division of Human Rights Watch, and I just wanted to inform you all that yesterday we actually released a report with a very detailed account of – it's based on testimonies with the lawyers, with the judges, and basically explaining the situations that they have faced, the violence and the treatment in detention.

I do have a couple of questions. Firstly, I know that Pakistan has been looking for a seat on the Human Rights Council, and I wondered to what extent should we be using that also as a point of leverage to pressure them. Is that a way that we should be going forward? And part of the recommendations of Human Rights Watch's report have really focused on the U.S. and the UK, I guess, as the two sort of major players, and pushing for more than issuing of statements, but really looking at targeted sanctions. And I just wondered, how do you think we could work, particularly more with the UK, where the response has not been so favorable?

LAURENTI: OK, so we have this bundle of three questions – Edith’s on secret prisons and potential U.S. complicity – Rajid, is it?

KHAN: Majid.

LAURENTI: Majid, OK, on people turned over by the Pakistani military to Guantánamo, and Elaine’s on Pakistan’s interest in a seat on the Human Rights Council, and leverage in that regard. I’d also ask if Mort will also, after you finish, comment on that. That last one is a sure-fire one to draw Mort’s analysis. Hina?

JILANI: I mean, the question – the answer to your question is very brief. I saw this article on “Portrait of Secret Detention Emerges in Pakistan” in *New York Times* on the 19th of December. I have read this. I think it gives a very accurate picture of what has happened. But just to say one thing – that the suo motu notice of disappearances that the Supreme Court in Pakistan had taken is one of the reasons why the judiciary has been dismissed. And there were very serious allegations that almost 600 people have disappeared over the past four, five years, and they were probably held in custody by secret intelligence – in secret agencies and intelligence agencies in Pakistan.

The Supreme Court was in the process of having these people recovered. So Musharraf’s claim that they were in any way letting these terrorists go is absolutely hollow. Their every order that you read during the process – and there’s no judgment here, because the case is still in progress – every order was saying, produce these people. Recover them. And if one of two were recovered, all that the Supreme Court said was, if there is any suspicion against them, charge them and try them. And if there is none, then you can’t hold them in custody.

But what was dangerous for Musharraf was when the Supreme Court started questioning the legal framework, whether there was a legal framework, for the operation of the intelligence structures in Pakistan. What were the kind of oversights that there are on their operations? Who is overseeing this? These questions, when they were starting, they came into the Supreme Court, that’s when these people struck at the judiciary. So it’s a very important element to remember – who had the stake in removing the judiciary that was starting to ask these questions. Because these questions were asked in Pakistan’s parliament. And every time the answer to – (inaudible) was one of the senators who kept asking this – give us a law under which the intelligence agencies can arrest or hold people and interrogate them. We don’t mind it if there is that power given, but give us the law. Give us the legal framework, and what kind of oversight is there over this? And they were told, this is a security issue and we will not reply to you. They couldn’t even pinpoint a law. So I think that is important to remember in the case of disappearances.

On the Guantánamo and the renditions – sorry – yeah – yeah –

PEARSON: – could I just ask you to comment on the U.S. involvement at all in any of these secret detentions?

JILANI: You see, now what Pakistan has recently done – and this is a report that I (inaudible) happened while I was out of the country, so I don't know. But I'm told that almost 500 of those people have suddenly appeared. No, sorry, 100 out of the 600 or 500 people who were originally on the list have suddenly appeared. Many of them do have grave suspicions of terrorism against them.

So who is releasing terrorists? Three days after the emergency, 25 persons were released by the Pakistan authorities in exchange for the soldiers that had been taken hostage in – and these 25 people had very serious – there was very serious allegations of terrorist crimes against them. But they were exchanged, and they were let go at that point. And 100 of these others have recently appeared a day or two ago, so that no more questioning of the intelligence agencies and their operations and their workings is now a part of any judicial proceeding.

The involvement of the United States (inaudible), there are allegations that many have them have been illegally rendered – well, renditions are in any case illegal. That they have suddenly surfaced in Guantánamo or in other parts of the world, after having disappeared from inside of Pakistan. How were they handed over to other security agencies?

So these are very serious questions that everybody is asking, and it's not just the Pakistanis' concern. I think international organizations – I'm a part of the panel that the International Commission of Jurists has set up on counterterrorism and human rights, and we've held hearings in this country, we've had hearings in ten other countries of the world. And we have collected that kind of information on illegal renditions, and the legal black holes that have been committed.

