



PAKISTAN: WIDESPREAD HUMAN RIGHTS VIOLATIONS CONTINUE

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW, 28TH SESSION OF THE UPR WORKING GROUP, NOVEMBER 2017

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INTRODUCTION

This submission was prepared for the Universal Periodic Review (UPR) of Pakistan in November 2017. In it, Amnesty International evaluates the implementation of recommendations made in Pakistan's previous UPR noting that progress has been limited. It also assesses the human rights situation on the ground and makes recommendations to the government of Pakistan to address the human rights challenges mentioned in this report.

Amnesty International highlights continued harassment of human rights defenders, including enforced disappearance of defenders; arbitrary arrest and detention in Karachi and Balochistan; restrictions on the rights to freedom of expression and association; sectarian and religious violence; and violence against women and lack of access to justice.

Amnesty International also raises concerns about the continued application of the death penalty, including death sentences imposed by military courts; and forced return of refugees to Afghanistan.

FOLLOW UP TO THE PREVIOUS REVIEW

Since its UPR in 2012, Pakistan has made limited progress on some of the recommendations it had accepted. However, there has been progress on the development of legislation against domestic violence, honour crimes, child marriages and child labour.¹ The upper house of the Parliament, the Senate, has provided a forum for debate on human rights issues.

In the previous review, the government had committed to take “effective measures against enforced disappearances”,² “to combat impunity of all those who attack human rights defenders”,³ and “to introduce strong legislation to prohibit attacks on journalists”.⁴ On these issues, regrettably, there is little progress to report.

There were a number of recommendations from the 2012 review, which the government said it had already implemented or was in the process of implementing. Amnesty International is concerned however, about the extent and quality of implementation with regard to reform of the judiciary, law enforcement and the penitentiary system;⁵ strengthening of national human rights

¹ A/HRC/22/12, recommendation 122.21 (Sweden); 122.25 (Maldives); 122.102 (Canada); 122.103 (Austria); 122.107 (Egypt); 122.106 (France)

² A/HRC/22/12, recommendation 122.111 (Switzerland); 122.114 (Germany); 122.117 (Canada).

³ A/HRC/22/12, recommendation 122.110 (Spain).

⁴ A/HRC/22/12, recommendation 122.118 (Norway); 122.119 (Austria).

⁵ A/HRC/22/12, recommendation 122.109 (Russian Federation).

institutions;⁶ and legislative and other measures to address the situation of religious minorities.⁷ In January 2015, Pakistan established military courts to try civilians suspected of terrorism-related offences.⁸ The military courts were supposed to be a stop-gap arrangement while the civilian courts were strengthened; however, two months after their original mandate of two years lapsed, Parliament decided to reinstate the military courts.⁹

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

HUMAN RIGHTS DEFENDERS AND ENFORCED DISAPPEARANCES

Previously confined to the Federal Administered Tribal Areas (FATA), Khyber Pakhtunkhwa and Balochistan, in recent years the phenomenon of enforced disappearances has spread to other parts of the country. In August 2015, journalist Zeenat Shahzadi was abducted in Lahore on her way to work.¹⁰ She is believed to be the first woman to have been subjected to an enforced disappearance in Pakistan.¹¹ Before she was abducted, she had been reporting on the case of Hamid Ansari, an Indian national who had gone missing in 2012.¹² Zeenat Shahzadi is still missing.

In early January 2017, five human rights defenders were abducted from the capital Islamabad and parts of the Punjab province. Four of the five defenders - academic and poet, Salman Haider, and bloggers Asim Saeed, Ahmed Raza Naseer and Waqass Goraya – returned home between 27

⁶ A/HRC/22/12, recommendation 122.143 (Qatar); 122.144 (South Africa); 122.46 (United States of America); 122.49 (Azerbaijan).

⁷ A/HRC/22/12, recommendation 122.121 (Thailand)

⁸ The military courts were established for a period of two years by the 21st Constitutional Amendment Bill of 2015 and the Pakistan Army (Amendment) Act 1952.

