

# PAKISTAN

## Appeal to the caretaker government

When he dismissed the government of Prime Minister Benazir Bhutto on 5 November 1996, President Farooq Leghari said,

“... during the past three years, thousands of persons in Karachi and other parts of Pakistan have been deprived of their right to life ... no meaningful steps have been taken ... to put an end to the crime of extrajudicial killings which is an evil abhorrent to our Islamic faith and all canons of civilized government”.

This is the first time that a Pakistani head of state has acknowledged governmental responsibility for massive human rights violations. President Leghari further stated that the government had been guilty of a “sustained assault” on the country’s judiciary and had permitted “corruption, nepotism and violation of rules” to become “extensive and widespread” preventing the “orderly functioning of Government in accordance with the provisions of the Constitution and the law”.

Amnesty International has repeatedly expressed its concern at the scale of human rights violations in Pakistan -- arbitrary detention of political opponents, torture including rape, unlawful killings by police and other law enforcement personnel and “disappearances” in custody -- and the virtual impunity with which they have been committed.

Gross human rights violations were not committed under the government of Benazir Bhutto alone. For some two decades, Pakistan’s citizens have been subjected to such violations by governments which have either ignored constitutional and legal safeguards of fundamental rights or have even attempted to dismantle them. Amnesty International repeatedly urged successive governments to end such violations, to take effective measures to prevent their recurrence and to provide redress to victims.

None of these governments have acknowledged their responsibility for human rights protection under international human rights law. To date, Pakistan remains one of the few countries in South Asia and in the world which have not ratified international human rights treaties like the International Covenant on Civil and Political Rights, its Optional Protocols or the Convention against Torture. Nor have any of these governments responded to the appeals of human rights organizations to amend or repeal laws which sanction or contribute to the commission of human rights violations.

The impunity with which human rights have been violated in Pakistan has not been decisively addressed by any of these governments. In fact, some of those in authority appear to have considered themselves above the law and to have abused police and other institutions for their own personal or political ends. During martial law, the constitution

and the legal and judicial system were recast to suit the political objectives of a military dictator but, since that time, successive civilian governments have done little to restore the independence of the police or the judiciary or to rebuild respect for the rule of law. The President on 5 November said in his address to the nation, “in accordance with Islamic teachings and traditions and in accordance with our constitution, no individual or party is above the law. If a government or its members continually or repeatedly violate those very laws which are the basis of their right to govern, it will not only be considered guilty of violating the constitution, but will also be declared unacceptable in terms of democratic values ...”.

The President of Pakistan and the caretaker government have expressed their commitment to change this situation, to make everyone holding public office accountable and to restore respect for the rule of law. The ordinary people of Pakistan are in desperate need of such change. At present the possibilities they have to find redress for the violations of their rights are scant. Some police officers have simply refused to register or investigate complaints, especially when they were against the police. Some others have submitted to political pressure as a means to furthering their own careers. Often police have arbitrarily arrested people, ignoring rules relating to arrest and detention, and extracted bribes. They have beaten suspects, witnesses and sometimes complainants till they complied with police demands. Many people have died every year in custody, either as a consequence of torture or in fake “encounters”.

Courts, too, have not always been able to provide redress: For most people in Pakistan, litigation takes too long, is too expensive and is an intimidating process. Judgements of the lower courts have sometimes not provided justice as members of the lower judiciary have not always stood up to pressure by religious or political groups.

Ordinary people in Pakistan have had to endure too much for too long.

Amnesty International is aware that the interim government is pressed for time to accomplish what it has promised to do. Amnesty International believes that there has been enough rhetoric in the past: now is the time to act and the caretaker government is uniquely placed to do so. It should take its cue from President Leghari’s statement and initiate concrete and visible measures that will secure human rights well beyond its limited tenure and restore the much eroded confidence of people in Pakistan that their fundamental rights will be protected.

