

AMNESTY INTERNATIONAL PUBLIC STATEMENT

Date: 24 September 2018 Index number: ASA 33/9151/2018

PAKISTAN: IMMEDIATELY AND UNCONDITIONALLY RELEASE MUHAMMAD HAYAT KHAN PREGHAL

Amnesty International calls for the immediate and unconditional release of human rights defender Muhammad Hayat Khan Preghal, a prisoner of conscience who has been detained solely for peacefully exercising his right to freedom of expression. Muhammad Hayat Khan Preghal has been charged for comments he made online that were critical of Pakistani state policies. The detention marks the latest in a series of alarming attacks on human rights defenders – including activists, journalists, bloggers and users of social media.

Muhammad Hayat Khan Preghal is a vocal supporter of the Pashtun Tahaffuz Movement (PTM), a nonviolent movement that is calling for an end to enforced disappearances, extrajudicial executions, discrimination and other human rights violations against Pakistan's Pashtun ethnic minority. Hayat is the social media lead for the PTM.

Hayat was detained from his house in Dera Ismail Khan on 5 July 2018 while visiting family during holidays from the UAE, where he works as a pharmacist. The authorities did not provide any information about his fate and whereabouts until six days later, when he called his family and told them he was arrested by Pakistan's Federal Investigation Agency (FIA). His family only discovered his whereabouts when he was permitted to call them on the afternoon of 11 July 2018. According to his family, Hayat was due to fly back to the UAE on 10 July 2018.

The First Information Report (FIR), a criminal report registered with the police, does not mention Hayat by name but includes URLs to social media posts he made from his Twitter and Facebook accounts. These accounts and Hayat's mobile phone, laptop and USB were accessed by the FIA's Cyber Crime Unit during his detention.

The digital forensic analysis report compiled by the FIA against Hayat states that he "*transmitted defamatory, humiliating and insulting remarks/comments against the state institutions of Pakistan.*" One of the objectives of the forensic report was to verify if the URLs of the Twitter and Facebook accounts given in the FIR, or police report, were in fact Hayat's. Amnesty International believes that the FIA report demonstrates that Hayat's accounts were under surveillance, apparently due to his political and ethnic affiliation with the PTM.

Hayat has been charged under Section 9 and 10 of Prevention of Electronic Crimes Act, 2016 (PECA) for "anti-state activity through social media", and section 500 and 109 of the Pakistan Penal Code. He was rejected bail by the lower court of Islamabad, decision that was appealed by his lawyer before the Islamabad High Court (IHC) on 31 July. Since then, and despite multiple hearings and complete judicial remand, he has not been granted bail yet.

Vague and overly broad offences

The Pakistan Electronic Crimes Act (PECA), 2016 is a draconian law that contains vague and overly broad offences. It has been criticized by Pakistan's human rights defenders and civil society organizations for criminalizing legitimate forms of expression while citing national security concerns and for the protection of majoritarian interpretations of Islam.

Section 9 of PECA stipulates a prison sentence of up to seven years, a fine of 10 million Pakistani rupees or both, for anyone who, "*prepares or disseminates information, through any information system or device, with the intent to glorify an offence relating to terrorism, or any person convicted of crime relating to terrorism, or activities of proscribed organizations*".

The PTM is a non-violent organization that has not been proscribed by the Pakistani government.

Section 10 of PECA defines "*cyber-terrorism*" vaguely and it can be interpreted to unduly restrict forms of dissent. Its punishment could extend to 14 years in prison or fined with fifty million Pakistani rupees or both.¹

Section 500 and 109 of the Pakistan Penal Code (PPC) pertain to defamation and abetment respectively.²

Continuous crackdown

Throughout 2018, human rights defenders like Hayat who have supported PTM have voiced fears that their social media accounts have been under surveillance without judicial oversight. PTM's campaigns against enforced disappearances, extrajudicial executions, and other human rights violations faced by the Pashtun community have exposed them to a severe crackdown by Pakistani authorities. The movement has seen dozens of its members and supporters arrested, arbitrarily detained, and intimidated across Pakistan. In Karachi, Swabi, Peshawar, and Lahore, the authorities stopped PTM activists from peacefully congregating throughout 2018. In June this year, 37 activists³ from PTM were arrested on charges of sedition. Journalists and media houses were barred from reporting on PTM and their rallies.

This muzzling of online and offline expression is part of an ongoing crackdown on dissent and intense surveillance of human rights defenders in Pakistan. In June this year, journalist and human rights defender Gul Bukhari was arbitrarily detained⁴ for criticizing the military and supporting the PTM. The same month, in a press conference the spokesperson for the Pakistan military showed a visualization of Twitter accounts of journalists, bloggers and human rights defenders whose online posts were labelled "anti-state."⁵ In January 2017, five other human

¹ See The Gazette of Pakistan, EXTRA August 22, 2016 - Page 750 [website of the National Assembly of Pakistan] http://www.na.gov.pk/uploads/documents/1472635250_246.pdf

² See Pakistan Penal Code

³ See <https://www.amnesty.org/en/latest/news/2018/06/pakistan-alarming-crackdown-ahead-of-elections/>

⁴ See <https://www.amnesty.org/en/latest/news/2018/06/pakistan-alarming-crackdown-ahead-of-elections/>

⁵ See Committee to Protect Journalist's statement: Pakistan army spokesperson accuses journalists of anti-state activity on social media – June

rights defenders⁶ were forcibly disappeared from different cities around Pakistan, four of whom were bloggers and used social media to critique state policies. In December 2017, Raza Khan, a peace activist was forcibly disappeared⁷ from in Lahore for nine months. During Raza Khan's enforced disappearance, Saeeda Diep, a prominent human rights defender and friend and colleague of Khan, was subject to unlawful digital surveillance⁸ and systemically targeted via malicious malware for her activism.

Pakistan is a state party to the *International Covenant on Civil and Political Rights* under which all branches of the state are obliged to respect and protect the right to freedom of expression. This includes securing all forms of political discourse, discussion of human rights and the right to seek, receive, and impart information and ideas of all kinds via different means of dissemination. It also includes a duty to guarantee that freedom of expression via electronic and internet-based platforms is protected.⁹

Amnesty International makes the following recommendations to the Government of Pakistan:

- Immediately and unconditionally release Muhammad Hayat Khan Preghal, as he is a prisoner of conscience that has been detained solely for the peaceful exercise of his right to freedom of expression.
- Put an end the harassment, stigmatization, intimidation, unlawful surveillance and arrest of human rights defenders and ensure they can freely express their opinions and dissent without fear of reprisals.
- Condemn and counteract the permissive environment which fosters attacks on human rights defenders and the demonization of free expression and opinions.
- Repeal or substantially amend Pakistan Electronic Crimes Act, 2016 so that it is brought into line with international human rights standards.

2018 - <https://cpj.org/2018/06/pakistan-army-spokesperson-accuses-journalists-of-.php>

⁶ See Amnesty International Annual Report 2017/2018 <https://www.amnesty.org/en/countries/asia-and-the-pacific/pakistan/report-pakistan/>

⁷ See <https://www.amnesty.org/en/documents/asa33/7573/2017/en/>

⁸ See Amnesty International's report Human Rights Under Surveillance, May 2018 - https://www.amnesty.ch/de/laender/asien-pazifik/pakistan/dok/2018/hacker-angriffe-spyware-ueberwachungs-tools/2018-05-05_report_pakistan_surveillance.pdf

⁹ See General Comment. No. 34, CCPR/C/GC/34 remark 11, 12.