⁹ “National Assembly votes overwhelmingly in favour of military courts”, *Dawn*, 22 March 2017. Available: <https://www.dawn.com/news/1321945/national-assembly-votes-overwhelmingly-in-favour-of-military-courts>; see also, “Army act amendment bill approved by Senate”, *Dawn*, 22 March 2017. Available: <https://www.dawn.com/news/1322142>

¹⁰ “Zeenat Shahzadi: Fears for missing Pakistan reporter”, *BBC*, 11 May 2016.

Available: <http://www.bbc.com/news/world-asia-36149315>

¹¹ Amnesty International: Pakistan: “Where is Zeenat Shahzadi?”, 30 August 2016. Available: <https://www.amnesty.org/en/latest/news/2016/08/pakistan-where-is-zeenat-shahzadi/>

¹² Ansari has since been located and is currently serving a three-year sentence in Peshawar jail allegedly for “spying”. “Zeenat Shahzadi: Fears for missing Pakistan reporter”, *BBC*, 11 May 2016. Available: <http://www.bbc.com/news/world-asia-36149315>

and 29 January 2017. At the time of writing, the fifth defender, Samar Abbas, is still missing.¹³ Although the authorities have denied any involvement in these cases, Waqass Goraya, who now lives in the Netherlands, has said that a "government institution with links to the military held him and tortured him".¹⁴ All five defenders had used the Internet to express their views on human rights, criticising religious militancy and Pakistan's military establishment. The government has yet to investigate the cases and to hold the suspected perpetrators to account.

Sections of local media have incited violence against human rights defenders, accusing them of "anti-state" activities and "blasphemy".¹⁵ One programme in particular, "*Aisay Nahi Chalay Ga*", aired on Bol television, accused the human rights defenders who had gone missing in January 2017, as well as other activists and journalists, of blasphemy.¹⁶

Amnesty International welcomes the proposed Right to Information Bill, adopted by a Senate Select Committee in February 2017,¹⁷ which obligates all state institutions to provide information about missing persons within three days of a request for information being filed.

THE DEATH PENALTY

More than 400 people have been executed in Pakistan since the official moratorium on executions was lifted in 2014 following an armed attack on a school in Peshawar. At least 320 people were executed in 2015 alone, making it the highest number ever recorded for Pakistan in any given year.¹⁸

In January 2015, Parliament authorized the establishment of military courts for two years to try civilians accused of "terrorism motivated by religion or sectarianism".¹⁹ These military courts imposed the death penalty on 161 individuals following trials held in secret, in violation of

¹³ Amnesty International, "FURTHER INFORMATION: PAKISTAN: ACTIVISTS REUNITE WITH FAMILIES; ONE STILL MISSING", 3 February 2017 (Index: ASA 33/5603/2017). Available: <https://www.amnesty.org/en/documents/asa33/5603/2017/en/>

¹⁴ Pakistan activist Waqass Goraya: The state tortured me", "BBC, 9 March 2017. Available: http://www.bbc.com/news/world-asia-39219307?ocid=socialflow_twitter%3FSThisFB%3FSThisFB

¹⁵ Amnesty International, "FURTHER INFORMATION: PAKISTAN: ACTIVISTS REUNITE WITH FAMILIES; ONE STILL MISSING", 3 February 2017 (Index: ASA 33/5603/2017). Available: <https://www.amnesty.org/en/documents/asa33/5603/2017/en/>

¹⁶ On 20 January 2017, prominent human rights defender Jibran Nasir filed a complaint with the Pakistan Media Regulatory Authority alleging how the allegations of blasphemy against him on the media programme, "*Aisay Nahi Chalay Ga*", had triggered death threats against him. "[Jibran Nasir moves PEMRA against Amir Liaquat over blasphemy allegations](#)", *The Express Tribune*, 21 January 2017. Available: <https://tribune.com.pk/story/1302735/jibran-nasir-moves-pemra-amir-liaquat-blasphemy-allegations/>. On 1 March 2017, Amnesty wrote an open letter to Pakistan's Minister of Interior, urging him to take action to protect journalists and human rights defenders who had been on the receiving end of a "smear campaigns" and accusations of blasphemy. See, Amnesty International, *Pakistan: Open Letter Calling for Greater Protection of Human Rights Defenders* (Index: ASA 33/5792/2017). Available: <https://www.amnesty.org/en/documents/asa33/5792/2017/en/>

