

PAKISTAN

**Human rights and justice –
the key to lasting security**

*Amnesty International
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**AMNESTY
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INTRODUCTION

In this submission prepared for the UN Universal Periodic Review of Pakistan taking place in October-November 2012, Amnesty International comments on the implementation of recommendations that Pakistan supported during its previous UPR in April 2008, including recommendations concerning freedom of religion and expression, impunity for national security forces, women's rights and lack of human rights protections in the Federally Administered Tribal Areas (FATA).

With respect to the national human rights framework, Amnesty International is concerned about the government's remaining reservations to the International Covenant on Civil and Political Rights, the absence of constitutional human rights protections for the people in FATA and the enactment of legislation giving discretionary powers to security forces in fighting Taleban insurgency.

Amnesty International also examines the current human rights situation on the ground. The organization is concerned that Pakistan has failed to prevent ongoing discrimination and violence against religious minorities or bring perpetrators to justice. Similarly, although Pakistan has adopted four landmark bills aimed at protecting women's rights, discrimination and violence against women continues and is exacerbated by a weak and corrupt criminal justice system.

Amnesty International is alarmed at the rising numbers of targeted attacks on journalists and the failure of government to effectively carry out investigations and protect their right to freedom of expression.

Serious human rights violations have been documented in Balochistan and FATA, where the Taleban insurgency continues, including enforced disappearances, abductions, extrajudicial executions, arbitrary detention and torture and ill-treatment.

FOLLOW UP TO THE PREVIOUS REVIEW

Pakistan's current civilian administration had been in government for a few months at the time of the first Universal Periodic Review in May 2008, following nine years of direct military rule. The new government accepted recommendations made during the review on freedom of religion,¹ women's rights,² the human rights situation in the Tribal Areas,³ impunity for abuses by national security forces,⁴ ratification of human rights treaties,⁵ and freedom of expression and the media.⁶

Since the review, progress has been made on some of these issues. For example, Pakistan's parliament passed a series of bills seeking to enshrine fundamental human rights protections. Pakistan has also taken important steps to strengthen the independence of the judiciary by returning to service the majority of the higher court judges deposed during the 2007 state of emergency. The government's invitation to the UN Working Group on Enforced or Involuntary Disappearances to visit the country is another welcome development,⁷ as are the steps taken to establish new human rights institutions, including a national human rights commission.⁸

However, some of the steps taken by the government to implement the UPR recommendations are limited in scope. For example, on 23 June 2010, Pakistan ratified the International Covenant on Civil and Political Rights and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, the government entered a large number of reservations (see also below). Measures to reform legislation affecting the Tribal Areas, notably the Frontier Crimes Regulation 1901 and the Action (in Aid of Civil Power) Regulations, fail to

comply with international standards of administration of justice or human rights. The Political Parties Act was extended to the Federally Administrated Tribal Areas in August 2011, allowing the establishment and operation of political parties there; however, politicians fear that threats and abuses by security forces and the Taleban may hinder political activity and make free and fair elections there virtually impossible.

Pakistan has failed to implement several of the UPR recommendations, including to guarantee freedom of religion and adequately protect religious minorities from threats and attacks. Similarly, Pakistan has not improved its extremely poor record of investigating and bringing to justice members of the security forces and intelligence agencies implicated in human rights violations, or its poor record in protecting journalists from targeted attacks.

NATIONAL HUMAN RIGHTS FRAMEWORK

AFTERMATH OF 2007 STATE OF EMERGENCY

Most of the higher court judges deposed during the 2007 state of emergency were reinstated in 2008 and 2009 following nationwide protests by a diverse group of citizens, including lawyers, political parties and human rights activists. In April 2010, the President signed the 18th Constitutional Amendment which removed his power to dissolve parliament, introduced citizens' right to freedom of information, and obliged provinces to provide free education to all children aged 5-16 years.⁹ Unfortunately, the Amendment did not include reforms to ensure that blasphemy laws are not maliciously invoked to settle personal enmities and target minorities, nor did it address the exclusion of people in the Federally Administered Tribal Areas from fundamental rights protections under the Constitution.

RATIFICATION AND IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS TREATIES

Since the last UPR, Pakistan has ratified several key human rights treaties.¹⁰ The International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment were ratified with a large number of reservations, the nature and scope of which were very damaging. Following pressure from human rights groups and other States Parties, Pakistan withdrew most of the reservations. However, reservations to the ICCPR have been retained on the equal rights of men and women, and to prevent non-Muslims from becoming Prime Minister or President.

