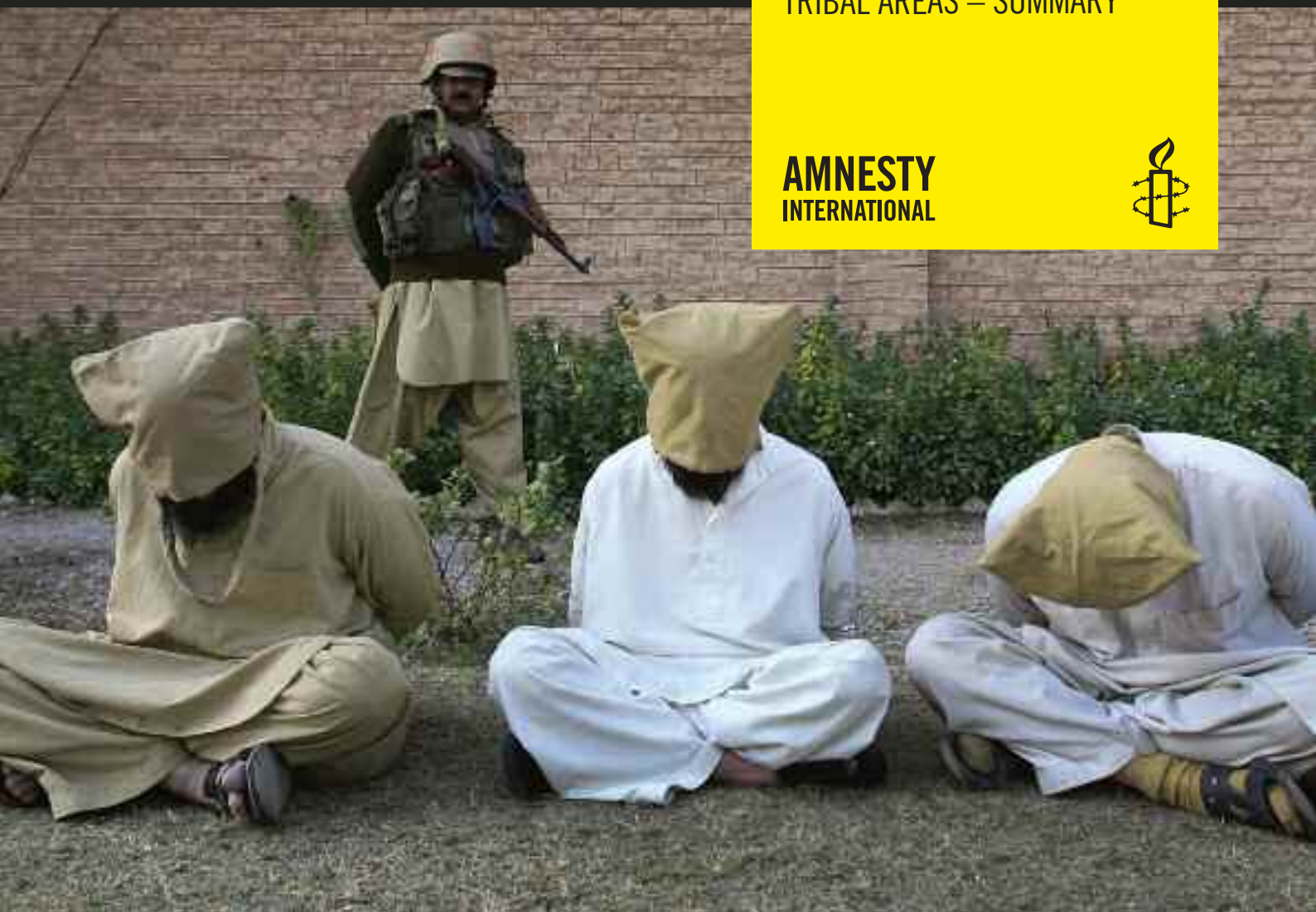


'THE HANDS OF CRUELTY'

ABUSES BY ARMED FORCES
AND TALIBAN IN PAKISTAN'S
TRIBAL AREAS – SUMMARY

AMNESTY
INTERNATIONAL



“The hands of cruelty extend to the Tribal Areas but the hands of justice cannot reach that far.”

Ghulam Nabi, Peshawar High Court lawyer



“For the first five days they beat us constantly with leather belts across our backs, the pain was too much to describe,” said Niaz, visibly shaken as he recalled his interrogation by the Pakistan Armed Forces. Niaz and his brother Ayub are among the thousands of men and boys swept up in security operations by the Armed Forces in areas formerly controlled by the Taliban.

