



PAKISTAN

SUBMISSION TO THE UNITED NATIONS COMMITTEE ON ECONOMIC,
SOCIAL AND CULTURAL RIGHTS

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1. INTRODUCTION

This submission outlines Amnesty International's main concerns ahead of the review of Pakistan's initial report during the 61st session of the United Nations (UN) Committee on Economic, Social and Cultural Rights (hereinafter, "the Committee").¹ It provides information regarding the general and specific provisions of the *International Covenant on Economic, Social and Cultural Rights* (hereinafter, "the Covenant"), taking into account the list of issues adopted by the pre-session working group at its fifty-ninth session in October 2016.²

In recent years, Pakistan has registered modest economic growth, low inflation and price stability.³ Despite that, an estimated 29.5% of the population lives below the poverty line.⁴ The situation is more alarming when other socio-economic indicators are looked at. 38.8% of people in Pakistan are "multi-dimensionally" poor,⁵ meaning that 38.8% of people are deprived in at least one-third of the indicators under education (years of schooling, child school attendance, and educational quality), health (access to health facilities, immunization, ante-natal care, and assisted delivery), and living standards (water, sanitation, walls, overcrowding, electricity, cooking fuel, assets, and land/livestock ownership in rural areas).⁶

Multidimensional poverty also varies significantly across regions. It stands at 74% in the Federally Administered Tribal Areas (FATA) and 71.2% in Balochistan as compared to 31.4% in Punjab.⁷

According to the National Nutrition Survey, around 58% households are food insecure in Pakistan.⁸ It is estimated that 44% children in the country are stunted or too short for their age.⁹ In Pakistan, the percentage of stunting happens to be higher among children whose mothers were not able to complete their schooling versus those whose mothers have completed at least 10 years of education.¹⁰ Stunting varies across regions with the highest prevalence found in FATA (58%) followed by Balochistan (52%).¹¹

Provincial and federal assemblies have recently adopted new laws against domestic violence, so-called "honour" crimes, and child labour.¹² However, there remain significant gaps in the legal recognition and protection of several Covenant rights. Women, children, religious minorities, refugees, and lesbian, gay, bisexual, transgender and intersex (LGBTQI) persons continue to face barriers in the realization of their rights.

¹ UN Committee on Economic, Social and Cultural Rights, Initial reports of States parties due in 2010 – Pakistan. [Date received: 16 October 2015] UN Doc. E/C.12/PAK/1.

² UN Committee on Economic, Social and Cultural Rights, "List of Issues in relation to the initial report of Pakistan", 7 November 2016. UN Doc. E/C.12/PAK/Q/1. ("List of Issues in relation to the initial report of Pakistan").

³ Government of Pakistan, *Pakistan Economic Survey 2015-16* (Islamabad, 2016) 1. (GoP, *Pakistan Economic Survey 2015-16*)

⁴ GoP, *Pakistan Economic Survey 2015-16*. 284-5.

⁵ Government of Pakistan/UNDP, *Multidimensional Poverty in Pakistan* (Islamabad, 2016). p 15.

⁶ The concept of multidimensional poverty and multidimensional poverty index (MPI) is based on the Alkire Foster method developed by Sabina Alkire and James Foster of Oxford Poverty and Human Development Initiative. To tailor the MPI to Pakistan's context, 15 indicators were used to measure the incidence and intensity of multi-dimensional poverty. See Oxford Poverty and Human Development Initiative. Available: <http://www.ophi.org.uk/research/multidimensional-poverty/alkire-foster-method/>

⁷ Government of Pakistan/UNDP, *Multidimensional Poverty in Pakistan* (Islamabad, 2016) pp. iv,15-16.

⁸ Government of Pakistan, *National Nutrition Survey* (Islamabad, 2011) p. 22.

⁹ UNICEF, *Progress Report 2013-15: Stop Stunting* (Islamabad, 2015) 7 (UNICEF, *Stop Stunting*). Stunting is an outcome of malnutrition and repeated infections, and slows down cognitive development in children under two years of age. For an overview, see WHO, "Global Nutrition Targets 2025: Stunting Policy Brief", 2014. Available: http://www.who.int/nutrition/topics/globaltargets_stunting_policybrief.pdf

¹⁰ UNICEF, *Stop Stunting*. p. 14; see also, G.M. Arif et al, "Child Malnutrition in Pakistan: Trends and Determinants", Working Paper, July 2012. (Pakistan Institute of Development Economics, Islamabad). p. 9.

¹¹ UNICEF, *Stop Stunting*. p. 15.

¹² See, for example, The Sindh Child Marriages Restraint Act, 2014; the Domestic Violence (Prevention and Protection) Act, 2013 (Sindh Act No. XX of 2013); the Khyber Pakhtunkhwa Prohibition of Employment of Children Act, 2015; the Balochistan Protection Against Harassment of Women at Work Place Act, 2016; and the Criminal Law (Amendment) (Offences in the Name or on the Pretext of Honour) Act, 2016.

2. GENERAL OBSERVATIONS

2.1 DATA COLLECTION

On 15 March 2015, after a long delay, Pakistan began conducting its fifth population census. The last population census was held in 1998. The Committee has emphasized the importance of “reliable” and “disaggregated data” to the implementation of the Covenant, especially in relation to poverty eradication.¹³ In the absence of current census data, economic and social planning risks turning into guesswork. In Pakistan, the census plays an important role in delimiting electoral constituencies, distributing resources to the provinces under the National Finance Commission award, and allocating provincial quotas for recruitments in the federal bureaucracy.¹⁴ Amnesty International welcomes the order by the Supreme Court of Pakistan directing the government to incorporate information on the people living with disabilities and transgender persons in the ongoing census.¹⁵ However, out of a total of 119000 enumerators conducting the census, just 2400 are women.¹⁶ There are fears that women in more conservative parts of the country will be reluctant to talk to male enumerators. That might result in the census failing to cover female-headed households and accurately recording data on women and girls.

2.2 BUDGET IMPLEMENTATION

In 2010, Pakistan’s Parliament unanimously approved the 18th amendment to the constitution, shifting significant powers from the federal government to the provinces. This system offers opportunities for better planning and accountability around certain Covenant rights, such as health and education, as they now fall under the purview of the provincial governments.¹⁷ Many experts see this as necessary to correct years of centralized governance, which had resulted in regional inequalities.¹⁸ However, as noted by the Committee, the devolution of power has thrown up new challenges.¹⁹ While provincial governments have earmarked substantial proportions of their budgets to social sectors, there are concerns about the administrative capacity of the provinces to utilize the allocated resources.²⁰ To illustrate, during the last financial year (2015-16), 18% and 21% of the budgets allocated to education went unspent in Punjab and Sindh respectively.²¹ Some of the factors that account for the underspending include: a lack of skilled accounts and finance staff, slow tendering and procurement processes, and delays in the transfer of funds from the provincial authorities to district administrations.²² Overall, public spending on key social sectors remains low. For example, in the fiscal year 2015-16, the total outlay for health and education amounted to 0.45% and 2.2% of the GDP respectively.²³ Public expenditure on defence is higher than both education and health, and currently stands at 2.6% of the GDP.²⁴ Though the government launched a “Gender Responsive Budgeting Initiative” with the UNDP’s support in 2005, it does not seem to have led to a major change in how public finances are allocated.²⁵ For example, the so-called “Gender Budget Statement” in the federal budget for 2015-16, states that “the majority of the budget (90%) is allocated for gender blind/neutral budget heads”, such as building of roads and dams, where “gender of beneficiaries is not identifiable or taken into account”.²⁶

¹³ UN Committee on Economic, Social and Cultural Rights, General Comment 10, “Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights: Poverty and the International Covenant on Economic, Social and Cultural Rights”, Twenty-fifth Session, Geneva, 23 April-11-May 2001, at para 13. (CESCR, General Comment 10).

¹⁴ Pursuant to Article 51 (3) and Article 160 (2) of the Constitution of the Islamic Republic of Pakistan.