NEW LEGISLATION

In June 2011, the President signed the Action (in Aid of Civil Power) Regulations into law, giving security forces in the Federally and Provincially Administered Tribal Areas in the Taleban insurgency-hit north-west sweeping powers to arbitrarily arrest, detain and punish individuals during military operations. The regulations also enable security forces to impose the death penalty for a large number of vaguely and broadly defined offences with virtually no independent oversight or access to judicial remedies.

HUMAN RIGHTS SITUATION ON THE GROUND

DISCRIMINATION AND ATTACKS ON RELIGIOUS MINORITIES

Pakistan has consistently failed to prevent discrimination, harassment and violence against religious minorities or to bring perpetrators to justice. Ahmadis, Hindus, Shi'as, Christians and other minorities have been attacked and killed in increasing numbers in some regions. Amnesty

International recorded 374 deaths in attacks targeting Shi'a Muslims between 2010 and 2011. On 28 May 2010, 93 members of the Ahmadiyya community were killed and 150 injured in attacks on two Ahmadi places of worship in Lahore after the provincial government ignored requests for improved security, despite prior threats from extremist groups. All suspects in an attack on a Christian community in Gojra, Punjab, in August 2009 – in which seven people were burnt alive including one child – were released on bail after witnesses failed to give evidence out of fear for their safety.

Religious minorities are disproportionately affected by the vaguely formulated blasphemy laws. These laws, combined with the failure of the authorities to adequately investigate alleged abuses by militant religious groups, have created a climate of fear and vigilantism. In 2009, the government pledged to review and improve “laws detrimental to religious harmony”. It was silent, however, following the killings of Punjab Governor Salman Taseer in January 2011 and Minorities Minister Shahbaz Bhatti in March 2011, fearing reprisals from extremists and members of the public who had claimed that the reforms were an attempt to legalize insults towards Islam. The Council of Islamic Ideology, a constitutional body mandated to advise the state on Islamic issues, also fell silent following the killings, despite having called for reforms in December 2010 in order to prevent misuse of the blasphemy laws. The judge who sentenced to death Mumtaz Qadri, Governor Taseer's assassin, was forced to flee the country following the judgment on 1 October 2011. Over a year has passed since Bhatti's murder, but law enforcement authorities have still not identified, let alone brought to justice, the suspected perpetrators.

VIOLENCE AGAINST WOMEN

Pakistan's parliament passed four landmark bills aimed at protecting women's human rights and increasing penalties for perpetrators of gender-based violence. However, women continue to face discrimination and violence in the home and workplace, in public life, from extremist groups, and from laws governing inheritance and evidence. Women and girls from remote and rural communities are subjected to “honour” crimes, often following rulings by male-only local councils of elders (*jirgas*), including “honour killings” and “swara”(the handing over of girls and women to settle disputes). Although the new legislative measures are a step in the right direction, they do not address the systemic failings of the criminal justice system. Police investigations are often compromised by political or family influence, corruption, and a lack of basic training for dealing with gender-based violence. Government-run women's shelters require a major overhaul due to poor funding and lack of training of staff to deal with the trauma and other issues faced by survivors.

FREEDOM OF EXPRESSION AND ATTACKS ON JOURNALISTS

Since the last review, Pakistan has become one of the most dangerous countries in the world for journalists. In 2011, at least 15 journalists were killed in attacks implicating state and non-state actors. Media workers risk harassment, abduction and death at the hands of intelligence agencies, insurgents, religious extremists, political activists and members of the public. Independent journalists reporting from conflict zones in the north-west and in Balochistan are particularly at risk. The authorities have failed to carry out prompt, transparent and thorough investigations into killings and threats against journalists, and to bring those responsible to justice. A key reason for this is the open intimidation and occasional killing of police, prosecutors and judges investigating cases involving senior state officials, security agencies, or powerful non-state actors such as political parties. To Amnesty International's knowledge, no one has been brought to justice for killing a journalist in Pakistan since Omar Sheikh was sentenced to death in 2002 for the murder of US journalist Daniel Pearl. An enquiry into the killing of journalist Saleem Shahzad in January 2011 failed to identify the perpetrator or to adequately investigate the Inter-Services Intelligence Agency, despite Shahzad telling colleagues in October 2010 he had received veiled death threats from the head of its media wing.