¹⁷ "Senate Select Committee passes RTI bill", *Dawn*, 15 February 2017. Available: <https://www.dawn.com/news/1314872>

¹⁸ Amnesty International, "Death penalty 2016: Alarming surge in recorded executions sees highest toll in more than 25 years", 6 April 2016. Available: <http://www.amnestyusa.org/news/press-releases/death-penalty-2016-alarming-surge-in-recorded-executions-sees-highest-toll-in-more-than-25-years>

¹⁹ See Section 2, Pakistan Army (Amendment) Act, 2015.

international standards for a fair trial.²⁰ Among other concerns, the military courts were run by military officers subordinate to the military chain of command - and who had no formal legal training - in breach of the UN Basic Principles on the Independence of the Judiciary.²¹ The charges against the defendants were not made public and those convicted did not have the right to appeal in civilian courts. On 22 March 2017, Parliament approved a new constitutional amendment bill to extend the tenure of the military courts for another two years.²² Amnesty International has urged Pakistan's lawmakers to reverse the decision to reinstate the military courts.²³

Civilian courts have used the death penalty in contravention of international law, including by imposing the death penalty on those with mental disabilities, or those who were below 18 years of age when the crime was committed.²⁴

BLASPHEMY LAWS

The blasphemy laws, in particular the Pakistan Penal Code's Sections 295-A (outraging religious feelings), 295-B (desecrating the Quran), and 295-C (defiling the name of the Prophet Muhammad), are frequently abused by individuals and sectarian groups to settle personal scores, or to target religious minorities.²⁵ Defendants accused of blasphemy are forced to endure the ordeal of a trial and the specific factors associated with blasphemy trials may foster a climate of abuse of the process. These factors include the vaguely formulated laws, low standards of evidence required for conviction, and the manner in which allegations may be uncritically accepted by the police, the prosecuting authorities and the judges.²⁶

²⁰ International Commission of Jurists, "Details of civilians convicted by military courts (as of 6 January 2017)". Available: <https://www.icj.org/wp-content/uploads/2017/01/Pakistan-Updated-List-of-convicted-Advocacy-2017-ENG.pdf>

²¹ Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985. See, in particular, Principle 10. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/IndependenceJudiciary.aspx>

²² See the 28th Constitutional Amendment Act, 2017 and the Pakistan Army (Amendment) Act, 2017. Available: http://www.na.gov.pk/uploads/documents/1489140819_310.pdf

http://www.na.gov.pk/uploads/documents/1489140981_151.pdf

²³ Amnesty International, "Pakistan is surrendering the judicial system to the military", 22 March 2017. Available: <https://www.amnesty.org.uk/press-releases/pakistan-surrendering-judicial-system-military>

²⁴ Justice Project Pakistan, *Death Row's Children: Pakistan's Unlawful Executions of Juvenile Offenders*. February 2017. See also, Justice Project Pakistan/Yale Law School, *A Most Serious Crime: Pakistan's Unlawful Use of the Death Penalty*. September 2016.

²⁵ The Supreme Court of Pakistan echoed this concern in a 2015 judgement where it stated: "The majority of blasphemy cases are based on false accusations stemming from property issues or other personal or family vendettas rather than genuine instances of blasphemy and they inevitably lead to mob violence against the entire community". *Malik Muhammad Mumtaz Qadri v. the State*, Criminal Appeals No. 210 and 211 of 2015, at page 26.

²⁶ Amnesty International, "As Good as Dead", page 26

Section 295-C carries a mandatory death penalty.²⁷ Although no executions have been carried out under this provision, several individuals are on death row after having been sentenced under section 295C, with pending appeals to superior courts.²⁸

Amnesty International has documented a number of abuses that occur through the various stages of blasphemy proceedings, from case registration to police investigation to trials and appeals.²⁹ Religious clerics and their supporters, especially in the Punjab province, file complaints under Section 295-C or other relevant provisions of the Penal Code, on the basis of false or flimsy allegations. Despite weak evidence, police officers, prosecutors and trial courts tend to be reluctant to throw out such cases because of public pressure from religious groups, such as *Tehrik-e-Tahafuz-e-Khatm-e-Nabuwat*.³⁰ Mob violence and vigilante justice are common in blasphemy cases. Ahmadis and Christians have been attacked and killed following a mere allegation of blasphemy.³¹ On 13 April 2017, Mashal Khan, a journalism student of Mardan University, was stripped naked, beaten, and killed by a lynch mob in his hostel for alleged blasphemy online.³²