“There were always five soldiers at every interrogation session, all in Army uniforms but usually only one of them, a *subedar* (non-commissioned officer) from Army Punjab Regiment’s unit FF6, did the talking. He would threaten to kill me for not confessing to being part of the Taliban. I kept telling him that my cousin was a militant, but that neither I nor Ayub ever belonged to the Taliban. We are just farmers. On hearing these denials the *subedar* would scream, ‘Your brother is going to die tonight! If you don’t want to see him for the last time speak the truth!’”

One morning in April 2012, 10 days after being arrested with his brother, Niaz was

released from detention at an army base in the Swat Valley. “It happened very quickly, so I didn’t get a chance to say goodbye to Ayub.”

Just hours after Niaz’s release, his cousin Bilal told him that Ayub had been moved to a local hospital. Niaz explained: “I thought he might be released and felt at least there was some joy.” But in the early afternoon Bilal called with terrible news. “He said ‘I have Ayub’s dead body.’” According to Bilal, an army officer had told him to come to Saidu Teaching Hospital, and when he arrived and saw Ayub’s dead body, an army officer said he had died in army custody of “heart stroke.”

As far as Amnesty International is aware, the Pakistani authorities have not conducted any investigation into the alleged torture of Niaz and Ayub or into Ayub’s death in army custody.

After a decade of violence, strife and armed conflict, Pakistan’s north-west region bordering Afghanistan continues to face a human rights crisis with both state and

non-state perpetrators acting with complete impunity. The Pakistan Armed Forces are accused of arbitrary detentions, enforced disappearances, torture and other ill-treatment, and deaths in custody. The Taliban continue to commit indiscriminate attacks and unlawful killings of captured soldiers and individuals accused of spying. Within the vacuum of authority prevailing in the Tribal Areas, the USA has carried out a programme of so-called “targeted killings” by pilotless “drone” aircraft, raising human rights concerns, particularly given the programme’s lack of transparency.

Rather than seeking to apply and strengthen the human rights safeguards of Pakistan’s ordinary criminal justice system to improve the rule of law in the Tribal Areas, the authorities have employed new security laws called the Actions (in Aid of Civil Power) Regulations 2011 (AACPR). The AACPR authorizes a scheme of prolonged, arbitrary, preventive detention by the Armed Forces in breach of international human rights standards. By circumventing the jurisdiction of the ordinary high courts,



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particularly in relation to cases of human rights violations, the AACPR also cements the culture of impunity in the region. As a result, there is no meaningful accountability for the cases of deaths in custody, enforced disappearances, and torture and other ill-treatment committed in the region.

The following is a summary of Amnesty International's report "*The hands of cruelty*": *Abuses by Armed Forces and Taliban in Pakistan's Tribal Areas* (Index: ASA 33/019/2012). All names of victims and relatives have been changed to protect their identities.

DEATHS IN ARMY CUSTODY

Just before evening prayers in February 2011, Jahanzeb, a poultry farmer from Swabi, Khyber Pakhtunkhwa province, was arrested at his home by army soldiers. It was the last time his family saw him alive. More than a year later, on 27 June 2012, Jahanzeb's body was found dumped in Haripur District, around 80km from where he was arrested.

To date, there has been no investigation into the alleged role of the Armed Forces in his death. Yet several witnesses last saw him in the custody of army soldiers, and attested to this in a petition before the Peshawar High Court in proceedings relating to the lawfulness of the detention of Jahanzeb and other detainees. The lack of an investigation in this case demonstrates how the Armed Forces are able to act with almost complete impunity in the Tribal Areas.

Amnesty International has documented several cases similar to those of Ayub and Jahanzeb. In all of these cases, men held by the Armed Forces were returned to their families dead or their corpses were found

Pakistan Armed Forces troops take position on a hilltop post in Khajore Kut, an area of Pakistan's South Waziristan tribal region, July 2010. The Actions (in Aid of Civil Power) Regulations 2011 give sweeping powers to the Pakistan Armed Forces in the insurgency-hit Tribal Areas. Thousands have been arbitrarily detained, risking torture and other ill-treatment, and even death while in custody.

“Almost every month you see a dead body with a note on it under charges of spying in specific tehsils [districts] or villages.”

Frontier Constabulary officer in Khyber Tribal Agency



dumped in remote parts of north-west Pakistan. The authorities failed to carry out a thorough and effective investigation into the circumstances of their deaths, paid no compensation to relatives, and did not prosecute those responsible.

Detainees who have been released alive have been threatened with death, along with their families, if they speak publicly

about their treatment in detention, leaving them in a state of anguish and with little possibility of accountability.

The stated purpose of the AACPR is to enable the Armed Forces to operate against the Taliban and other armed groups in the Tribal Areas subject to the law. But the alarming frequency of violations, including deaths and torture, and the total absence of

any justice for victims or prosecution of perpetrators make clear that the AACPR undermines the rule of law.

One of the least developed regions of Pakistan, the Tribal Areas are also excluded from fundamental rights protections under the Pakistan Constitution. This protection gap in which human rights violations and abuses by state and non-state actors are not meaningfully investigated, nor the perpetrators brought to justice before the courts, significantly exacerbates the human rights crisis in the region.

A limited reform package announced by the Pakistan government in August 2011 allowed for only minimal improvements to the Frontier Crimes Regulation 1901, a British colonial-era justice and detention system that continues to be applied to the Tribal Areas. But these reforms fall far short of what is required to ensure proper compliance with international human rights law and are further undermined by the AACPR.

GULZAR JAN

In 2010, 40-year-old Gulzar Jan turned himself in to the army when asked to report for questioning after his neighbours accused him of supporting the Taliban. His family never saw him alive again. Despite repeated requests to the authorities over the intervening two and a half years, Gulzar Jan's family had no idea about his fate or whereabouts until the morning of 16 August 2012, when a village elder told his father that Gulzar's body had been brought to the local police station. "When I surrendered my son to the Army he was a healthy man, he weighed

about 85kg," his father told Amnesty International. "When they handed his dead body back it was just one-third of his previous size. As we bathed him before burial I noticed his back was covered in lashes that looked like whipping marks," he added. "All the police said was that he had been ill in prison and died." As far as Amnesty International is aware, the authorities did not carry out an autopsy or investigation into the circumstances surrounding Gulzar's death, despite requests by the family.



TALIBAN ABUSES

The Taliban continue to commit a range of human rights abuses, from the unlawful killing of captured soldiers and accused spies to indiscriminate attacks that have killed and injured thousands across Pakistan. They regularly carry out suicide attacks and bombings using improvised explosive devices (IEDs), in marketplaces, mosques, schools, and other populous areas that either indiscriminately or deliberately target civilians.

In areas where they retain effective control, the Taliban continue to kill people unlawfully, sometimes following quasi-judicial proceedings, and other times with no proceedings whatsoever. In some cases, the Taliban have unlawfully killed people accused of spying and captured Armed Forces personnel.

These execution-style killings violate international humanitarian law and constitute human rights abuses, including

of the right to life. Taliban quasi-judicial proceedings fail to meet even the most basic fair trial requirements under international human rights standards and international humanitarian law.

NAZAR

On the morning of 15 May 2011, Nazar, from North Waziristan Tribal Agency, was unlawfully killed by the Taliban who accused him of spying for the Pakistan army. According to Qari Zafar, a Taliban executioner who oversaw Nazar's killing, his body was then mutilated by Taliban members.

"I took Nazar with two of our [Taliban] fighters," explained Qari Zafar. "His wrists were bound behind his back. One of the fighters shot him on the left side of his head and he died instantly. The fighters then cut his body all over to send a warning that those who spy will not be spared and will die shamefully."

A Taliban fighter executes Pakistani soldiers captured from Tank district 4, Khyber Pakhtunkhwa province, January 2012.

Later that morning, Nazar's brother Amjad recovered the corpse. "His body seemed fresh, as though he'd been killed just a few hours ago... but it was badly mutilated. There was what looked like a gunshot to the left side of his head, his throat was partially cut [and] there were cuts all over his body, two cuts on each of his hands, cuts on his ankles, waist and feet, and nine cuts along the neck." Amjad said there was also a note in Pashto over his chest. "It read: 'all those who are spying will face the same fate'," explained Amjad. Such is the fear of the Taliban and the stigma attached to those killed by them, that no one dared offer Nazar's funeral prayers, he added.



“All petitions filed at the Peshawar High Court alleging that someone has been taken by the state are sent to the Defence and Interior ministries which then notify other relevant ministries and security authorities... Mostly they say we don’t have these people.”

Iqbal Mohmand, Deputy Attorney-General for the Khyber Pakhtunkhwa province government

BARRIERS TO JUSTICE

The Pakistan Armed Forces operate with complete impunity in the Tribal Areas. They are backed by a legal framework in which the Constitution and the AACPR seek to exclude Pakistan’s high courts from having jurisdiction to enforce fundamental human rights protections in the Tribal Areas. The Pakistani authorities and the courts have not investigated or prosecuted any member of the Pakistan Armed Forces, or law enforcement and intelligence service personnel, for their alleged involvement in enforced disappearance, torture and other ill-treatment, or the unlawful killing of detainees in the Tribal Areas, including all the cases documented in Amnesty International’s report.

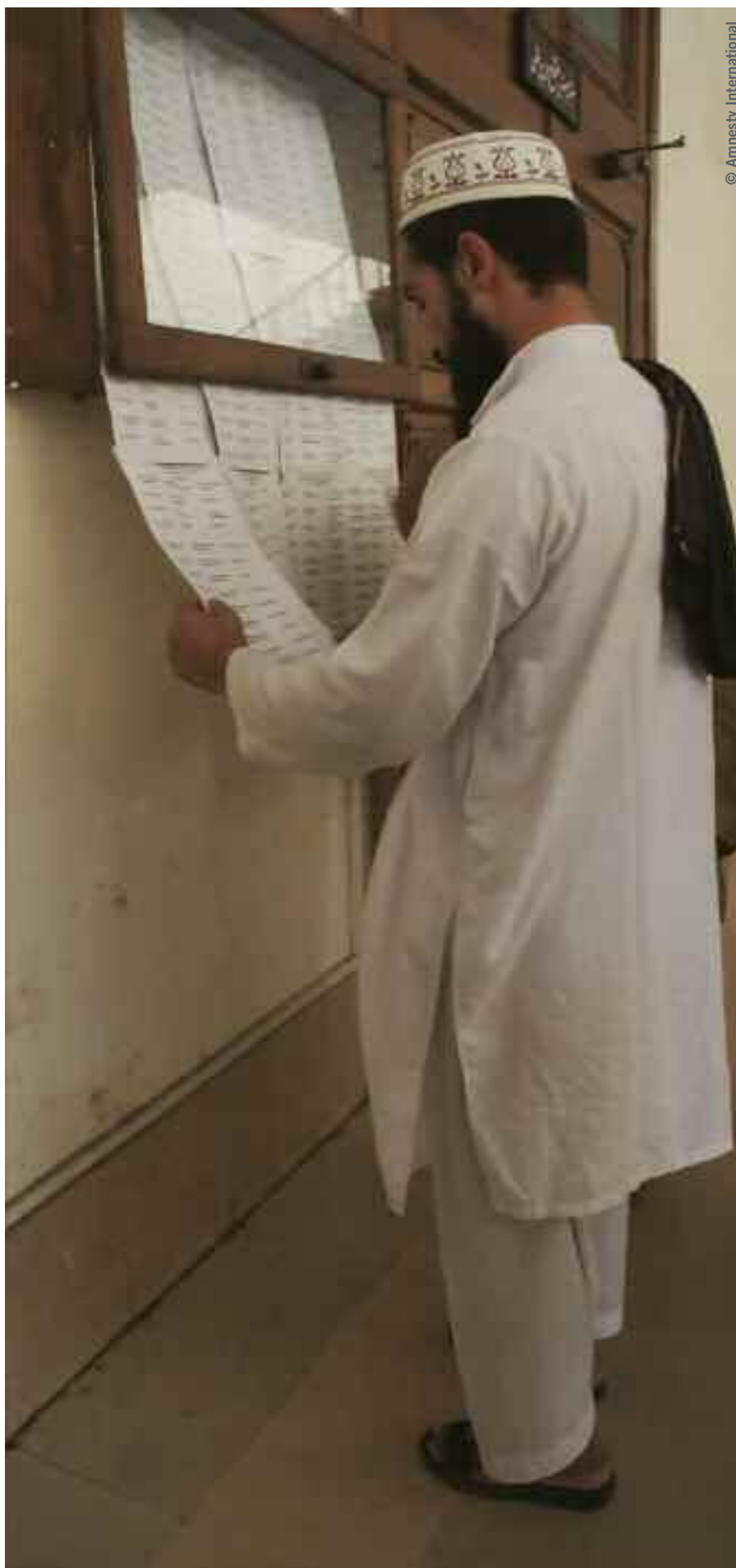
Under the AACPR, a mechanism exists for detainees to voice complaints regarding their treatment in detention; however, this does not appear to have been implemented. In any event, the mechanism is not an effective method for the enforcement of the prohibition of torture and other ill-treatment, because it is not independent and army

personnel are immune from prosecution before the courts. Moreover, the AACPR deprives detainees of their rights by failing to guarantee access to their families and lawyers.

The AACPR and the constitutional block on jurisdiction of the high courts have acted as an effective legal and practical barrier to the criminal and civil accountability of the state and its agents for alleged human rights violations in the Tribal Areas.

Despite the legal and practical hurdles, relatives have brought cases before Pakistan’s courts, challenging the lawfulness of detentions by the Armed Forces, by invoking fundamental rights protections under the Pakistan Constitution. In spite of the law, the courts have asserted jurisdiction in these cases.

In June 2011, the Peshawar High Court passed a landmark order calling on the authorities to either release or promptly bring to trial 1,930 named individuals whose detention was being administered



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Far left: Relatives of men and boys allegedly taken by the Armed Forces in north-west Pakistan wait inside the Peshawar High Court hoping for any information on the fate or whereabouts of their loved ones, August 2012.

Left: Every month, Fazle Khaliq anxiously looks through the list of hearings inside the Peshawar High Court hoping government lawyers finally provide information on the fate or whereabouts of his brother Fida Hussain. Fazle and Hussain were both arrested and detained by the Pakistan Armed Forces on the evening of 23 March 2012 from the local market at Khairabad in Nowshera District, north-west Pakistan. Although Fazle was released the same evening, Fida Hussain remains missing.

under the AACPR. The authorities later told the court they had released 1,035 detainees whom they considered innocent of any charges. At least 895 of the 1,930 remain in “internment centers” where they continue to risk torture and death, without any clear indication of when or if they will be brought to trial.

Those who have been released would not speak to Amnesty International about their treatment in detention out of fear of reprisals from the Armed Forces. While lawyers acting for these detainees believe that most of these men and boys have been released, they also assert that many more remain in detention without being brought before a court. The Peshawar High Court also appears aware that others are still in detention; in November 2012 it ordered the authorities to provide a full and final list of all remaining detainees but has yet to receive it.



Left: A woman holds a picture of her missing son at the Peshawar High Court, August 2012. She waits to hear of any news about his fate or whereabouts. He was allegedly taken by the Pakistan Armed Forces.

Front cover: A soldier stands guard over hooded men as they are showcased to the media at an Armed Forces compound in Khyber Agency, north-west Pakistan, December 2010. The military claims they are militants detained during operations in the country's Tribal Areas. © REUTERS/K. Parvez

RECOMMENDATIONS

Amnesty International urges the Pakistan government to:

- Repeal the Actions (in Aid of Civil Power) Regulations 2011 relating to the Federally Administered Tribal Areas and the Provincially Administered Tribal Areas.
- Repeal or reform the Frontier Crimes Regulation 1901 (as amended), to bring it into line with Pakistan's international human rights obligations.
- Formally extend the jurisdiction of Pakistan's High Courts and parliament to the Federally Administered Tribal Areas by act of parliament and executive order from the President respectively.
- End the system of administrative detention in the Tribal Areas.
- Carry out prompt, independent, impartial, thorough and effective investigations into all cases of deaths in custody and all allegations of torture and other ill-treatment and enforced disappearances, and ensure that such investigations are subject to public scrutiny.
- Bring to justice all perpetrators of human rights violations and abuses in the Tribal Areas, including any implicated members of the Armed Forces and/or the Taliban, in fair trials without recourse to the death penalty.

CONCLUSION

Amnesty International acknowledges that Pakistan is facing a major challenge confronting an insurgency on its frontier border with Afghanistan. It has had to re-establish civil authorities in these areas. It has also had to rebuild an infrastructure devastated by the conflict and three successive years of monsoonal floods. However, by providing legal cover for continued violations by the Armed Forces

under the AACPR, and by failing to extend the hands of justice to the Tribal Areas, the Pakistan authorities have enabled the Armed Forces to commit human rights violations with impunity. Without urgent action by the Pakistan government to guarantee respect for human rights in the Tribal Areas, the region will continue to leave millions locked in a perpetual state of lawlessness.

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Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

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