And also don't forget that during emergency, Musharraf has passed a law which allows military courts to try civilians for certain offenses under the anti-terrorism laws, security of Pakistan laws, and public order laws. A lot of the lawyers and human rights organizations have been charged under those offenses. So there is every possibility that tomorrow, even though this emergency has been lifted, these people will be tried by a military court. So what is the relevance or meaningfulness of this lifting of the emergency, except as a formality?

Then, of course, we had the question on Pakistan's seat on Human Rights Council. We've just been discussing this very issue, and why we are always keen that governments that don't have a very palatable record on humans rights should be kept in the loophole, and that they should be kept within the structure, so that there'd be some pressure and some responsibility to behave. I do feel that the Council and the international human rights community has a responsibility to give a very clear signal to countries who are going down the road that Burma went and Belarus went, that if you behave in this way, you cannot be the part of the human

rights system of the United Nations. Because being a member of the Council gives them a dignity which these countries don't deserve. And Pakistan, I think, needs to get that very clear message.

Also, Pakistan is also a part of the – what is it called? It's not a working group, but it's the taskforce that is going to nominate and choose special procedures. How much of an independent special procedure system do you think is going to remain in this – in the Human Rights Council if these are the kind of countries who will have that much authority to choose who the independent experts are? How much independent would those experts be?

LAURENTI: I think in part Elaine's question went to the degree to which denying Pakistan a seat on the Council would have any impact at all on the political puppeteers in Pakistan about how they have to change their act, or that it's not important enough and it wouldn't influence them.

JILANI: But I don't know if that would really be the kind of critical point of influence. But it's a good message to the government. People may not be that into this issue, but it makes a difference.

LAURENTI: Mort?

HALPERIN: Yeah, I think it is important to try to do something about this, and OSI where I work has been working with Human Rights Watch and other NGOs around the globe to try to make the Human Rights Council more responsible to the citizens of the countries. Ultimately we will have an effective Human Rights Council only if governments from the global south respond to their own publics, and their own publics demand that their foreign policy reflect their domestic values.

The majority of the Human Rights Council is countries where there is a relatively free political system, but they don't reflect that in how they deal with the Council. Not only the United States and the UK, but also countries from the global south. And so with the support of Belarus human rights groups, we – the human rights community around the globe fought a successful campaign to defeat Belarus for a seat on the Council. And now, with the support from the Pakistani civil society, we're going to try to defeat Pakistan from being elected.

When we started the Belarus campaign, as Larry Morse (sp?) who is involved with us knows, we were told it was hopeless, and at the end they were defeated. This is probably even harder, but I think we have to do it. Because if we stand by and simply allow a country that's moving in this direction to get elected to the Council, we are giving up the soul of the Human Rights Council. And I think it has to be fought for, and ultimately we will that fight.

LAURENTI: Joanna?

WESCHLER: Thank you. Joanna Weschler with Security Council Report. Hina, I wanted to ask you to talk about special procedures. You hold a very important and dear to the hearts of several of us in this room mandate of the defenders, special procedure. Was the fact that you had that mandate at all a factor in what happened in the aftermath of the crackdown? Did you feel that you had a degree of protection because you have a mandate from the United Nations? Or to the contrary, were you more exposed? Or was it simply irrelevant?

LAURENT: OK, then this side to Tariq (inaudible) or Khan (sp?), excuse me, Tariq Khan.

KHAN: Yes, Tariq Khan with Movement of Justice. I had a question on Geo Television, which is the most popular TV in Pakistan. They have been off the air for so long, they have been a thorn for Musharraf, and they did not sign the code of conduct. Obviously they have lost millions of dollars. How long do you think they can sustain this, and what exactly is in the code of conduct that is objectionable to Geo?

Second part of the question is, you mentioned that there's a new emerging leadership from the political parties. All we see is Benazir and Nawaz Sharif, which the people have tried already. Can you name a couple of those people, and if they are emerging and popular, why haven't they been able to translate their popularity into votes? Thank you.

LAURENT: And Jürgen.

STETTEN: Well, my point follows on actually Tariq's. I wonder, you mentioned the possibility of a vacuum creating opportunities for radical forces within the country and militants. And I wonder, what would – if a political process sets in, what would be a wise strategy to rein in these groups, and perhaps give them some policy space or political space, but obviously nobody wants them to take over, but how do you maneuver that sort of ground? And who would be the people in the political process to handle that?