ARBITRARY ARREST AND DETENTION

Human rights groups have documented cases of arbitrary arrest and detention, torture and other ill-treatment by paramilitary forces, the Rangers and the Frontier Constabulary, in Karachi and Balochistan, respectively.³³

In May 2016, Aftab Ahmed, a political worker belonging to the Muttahida Qaumi Movement (MQM), died following torture in the custody of the Rangers.³⁴ The then Army Chief, Raheel Sharif, ordered an internal inquiry after photographs of Aftab's body carrying marks of torture

²⁷ Amnesty International believes that Section 295-C of the Pakistan Penal Code violates the right to life, as stated in Article 6 of the ICCPR. Section 295-C is not compatible with the stipulation in Article 6(2) that "in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes." The offence of blasphemy falls out of this narrow category. Amnesty International, *"As Good as Dead": The Impact of Blasphemy Laws in Pakistan* (Index: ASA 33/5136/2016). p. 57.

²⁸ According to Human Rights Watch, at least 19 people convicted under the Blasphemy laws are currently under the death row. See Human Rights Watch, *World Report 2017*. 470. Available: <https://www.hrw.org/world-report/2017>

²⁹ Amnesty International, *"As Good as Dead"*. pp 26.

³⁰ Amnesty International, *"As Good as Dead"*. pp 11-12. *Tehrik-e-Tahfuz-Nabuwat* or the "Movement for the Finality of Prophethood" is a religious group that campaigns actively for the continuation of blasphemy laws in Pakistan. Its leaders and members frequently act as private complainants in blasphemy cases.

³¹ Amnesty International, *"As Good as Dead"*. pp 43-51. Ahmadis are followers of Mirza Ghulam Ahmad who founded the Ahmadiyya movement in Punjab in 1889. Ahmadis identify themselves as Muslims, but unlike others Muslim sects, believe in Mirza Ghulam Ahmad as the promised Messiah. This belief distinguishes them from the mainstream Muslims who hold to the view that prophethood ceased with Prophet Muhammad. In 1974, Pakistani parliament declared Ahmadis non-Muslims.

³² 'Mashal Khan's murder was pre-planned – JIT's report reveals, Daily Times, 4 June 2017, Available: <https://en.dailypakistan.com.pk/pakistan/mashal-khans-murder-was-planned-jit-report-reveals/>

³³ Amnesty International, *Annual Report 2016-17: The State of the Human Rights* (Index: POL 10/4800/2017) 284-285; Unrepresented Nations and Peoples Organization, "List of Issues to the UN Human Rights Committee on the Implementation of the International Covenant on Civil and Political Rights (ICCPR) – The Islamic Republic of Pakistan". 20 July 2016. 6-8. Available: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1119&Lang=en

³⁴ "DG Rangers admits deceased MQM worker was tortured during custody", *Dawn*, 4 May, 2016. Available: <https://www.dawn.com/news/1256004>

appeared in the media. Five Rangers personnel were subsequently suspended;³⁵ however, the authorities have yet to reveal the findings of the investigation.

Zafar Arif, a 70-year-old professor belonging to the MQM (London) was arrested in Karachi in October 2016 and charged under the Maintenance of Public Order in October 2016. Dr Arif, who suffers from a heart condition, remained in prison until April 2017 without access to necessary medical treatment.³⁶

Dr Asim Hussain, a senior member of the Pakistan People's Party, was arrested by the Rangers in August 2016 on charges of corruption and treating "terrorists" at his hospital in Karachi. Dr. Hussain, who was facing trial before an anti-terrorism court before he received bail in March 2017, claimed that he was subjected to ill-treatment while in the custody of the Rangers.³⁷

Allegations of arbitrary arrests and detention have also been made in connection with counter-terrorism operations in Khyber Pakhtunkhwa and FATA.³⁸ Prolonged pre-trial detention under counter-terrorism legislation remains a serious concern. The Protection of Pakistan Act, 2004 allows for preventive detention for up to 90 days and grants law enforcement officials powers to carry out searches without a warrant and to arrest people without judicial approval for a range of offences. These extensive powers are potentially incompatible with Article 9 of the International Covenant on Civil and Political Rights (ICCPR).³⁹

Counter-terrorism operations are not subject to parliamentary oversight.⁴⁰ This results in a lack of accountability of security agencies regarding violations of the rights to life, to freedom from torture, and to liberty and security of person.

Domestic law does not provide for an independent mechanism to monitor the conditions of prisons, making it difficult to assess compliance with the ICCPR and the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). With those awaiting trial mixed

³⁵ "DG Rangers suspends five officers in Aftab Ahmed case", *Dawn*, 11 May 2016. Available: <https://www.dawn.com/news/1257562>

³⁶ Amnesty International, *Urgent Action: Detained 70-year-old professor's health at risk* (Index ASA 33/5413/2016 Pakistan). Dr Zafar Arif was shifted to Class B section of the prison meant for elderly and unwell prisoners only in March 2017. Dissatisfied with the lawyers assigned to his case by the MQM, Dr Arif has been representing himself in the court since December 2016.

³⁷ Amnesty International, *Urgent Action: Detained 70-year-old professor's health at risk* (Index ASA 33/5413/2016 Pakistan). See also, See Human Rights Watch, *World Report 2017*. 470. Available: <https://www.hrw.org/world-report/2017>

³⁸ See, for example, Ghulam Dastagir, "In unsafe custody", *Herald*, 16 August 2016. Available: <http://herald.dawn.com/news/1153262/in-unsafe-custody>

³⁹ The Human Rights Committee, for example, noted in its General Comment No. 35 on Article 9 of the ICCPR (right to liberty and security of person): "An arrest or detention may be authorized by domestic law and nonetheless be arbitrary. The notion of "arbitrariness" is not to be equated with "against the law", but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality." CCPR/C/GC/35, 16 December 2014, para 7. Available: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=11

⁴⁰ Amnesty International's interviews with key informants, 15 February 2017. On the lack of parliamentary oversight of counter-terrorism in Pakistan, see Raza Rumi, *Charting Pakistan's Internal Security Policy*, United States Institute of Peace, Special Report 368, May 2015. Available: <https://www.usip.org/sites/default/files/SR368-Charting-Pakistans-Internal-Security-Policy.pdf>

with convicted prisoners, many of the country's jails are overcrowded.⁴¹ Many inmates enter the prison system with pre-existing mental conditions, which get worse during confinement. A 2001 Mental Disorders Ordinance stipulating a system for the inspection of mentally-ill prisoners has yet to be implemented.⁴²

RESTRICTIONS ON FREEDOM OF EXPRESSION AND ASSOCIATION

Journalists and media workers have been targeted and killed by non-state actors. Families of journalists have recently been targeted in Balochistan.⁴³ The government has not followed through on the Prime Minister's pledge to "establish an office of public prosecutor at the federal and provincial levels tasked with investigating attacks against journalists".⁴⁴ The Pakistan Electronic Crimes Act, 2016, curtails the exercise online of the rights to freedom of expression, and privacy by vesting Pakistan Telecommunications Authority with powers to retain data and shut down any website deemed to be propagating "anti-State" or "anti-Islam" views.⁴⁵

A new policy for regulation of international NGOs, announced in October 2015, grants powers to the Ministry of Interior to review the registration of NGOs based on their funding sources and the nature of their programmes.⁴⁶ All international NGOs were directed to re-apply for registration; however, many are still awaiting the outcome of their applications.⁴⁷ In December 2016, the Punjab government - on instructions from the Federal Interior Ministry - ordered South Asia Partnership Pakistan to shut down for allegedly submitting a "critical shadow report" to the UN Human Rights Council.⁴⁸

Other NGOs, mostly those engaged in human rights advocacy, complain of frequent visits by intelligence officials to their offices seeking information on staff and organisational activities.