Journalists and the media are also restricted from reporting on sensitive topics related to national security or considered contrary to Islamic sentiments under a range of laws and instruments.¹¹ On 11 March 2012, the Senate passed new rules on the privileges afforded to Senators and Senate staff. These rules expose journalists to penalties, for example for reporting in a manner considered inaccurate, or for reporting on the work of a parliamentary committee if parliament has not already published the work.

ENFORCED DISAPPEARANCES

Secret detention continues to be used by the state against suspected insurgents, political activists and ordinary citizens. In 2010, the Ministry of Interior admitted to 965 recorded disappearance cases, but the true figure is likely to be higher.¹² Despite the government's promise on entering office to end the disappearances crisis, individuals continue to be disappeared across the country. As of 2 April 2012, a Commission of Enquiry established in March 2010 to investigate disappearances traced 279 individuals who were listed on prison or police records or recorded as dead.¹³ To Amnesty International's knowledge, there has been no attempt by the Commission to interview traced individuals to determine any patterns of disappearance, to facilitate assistance to them or their families, or to investigate named organisations or individuals accused of disappearances, including security agencies or forces. There are no witness protection mechanisms and relatives are often required to give information to the Commission in front of the organisations they accuse of the disappearance. Extrajudicial killings by alleged military operatives and suspicious deaths in police custody continue to be reported with police often claiming that the victims were killed trying to escape. Impunity remains the rule in these cases.¹⁴

HUMAN RIGHTS VIOLATIONS IN BALOCHISTAN

There has been a sharp rise in human rights violations in Balochistan since Pakistan's first review. Ethnic Baloch involved in political or human rights activism or independent journalism have been abducted, disappeared or extrajudicially executed, reportedly by state security forces or their proxies. Since 2010, an increasing number of victims of enforced disappearance have been found dead across the province, reportedly with marks of torture on their bodies. Amnesty International's own research indicates that at least 249 Baloch activists were disappeared or unlawfully killed between 24 October 2010 and 10 September 2011 alone. Victims' families accuse the security forces, especially the Frontiers Corps and intelligence services, of these 'kill and dump' incidents.¹⁵

Sectarian attacks on the Shi'a community escalated from 2010, with 17 incidents recorded by Amnesty International in 2010, 15 in 2011 and at least 15 in 2012 (as of 11 April 2012). The Hazaras, a predominantly Shi'a Muslim community, have been deliberately targeted by anti-Shi'a sectarian groups. Armed Baloch groups have been implicated in the targeted killings of police, state security forces, non-Baloch civilians and other Baloch considered pro-state.

CONFLICT-RELATED ABUSES IN TRIBAL AREAS

Since the last review, Amnesty International has documented a range of human rights violations and breaches of the laws of war by state and non-state groups in the Taliban insurgency-hit Federally Administered Tribal Areas (FATA) and Khyber Pakhtunkhwa province (KPP).¹⁶ The conflict has intensified during this period and insurgent groups have used civilians as shields to escape attack, and targeted civilians and civilian objects, including schools. Counter-insurgency operations by government forces often fail to differentiate between militants, civilians and civilian objects, or use disproportionate force, leaving numerous civilians dead, injured, or displaced.

Amnesty International continues to receive reports of enforced disappearances, arbitrary detention, abductions, torture and ill-treatment, collective punishments and extra-judicial executions implicating security forces and armed groups in FATA and KPP. Legislation governing

these areas – in particular the Frontier Crimes Regulation 1901 and the Action (in Aid of Civil Power) Regulations – foster impunity for the security forces, erode the rule of law and promote grievance in tribal communities.

THE DEATH PENALTY

No executions have been carried out since late 2008. However, more than 8,000 prisoners remain on death row. Pakistan's courts still sentence a large number of people, including juveniles, to death despite the President's promise in 2008 to commute all death sentences. The death penalty is mostly imposed for murder, but also for 28 other offences, including some which fall outside the scope of the 'most serious crimes' as interpreted by UN treaty bodies.

