I. Introduction

The theme of this Working Group was ‘Preventing the Deterioration of Human Rights Standards: Policies and Practices.’ The two conveners were Berma Klein Goldewijk and Richard Goldstone. The number of participants taking part in the six sessions ranged from 25 to 31, coming from 21 different countries.

The conveners provided a framework for the discussions, as follows:

1. Substantiating the assumed deterioration of human rights standards;
2. Declining norms and standards versus non-compliance with these standards;
3. Effects of the weakening of human rights standards on wider justice-related issues;
4. Connecting human rights standards to human security and human development;
5. Concrete policies and practices to prevent the deterioration of human rights.

No attempt was made to reach a consensus on all issues discussed or offer unanimous resolutions on the different positions taken by participants. Rather, an open discussion and continuous exchange enabled all participants to freely contribute within the overall framework and, thus, to express a variety of opinions on the issues that were raised in the framework.

Part II of this report records the views of participants on human rights standards today. Part III examines contemporary shifts in perceptions of human rights, security and development. Part IV summarizes some concrete policies and practices.

II. Deterioration of Human Rights Standards: Perceptions of Participants

Universal Application

As a preliminary point, the working group underlined the universality of human rights. Though the great diversity of cultural and religious contexts in which human rights are being implemented was recognized and appreciated, universal compliance was seen as a consequence of the acceptance of the Universal Declaration of Human Rights (UDHR, 1948) and the
ratification of subsequent international human rights conventions, protocols and national legislation by states. The working group discussed the various moral and legal standards as they are present in the UDHR, the African Charter of Human and People’s Rights, the UN Charter, and in religious texts such as Quran. In addition, freedom of religion was briefly reviewed as a universal human right.

At the same time, an apparent increase in fundamentalist orientations in the world religions was recognized, with tendencies towards extremism and the use of violence - whether in Christianity, Hinduism, Islam, Buddhism, or Judaism. Examples were given of some Muslim mullahs issuing *fatwahs* (religious edicts) that have violated human rights, while some militant Protestant ministers, Jewish rabbis, Hindu priests and Buddhist monks have called for the use of violence in dealing with ethnic conflicts as well. It was also recognized that the universality of human rights has not been accepted by all states. In North Korea, for example, human rights are deemed bound up with questions of national security and the state’s fundamental right for national sovereignty.

Next to the attention paid to the universality of human rights standards, the working group asked attention for the different forms of transitional justice in post-conflict settings. Often based on local and traditional forms of truth-telling and restorative justice after atrocities, transitional justice could be of support in efforts towards durable conflict resolution and reconciliation, if care is taken to avoid gender and generational biases that are sometimes inherent to traditional and local structures. In this connection, UN Security Council Resolution 1325 (on women, peace, and security) and Resolution 1820 (on sexual violence in conflict and post-conflict situations) were referred to for guidance.

*Positive Developments*

The working group noted a number of salient developments in the field of human rights standards. The overall picture was diversified. In some geographic areas and institutional domains (international criminal law) gradual progress could be observed, while elsewhere in the world and in other domains (especially in relation to counter-terrorism), a sometimes severe deterioration in human rights standards occurred. The working group discussed a few particular cases, such as Egypt and Palestine.

The establishment and subsequent development of the International Criminal Court (ICC) was considered a significant step in the development of the international justice system, while also
some developments under the new US administration were seen to offer positive prospects for the future. Though perhaps often not spectacular, the continuing efforts by NGOs remain a relevant contribution to human rights standards as well as to their implementation, and need to be sustained. The working group referred to the many initiatives being taken today at all levels of society: local, national, regional and global - designed to support non-violent, legal and political resolutions of conflict, which can add to or strengthen human rights and other areas of international law.

*Backlash of the War on Terror*

On the other hand, there were also reasons to be more pessimistic. The war on terror and related measures taken to deal with alleged security threats did not only curtail civil liberties, but also led to severe violations of human rights around the globe. Within six months of 9/11, a series of laws detrimental to human rights were adopted and applauded by both authoritarian and democratic governments around the world. The working group noted a world-wide increase in the militarization of weapons, personnel, training, secret intelligence agencies, national security laws, and large expenditures of public funds for defense - as being an important compounding factor in the deterioration of human rights. However, the increase in non-state violent actions, whether labeled ‘terrorist’, ‘freedom fighting,’ or seeking self-determination, does not justify the use of force against civilians. The group was concerned that an ‘over-securitisation’ of terrorist and other threats may lead to the adoption of exaggerated emergency measures with negative and counter-productive side-effects.