LAURENT: Thank you. OK, so for this round, does your UN role offer protection, or has it, was Joanna's. Tariq Khan's about Geo TV, what was objectionable in the code of conduct that they wouldn't sign it, how long can they hold out. And then who else in the political class might represent the democratic impulse. And Jürgen's on a wise strategy to rein in some of these groups without their taking over.

JILANI: Let me first clarify, for the record, that I'm not here in my capacity as the Special Representative of the Secretary General. But your question, Joanna, is very relevant, because what is happening in Pakistan is very much concerning the role and protection for those who are taking action for the protection and promotion of human rights. Every judge, every lawyer, every human rights activist, every

journalist out there is voicing demands that have direct relevance to human rights in Pakistan. So they are human rights defenders.

Whether in my situation that has been – this UN position has been a factor giving me more protection, yes, I think that to some extent that might be. It didn't stop the government, of course, from arresting Asma, or issuing a detention order for me. I was not in the country at that time. But I do feel that the fact that we were special rapporteurs in some way restrained the action that they might have taken at that time, and may even be thinking of now. The fact that I'm outside and in the U.S., and that I have had meetings, and have been able to talk to people in this country will not be something that they are ignoring, or will like. But I do feel that at some – to some extent, that is a factor.

But another factor is also – and I think it's very important for defenders – that the more visibility we have, in some ways that's a protection for us. But above all, our sense of security doesn't necessarily come from a UN mechanism. Our sense of security comes from out the movement of which we are a part. I look towards my peers to give me that protection, and so do the others. There is, of course, a protection, or a kind of sense of protection in numbers. So that's the reason why we feel that we can still go on doing something, because there are numbers involved. Not that numbers have been very significant for us in the past. We've had one-man processions when it has been required. But that is – it gives us a sense of security.

On Geo, I think what is important for people to understand that it's not just a question of the freedom of the media here, but the psychological impact of blacking out the media during the first few days of the emergency. It had a terrible impact on Pakistan's population. Geo is in a very difficult position. The code of conduct, I think many channels have accepted it. I see several points in the code of conduct that I find very difficult for anybody to accept if they are standing up for the freedom of expression and freedom of the media. But what is more important about the code of conduct is not just the words or the text of the code, but the motivation behind it, the reasons why this code was enforced, the fact that it was enforced. Code of conducts are always adopted. They cannot be enforced by governments. And if they are enforced, then there is always a indication of back pay.

The way that this code of conduct has been applied is also the problem, and I don't blame Geo for not accepting it. For instance, they don't want any live coverage of events, which covered something that happened in Karachi, for instance, on the 12th of May, when the MQM went out on a killing spree, and people could see it actually on camera. And the evidence was all there. This is what the government doesn't want. So live coverage has been banned. More recently, the government has told the media that do not allow live public telephone calls on the current affairs programs. News and current affairs they give advises on, what can be aired

and what can't be aired. But all these steps have also led to a degree of self-censorship.

In the case of Geo and one or two other channels, the government is insisting that they will not be given freedom, and Geo will not be reinstated on the air, unless certain journalists are kicked out, certain anchors. So you can see that those who are still broadcasting, the anchors have become very cautious. And while there is a discussion going on, they will stop people at very significant points, so that they don't go beyond a certain point. Because there is a lot of money involved here, also, so the owners are nervous. I don't know how long the – Geo can sustain this, but so far they have not given in.

On the new and emerging leadership, I'm not saying that political parties have already come into existence, but let us say that people within the movement, within the political parties, have now started voicing certain issues in a manner in which they are receiving more and more support. I'm not going to name anybody. I think that would be unfair. But there is – every movement spawns leaders. I think that's very important for us to understand. They don't immediately come into Parliament, but new trends are set, in the way that you put the political message, in what you favor or promote as values. So these new things are emerging already. I don't – I can't pinpoint so-and-so and so-and-so and so-and-so. My sense is that even within the two larger parties, new leadership can emerge. I'm not just looking for a new political party, but let's say even in the existing parties, more leadership opportunities will arise, and more leadership can be spotted and become more visible.

The militants and the vacuum. Let me just begin by answering that question to say that one good thing about this movement that I am a part of, that I find worth mentioning – and that is the reason why I want to hold onto this movement – is that after decades, there is a movement in Pakistan where there are no ideological and religious issues involved. The students stepped into this movement, but the students who have always had the political presence in Pakistan – that is, the Jamaat-e-Islami students – they're out of the movement. And if they are there, they're on the margins. For the first time, you see that the religious political parties are not center stage. And that is – I think everybody has a right to be in politics, and I don't deny them that right. But it has been state sponsorship, actually, which has brought them center stage always. So the state has always given them political significance rather than the popularity. There has been very little popularity for these people so far. I hope that that remains the truth. I keep saying it, but then every day I'm struck with the way that extremism is rising in certain circles in Pakistan. But let me also clarify that so far, it's not all-pervasive. But yes, there are certain pockets in which more and more of that you can see. They have to be kept on the sidelines. They have the right to come and do their politics. Why should we stop them?

But – I mean, like the different kind of coalitions and platforms that have been created, over the years, while these have been political platforms, nobody has had the wisdom or the strength to involve them, but at the same time keep them on the margins, and not allow them to take center stage. They begin from the margins. They want to have a coalition with Nawaz Sharif and others, with Nawaz Sharif as the leader. But at some point, they will engage them in such a controversy over ideological issues that that becomes the issue, rather than one of the issues, at some point.

So this is – but remember, Pakistan is a 90% Muslim majority country. Religion was never an issue. It has always been used politically to bring up issues and controversies. There has never been a problem of religious freedom in Pakistan, as far as the Muslims or one sect of the Muslims is concerned. And this is the sect that insists most on religious freedom, because they – I don't know – they fear the majority, and they fear the minority. When Pakistan was a part of India, Muslims were in a minority and therefore they felt that there should be a country for them. Now they're in the majority, and they don't like the minorities.

LAURENTI: This will be our last round, starting with Hassan Muchtaba (sp?). Do you want to take the microphone and introduce yourself?

MUCHTABA: First of all, let me thank you for enlightening us for the present situation in Pakistan, which unfortunately really presents the picture of Pakistan becoming a central prison for the Pakistanis there. When we are in the outside world and sitting far from Pakistan, we hear and see a large images of cream of the society, civil society members, and the lawyers and intellectuals and members of media being beaten by police in the streets. But we hear and listen a little about Balochistan, where – and, you know, be this a democracy or dictatorship, the smaller provinces in Pakistan, especially the Balochistan, they feel alienated from the rest of Pakistan, and the central government. And this is a Balochistan where even the generally democratic and secular leader have now started talking of disintegration and fighting a war. And the leaders like and Khair Baksh Marri and Akbar Bugti was killed by the Pakistan military, with the arms and the implements which were meant to search Osama bin Laden in the up country. And even the chief Justice of Pakistan, despite being Balochistan, never bothered to take a suo motu notice of the killing of Akbar Bugti and of Khair Baksh Marri had his son killed in Afghanistan.

So what did you know about the human rights situation in Balochistan presently? And how far is it true that 83,000 Baloch children are under the threat of death and diseases and displaced in their own country?

And I have an other question. When we talk of change of governments –

LAURENTI: I have to make the second question –

MUCHTABA: – the right of association and the issue of freedom of an issue of religious freedom, but why the Pakistani civil society? And especially the human rights groups have so far failed to address the issue of the persecution of the gay people, the sexual minorities? And until recently you were only one of the two people who have sided with the two women who married and who had a same-sex marriage in Faisalabad. So why the civil society has so far failed to highlight the persecution of gay people in Pakistan.

LAURENTI: OK, thank you, Mr. Muchtaba of BBC. Behind you, (inaudible).

KALHAN: Yes, hi, my name is Anil Kalhan. I'm a professor at Fordham University Law School. I want to pick up on your comment about democracy not being given from the pocket of a military dictator, because Musharraf has obviously been very successful in cultivating this image in the United States over a period of many years, that that's precisely what he is doing, and not least with – nowhere moreso than with respect to the role of the media. So if you could just talk about why that might be a flawed premise with respect to the expansion of media freedom in Pakistan in the last seven or eight years.

And I also have a relatively narrow question, perhaps of limited interest here, but it's actually of tremendous interest to a lot of people that I talk to, concerning the role of India in response to this crisis. And I don't mean just the Indian government, but also Indian civil society, because, as you said, American civil society, there have been pretty strong responses, and I've been involved with the bar associations here to some extent. But I'm interested in your reaction to to what extent the responses from Indian civil society have been what you'd like to see, and what are the constructive things that people in India can do, and what might be the limits of that role?