¹⁵ “SC orders govt to count disabled people in ongoing census”, *Dawn*, 17 March 2017. Available: <https://www.dawn.com/news/1320852>; “Transgender population to be counted in census for first time”, *Dawn*, 9 January 2017. Available: <https://www.dawn.com/news/130737>

¹⁶ Figures cited by Habibullah, Member of the Census Board, Capital TV, 15 March 2017. See also, Sarwar Bari, “Women and Population Census”, *The Express Tribune*, 14 March 2017. Available: <https://tribune.com.pk/story/1355288/women-population-census/> [accessed 16 March 2017]

¹⁷ Constitution (Eighteenth Amendment) Act, 2010. Available: http://www.na.gov.pk/uploads/documents/1302138356_934.pdf

¹⁸ PILDAT, “Historical Evolution of Federalism in Pakistan”, Discussion Paper. (Islamabad, 2014).

¹⁹ “List of Issues in relation to the initial report of Pakistan”, para 2, UN Doc E/C.12/PAK/Q/1

²⁰ See, for example, Mansoor Malik, “Punjab Budget 2016-17: Social Sector Allocation up by 41%”, *Dawn*, 14 June, 2016. Available: <https://www.dawn.com/news/1264730> [accessed 20 March 2017]; Pervaiz Tahir, “Education and Health in K-P, Punjab Budgets”, *The Express Tribune*, 16 June, 2016. Available: <https://tribune.com.pk/story/1124230/education-health-k-p-punjab-budgets/>

²¹ I-SAPS, *Public Financing of Education in Pakistan: Analysis of Federal, Provincial and District Budgets 2010-11 to 2015-16* (Islamabad 2016) p. xx.

²² SDPI, “Gaps and Challenges in Education Spending”, 8 June 2015. Available: http://www.sdpi.org/media/media_details2196-article-2015.html

²³ *GoP, Pakistan Economic Survey 2015-16*. pp 9-10.

²⁴ Government of Pakistan, *Budget in Brief – Federal Budget 2016-17* (Islamabad 2016) p. 24. GoP “Budget in Brief”

²⁵ Rekha Chakraborty, “A Survey of Gender Budgeting Efforts”, IMF Working Paper, July 2016.

²⁶ GoP, “Budget in Brief”. P 48.

2.3 RESTRICTING CIVIL SOCIETY

Amnesty International is concerned about the government's recent actions which have restricted the space for human rights defenders and NGOs working on the protection and promotion of the Covenant rights. In October 2012, the authorities ordered all foreign staff working with the international charity, Save the Children, to leave Pakistan. The decision came after intelligence reports linked a local doctor, Shakil Afridi, to a "fake vaccination" campaign he had allegedly run while working for Save the Children to help America's Central Intelligence Agency (CIA) trace Osama Bin Laden in the city of Abbottabad.²⁷ Even though Save the Children consistently denied having any links with the CIA or the alleged fake vaccination campaign, its head offices in Islamabad were sealed in June 2015.²⁸ Though the authorities let the charity to resume its operations after a few days, they would no longer allow it to continue some of its major programmes, including non-formal education centres for Afghan refugees, in Balochistan and Khyber Pakhtunkhwa province.²⁹ Shakil Afridi was sentenced to 33 years in prison on charges for links to a militant group following a trial held behind closed doors.³⁰ He is currently in jail.

In 2015, the Government of Pakistan announced a new policy for the regulation and registration of international NGOs (INGOs), giving broad powers to the Ministry of the Interior to review the registration of INGOs based on their funding sources and the nature of their work. All international NGOs were directed to re-apply for registration. The applications for registration would be scrutinized by an INGO committee chaired by Secretary Interior.³¹ Although the policy stipulated a period of 60 days for the processing of applications, many INGOs which applied for registration, have been awaiting the outcome of their applications for months.³² The new policy bars INGOs from working while their applications are pending.³³ NGO representatives are also deeply concerned about the provision in the new policy that the INGOs, which are approved for registration, would be allowed only to work in specified fields and locations in Pakistan after "consultations with relevant Federal and Provincial authorities".³⁴ Organizations have told Amnesty International that they fear that work on human rights advocacy in certain regions of the country, such as Balochistan and FATA, might be curtailed as a result.³⁵ The INGOs which are denied registration have the "right to appeal" to a "Special Ministerial Committee" whose decision would be final.³⁶

In December 2016, the Punjab government - on instructions from the Federal Interior Ministry - ordered South Asia Partnership Pakistan to shut down for allegedly submitting a "critical shadow report" to the United Nations "Commission on Human Rights".³⁷ The authorities withdrew the closure order against the South Asia Partnership following a hearing in the Lahore High Court on 27 January 2017.³⁸

A number of NGOs working on human rights, including South Asia Partnership, Pakistan Institute of Labour Education and Research, Women in Struggle for Empowerment, and Rozan, have complained that they are now required to obtain "No Objections Certificates" (NoCs) from the district authorities before carrying out their work.³⁹ The new requirement, which is not laid out in any legal or policy document, has particularly affected NGOs working in Balochistan, FATA, Khyber Pakhtunkhwa and southern districts of Punjab province. NGO representatives say the obligation to obtain the NoCs is arbitrary and unjustified since the NGOs are already registered with the government and comply with audit requirements. Further, there are concerns that the authorities seem to be using the NoCs as a tool in certain parts of the country only to target the NGOs which operate with a rights-based advocacy agenda.⁴⁰

Many NGOs, both local and international, which are involved in the defence and promotion of human rights, complain of frequent visits by intelligence officials to their offices seeking information on staff and organizational activities.⁴¹

Amnesty International recommends that the State Party:

- Increase the numbers of female enumerators in the on-going census and strengthen efforts to ensure that every woman and girl in Pakistan is captured in the census.

²⁷ "Pakistan evicts Save the Children foreign staff", 6 September 2012. Available: <https://www.dawn.com/news/747471>

²⁸ "Pakistan orders Save the Children to leave the country", *BBC*, 12 June 2015. Available: <http://www.bbc.com/news/world-asia-33105128>

²⁹ Amnesty International's interviews with the charity staff and other key informants, 1-15 March, 2017. See also, "Save the Children allowed to resume operations in Pakistan", *The Express Tribune*, 14 June 2016. Available: <https://tribune.com.pk/story/903370/save-the-children-allowed-to-resume-operations-in-pakistan/>

³⁰ "Profile: Shakil Afridi", *BBC*, 11 September 2012. Available: <http://www.bbc.com/news/world-asia-18182990>

³¹ Government of Pakistan, Ministry of Interior, "Policy for Regulation of International Nongovernmental Organizations (INGOs) in Pakistan". Notification (On file) dated 1 October 2015. No.6/34/2015-PE-III, para 4.4.

³² Amnesty International's interviews with international NGO representatives in Islamabad, February-March 2017. The 60-day time-period for the scrutiny of applications is specified in para 4.6 of the "Policy for Regulation of International Nongovernmental Organizations (INGOs) in Pakistan".

³³ "Policy for Regulation of International Nongovernmental Organizations (INGOs) in Pakistan", para 4.9.

³⁴ "Policy for Regulation of International Nongovernmental Organizations (INGOs) in Pakistan", para 4.7.

³⁵ Amnesty International's interviews with the charity staff and other key informants, 1-15 March, 2017.

³⁶ "Policy for Regulation of International Nongovernmental Organizations (INGOs) in Pakistan", para 7.2.

³⁷ Letter (On file) by the Government of Punjab Home Department, dated 7 October 2017. The United Nations Commission on Human Rights was replaced by the Human Rights Council on 15 March 2006. See G.A. Res. 60/251, U.N. Doc. A/RES/60/251

³⁸ "Court stays govt notice, allows NGOs to work", *Dawn* 24 January 2017. Available: <https://www.dawn.com/news/1310353>

³⁹ Zeenia Shaukat, "NoGo areas", *The News on Sunday*, 29 January 2017. Available: <http://tns.thenews.com.pk/nogo-areas/#.WNORDW8rLIU>

⁴⁰ Maham Javaid, "NGOs under fire", *The News on Sunday*, 29 January 2017. Available: http://tns.thenews.com.pk/ngos-fire/#.WNHO2_yvIU

⁴¹ Amnesty International's interviews with international NGO representatives in Islamabad, February-March 2017.

- Ensure coordination among all branches of government, so that economic, social and cultural rights are adequately resourced across all provinces, and the budget is periodically monitored to ensure it is implemented fully;
- Ensure that all applications processes for INGOs for re-registration are simple, easily accessible and non-discriminatory, and processed within 60 days as stipulated in the government policy. INGOs must be able to appeal the decisions on their applications before an independent body outside the Ministry of Interior;
- Abolish the requirement for the NGOs, which are already registered with the government, to obtain the “No-Objection-Certificates” from district authorities to carry out human rights work.