Though the negative human rights effects of these measures are clear, even more so in retrospect, it is difficult to judge whether these effects were in all cases intended. Yet, the working group recognized that certain regimes consider human rights in general - or special categories of rights in particular - as inimical to their own national, cultural or religious interests. A number of such regimes have demonstrably appropriated the counter-terrorism discourse for their own political and opportunistic reasons in order to eliminate political opposition or carry on suppressive campaigns directed against their own populations.

In a 2009 Report entitled ‘Assessing Damage, Urging Action’, the Eminent Jurists Panel on Terrorism, Counter-terrorism and Human Rights recognized the extent to which state-related responses to the events of 11 September 2001 have changed the legal landscape and have put the
international legal order in jeopardy. This independent Panel, commissioned by the International Commission of Jurists, concluded that basic principles of international human rights law have been actively undermined, often by liberal democracies that have been loud in proclaiming support for international law. Whereas intelligence agencies acquired new powers and resources, there has often been little legal and political accountability. The Panel clearly rejected the claim that any ‘war’ on terror excuses states from abiding by international human rights law. Preventive measures and mechanisms are acceptable as long as they are not in conflict with international human rights principles.

The working group largely subscribed to the analysis of the panel, but felt in addition that measures in the field of, economic, social, cultural as well as political development need to be taken for dealing with the underlying reasons as to why terrorism emerges under particular conditions and why sections of the population are attracted to it. It underlined that unlawful violence by non-state actors can be dealt with by the usual means available to any state so that the use of force in such a case against a non-state actor is legitimate and carried out in conformity with the law.

The use of weapons of mass destruction (WMD) should vigorously be objected from a human rights point of view. In Vietnam, the residues from the war remain: Agent Orange and other chemicals destroyed forests and land, and devastated labor ability. The effects are felt up to this very day. The production of, and willingness to use, nuclear weapons was seen as a violation of the basic human right to life. Making the use of all weapons of mass destruction a crime against humanity, in response to the gap in international law concerning the legality of the threat or use of nuclear weapons, was mentioned as an important step to be further explored by Pugwash in the near future (see also the widely disputed 1996 Advisory Opinion of the International Court of Justice on issues of legality).

**Human Security Issues**

The working group also discussed the impact of current economic trends on human rights. It was concerned about the situation of food security. Some argued that the use of large amounts of grain for producing bio-fuels will contribute to a consequent scarcity of food in some regions - whereas food is a basic right for everyone. More generally, the increasing social and economic
disparities also may lead to decreasing entitlements to food among increasingly larger sections of the population.

The working group noted the importance and need of greater knowledge or awareness of human rights in many parts of the world and recommended that such awareness be promoted. The example of an adult education program in West Africa, which translated and promoted the African Charter of Human and Peoples’ Rights into the three languages of that region, was referred to something to be adapted elsewhere as well.

III. Human Rights, Security and Development: Shifts in Perception

An important shift has developed in the perception of the interlinking of human rights, human security and human development. This shift involves the central premise that people must be put before states, which has grounded a whole series of humanitarian interventions from the mid-1990s. Rights, security and development are ‘human-centred’ today, in that their principal focus is on the individual in a universal sense, that is, people collectively. In the notion of human security, for example, the sovereign legitimacy of the state rests upon its support of the people and how the state meets basic humanitarian standards, on which basis it draws its legitimacy. Such a shift in perceptions of security opens up new avenues for strengthening human rights in all its manifestations. Moreover, the primacy of the inherent dignity of all human beings has become the core value that underlies and informs such new perceptions. Economic, social and cultural rights can now benefit from the public recognition that, in matters of security, individuals and their communities have primacy.

However, many policy-makers today fail to grasp the underlying and unifying ‘human’ dimension common to issues of rights, security and development. In addressing the two major global challenges of violent conflict and poverty, human security is too often limited to the protection of citizens. This excludes too many individuals and groups: the stateless, non-documentated refugees and all those without citizenship – whose number is rapidly increasing. What is required by policy-makers is a sustained effort to understand and close the gap between ‘citizens’ and ‘humans’. Human rights, human security and human development contribute to such efforts by reaffirming the universal basis common to all humans.