THE JUSTICE SYSTEM

The justice system continues to suffer from lack of resources, corruption and discriminatory practices. Statements extracted through torture continue to be used as evidence in court, and defendants often face restrictions in accessing a lawyer or are given poorly paid and trained state-appointed lawyers. Detainees are often held in police custody without charge for weeks at a time and sometimes up to a year. They are rarely given the chance to challenge the lawfulness of their detention before a court or to seek bail. Police, lawyers and judges face significant threats while investigating cases involving powerful state and non-state actors.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Pakistan:

Ratification and implementation of international human rights treaties:

- To withdraw the remaining reservations to the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and to take immediate steps to incorporate both treaties into domestic legislation, to remove or amend laws that do not accord with them, and ensure that both treaties are implemented in practice.

Discrimination and attacks on religious minorities:

- To investigate threats and attacks on religious minorities and to bring suspects to justice.

Violence against women:

- To immediately establish benchmarks for assessing the implementation of the new laws aimed at promoting women's rights;
- To create mechanisms to improve assistance to survivors of gender-based violence, including by providing sufficient resources and gender-sensitive training for law enforcement personnel, the judiciary and health-service providers;
- To address the low conviction rate of perpetrators, including by ensuring that prompt, impartial and effective investigations are carried out into all allegations of gender-based violence, and that alleged perpetrators are brought to justice.

Freedom of expression and attacks on journalists:

- To bring to justice perpetrators of attacks on journalists by thoroughly investigating all individuals and organisations accused of such abuses regardless of their links to powerful state

or non-state actors. The authorities should also urgently address attempts to intimidate law enforcement officials investigating abuses against journalists;

- To ensure that laws regulating the media industry are not used to intimidate and censor journalists and media considered critical of the government.

Enforced disappearances:

- To ensure that thorough and adequately resourced investigations are carried out into all cases of enforced disappearance, and to bring to justice the individuals and groups responsible, including state security forces and intelligence agencies;
- To ratify and implement the International Convention for the Protection of All Persons from Enforced Disappearance.

Human rights violations in Balochistan:

- Take effective measures to bring to justice all perpetrators of human rights violations and abuses in Balochistan.

Conflict-related abuses in Tribal Areas:

- To ensure that government forces, including the military, the Frontier Corps, the Frontier Constabulary, and officially recognized tribal *lashkars* (local militias), are adequately trained, equipped, and disciplined in compliance with obligations under international human rights and humanitarian law. Security personnel suspected of involvement in human rights violations should be suspended from active duty and brought to justice;
- To repeal or reform the Frontier Crimes Regulations, the Action (In Aid of Civil Power) Regulations in line with international human rights standards;
- To fully extend the rights and protections of the Pakistan Constitution to the Federally Administrated Tribal Areas and relevant areas of Khyber Pakhtunkhwa.

The death penalty:

- To establish an immediate moratorium on all executions and to commute all death sentences to terms of imprisonment;
- Pending the total abolition of the death penalty, to immediately remove all provisions in national law which are in breach of international human rights law, in particular by:
 - restricting the imposition of the death penalty to only the most serious crimes;
 - abolishing all provisions which provide for mandatory death sentences;
 - prohibiting the imposition of the death penalty on persons who were below 18 years of age when the crime was committed and anyone suffering from a mental disability; and
 - ensuring rigorous compliance in all death penalty cases with international standards for fair trial.

The justice system:

- To fully comply with obligations under the International Covenant on Civil and Political Rights, including by revising laws and changing policies and practices to ensure fair trial standards.

ENDNOTES

- ¹ A/HRC/8/42, recommendation 106.1 (Canada, Greece, Denmark).
- ² A/HRC/8/42, recommendation 106.2 (Portugal, Czech Republic); recommendation 106.3 (Algeria); recommendation 106.4 (Slovenia, Portugal, Germany, United Kingdom); recommendation 106.5 (Mexico, Philippines, Czech Republic, New Zealand); recommendation 106.6 (Luxembourg); recommendation 106.7 (Switzerland, Sweden); recommendation 106.8 (Czech Republic); recommendation 106.9 (Bangladesh).
- ³ A/HRC/8/42, recommendation 106.13 (Canada).
- ⁴ A/HRC/8/42, recommendation 106.20 (Albania).
- ⁵ A/HRC/8/42, recommendation 106.28 (Albania, Italy, Philippines).
- ⁶ A/HRC/8/42, recommendation 106.21 (Canada), recommendation 106.23 (Norway).
- ⁷ The Pakistan government invited the Working Group on Enforced or Involuntary Disappearances to the country in September 2012.
- ⁸ Three new human rights institutions have been established by Pakistan following the last UPR. A Human Rights Ministry was established in November 2008. In March 2012 the Senate passed a bill to establish a National Human Rights Commission and President Zardari signed into law the National Commission on the Status of Women Bill 2012.
- ⁹ See The Constitution of the Islamic Republic of Pakistan: Article 10A (Right to fair trial); Article 17 (Freedom of association); Article 19A (Right to information); Article 25A (Right to education); Article 58 (Dissolution of the National Assembly).
- ¹⁰ The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; the Covenant on Economic and Social and Cultural Rights; the UN Convention against Torture and the International Covenant on Civil and Political Rights.
- ¹¹ These include the Pakistan Penal Code, Pakistan Electronic Media Authority Ordinance 2002, and Pakistan Electronic Media Regulatory Rules 2009.
- ¹² Masood Rehman, "Judicial commission being set up for missing citizens", *Daily Times*, 19 March 2010, http://www.dailytimes.com.pk/default.asp?page=2010%5C03%5C19%5Cstory_19-3-2010_pg1_1
- ¹³ Ministry of Interior, Government of Pakistan.
- ¹⁴ Police alleged that Asanka Botheju drowned in the Kelaniya river, Colombo, on 30 August 2011 while identifying a weapons cache. He had been illegally detained for 19 days. Gayan Saranga from the town of Dompe died on 29 September 2011. Police claimed he fell from a police vehicle while being taken to identify stolen property. Witnesses said he was tortured at the police station.
- ¹⁵ Several witnesses have reported seeing victims abducted in public view by men in plain clothes, often in the presence of the FC.
- ¹⁶ See Amnesty International's report, *As if Hell Fell on Me: The Human Rights Crisis in the Northwest* (Index: ASA 33/004/2010).

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE¹

Discrimination and attacks on religious minorities

Pakistan: Politician threatened, as defends minorities: Saleem Khurshed Khokhar (Index: ASA 33/004/2012).

Pakistan authorities must do more to protect religious minorities (Index: PRE 01/114/2012).

Pakistan should protect Ahmaddiya community against threats of violence (Index: PRE 01/057/2012).

Pakistan: Blasphemy law reform even more urgent year after Governor's killing (Index: PRE 01/001/2012).

Violence against women

Pakistan crime bills must be springboard for better women's rights (Index: PRE 01/620/2011).

Pakistan must bring justice to rape victim (Index: PRE 01/221/2011).

Freedom of expression and attacks on journalists

Pakistan: still no justice a year on from journalist's killing (Index: PRE 01/265/2012).

Pakistan urged to investigate death plot against leading human rights lawyer (9 June 2012).

Pakistan: authorities must tackle threats to journalists (Index: ASA 33/014/2011).

Enforced disappearances

Pakistan must account for missing victims of enforced disappearance (Index: PRE 01/198/2012).

Pakistan: Further information: Political activist found dead in Pakistan: Muzaffar Bhutto (Index: ASA 33/009/2012).

Pakistan: 'The bitterest of agonies': End enforced disappearances in Pakistan (Index: ASA 33/010/2011).

Pakistan: Investigate murder and torture of Baloch activists (Press release, 25 October 2010).

¹ All of these documents are available on Amnesty International's website:

<http://www.amnesty.org/en/region/pakistan>.

Human rights violations in Balochistan

Pakistan: Balochistan briefing for Committee for Foreign Affairs, US House of Congress (Index: ASA 33/002/2012).

Pakistan: Authorities must tackle brazen attacks on Hazara Shi'a (Index: PRE 01/514/2011).

Pakistan: Balochistan atrocities continue to rise (Index: PRE01/079/2011).

Conflict-related abuses in tribal areas

USA urged to clarify basis for drone killings in Pakistan (Index: PRE01/049/2012).

Pakistan: Zardari should follow through on promise of reform in tribal areas (Index: ASA 33/011/2011).

Pakistan: 'As if Hell fell on me': The human rights crisis in northwest Pakistan (Index: ASA 33/004/2010).

Pakistan: Government must protect Swat valley residents from abuses (Press release, 12 February 2009).

Increasing attacks on Pakistan civilians are possible war crimes (Press release, 19 April 2010).

The death penalty

Pakistan: Executions set to resume in Pakistan (Index: ASA 33/005/2012).

Pakistan: President Zardari should commute death sentences on Benazir Bhutto's birthday (Index: ASA 33/004/2009).

The justice system

Judge Chaudhry to be reinstated in Pakistan (16 March 2009).