Amnesty International believes that tackling the problem of **impunity** is of utmost importance. Only if those responsible for human rights violations are seen to be held to account, that is, to be criminally charged, tried, convicted and punished, will others be deterred from committing abuses. The Ehtesab Ordinance (Accountability Ordinance) promulgated by President Leghari on 18 November, provides for the establishment of an

accountability commission which will investigate and prosecute all complaints of corruption or abuse of office brought against public servants. The commission may impose sentences of imprisonment and bar those convicted from holding public office. Amnesty International, however, believes that there is also an urgent need to hold to account all those in public office who committed, sanctioned, permitted or connived in human rights violations. Amnesty International urges the caretaker government to consider expanding the scope of the accountability commission so as to enable it to receive and investigate complaints of human rights violations or to establish another independent and impartial forum authorized to do so with a view to bringing those responsible for such abuses to justice.

The organization also appeals to the caretaker government to ensure that all those coming forward with complaints of human rights violations will be suitably protected and that anyone seeking to intimidate them will be held to account. Only when complainants are assured of protection will they provide the evidence that will enable a tribunal to ascertain whether human rights violations have been committed. As long as police who have committed human rights violations in the past still remain in office, they may be tempted to subvert the course of justice and intimidate or harass would-be complainants. Also, to restore trust in the accountability process, proceedings and findings of such a tribunal should be fully transparent and accessible to the public. If there are reasonable grounds to assume the commission of serious human rights violations, criminal prosecution by the relevant judicial authority, and not mere disciplinary action, should follow promptly so that justice is done and seen to be done.

Amnesty International also urges the caretaker government to set up a judicial investigation to **review criminal charges** which successive governments have brought against their respective political opponents to harass, intimidate, or detain them, often with the purpose of making them change their allegiance. Hundreds of opponents of the former government remain in detention at present on criminal charges and hundreds more who are free on bail have charges pending against them. Many of these charges may be politically motivated or false. Former Chief Justice, Dr Nasim Hasan Shah, commenting in February 1996 on criminal charges pending against members of a particular party, said he believed that ninety per cent of charges could be dropped after a judicial review.

The caretaker government can also take measures to **prevent further human rights violations** by publicly announcing that all legal safeguards available under Pakistan law must be meticulously adhered to and that their non-implementation will lead to criminal prosecution of those breaching them. Such safeguards include procedures relating to arrest and detention laid down in the Code of Criminal Procedure of Pakistan which have in the past been widely ignored with impunity. The refusal of police to register First Information Reports and to investigate complaints can be prevented if police are unequivocally instructed that they will be punished if they do not comply with the legal requirement.

Police can be discouraged from using torture to extract information if large boards in local languages in police stations inform detainees of their rights. Detainees will be less likely to “disappear” in custody if all arrests are registered daily with a publicly accessible judicial authority. National and international human rights organizations, like Amnesty International, can make available lists of recommendations that suit local conditions and will make the commission of human rights violations by police less likely.

Amnesty International would also like to encourage the superior judiciary to bring to bear its powers under Articles 199 and 184(1(c)) of the Constitution to **take up human rights violations as matters of public interest**. The organization has noted that public interest litigation has slowly increased over the years in Pakistan. It believes that there is scope for more judicial activism, especially in the face of massive human rights violations.

Amnesty International also believes that the interim government could effect long term changes by firmly anchoring **human rights education** in school and college syllabi as well as in the training programs of police and other law enforcement personnel. Amnesty International’s chapter in Pakistan has evolved materials for school education and there is expertise within the organization to assist authorities in Pakistan should they require such assistance. In this manner the present government can give enduring direction to law enforcement personnel which will secure respect for the rule of law and the rights of people in Pakistan for generations to come.

The organisation hopes that the caretaker government of Pakistan will use this unique opportunity and take up the task of rebuilding respect for the rule of law with sincerity and determination.

**Keywords:** AI AND GOVERNMENTS1 / IMPUNITY / FORMER GOVERNMENTS /  
LEGISLATION / POLITICALLY MOTIVATED CRIMINAL CHARGES /