LAURENTI: Thank you. Colin Keating?

KEATING: Thank you very much. It's just been terrific listening to you this afternoon. We've all learned a lot.

LAURENTI: Colin Keating of –

KEATING: I'm from the Security Council Report, the same as Joanna. And I wanted to ask you a question, going back to your comments to the effect that Musharraf must go, but he must go as part of a process that doesn't leave a vacuum. You said, however, that it's important to be able to see some early first steps. And I wanted to ask you if you could give us a little more guidance as to what those important first steps are, because I also recall you saying that it was important for the international community and Pakistan's friends in the international community to be able to support those important first steps, bearing in mind, of course, that if one asks for too much, you could end up with the vacuum. And indeed, it seemed to me that the whole challenge of restoring the leadership of the judiciary, which is so

critically important in the medium term, but that if it were to happen tomorrow, it could lead to precisely that vacuum, because the judges would do what they had to do. So I'm really interested in how you modulate those first steps.

LAURENTI: One more intervention over here.

HAZAD: Zafar Hazad (sp?) from ANAA, Asian-American Network Against Abuse of Human Rights. My question is this, as Hina Jilani mentioned, that few thousand people have been missing since Musharraf came, and six of them are documented. One of them was journalist, Hayatullah, he was killed, and when his body was found, it was handcuffed, government-issued handcuff. And this is one example where, really, the government or intelligence agencies are blame. I mean, there is evidence. And then three months later, his brother, who was asking for justice was also killed. My question is, we have been really trying to bring this issue, but is there anything better we can do? Can someone sue here Pakistan government in the USA? I don't know really, I'm asking, is it possible?

And one of the missing person was American citizen living in Texas, disappear last year. He has not been (inaudible), I think. Can his family sue Pakistani government here in USA to really do something? Because they're basically not listening.

LAURENTI: OK, so we have Balochistan and gays, media and India, Musharraf going centimeter by centimeter, perhaps, or faster, and what in U.S. courts might be a recourse.

JILANI: Well, on the human rights situation in Balochistan, I share your concerns about the trends that we are looking at in Balochistan. I think, just to give you an idea of our concern with that is that the Pakistan Human Rights Commission has had two missions to Balochistan, and very comprehensive reports were made on that, pointing towards the very issues that you've raised. We are concerned about extrajudicial killings in Balochistan. We are concerned about the displacement of population. We don't – we can't give you a number because, obviously, it's become very difficult to find this information with the presence of the intelligence structures there. And one example I can give you that our correspondents who are there in Balochistan, they are under continuous surveillance and intimidation, and threats have been held out to them for sending information. But yes, our estimate is that it is certainly near the figure of 50,000 people.

Now, they are sometimes in very visible camps. There are camps near – on the border between Sindh and Balochistan where people have gone, but there is no access to human rights people to go there. Our human rights people cannot go to those camps. So there is the issue of displacement. It is a humanitarian issue, a very serious one, and merits more scrutiny.

On the persecution of the gays and in the civil society, I think the civil society knows its responsibility. In Pakistan, it is not a civil society that is ad hoc, and it just appears on issues. It is a civil society which is fairly well-populated. Yes, we have our constraints because of the environment, but I was not the only one who had taken this issue. Remember that this was the women's movement who had taken up this issue of the couple in Faisalabad, and this is not the first case on which this issue has emerged. So, yes, gradually and consistently, all human rights issues are tackled in a manner in which we feel that we can make a better impact rather than give rise to any negative problems – negative reactions for the victims themselves, who are the more important focal points for us whenever we are doing advocacy or taking up cases.

Role of the media and journalists, now, I think this is very important. This whole perception that Musharraf wants to – wants people to accept that he gave any freedom to the media. Well, in the first place, I would like to tell you – and I think there are journalist friends from Pakistan over here, they will agree with me – the press in Pakistan has fought very long and very hard for freedom of the press, for a long, long time. They have been able to achieve some of that freedom, despite governments rather than because of them. What you see in the press, and you read in the press, is certainly much more than was ever written before, but also remember that it's not because of Musharraf, but because of the times, and the spaces that the press has continuously opened up. A lot of things that, say, other dictators, civil and military, could do before Musharraf, Musharraf could not do.

Secondly, we have been just given one example of a journalist having disappeared. People see what the press is writing, but doesn't see what it is not writing. For many years, consistently in the past seven years, journalists have disappeared. They have had to leave the country, because what they were doing was they were not closing down a newspaper. They were just picking up the reporter, who is the more vulnerable link in this whole press (inaudible). Several journalists have come to this country or gone to other countries. Many have been killed. I was told in a conference of the media just before I came that, since this – the past 18 months, almost 20 journalists have been killed. And as many probably have been disappeared. So there was no intention of Mr. Musharraf to give the freedom of the media that he claimed.

Yes, he opened a lot of private channels on the television. This was a commercial enterprise, my friends, believe me. And when they opened it, they were very vocal about it, that we are getting investment in Pakistan, that we are now taking over the air, and all these channels are going to be open. The minute these channels started exercising freedom of the press and freedom of the media and freedom of expression, they were closed off. The Pakistan Electronic Media Regulation Authority was setup in 2004. And the laws setting up this, the regulations that this authority has been giving since its establishment is evidence of what I'm saying. Every law that came in, every regulation, was there to curtail the freedom of the media rather than to facilitate it.

And then on India, I'm happy to say that we have very close links with the Indian civil society also. There has been a people-to-people contact between Pakistan and India. That has proved to be very useful as a support for both ourselves and our Indian counterparts. Yes, press statements have been issued. There is still a process which is going on, and at the South Asian level, I think our Indian colleagues are also very active. And I hope that there will be a time when delegations from South Asian lawyers and human rights groups will visit Pakistan, as others are doing from other parts of the world.

Now, this whole – I think your question was very good. I do believe that there is a need to explain why we have an aspiration that Musharraf should go, but at the same time be a part of a process, and whether the reinstatement of the judges would push that process and would create a situation where there is a vacuum. I don't believe that will happen. For one thing, I don't think that the judges – one or two may be crazy, but not all of them. So I don't think that that will happen because of the reinstatement of the judges. But let me also say, by a process, I don't mean such a gradual process that it takes years. It should be as expeditious as possible. The way that we think we can go about it – and we may be proved totally wrong, but so far, I think that's one solution that is worth trying, is to make this political parties sit down – and we had hoped that this would happen before the elections – and to talk in a manner in which they set the agenda for a more independent and free and stronger institutions, so that the whole legal and constitutional framework is clarified.

I think it will be a very difficult and painful process, but it will be a discussion worth having, because they have to ultimately give the message that neither his uniform nor Musharraf is the issue here. The issue is who is going to take the responsibility of determining Pakistan's future strategies, both as foreign and domestic strategies, and security strategies? Will the politicians be a part of it, or not, or be excluded from that forever? Even when they're in power, our prime ministers can't decide security issues. The military always has a monopoly. They can't decide on foreign policy. So I think this is something that our politicians should be doing. Benazir deal or no deal with Musharraf. If she comes into power, whatever kind of an uncomfortable equation that may be for her, or Nawaz Sharif come to power, I think what we have determined is that we keep putting these questions to her.

LAURENTI: And the last question?

JILANI: Yes, sorry. The legal opinion – I have very little hope that the jurisdictional matters and issues will allow him to take up the cases here in the United States. There may be. There may be a possibility. But, again, I can't give a legal opinion without studying a particular case.

LAURENTI: Thank you. I'd like to ask Jürgen and then Mort for like 30 seconds concluding thoughts before we disperse.

STETTEN: Well, never ask a European to speak for 30 seconds. It's not going to work. But I'd like to say a fond thanks to Hina Jilani. I think this has been really one of the most exceptional luncheons I've had in this room, real enlightenment, and that you left us with a positive note in terms of the political process and some of the opportunities that lie ahead, I think, for some new leadership to emerge. I think that has really topped this discussion.

I'd like to also thank Jeff again for having us here. It's been a real pleasure. Thank you.

LAURENTI: And Mort, on behalf of Century's Democracy Project?

HALPERIN: I think we should all leave here reinforced in our determination that the United States become a force to support those struggling for democracy around the world, rather than a barrier to those people. It's just been too long.

LAURENTI: And I want to thank all of you for joining us. Happy Eid al-Adha, Merry Christmas, best for the New Year, and we look forward to engaging you in our common programming again in 2008. Thank you.

(applause)

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