The International Criminal Court can be perceived as a new legal institution that reflects this new thinking. In effect, the ICC not only affirms that everyone has the right to be protected. The ICC
has also established that not only a State Party and the UN Security Council can refer a situation
to the Court, or that the ICC Prosecutor can begin an investigation on his or her own authority:
individuals can bring their complaints to the Court as well - to be further investigated. The
working group discussed these elements thoroughly. As from its start in 2002, when the 1998
Rome Statute entered into force, the ICC is conceived as *complementary* to national justice
systems and functions as a court of last resort. It was deemed important in the working group that
further ratification of the Rome Statute of the ICC is supported, that possible constitutional and
legislative obstacles to ratification are publicly addressed, and that the ICC would muster as
broad international support as possible, for example by actively cooperating in areas such as
providing evidence.
The ‘responsibility to protect’ (R2P), which is part of the 2006 UN Security Council’s
unanimous adoption of Resolution 1674 on the Protection of Civilians in Armed Conflict, is a
concrete example of the right to intervene in sovereign states for humanitarian reasons.
Unfortunately, the acceptance of the universal human core of the concept has been compounded
by suspicions on behalf of some nations who allegedly felt that the ‘responsibility to protect’
would facilitate the imposition of Western agendas. In many cases, however, the ‘responsibility
to protect’ would in effect have put on the agenda serious violations of human rights in which
such nations were involved themselves - and that now often can go on unhindered.

**IV. Policies and Practices**
The final sessions of the Working Group examined some policies and practices, which stemmed
from the previous discussions.
The recognition of a major shift taking place, from state-related security and military defense to
human security, will have major significance in setting future priorities for funding, policies and
programs. This relates to a different approach to security, which is preventive, bottom-up,
participative, and less based on coercive means than the erstwhile conventional military
approaches of security. In designing post-conflict reconstruction and development packages,
donor-centric and top-down approaches need to be avoided as they tend to create resentment and
are deemed Western impositions. Recognition of local agency is therefore of major relevance.
The recognition of the inter-relations between civil, political, economic, social and cultural
rights, should lead human rights practitioners to seek strong public support for the UN
Millennium Development Goals. The working group felt that the attainment of the Millennium Development Goals by 2015 (varying from ending extreme poverty and hunger, achieving universal primary education, promoting gender equality and fairness to women, reducing childhood deaths, to combating HIV/AIDS and other diseases, taking care of the environment, and building global partnerships) could help contribute to a lessening of the underlying causes of conflict and terrorism. The working group specifically noted the importance of having access to health care as an element of human rights standards and referred to the WHO program ‘Health for All in 2000’.

Pugwash should further pay attention to the effects of technology on human rights and human security - in particular information technology, by means of which a great majority of the world population is currently connected. Scientists evaluate the applications of nanotechnology for improving health and for positive effects on the environment. Equally, they should challenge current efforts of corporations striving to obtain exclusive control of intellectual property rights, and oppose the application of nanotechnology to warfare.

The recognition that any use of nuclear weapons would cause massive human suffering and indiscriminate and long-term harm to civilians as well as to the shared environment - and in view of Pugwash’s founding mission and principles - the working group recommended that efforts be taken to recognize and declare that any use of such weapons would fall under the category of the ‘most serious crimes of international concern’, in casu, constitute a ‘crime against humanity’.

Protracted conflicts are difficult to resolve. Early action is needed and further investments have to be made in early warning systems and early response mechanisms. Solutions must also include identifying the underlying causes, such as historical and contemporary injustices, the need for non-discriminatory and non-exclusionist legislation and government policies, and developing the political will to control corruption and identity-based patronage. A vital role for the international community and human rights organizations is to insist on the avoidance of double standards, and to deal equally with the victims of violence inflicted by terrorists, police or the defence forces.

The working group agreed on the need to work towards a world in which all people respect the dignity and worth of each and everyone - irrespective of caste, class, language, religious, ethnic, and political differences - and recognize and celebrate the human roots that are common to us all.
References:

