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Pakistan: Basic human rights in danger as the army is called in to assist police

Amnesty International fears that the Pakistani Government's decision to allow the army to assist police in maintaining law and order in the provincial capital, Karachi, could lead to a repetition of the grave human rights violations which have occurred in the region during the last few years.

"Hundreds of people were shot dead by police, armed and military forces and tortured to death in custody last time such measures were taken to restore law and order in Karachi. The perpetrators of these grave violations were not brought to justice and the Pakistani authorities have given no assurances that such abuses will not happen again," the organization said.

In response to escalating violence in Karachi, the Government of Pakistan on 21 November Invoked article 245 of the Constitution, which calls on the army to assist the police and suspends the High Court's jurisdiction to enforce basic human rights in areas where the army is deployed.

"This will in effect mean that ordinary people will have nowhere to seek redress for human rights abuses committed against them while the High Court's powers are curtailed," Amnesty International continued.

Pakistan's government has also ordered the creation of summary military courts with powers to try and sentence civilians suspected of disturbing law and order within only three days. Appeal will lie only with a higher military tribunal.

According to Prime Minister Nawaz Sharif, these courts, "will take decisions not in months, not in weeks but in days". Hundreds of people arrested in the clampdowns in Karachi during the last three weeks could now be facing summary and unfair trials before military courts.

While justice should be provided promptly, Amnesty International opposes the establishment of special courts in times of civil unrest as they ignore the vital legal safeguards available to people tried by regular courts.

"Instead of combatting the current wave of violence in Karachi, this decision will lead to the Violation of basic human rights, such as the right to fair trial," the organization added.

"Defendants will not be able to present a full defence in trials lasting only three days. Also, cases of people tried by other courts can be transferred to these summary courts military courts, the offences for which one may be summarily tried are vaguely defined, and appeals to the country's high courts and the Supreme Court are barred."

Trial by special tribunals also contravenes Principle 5 of the United Nations Basic Principles on the Independence of the Judiciary, endorsed by the General Assembly in 1985. It states that: "*Everyone has the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals.*"

Background

Karachi lies in Sindh province, where nearly 800 people have reportedly been killed this year in Political and religiously motivated violence. Sindh was placed under Governor's rule on 30 October following the dismissal of the elected provincial government. As the violence continued, Hundreds of people were rounded up and arrested, many of them without charge.

Responding to chronic unrest in the Province, the army was called in in June 1992, under the previous government of Nawaz Sharif, to assist police in restoring law and order. High levels of human rights violations were reported in the following months. In November 1994, the army was withdrawn from law enforcement duties in Sindh, but the paramilitary Rangers were reinforced and specially trained police inducted. Violations peaked under the government of Benazir Bhutto, when, in 1995 and 1996, hundreds of people were killed by

Rangers and police. Among them were dozens of members of the Muttahida Qaumi Movement (MQM), which represents people who migrated to Pakistan during the partition of the subcontinent in 1947.

Some 30 MQM members arrested during this period are still unaccounted for and a Senate inquiry is currently seeking to establish their fate. In November 1996, the then President of Pakistan dismissed the government of Benazir Bhutto due to, among other things, allegations of responsibility for political killings in Sindh, abuse of power and disregard for the judiciary.

On 20 November President Muhammad Rafiq Tarar promulgated the Pakistan Armed Forces (Acting in Aid of the Civil Powers) Ordinance, 1998 which sets out the powers and duties of the Army acting under Article 245 of the Constitution. It came into force immediately and will remain in force for four months unless confirmed parliament and made part of regular law.

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