SECTARIAN AND RELIGIOUS VIOLENCE

Following a brutal attack by Taliban gunmen on Peshawar's Army Public School in December 2014, the government launched a major military offensive against alleged terrorist hideouts in the northwest region. After a brief respite, suicide attacks have escalated, targeting the police, military, lawyers, and others, especially Shias.

⁴¹ In Sindh province, for example, 14 out of 25 jails, according to official figures, house inmates well beyond their capacity. See "Population Statement of Sindh Jails as it Stood on 22-07-2015". Available: http://sindh.gov.pk/dpt/sindh_prsions/All%20PDF/Population%20Statement.pdf

⁴² Available: <http://www.pimh.gop.pk/docs/Mental%20Health%20Ordinance.pdf>

⁴³ Amnesty International's interviews with Freedom Network, a local media watch dog, February 10, 2016. According to International Federation of Journalists, five journalists were killed in Pakistan in 2016. See, "IFJ list of journalists and media staff killed in 2016". Available: http://www.ifj.org/fileadmin/documents/Killed_List_2016.pdf

⁴⁴ Amnesty International, "A Bullet Has Been Chosen for You": Attacks on Journalists in Pakistan (Index: ASA 33/005/2014).

⁴⁵ The Prevention of Electronic Crimes Act, 2016. Sections 31, 32, and 37.

⁴⁶ Government of Pakistan, Ministry of Interior, "Policy for Regulation of International Nongovernmental Organizations (INGOs) in Pakistan". Notification (On file) dated 1 October 2015. No.6/34/2015-PE-III.

⁴⁷ Amnesty International's interviews with INGO representatives and other key informants. 21-22 February and 7 March 2017.

⁴⁸ Letter (On file) by the Government of Punjab Home Department, dated 7 October 2017. The United Nations Commission on Human Rights was replaced by the Human Rights Council on 15 March 2006. See G.A. Res. 60/251, U.N. Doc. A/RES/60/251. The authorities withdrew the notification following a hearing in the Lahore High Court on 27 January 2017.

The Hazara Shia community in Quetta also continues to be targeted.⁴⁹ Concentrated in two neighbourhoods of the city, Hazaras say they increasingly feel ghettoized. Many have fled to seek asylum in Australia and Europe, often making dangerous journeys by boat.⁵⁰

Pakistan's 2014 National Action Plan against terrorism had proposed a crackdown on hate speech. Despite this, sectarian leaders continue to incite violence against minorities, particularly Shias and Ahmadis.

VIOLENCE AGAINST WOMEN

Amid protests by religious groups, provincial legislators voted in February 2016 to enact a law to combat violence against women. The Punjab Protection of Women against Violence Act, 2016 criminalises “domestic violence, sexual violence, psychological abuse, economic abuse, stalking or cybercrime”⁵¹ and obligates the government to set up “Protection Centres” for survivors of such violence and District Women’s Protection Committees. The Punjab government has opened a pilot “Violence against Women Centre” in Multan to provide medical examination, complaint registration, and rehabilitation services to survivors of violence.⁵² It remains to be seen how effective it is and whether such centres are replicated elsewhere in the province.

A law passed by the provincial assembly of Sindh in November 2016 to prevent forced conversion of non-Muslim women to Islam has stalled after the Council of Islamic Ideology termed it “un-Islamic”.⁵³

Despite some progressive legislative initiatives, access to justice remains difficult for women. Gender norms in parts of the country often lead to women suffering abuse and exploitation in silence. Police officers and lawyers often encourage survivors of violence to reach “out-of-court” settlements instead of pursuing legal remedies. Female officers make up less than 1% of the country’s police force, which partly accounts for the reluctance of women to file complaints in the first place.⁵⁴

AFGHAN REFUGEES

In 2016, over 380,000 registered Afghan refugees were repatriated from Pakistan to Afghanistan with UNHCR assistance.⁵⁵ Exit interviews conducted by UNHCR cast doubts as to whether the

⁴⁹ The Hazaras originally came to Quetta during the late nineteenth-century fleeing persecution in central Afghanistan.

⁵⁰ Amnesty’s interviews with local activists and journalists, 13 February 2017.

⁵¹ Section 2 (r).

⁵² Amnesty’s meetings with Salman Sufi, Director General Strategic Reforms Unit, Government of Punjab. January 2017. See also: “Multan to get state-of-the-art women protection centre”, *The Express Tribune*, February 11, 2017.

⁵³ “CII passes resolution on forced conversion of religion”, Associated Press of Pakistan, 8 December 2016. Available: <https://www.app.com.pk/cii-passes-resolution-on-forced-conversion-of-religion/>

⁵⁴ Commonwealth Human Rights Initiative, *Rough Roads to Equality: Women Police in South Asia*. (CHRI) New Delhi, 2015.

⁵⁵ UNHCR Pakistan, “Voluntary Repatriation Update”, November 2016. Available: http://unhcrpk.org/wp-content/uploads/2013/12/VolRep_Summary_20161101_v1.pdf

According to UNHCR and the IOM (International Organisation for Migration), a total of 606, 905 refugees, including undocumented refugees, were repatriated to Afghanistan in 2016. See, Asad Hashim, “Afghan refugees return home amid Pakistan crackdown”, *Aljazeera online*, 26 February 2017. Available: <http://www.aljazeera.com/indepth/features/2017/02/afghan-refugees-return-home-pakistan-crackdown-170225103737546.html>

repatriation was entirely voluntary.⁵⁶ They lend credence to accusations that the UN agency has become complicit in forced return of Afghan refugees.⁵⁷ Of those repatriated, 24% cited fear of arrest and/or deportation as the reason why they had “decided” to leave. Another 20% and 18%, respectively, said they were leaving because of uncertainty surrounding the “proof of registration” (the identity document issued by the Government of Pakistan), and “camp closure”.⁵⁸ The refugees are being repatriated to Afghanistan, which continues to experience conflict and instability, possibly in violation of the prohibition of *non-refoulement*.⁵⁹ Those left behind face an uncertain future and harassment by the authorities.⁶⁰

RECOMMENDATION FOR ACTION BY THE STATE UNDER REVIEW

AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF PAKISTAN TO:

INTERNATIONAL HUMAN RIGHTS LAW AND DOMESTIC LEGISLATION

- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance;

⁵⁶ The exit interviews were conducted by UNHCR between June 2013 and November 2016. For repatriation to be lawful, it must be truly voluntary, meaning refugees were able to make a free and informed decision to return. Coercing refugees to return to a country where they would be at risk of serious human rights violations violates the principle of *non-refoulement*. Amnesty International opposes any forcible returns to Afghanistan as due to ongoing armed conflict in many parts of Afghanistan, Amnesty International considers there is no way to ensure that returns to Afghanistan can be safe for individuals.

⁵⁷ Human Rights Watch, “Pakistan Coercion, UN Complicity: The Mass Forced Return of Afghan Refugees”, 13 February 2017. Available: <https://www.hrw.org/report/2017/02/13/pakistan-coercion-un-complicity/mass-forced-return-afghan-refugees>

⁵⁸ UNHCR Pakistan, “Voluntary Repatriation Update”, November 2016. Available: http://unhcrpk.org/wp-content/uploads/2013/12/VolRep_Summary_20161101_v1.pdf

⁵⁹ As embodied in Article 33 of the 1951 Refugee Convention, the principle of ‘*non-refoulement*’ prohibits State parties from obliging a person to return to a territory where where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”. Although Pakistan is not a signatory to the 1951 Refugee Convention, *non-refoulement* is also believed to be a norm of customary international law making it binding on all states. See, for example, UN High Commissioner for Refugees (UNHCR), “The Principle of Non-Refoulement as a Norm of Customary International Law: Response to the Questions Posed to UNHCR by the Federal Constitutional Court of the Federal Republic of Germany in Cases 2 BvR 1938/93, 2 BvR 1953/93, 2 BvR 1954/93”, 31 January 1994, Available: <http://www.refworld.org/docid/437b6db64.html>

⁶⁰ There are currently an estimated 1.3 million registered and another million undocumented Afghan refugees in Pakistan. Starting with the Taliban attack on Peshawar’s Army Public Schools in December 2014, authorities have linked elements within Afghanistan as well as Afghan refugees living in Pakistan to terrorist incidents in Pakistan. Pakistan’s law enforcement agencies have cracked down on undocumented refugees in particular amid allegations of arbitrary detention and extortion. In November 2016, the government had set March 31 as the deadline for Afghan refugees to leave Pakistan. The deadline has now been extended until the end of 2017. See, Human Rights Watch, “Pakistan Coercion, UN Complicity: The Mass Forced Return of Afghan Refugees”, 13 February 2017.

