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Pakistan: Tribal justice system must be abolished or amended

While the high profile gang-rape case continues in a Pakistani court*, Amnesty International fears that the tribal justice system which facilitated this grave abuse will continue to impose cruel punishments if urgent measures are not taken to amend or abolish it.

A new Amnesty International report released today shows clearly that the government has allowed tribal councils or *jirgas* to abuse a whole range of human rights.

The report highlights cases which show that *jirgas* abuse the rights to life, liberty, security of the person, fair trial and freedom from torture, ill-treatment and discrimination.

"If the government is serious about its duty to protect human rights, it must ensure that *jirgas* cease to abuse people's rights. If this cannot be ensured, they should be abolished," Amnesty International said.

In rural Pakistan, *jirgas* are convened to resolve disputes over land, water, breaches of 'honour', murder and blood feuds. Their objective is not to elicit the truth -- which in a close-knit community is frequently widely known -- but the restoration of social harmony. In the case of blood feuds, *jirgas* do this by imposing compensation payments on the offender. Compensation often includes the handing over of girls and women to the aggrieved party.

In June 2001, a *jirga* in Thatta district "settled" a nine-month old feud over a murder by giving two young girls from the side of the murderers to the side of the victim: the 11-year-old daughter of one accused was made to marry the 46-year-old father of the murder victim and the six-year-old daughter of the other accused was married to the eight-year-old brother of the victim. The "compensation" package was accepted by all sides, the girls were not asked their opinion and no criminal prosecution was initiated relating to the murder. Though the "deal" was reported in the English language press, the government took no steps to prevent such abuse, rescue the girls or to bring the perpetrators to justice.

In cases where a woman is believed to have "dishonoured" her family by having a male friend, marrying a man of her choice or seeking a divorce, *jirgas* have decided that all those responsible be killed or otherwise punished.

In July 2000, a *jirga* in Sanghar decided that a young woman should be detained by her family and forcibly divorced from the man she had chosen to marry against her father's wishes; she is believed to have later been forcibly married to someone selected by her father.

The state does not generally take action when *jirga* decisions lead to murder, rape or other abuses. Many tribal leaders themselves are parliamentarians, members of the civil administration or have family links to the administration. In their official capacity they talk about human rights for all, yet in their constituencies they participate in tribal courts. State officials have also used tribal leaders to solve criminal cases which are pending in court to quickly restore law and order.

This is largely because the official justice system is seen to be ineffective and expensive. A high percentage of the rural population is illiterate and does not know how to approach the official justice system. Corruption in both police ranks and the judiciary also seriously compromises the official system.

"In this context the aggrieved person has few alternatives. All too often they take the law into their own hands, which contributes to a staggering crime rate, or turn to the tribal system which promises quick, inexpensive and easily understood solutions," Amnesty International said.

"The Government of Pakistan should urgently consider a review and reform of the formal criminal justice system to make it more effective and independent. A competent formal system will regain public confidence and people will no longer need to seek justice in ad hoc bodies like the *jirgas* which only abuse their rights further."

*A tribal council ordered that a woman be gang-raped as punishment for an alleged breach of honour by her brother. For more information see <http://web.amnesty.org/ai.nsf/recent/ASA330182002>

For a copy of the report contact press@amnesty.org

For more information on violence against women in Pakistan see:

<http://web.amnesty.org/ai.nsf/recent/ASA330102002?OpenDocument>

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