2.4 INCORPORATION OF COVENANT RIGHTS IN DOMESTIC LAW

The constitution of Pakistan does not include all economic, social and cultural rights under the chapter on “Fundamental Rights”, meaning not all are enforceable in Court. Article 11 of the constitution prohibits “slavery” and “forced labour.” The same article forbids the employment of “a child below the age of fourteen years” in “any factory or mine or any other hazardous employment.” The constitution guarantees “freedom of assembly” (Article 16) and “freedom of association” (Article 17), and “freedom of business, trade and profession” (Article 18). The 18th constitutional amendment, adopted by the Parliament in 2010, added to the catalogue of rights “the right to have access to information in all matters of public importance (Article 19A) and the right to education “for all children up to 16 years of age” (Article 25 A).

Chapter 2 of the constitution outlines the “Principles of Policy” (Articles 29-40), which call upon the State to “make provision for the just and humane conditions of work; to provide necessities of life such as food, clothing, housing, education and medical relief”; and “to reduce disparity in income and earnings.” While the “Principles of Policy” have persuasive value and have been used to develop the substantive content of fundamental rights, they are not directly enforceable in the courts.⁴² The Supreme Court, under the former Chief Justice Iftikhar Chaudhary (2005-2013), made extensive use of its “original jurisdiction” under Article 184(3) of the constitution to initiate *suo motu* proceedings on a range of human rights issues, particularly health and environment.⁴³ For example, in a series of cases, the Supreme Court ordered the government to prevent the contamination of drinking water and the dumping of solid waste in various parts of the country.⁴⁴ The Court, however, did not develop reasoned jurisprudence on economic, social and cultural rights.⁴⁵ As a result, the judgments have limited value as precedents today.

Furthermore, references to international human rights law have been extremely rare in Pakistan’s domestic case-law.

Constitutional rights, as yet, do not extend to the Federally Administered Tribal Areas (FATA). Superior courts lack jurisdiction in respect of tribal areas “unless the Parliament by law otherwise provides.”⁴⁶ Amnesty International welcomes the decision by the federal cabinet to adopt the recommendations on FATA reforms, which envisage the merger of the tribal areas with Khyber Pakhtunkhwa province.⁴⁷ While the full integration will happen over a five-year transition period, the report of the FATA Reforms Committee recommend that all constitutional protections and the jurisdiction of the High Court and the Supreme Court apply in the tribal region. The government has yet to clarify whether it intends to introduce the constitutional amendment extending “Fundamental Rights” to the people of FATA during the five-year transition period or at the end of it.⁴⁸ While recognizing that setting up a system of regular courts, policing, and legal training in FATA requires time, some human rights defenders have demanded that the people in FATA be immediately given the right to approach the High Court and the Supreme Court to seek redress for the violation of human rights.⁴⁹

The National Commission for Human Rights was established in May 2015 with the appointment of its chairperson and members. The Commission has the power to take *suo moto* action on cases of violation of human rights. Amnesty International is concerned that the Commission lacks the independence and capacity to carry out its functions in line with the United Nations “Principles relating to the

⁴² “List of Issues”, at para 1. UN Doc. E/C.12/PAK/Q/1; In some cases, dating back mostly to the 1980s and 1990s, Pakistan’s courts read the “Principles of Policy” into the guarantees of “Fundamental Rights”. See, for example, *Shehla Zia v WAPDA*, PLD 1994 SC 693; *Pakistan Chest Foundation v Government of Pakistan*, 1997 CLC 1379; *Benazir Bhutto v Federation of Pakistan*, PLD 1988 SC 416; and *Benazir Bhutto v President of Pakistan*, PLD 1998 SC 388.

⁴³ Asher A. Qazi, “*Suo Motu*: Choosing not to Legislate – Chief Justice Chaudhry’s Strategic Agenda”, in Moen H. Cheema and Ijaz Shafi Gilani (eds.) *The Politics and Jurisprudence of the Chaudhry Court 2005-2013* (OUP, Karachi 2015) p. 321.

⁴⁴ See, for example, *Suo Motu Case No. 14/2007* (Polluted water in Dera Ghazi Khan); *Suo Motu Case No. 10/2010* (Contamination of Machar Lake); *Suo Motu Case No. 13/2010* (Supply of contaminated water to Rawalpindi from Rawal Dam); and *Suo Motu Case No. 18/2009* (Dumping of solid waste by Safina Sugar Mills on Sargodha-Chiniot road).

⁴⁵ The court also turned controversial by involving itself too closely in public policy and removing an elected prime minister (Yusuf Raza Gilani) from office for “contempt of court” on 19 June, 2012.

⁴⁶ The Constitution of the Islamic Republic of Pakistan, Article 247 (7).

⁴⁷ “Federal cabinet approves recommendations to ‘mainstream’ Fata”, *Dawn* 2 March 2017. Available: <https://www.dawn.com/news/1317961/cabinet-approves-recommendations-of-fata-reforms-committee>

⁴⁸ “Report of the Committee on FATA Reforms”, p 42.

⁴⁹ Amnesty’s Interviews with key informants, 1-15 March 2017.

Status of National Institutions” (The Paris Principles).⁵⁰ The Commission does not have the powers to investigate the violations of human rights by the military and intelligence agencies directly.⁵¹ There are concerns that some members of the National Assembly’s Standing Committee on Human Rights demand information from the Commission on its everyday operational matters thus undermining its capacity to function independently.⁵²

Amnesty International recommends that the State party:

- Incorporate international human rights law into legal curricula and the training of lawyers and judges;
- Ensure that economic, social and cultural rights are enforceable in national law, through appropriate constitutional and legislative changes, and that individuals have access to effective judicial or other appropriate remedies if their rights are violated.
- Ensure that constitutional protections are extended to FATA at the earliest, and that people in the tribal region have equal access to judicial remedies for violations of their rights.
- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

2.5 NON-DISCRIMINATION AND EQUALITY

Women, religious minorities, LGBTQI persons, and refugees continue to face discrimination in law and in practice.⁵³ The value of a woman’s court testimony under the *Qanun-e-Shahadat* (Law of Evidence) is half that of a male witness. The Child Marriage Restraint Act, 1929 discriminates between girls and boys by establishing the minimum age of marriage at 16 for girls and 18 for boys. In January 2016, the National Assembly withdrew a proposed amendment to the law, seeking to “raise the minimum age for girls to 18 years”, after the Council of Islamic Ideology declared it “un-Islamic”.⁵⁴ The Council also blocked another law passed by the Provincial Assembly of Sindh in November 2016 to prevent forced conversions of non-Muslim women.⁵⁵ In October 2016, Pakistan’s parliament passed legislation closing a loophole in the criminal law that allowed the accused in so-called honour killings to escape punishment by getting a “pardon” from the family.⁵⁶ Under the new law, a convicted person faces a mandatory life sentence even when they receive a “pardon” from the victim’s family.

Amnesty International is aware that women who seek judicial remedies for the violation of their rights face a series of challenges in Pakistan. Those without means to hire a lawyer cannot easily access legal aid.⁵⁷ Police, prosecutors and judges often lack an understanding of women’s rights. Court trials are subject to long delays.⁵⁸

The blasphemy law, in particular, Pakistan Penal Code’s Section 295 B (Desecrating the Koran), and Section 295-C (Insulting the Prophet), which carries a mandatory death penalty, violate the rights to freedom of expression, thought, conscience and religion. These provisions are frequently used by individuals and sectarian groups to target religious minorities.⁵⁹

The majority of Pakistani Christians, who historically belonged to a low-caste Hindu group, is employed as sweepers and sanitation workers. Amnesty International is concerned that they continue to be regarded as untouchables and live in segregated shantytowns, often in squalid conditions.⁶⁰

Pakistan’s Penal Code criminalizes consensual same-sex relationships.⁶¹ In 2009, the Supreme Court ordered the National Database Registration Authority to introduce a “third category” of sex for transgender individuals, locally known as *hijras* or *khwaja saras*.⁶² The

⁵⁰ “List of Issues in relation to the initial report of Pakistan”, para 1.