- Ratify the 1951 UN Convention Relating to the Status of Refugees and the 1966 Protocol;
- Effectively implement the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), including by amending the Prison Rules and Prison Manuals in all provinces;
- Issue a standing invitation to the UN Special Rapporteurs to visit the country.

HUMAN RIGHTS DEFENDERS

- Constitute an independent inquiry into all suspected cases of enforced disappearance of human rights defenders and hold those suspected to be responsible to account in fair trials;
- Urgently ensure the safety and security of all human rights defenders and activists, journalists and their families in light of threats following allegations of blasphemy and “anti-state” activities;
- Enact the Right to Information Bill, approved by the Senate Select Committee, to ensure disclosure of information on every individual picked up by the security agencies.

THE DEATH PENALTY

- Abolish the death penalty for all crimes;
- Pending abolition of the death penalty, reinstate a moratorium on executions, and introduce a statutory prohibition on imposing the death penalty on the mentally disabled and those who were juveniles at the time of the crime.

BLASPHEMY LAWS

- Repeal Sections 295-A, 295-B and 295-C of the Pakistan Penal Code;
- Pending the repeal, commute all death sentences imposed under Section 295-C of the Penal Code;
- Ensure adequate protection of judges, defence counsels, and defence witnesses involved in all blasphemy cases;
- Remove Sections 295-A and 298-A from the list of scheduled offences under the Anti-Terrorism Act, 1997.

ARREST AND DETENTION

- Review counter-terrorism laws to remove overboard powers to arrest without a judicial remand and prolonged pre-trial detention provided under Section 5 of the Anti-Terrorism Act, 1997, and Sections 3 and 6 of the Protection of Pakistan Act, 2004;
- Thoroughly and impartially investigate all allegations of torture, arbitrary detention, and killings by paramilitary forces in Karachi and Balochistan;
- Ensure, promote and facilitate the effective implementation of the Mental Disorders Ordinance, 2001 with a view to improving the care and treatment of mentally ill prisoners.

RESTRICTIONS ON FREEDOM OF EXPRESSION AND ASSOCIATION

- Set up an office of public prosecutor at the federal and provincial levels for investigating and prosecuting attacks against journalists in line with the Prime Minister’s commitment;
- Amend the Prevention of Electronic Crimes Act, 2016, in particular Sections 31, 3, and 37, to remove overboard powers for monitoring and shutting down websites and retaining data;
- Direct the Ministry of Interior, provincial and district administrations to stop the

intimidation and harassment of NGOs, and expedite the process of NGO registration.

AFGHAN REFUGEES

- Halt all returns and repatriation to Afghanistan that do not meet the definition of “voluntary”, and ensure that Afghan refugees fearing return to Afghanistan can continue to seek and enjoy refuge in Pakistan;
- Direct law enforcement agencies to cease the harassment and intimidation of all registered and un-registered refugees residing in Pakistan and hold anyone found responsible for such acts to account;
- Ratify the 1951 Convention relating to the Status of Refugees and its 1967 Optional Protocol and refrain from adopting policies that result in refugees being denied international protection.

SECTARIAN AND RELIGIOUS VIOLENCE

- Reverse the decision to reinstate military courts as their proceedings do not in general meet international fair trial standards;
- Thoroughly and impartially investigate and prosecute all instances of incitement to violence against religious minorities.

VIOLENCE AGAINST WOMEN

- Facilitate the passage of the proposed law against forced conversion of non-Muslim women to Islam, as approved by the provincial assembly of Sindh;
- Set up Protection Centres for survivors of violence and District Women's Protection Committees as stipulated under the Punjab Protection of Women against Violence Act, 2016;
- Draw up a policy on increasing the number of women in the police force and the judiciary, and build the capacity of police and judiciary to work on cases of violence against women in a gender-sensitive manner.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE

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