⁵¹ According to Section 14 of the National Commission for Human Rights Act, 2012, the Commission can only seek a report from the federal government or make recommendations to it in relation to “complaints of human rights violations by members of the armed forces”.

⁵² Amnesty’s interviews with key informants, 30 March 2017.

⁵³ Amnesty International, *Annual Report 2016-17: The State of the Human Rights* (Index: POL 10/4800/2017) 285.

⁵⁴ “Bill aiming to ban child marriages shot down”, *The Express Tribune*, 15 January 2016. Available: <https://tribune.com.pk/story/1027742/settled-matter-bill-aiming-to-ban-child-marriages-shot-down> [accessed 21 March 2017]

⁵⁵ “CII passes resolution on forced conversion of religion”, Associated Press of Pakistan, 8 December 2016. Available: <https://www.app.com.pk/cii-passes-resolution-on-forced-conversion-of-religion/> [accessed 6 March 2017]

⁵⁶ The Criminal Law (Amendment) (Offences in the Name or on the Pretext of Honour) Act, 2016.

⁵⁷ Yaseer Lateef Hamdani, “The Crisis of Legal Aid in Pakistan”, Briefing Paper (Insaf Network Pakistan, 2015).

⁵⁸ For a recent assessment, see Angbeen Atif Mirza, *Delay in Trial: Empirical Evidence from the Magistrate’s Court in Karachi* (Karachi, Legal Aid Society 2016).

⁵⁹ Amnesty International, “As Good as Dead”: *The Impact of Blasphemy Laws in Pakistan* (Index: ASA 33/5136/2016) pp. 11-12.

⁶⁰ Asif Aqeel, “Christians required only as sweepers”, *The Friday Times*, 23 October 2015. Available: <http://www.thefridaytimes.com/tft/christians-required-only-as-sweepers/> [accessed 17 March 2017]

⁶¹ Article 377 (“Unnatural Offences), the Pakistan Penal Code, 1860.

⁶² Rabail Baig, “A first for Pakistan’s third gender”, *Foreign Policy*, 30 March 2012. Available: <http://foreignpolicy.com/2012/03/30/a-first-for-pakistans-third-gender/> [accessed 20 March 2017]

ability to acquire national identity cards is a major step forward for the community. However, these individuals continue to face barriers in seeking employment, health care and education.⁶³

Amnesty International calls upon the State party to:

- Draw up a comprehensive anti-discrimination policy to protect all marginalized groups, including religious minorities, refugees and LGBTQI individuals, from discrimination by public officials as well as private businesses;
- Amend the Child Marriages Restraint Act, 1929 to specify 18 years as the minimum age of marriage for both boys and girls;
- Draw up a policy on increasing the numbers of women in the police force and the judiciary and building up the capacity of police and judiciary to work on VAW cases in a gender-sensitive manner;
- Facilitate the passage of the proposed law against forced conversions of non-Muslim women to Islam approved by the provincial assembly of Sindh;
- Set up Protection Centres for survivors of violence and District Women's Protection Committees as stipulated under the Punjab Protection of Women against Violence Act, 2016
- Repeal Sections 295-A, 295-B and 295-C of the Pakistan Penal Code. Pending the repeal, commute all death sentences imposed under Section 295-C of the Penal Code.

3. SPECIFIC PROVISIONS

3.1 RIGHT TO WORK AND TRADE UNION RIGHTS (ARTICLES 6 -8)

Amnesty International notes that the overall unemployment rate in Pakistan has decreased slightly in recent years. According to official figures, it currently stands at 5.9%.⁶⁴ However, the unemployment rate is significantly higher in cities (8%) compared to rural areas (5%).⁶⁵ Industrial development in urban Pakistan has not kept pace with the rising population as migrants from the rural areas are also moving to cities. Research suggests that the internal migration is at least partly linked to environmental stress, including climate-related crop failures and water scarcity.⁶⁶ Despite experiencing high levels of internal migration, Pakistan does not have a “migration policy”. A policy framework, consistent with human rights, is required in the context of rural to urban migration not only to fulfil the right to work but to ensure that other Covenant rights, such as the right to an adequate standard of living (See Section 3.2) are respected.

In the absence of appropriate planning, those migrating to cities sometimes have to live in informal settlements in hazardous locations without proper access to drinking water and healthcare facilities.⁶⁷ In recent times, Pashtuns from FATA and Khyber Pakhtunkhwa province, who make up a large proportion of internal migrants, have been alleged to have experienced discrimination from private employers, making it harder for them to access work.⁶⁸ These allegations surfaced after the authorities blamed Afghans - and people belonging to Pakistan's predominantly Pashtun northwest region - for some attacks against civilians which took place in early 2017.⁶⁹ In February 2017, the police in various cities of Punjab province reportedly put individuals from FATA under surveillance.⁷⁰ On 21 February 2017, a traders' association in Lahore circulated a notice asking Pashtun traders to report to the police for security

⁶³ Shehar Bano Khan, *Transgendered Identities: Shame, Honour and Sexuality* (Islamabad, AAWAZ 2015) p. 7.

⁶⁴ *Pakistan Economic Survey 2015-16*. p 11.

⁶⁵ *Pakistan Economic Survey 2015-16*. p. 209; see also “List of Issues in relation to the initial report of Pakistan”, para 9.

⁶⁶ Lead Pakistan, *Climate Change and Migration: Exploring the linkage and what needs to be done in the context of Pakistan* (Islamabad, 2014) 17-28. (Lead, *Climate Change and Migration*).

⁶⁷ Lead, *Climate Change and Migration*. 36.

⁶⁸ “HRCP condemns ‘racial profiling of Pashtuns by Punjab govt officials”, *Dawn*, 27 February 2017. Available: <https://www.dawn.com/news/1317344>; “Pakistan's Pashtun Profiling”, *The Diplomat*, 1 March 2017. Available [https:// thediplomat.com/2017/03/pakistans-pashtun-profiling/](https://thediplomat.com/2017/03/pakistans-pashtun-profiling/)

⁶⁹ Deutsche Welle (DW), “Why Pakistan associates terrorism with Pashtuns and Afghans”, 20 March 2017. Available: <http://www.dw.com/en/why-pakistan-associates-terrorism-with-pashtuns-and-afghans/a-38024338>

⁷⁰ “People of FATA origin put under surveillance in Pindi division”, *Dawn*, 22 February 2017. Available: <https://www.dawn.com/news/1316244> See also, “Labourers in Islamabad feel stigma of being Pakhtuns”, *Dawn*, 28 February 2017. Available: <https://www.dawn.com/news/1317514>

clearance.⁷¹ Amnesty International is also concerned that as part of the ongoing counter-terrorism measures, the authorities have cracked down on Afghan refugees and their businesses.⁷²

Latest figures indicate that the formal sector employs just 27.4% of the total labour force.⁷³ Outside agriculture, most Pakistanis work in the informal sector of the economy, which is largely unregulated, and they have no access to social security, health benefits, or occupational safety. The Factories Act, 1934, which governs the working conditions of industrial labour, only applies to companies employing 10 or more workers.⁷⁴ Labour inspection remains weak and is absent in the informal sector.⁷⁵ According to a 2015 ILO assessment, there were only 547 labour inspectors in the country, out of whom three were women.⁷⁶ In recent years, Pakistan has experienced many workplace accidents in the garment and ship-breaking industries. Around three hundred workers were killed when fire broke at a textile factory in Karachi's Baldia Town in September 2012.⁷⁷ In November 2015, a four-story factory building collapsed in Lahore's Sunder Industrial Estate, killing 39 workers. Over 30 workers were killed in multiple accidents at Gadani ship-breaking yards located on Balochistan coast in November 2016 and January 2017.⁷⁸

As noted by the Committee, bonded labour continues to exist in Pakistan, particularly in agriculture and the brick kilns industry.⁷⁹ The practice is rooted in unequal landownership patterns, and disproportionately affects certain caste and ethnic groups. In Sindh province, a majority of agricultural and brick kiln workers who is in debt-bondage, are Hindus from so-called "lower" castes. Christians and Afghan migrants make up a sizeable proportion of those who work on brick kilns in Punjab and Khyber Pakhtunkhwa.⁸⁰ Bonded labour was formally banned in Pakistan in 1992.⁸¹ The Bonded Labour Abolition Act, 1992 made forcing anyone to work in bondage a crime punishable with imprisonment for a term extending up to five years.⁸² The Human Rights Commission of Pakistan and other NGOs have since successfully used the law to secure freedom for a number of bonded labourers.⁸³ However, the employers are rarely punished as required under the 1992 law. Judges in the lower courts are often unaware of the provisions of the Bonded Labour Abolition Act.⁸⁴ At times, the police become complicit in protecting the employers in exchange for bribes.⁸⁵ Since the employers are economically and politically powerful, they evade justice.

In practice, limited access to institutional credit and absence of alternative livelihoods continue to push workers into a cycle of debt bondage and poverty. In many cases, the bonded labourers who are set free by the courts return to their former "employers" when they fail to find other work.⁸⁶

Procurement law in Pakistan does not oblige commercial and public sector entities to ensure that their suppliers adhere to human rights standards, including the prohibition of forced labour.⁸⁷ According to an assessment conducted in Sindh and Punjab provinces, local government departments procure bricks without screening whether suppliers use bonded labour.⁸⁸

Following the passage of the 18th Constitutional Amendment, provinces have enacted new industrial relations laws. The new laws, patterned on the previous legislation at the federal level, have excluded workers in the informal economy (including domestic and

⁷¹ "Pakistan's Pashtun Profiling, *The Diplomat*, 1 March 2017. Available <https://thediplomat.com/2017/03/pakistans-pashtun-profiling/>:

⁷² "Pakistan targets Afghan Pashtuns and refugees in anti-terrorism crackdown", *The Washington Post*, 3 March, 2017. Available: https://www.washingtonpost.com/world/asia_pacific/pakistan-targets-afghan-pashtuns-and-refugees-in-anti-terrorism-crackdown/2017/03/02/13131702-fcfe-11e6-9b78-824ccb94435_story.html

⁷³ *GoP, Pakistan Economic Survey 2015-16*. P 208.

⁷⁴ The Factories Act, 1934, clause 2(j).

⁷⁵ PILER, *Status of Labour Rights in Pakistan 2015* (Karachi, 2015) 22-38.

⁷⁶ PILER, *Status of Labour Rights in Pakistan 2015* (Karachi, 2015) 65.

⁷⁷ "More than 300 killed in Pakistani Factory Fires", *The New York Times*, 12 September 2012. Available: <http://www.nytimes.com/2012/09/13/world/asia/hundreds-die-in-factory-fires-in-pakistan.html>

⁷⁸ "The Wasteland: The Ugly Side of Gaddani's Ship-breaking Industry", *Herald*, 12 January 2017. Available: <http://herald.dawn.com/news/1153615>

⁷⁹ "List of Issues in relation to the initial report of Pakistan", para 13.

⁸⁰ See Ayaz Qureshi and Ali Khan (eds.) *Bonded Labour in Pakistan* (OUP, Karachi 2016) p. xv.

⁸¹ With the adoption of the Bonded Labour Abolition Act, 1992.

⁸² The Bonded Labour Abolition Act, 1992, Sections 11 and 12.

⁸³ SPAARC, "Hope for the Bonded Laborers", May 2015. pp 47-9. Available: <http://www.sparcpk.org/2015/images/BL.pdf>

⁸⁴ Ali Qazalbash, "Beyond Setting at Liberty: a Legal Study of Bonded Labour in Pakistan", in Ayaz Qureshi and Ali Khan (eds.) *Bonded Labour in Pakistan* (OUP, Karachi 2016). pp 1-22.

⁸⁵ Ali Qazalbash, "Beyond Setting at Liberty: a Legal Study of Bonded Labour in Pakistan". p 19. See also Solidarity Centre, *Mobilizing International Donor Support for Decent Work in Brick Kilns Industry: Formative Assessment and Recommendations Report* (Islamabad, 2014). p 13.

⁸⁶ Amnesty International's interviews with key informants, February 2017. See also, Werner Menski, *Public Interest Litigation: A Strategy for the Future. The 4th Cornelius Memorial Lecture in Werner Menski, Alam Ahmad Rafay and Raza Kasuri, Public Interest Litigation in Pakistan*. (Platinum and Pakistan Law House, London/Karachi 2000) 106-132.

⁸⁷ See Public Procurement Regulatory Authority Ordinance, 2002; Pakistan Public Procurement Rules, 2004; The Balochistan Public Procurement Regulatory Authority Act No. VIII of 2009; The Punjab Procurement Regulatory Authority Act, 2009; Sindh Public Procurement Act, 2009; and Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012.

⁸⁸ Solidarity Centre, *Mobilizing International Donor Support for Decent Work in Brick Kilns Industry: Formative Assessment and Recommendations Report* (Islamabad, 2014). pp. 13-14.

home-based workers) from the right to form and join trade unions.⁸⁹ Amnesty International is concerned that this restriction particularly undermines women's right to form trade unions, since the majority of them works in the informal economy.

With 949 registered unions in the entire country, around only 3% of Pakistan's workforce is currently unionized.⁹⁰ Businesses have increasingly resorted to hiring contract workers, which allows them to dilute the power of trade unions and escape paying pensions and employment benefits.⁹¹

Amnesty International recommends that the State party:

- Prepare a comprehensive policy that protects migrant workers' human rights;
- Ensure that everyone has the right to form trade unions and join a trade union of their choice, by extending the relevant provisions in the National and the Provincial Industrial Acts to the informal sector;
- As non-state and private actors have a responsibility to secure just and favourable conditions at work, the state party should put in place effective regulations to this end, and sanction non-compliance;
- Enforce the law abolishing bonded labour, including by raising awareness of the law, monitoring the implementation of this law and ensuring accountability where there are violations, and create meaningful alternatives for people who are already working as bonded labour, or who are at risk of the same;
- Amend the Federal and Provincial Procurement Authority Acts and Rules to prevent public departments from procuring material from suppliers who use bonded labour. Ensure that workers or families of workers killed or injured in workplace accidents have access to effective remedy and full and adequate compensation.

3.2 RIGHT TO SOCIAL SECURITY AND ADEQUATE STANDARD OF LIVING (ARTICLES 9-11)

The right to "social security and social insurance" acquires added urgency in Pakistan given that 39% of its population lives in multidimensional poverty.⁹² As the Committee has explained: "Social security, through its redistributive character, plays an important role in poverty reduction and alleviation, preventing social exclusion and promoting social inclusion".⁹³ Historically, social security programmes in Pakistan have suffered from poor coverage and design errors. For example, the pension scheme under the Employees Old Age Benefits Institution (EOBI) does not cover agricultural and informal sector workers, thus bypassing the majority of Pakistan's workforce. According to one estimate, only 3.1% of individuals in the working age population (15-64 years) are active contributors to the scheme.⁹⁴ The other contributory benefits scheme, known as the Workers' Welfare Fund (WWF), similarly has low coverage.

The Benazir Income Support Programme (BISP), Pakistan's flagship social safety programme, was launched in 2008. Through the BISP, the government pays unconditional cash transfers (currently set at 1,500 rupees or US\$ 15 a month) to eligible families based on a "poverty scorecard".⁹⁵ The BISP also offers health insurance to its beneficiaries (*Waseela-e-Sehat*), provides vocational training opportunities (*Waseela-e-Rozgar*), and access to interest-free financial support (*Waseela-e-Haq*). Amnesty International is aware that the BISP has had "discernible effect in reducing poverty" based on the poverty line. However, the programme has not improved education and health outcomes in a significant manner.⁹⁶ Though the cash transfers are helping the poorest households survive, the monthly amount (US\$ 15) is not enough to help break the cycle of multidimensional poverty. For that to happen, there is a need to improve the coverage of other social protection programmes, and education and health services (See Section 3.3 and 3.4 below). To its credit, the programme focuses on women.⁹⁷ However, it does not "give special attention" to some of the other groups "who traditionally face difficulties" in exercising the right to social security as outlined by the Committee. These include: "persons working in the informal economy, sick or injured workers, people with disabilities, older persons, children and adult dependents, domestic workers, homeworkers, minority groups, refugees, asylum-seekers, internally displaced persons, returnees, non-nationals, prisoners and detainees".⁹⁸

⁸⁹ The Sindh Industrial Relations Act, 2013; the Punjab Industrial Act, 2012; the Balochistan Industrial Relations Act XIII, 2010; and the Khyber Pakhtunkhwa Industrial Relations Act, 2010.

⁹⁰ PILER, *Status of Labour Rights in Pakistan 2015* (Karachi, 2015) p. 37.

⁹¹ Amnesty International's interviews with labour rights activists. 2-4 March, 2017.

⁹² Government of Pakistan/UNDP, *Multidimensional Poverty in Pakistan* (Islamabad, 2016). 9-11, 15.

⁹³ General Comment 19, para 3.

⁹⁴ "List of Issues in relation to the initial report of Pakistan", para 15; ILO, World Social Protection Report 2014/15 (Geneva 2014) 275.

⁹⁵ The poverty scorecard is based on a range of indicators, such as the household size, education status, agricultural landholding, housing and toilet facilities, and livestock ownership.

⁹⁶ Zahid Mumtaz and Peter Whiteford, "Social safety nets in the development of a welfare system in Pakistan: an analysis of the Benazir Income Support Programme", *Asia Pacific Journal of Public Administration*, Volume 39, No. 1, 2017. pp. 16-38. 21.

⁹⁷ "Overview -Benazir Income Support Program". Available: <http://bisp.gov.pk/overview/>

⁹⁸ General Comment 19, "The right to social security (art. 9)", 4 February 2008. UN Doc. E/C.12/GC/19, para 31.

In relation to article 11 of the Covenant (“an adequate standard of living”), the “right to food” and “the right to water” remain key areas of concern given Pakistan’s agrarian economy and its vulnerability to climate change. These rights are also linked to the right to health (article 12) and have serious implications for the wellbeing of women and children (article 10).

Since 1995, the country has suffered recurrent droughts and floods. As a result, Pakistan ranks among the ten countries that are most affected by extreme weather events on the Global Climate Risk Index.⁹⁹ In the last fiscal year (2015-16), agriculture, which provides employment to 42% of the country’s workforce, recorded a negative growth of minus 0.19%. Extreme weather accounted for a drop in the production of cotton, rice, and other crops, underscoring the potentially negative impact of climate change on the right to work and food.¹⁰⁰ There is also a nexus between food insecurity and the country’s inequitable water economy. Large land-owners monopolize the dwindling water resources. Small farmers, find it difficult to access water for subsistence food crops.¹⁰¹

Amnesty International is concerned that ground water sources are depleting fast in Pakistan as a result of years of excessive pumping.¹⁰² Women and girls, especially in the arid regions of Sindh, Balochistan and Southern Punjab, have to travel long distances every day to draw water for household use. The burden of fetching water affects women’s health, and often prevents girls from attending school.¹⁰³

Amnesty International believes that Pakistan needs to direct investments toward renewable energy and climate-sensitive development. The government has yet to move in that direction. For example, under its flagship infrastructure development project - the China Pakistan Economic Corridor (CPEC) - the government plans to build new power plants over the next six years, and which will run on imported and locally mined coal.¹⁰⁴

Amnesty International urges the State party to:

- Take steps to ensure that existing social security systems cover all persons, including those working in the informal economy, and that all provinces are adequately supported and financed;
- Develop a national strategy for the full implementation of the right to social security, including by allocating adequate fiscal and other resources at the national level;
- Put in place regulations to ensure everyone has access to the minimum essential food which is sufficient, nutritionally adequate and safe,
- Urgently increase investments in nutrition support programmes for women and children, especially in FATA and Balochistan;
- Put in place policies to deal with the potentially negative impacts of climate change on human rights. These policies must be non-discriminatory, provide necessary remedies, and be developed in a participative and transparent manner.
- Adopt legislative and other measures to restrain third parties from denying equal access to adequate water to all persons; and inequitably extracting from water resources;
- Put in place strategies to monitor water reserves, and reduce the depletion of water resources through unsustainable extraction, diversion and damming;
- Set up an effective regulatory system that includes independent monitoring, genuine public participation and imposition of penalties for non-compliance to ensure that all persons have equal, affordable, and physical access to sufficient, safe and acceptable water.

3.3 RIGHT TO HEALTH (ARTICLE 12)

Public health spending, an important indicator of the State party’s commitment to implementation of the right to health, currently stands at 0.45% of the GDP. The level of spending is lower compared to many other middle and low income countries. People in Pakistan rely on private healthcare, which many find difficult to afford.¹⁰⁵ At the national level, lack of access to the health facilities is the largest contributor to multidimensional poverty after deprivations in education.¹⁰⁶

⁹⁹ German Watch, “Global Climate Risk Index 2017”, Briefing Paper. Available: <https://germanwatch.org/de/download/164111.pdf>

¹⁰⁰ *Pakistan Economic Survey 2015-16*. pp. 1-2.

¹⁰¹ Oxfam GB, *Migration, Water Stress, and Climate Change in the Indus Delta* (Unpublished Report, 2010).

¹⁰² For an overview, see *The World Bank, Pakistan’s Water Economy: Running Dry* (Karachi, OUP 2006)

¹⁰³ Oxfam GB, *Socioeconomic Impact of Low Monsoon Rainfall in Arid Regions of Pakistan: A Gender Perspective* (Unpublished Report, 2012) p. 29.

¹⁰⁴ For details, see Government of Pakistan, “CPEC- Energy Power Projects”. Available: <http://cpec.gov.pk/energy>

¹⁰⁵ Muhammad Hafeez, “Poverty and Poor Health in Pakistan: Exploring the Effects of Privatizing Healthcare”, *Harvard International Review*, 35(4) Spring 2014. Available: <http://hir.harvard.edu/poverty-and-poor-health-in-pakistan/>

¹⁰⁶ GoP/UNDP, *Multidimensional Poverty in Pakistan* (Islamabad, 2016) p. 18.

Women and girls in Pakistan have poor access to necessary reproductive health services. The Maternal Mortality Ratio (MMR) has reduced from 297 per 100,000 live births in 2007 to its current level of 170 per 100,000 live births.¹⁰⁷ As the government has acknowledged, the MMR in Pakistan “is still very high as compared to the other countries in the region”.¹⁰⁸ Approximately 40% of pregnant women do not receive skilled prenatal care or full protection against tetanus.¹⁰⁹ The coverage of prenatal care varies noticeably across regions and sub-regions.¹¹⁰ Delays in seeking medical care for complications during pregnancy are common due to lack of transport, family support, and the non-availability of essential services at health facilities.¹¹¹ Women often do not have access to skilled birth attendants, which leads to unsafe deliveries and health risks for women, including preventable injuries and health conditions, like obstetric fistula.¹¹² Amnesty International is aware that women who develop obstetric fistula sometimes face isolation and stigmatization because they are abandoned by their husbands and rejected by communities. An estimated 5000 cases of fistula occur in Pakistan every year.¹¹³

The domestic legal framework on abortion continues to be restrictive. According to Section 338 of the Pakistan Penal Code, as amended in 1997 to “bring it in conformity” with Islamic teachings, “Whoever causes a woman with child whose organs have not been formed, to miscarry, if such miscarriage is not caused in good faith for the purpose of saving the life of the woman or providing necessary treatment to her, is said to cause ‘Isqat-i-Haml’ (abortion).¹¹⁴ The punishment is set as “is three years if the abortion is performed by the woman’s consent, otherwise a maximum of ten years.”¹¹⁵ Though the law does not specify a gestational limit, Islamic scholars tend to believe that foetal organs are developed by the fourth month of gestation.¹¹⁶ Thus, abortion would be legal as “necessary treatment” if carried out in “good faith” up to the end of the fourth month of pregnancy. That marks some improvement on the previous law, which allowed for abortion only to save the life of the pregnant woman. However, abortion remains criminalized in several circumstances, including in cases of an unwanted pregnancy as a result of rape, sexual assault or incest, in case of foetal impairment, or after the fourth month of pregnancy unless there is a risk to the woman’s life. Additionally, healthcare professionals lack awareness of the law. Some women, for whom the pregnancy amounts to a serious health risk, are turned away by the health facilities.¹¹⁷ This, together with poverty, leads women to opt for unsafe abortions conducted by unskilled practitioners.¹¹⁸ At least 5.6% maternal deaths in Pakistan occur due to abortion related complications.¹¹⁹

Amnesty International is concerned that transgender individuals - many of whom work as commercial sex workers - continue to face discrimination in accessing health services in Pakistan. In May 2016, Alisha, who worked with an activist group Transgender Alliance, was allegedly shot by a disgruntled customer. Alisha died from her wounds at a Peshawar hospital after the doctors ignored her and refused to admit her either to the male or the female ward.¹²⁰

Amnesty International urges the State party to:

- Increase financial and other resources allocated to the health sector;
- Ensure the equitable distribution of health facilities, goods and services throughout the country, and take steps to ensure that all persons are able to access these services free from discrimination;
- Ensure that all persons who experience discrimination, or other violations of the right to health, have access to effective remedies, which include compensation;
- Decriminalize abortion in all circumstances, ensure that no woman or girl, or health provider is subject to penalties for seeking or providing an abortion; and ensure the availability of safe abortion services when the life or health of the women is at stake, in cases of an unwanted pregnancy as a result of rape, sexual assault or incest, or in cases of severe and fatal foetal impairment;

¹⁰⁷ Mahbulul Haq Centre, *Human Development in South Asia: Empowering Women in South Asia* (Islamabad, 2016) p. 16; National Institute of Population Studies, *Pakistan Demographic and Health Survey 2006-7* (Islamabad, 2008) p. 177.

¹⁰⁸ Pakistan Economic Survey 2015-16, p. 193.

¹⁰⁹ Government of Pakistan, *Pakistan Living Standards Measurement Survey 2014-15* (Islamabad, 2015) pp. 258-61.

¹¹⁰ Pakistan Living Standards Measurement Survey 2014-15 (Islamabad, 2015) pp. 258-61.

¹¹¹ For recent empirical evidence, see Rahat Najam Qureshi et al, “Healthcare seeking behaviours in pregnancy in rural Sindh, Pakistan: A qualitative study”, *Reproductive Health*, 2016, Volume 13 (Supplement 1).

¹¹² UN General Assembly, “Supporting efforts to end obstetric fistula: Report of the Secretary General”, 6 August 2008. UN Doc. A/63/222

¹¹³ “Up to 5000 fistula cases surface in Pakistan every year”, *Dawn*, 23 May 2015. Available: <https://www.dawn.com/news/1183631>

¹¹⁴ Section 338 and sub-sections 338A, 338B and 338C of the penal code were initially amended in 1991 through a presidential ordinance. The parliament adopted the necessary statutory amendments in 1997. See Criminal Law (Amendment Act) 1997. Available: http://www.na.gov.pk/uploads/documents/1324604341_299.pdf

¹¹⁵ 338A, Pakistan Penal Code, 1860.

¹¹⁶ See Gila K. Shapiro, “Abortion law in Muslim-majority countries: an overview of the Islamic discourse with policy implications”, *Health Policy and Planning* 2014;29:483–494.

¹¹⁷ Z A Sathar et al, *Post-Abortion Care in Pakistan: A National Study*. (Population Council, Islamabad 2013). Also see, Asma Kundi, “Resorting to unsafe abortion for family planning”, *Dawn*, 25 September 2016. Available: <https://www.dawn.com/news/1285965>

¹¹⁸ Saima Gilani and Perveen Azeem, “Induced abortion: a clandestine affair”, *Journal of Postgraduate Medical Institute*, 2005;19(4):412–415.

¹¹⁹ “5.6% of maternal deaths in Pakistan attributed to abortion-related complications”, *Dawn*, 12 March 2015. Available: <https://www.dawn.com/news/1168938>

¹²⁰ “Transgender Alisha succumbs to wounds at Peshawar hospital”, *Dawn*, 25 May 2016. Available: <https://www.dawn.com/news/1260559>

- Ensure that when abortion is legal, it is available, accessible and of good quality for all women and girls without coercion or discrimination, provided with respect for privacy and confidentiality, and without additional barriers such as the requirement for third party consent;
- Provide access to quality services for management of complications arising from abortion, regardless of the legality of the abortion;
- Issue guidelines on the law and policy on abortion, providing training to all health workers, and put in place accountability mechanisms to ensure that health workers follow the same;
- Ensure that all persons receive and have access to the full range of sexual and reproductive health information, goods and services so they can make informed sexual and reproductive choices, free from coercion and discrimination.

3.4 RIGHT TO EDUCATION (ARTICLES 13-14)

Amnesty International notes that access to schooling has increased in Pakistan. However, at 53%, Net Enrolment Ratio (NER) for girls is still lower than for boys (60%).¹²¹ The NER for girls is lowest of all provinces in Balochistan at 35%. Gender gap in enrolment has narrowed to some extent in Sindh and Punjab.¹²² There are noticeable regional variations in access to schooling for girls across regions.¹²³ Except for Punjab and the capital Islamabad, all provinces continue to have far fewer middle and secondary schools for girls than for boys. FATA and Balochistan are particularly disadvantaged in the availability of quality educational facilities. Less than 10% primary schools in Balochistan and 30% in FATA have drinking water for pupils.¹²⁴ Half the middle schools in Balochistan and FATA do not have toilets.¹²⁵ FATA and Balochistan feature at the bottom of district education ranking based on access, attainment, literacy and gender parity.¹²⁶ The regions which have the lowest enrolment for girls (Balochistan, FATA and Khyber Pakhtunkhwa) also have significantly lower percentages of female teachers.¹²⁷ Textbooks contain stereotypes of women and some religious minorities.¹²⁸

In recent years, non-state groups have attacked school buildings, and targeted students and teachers in many parts of the country, including in Balochistan, Punjab, FATA and Khyber Pakhtunkhwa.¹²⁹ The brutal attack by Taliban gunmen on the Army Public School in Peshawar in 2014, created an atmosphere of insecurity among children, parents and teachers, which still persists.¹³⁰ More recently, on 20 June 2016, the Taliban targeted Bacha Khan University in Charsadda (Khyber Pakhtunkhwa province), killing at least 21 people, most of them students.¹³¹

Another major area of concern is the lack of integration into the mainstream schooling of children living with disabilities in Pakistan.¹³² Official education statistics in Pakistan do not incorporate data on children with disabilities.¹³³ Enrolment, drop-out, and transition rates are not compiled separately for such children.¹³⁴ It is not known how many children with mental and physical disabilities are currently out of school. Lack of disaggregated data and research impedes the development of effective policies to promote inclusive and quality education. Except a few donor-supported projects, school buildings in Pakistan do not have ramps, support bars or other disability-friendly facilities.¹³⁵

Since the insertion of the right to education in the constitution, all four provinces have introduced laws “guaranteeing” the right to “free and compulsory education”. Amnesty International recognizes this as a positive step forward. However, the provincial laws have certain shortcomings. For example, under the laws enacted in the capital Islamabad, Balochistan and Sindh, parents face fines for failing to send their children to schools.¹³⁶ However, the laws do not stipulate minimum basic facilities within schools, such as drinking water, toilets and ensuring schools are accessible for children with disabilities.¹³⁷

¹²¹ Gop, *Pakistan Economic Survey 2015-16*. P. 171.

¹²² Gop, *Pakistan Economic Survey 2015-16*. pp. 170-171.

¹²³ General Comment No.13, Right to Education (Art.13 of the Covenant), 8 December 1999. UN Doc. E/C.12/1999/10

¹²⁴ “List of Issues in relation to the initial report of Pakistan”, para 29.

¹²⁵ Government of Pakistan, *Pakistan Education Statistics 2013-14* (Islamabad, 2015) pp. 158-160.

¹²⁶ Alif Ailaan and SDPI, *Alif Ailaan Pakistan District Education Rankings 2016* (Islamabad, 2016).

¹²⁷ Government of Pakistan, *Pakistan Education Statistics 2013-14* (Islamabad, 2015) 107-8,110.

¹²⁸ Hazirullah and Christine Skelton, “Gender representation in the public sector school textbooks in Pakistan”, *Educational Studies*, Vol 39, 2013, Issue -2, pp. 183-194.

¹²⁹ Human Rights Watch, “Dream Turned into Nightmares: Attacks on Students, Teachers and Schools in Pakistan”.

¹³⁰ Amnesty International’s interviews with key informant, March 1 -15, 2017.

¹³¹ “APS mastermind claims responsibility for Charsada varsity attack, 21 killed”, *Dawn*, 21 January 2016. Available: <https://www.dawn.com/news/1234200>

¹³² General Comment No.13, para 6.

¹³³ See for example, *Pakistan Education Statistics 2013-14* (Islamabad, 2015).

¹³⁴ See for example, *Pakistan Education Statistics 2013-14* (Islamabad, 2015).

¹³⁵ See, UNICEF, *Examples of Inclusive Education – Pakistan*. (Kathmandu, 2003). Available: <http://unesco.org.pk/education/icfe/resources/res26.pdf>

¹³⁶ The Balochistan Compulsory Education Act, 2014 (Section 8); Right to Free and Compulsory Education Act, 2012 (Section 8); The Sindh Right of Children to Free and Compulsory Education Act, 2013 (Section 8).

¹³⁷ Pakistan Coalition for Education, “Legislation on Right to Education in Pakistan – A Critical Review”, Policy Paper, April 2015. pp. 37-50.

Amnesty International urges the State party to:

- Take steps to ensure that all educational institutions provide basic facilities, including drinking water, adequate sanitation facilities, and are accessible for persons living with disabilities;
- Ensure that quality educational facilities are available and accessible in all regions of Pakistan;
- Actively promote the recruitment and training of female teachers, especially in Balochistan, FATA, and Khyber Pakhtunkhwa;
- Identify and remove gender and other stereotyping in educational materials and curricula which impedes the educational access of girls, women and other marginalized groups.

3.5 RIGHT TO CULTURE (ARTICLE 15)

Amnesty International notes the recent efforts by the government to celebrate Pakistan's religious diversity. In January 2017, the Prime Minister inaugurated the restoration of the 900-year-old Katas Raj Hindu temples in Punjab's Chakwal District. On that occasion, the Prime Minister gave a strong message of tolerance and social harmony by saying that "in my personal view, we are all are equal – Muslims, Hindus, Sikhs, Christians – and people belonging to other religions; we are all one."¹³⁸ The Prime Minister reiterated this stance at a ceremony celebrating the *Holi* festival with the Hindu community in March 2017.¹³⁹

In 2014, the government of Khyber Pakhtunkhwa province enacted a law banning the sale or purchase of the "communal property" belonging to minority groups without prior permission from the government.¹⁴⁰ Minority leaders cautiously welcomed the law. Some of them have criticized the failure of the provincial government to repeal the Evacuee Trust Properties (Management and Disposal) Act, 1975, a law under which some ancient temples and other sites sacred to minorities are managed by the government.¹⁴¹

Amnesty International is concerned that non-state actors, including the Taliban and their affiliates, continue to attack and kill minorities, especially Shias in Pakistan.¹⁴² Since the year 2000, Sunni militant groups have killed at least 1000 individuals belonging to the Hazara Shia community in suicide attacks and targeted shootings.¹⁴³ A distinct ethnic group, the Persian-speaking Hazaras originally came to Quetta during the late nineteenth-century fleeing persecution in central Afghanistan. Now concentrated in two neighbourhoods of Quetta, the capital of Balochistan province, Hazaras live in fear. They must restrict their movements, which has led to economic hardships and curtailed access to education.¹⁴⁴ Many have fled to seek asylum in Australia and Europe, often making dangerous journeys by boat.¹⁴⁵

Pakistan's 2014 National Action Plan against terrorism had proposed a crackdown on hate speech. Despite this, sectarian leaders continue to incite violence against minorities, particularly Shias and Ahmadis, which also adds to the social and cultural marginalization of these groups. For example, On December 22, 2014, a guest cleric on a television show hosted by televangelist, Amir Liaquat, denounced Ahmadis as 'enemies of Pakistan'. Using the derogatory term '*Qadiyanis*' for the sect, the cleric, Syed Arif Shah Owaisi said: 'They are the ones blaspheming against the Holy Prophet (PBUH). All Muslims should recognize that enemy.' Five days after the show was aired on *Geo*, one of Pakistan's largest private TV channels, an Ahmadi man was shot dead in Gujranwala district of the Punjab province.¹⁴⁶

The constitution of Pakistan provides that "citizens having a distinct language, script or culture" have the right to "preserve and promote the same and subject to law, establish institutions for that purpose".¹⁴⁷ Over the years, the governments have taken a hands-off approach toward the preservation and promotion of regional languages. A 2014 Parliamentary paper stated that of 72 languages spoken in Pakistan, ten are either "in trouble" or "nearing extinction". Some ancient dialects, such as *Domaaki*, are now spoken in a handful of villages in Gilgit-Baltistan region. The use of mother tongues as the language of instruction in schools has been a long-

¹³⁸ "At Hindu temple, PM Nawaz reaches out to minorities", *The Express Tribune*, 11 January 2017. Available:

<https://tribune.com.pk/story/1291449/pakistan-will-soon-known-minority-friendly-country-claims-pm/>

¹³⁹ "Nawaz's Holi message: 'Islam gives people freedom to choose their religion'", *Dawn*, 14 March 2017. Available:

<https://www.dawn.com/news/1320442>

¹⁴⁰ The Khyber Pakhtunkhwa Protection of Communal Properties of Minorities Act, 2014.

¹⁴¹ Amnesty International's interview with the chairman of All Pakistan Hindu Rights Movement, 10 February, 2017.

¹⁴² Amnesty International, *Annual Report 2016-17: The State of the Human Rights* (Index: POL 10/4800/2017) 285.

¹⁴³ Amnesty International's interviews with local activists. 15-20 February and 31 March, 2017.

¹⁴⁴ For an overview, see Ali Arqam, "No country for Hazaras", *Newslines*, November 2016. Available: <http://newslinemagazine.com/magazine/no-country-hazaras/>

¹⁴⁵ Amnesty's interviews with local activists and journalists, 13 February 2017.

¹⁴⁶ 'Ahmadi Man Gunned Down in Gujranwala', *Dawn*, 28 December 2014. Available at: <http://www.dawn.com/news/1153496>; See also International Crisis Group (ICG), *Revisiting Counter-terror Strategies in Pakistan: Opportunities and Pitfalls*. (ICG, Brussels 2015) 15.

¹⁴⁷ Article 28, Constitution of the Islamic Republic of Pakistan, 1973.

standing demand of some educationists and civil society groups in Pakistan.¹⁴⁸ In addition to preserving local languages, academic studies have also shown that it improves learning outcomes.¹⁴⁹

Language is also used as an instrument of social exclusion in Pakistan. In an unsettling reminder of the country's colonial past, English continues to be the language of power and a marker of social status. Urdu, the national language, which is the mother tongue of a small minority, is considered superior to regional languages.¹⁵⁰ Competence in Urdu and English is a requirement for access to the civil service and many private sector jobs, which puts individuals from rural areas at a disadvantage. Pakistan has yet to formulate a comprehensive language policy to address these issues.

Amnesty International call upon the State party to:

- Ensure the protection of all historical sites, including the sites sacred to religious minorities, in consultation with relevant stakeholders;
- Draft a language policy, promoting the teaching and use of minority languages, especially with a view to protecting endangered languages;
- Investigate and prosecute all instances of incitement to violence against religious minorities.

¹⁴⁸ Zubeida Mustafa, "Language Whims", *Dawn*, 17 March 2017. Available: <https://www.dawn.com/news/1320926>

¹⁴⁹ "Children Learn Better in Their Mother Tongue", Global Partnership for Education, 21 February 2014. Available: <http://www.globalpartnership.org/blog/children-learn-better-their-mother-tongue>

¹⁵⁰ For a comprehensive account, see Tariq Rahman, *Language and Politics in Pakistan*. (OUP, 2006 4th edition).

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PAKISTAN

SUBMISSION TO THE UN COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

61ST SESSION, 29 MAY – 23 JUNE 2017

The submission outlines Amnesty International's main concerns ahead of the review of Pakistan's initial report during the 61st session of the United Nations Committee on Economic, Social and Cultural Rights. It provides information regarding the general and specific provisions of the *UN Covenant on Economic, Social and Cultural Rights*, taking into account the list of issues adopted by the pre-sessional working group at its fifty-ninth session in October 2016. Amnesty International recognizes the political and economic challenges facing Pakistan, and notes a number of positive legislative and policy measures taken by the government to realize the Covenant rights. However, there remain significant gaps in the legal recognition and protection across a number of Covenant rights in Pakistan. Women, children, religious minorities, refugees, and lesbian, gay, bisexual, transgender and intersex (LGBTQI) persons continue to face barriers in the realization of their rights.