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**RRT RESEARCH RESPONSE**

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**Questions**

- 1. What is the current situation with respect to those participating in anti-Musharraf and pro-democracy demonstrations?**
- 2. Is there any information to suggest different treatment of pro-democracy activists by the Pakistani police and the army?**
- 3. Is there retrospective legislation allowing anti-government activities to be dealt with by military tribunals by military personnel and not the civil courts? Is it operating?**
- 4. If there were outstanding charges against someone at the time of their departure from Pakistan, would these have been likely to be detected by the authorities at the airport and would any action be taken against them at that point?**

**RESPONSE**

- 1. What is the current situation with respect to those participating in anti-Musharraf and pro-democracy demonstrations?**

Sources indicate that over the past twelve months there have been a number of anti-Musharraf and pro-democracy demonstrations throughout Pakistan. These have been organised as a response to a broad range of issues, largely revolving around the public demand for democratic elections, but also in opposition to President Musharraf. The government has responded to these demonstrations in a number of different ways. Sometimes protesters have had their demonstration paths blocked by security forces, sometimes tear gas has been fired at them; sometimes those associated have been detained, whilst at other times the protests were allowed to proceed without interference. This response explores [recent government responses to demonstrations](#), and then reviews the [government treatment of the detained](#) (Mansoor, A. 2008, 'Police tear-gas anti-Musharraf protest in Islamabad: witnesses',

Pakistan Tehreek-e-Insaf website, 24 June

<http://www.moveforjustice.org/News/tabid/60/articleType/ArticleView/articleId/755/Default.aspx> – Accessed 8 February 2008 – Attachment 1; ‘Pakistan: Musharraf Uses Anti-Terror Laws to Jail Critics’ 2007, *Reuters AlertNet*, 15 November

<http://www.alertnet.org/thenews/newsdesk/HRW/c4381222161e25ca4c7fc683dfde9335.htm>

– Accessed 8 February 2008 – Attachment 2; Naveed, A. 2007, ‘Journalists call ‘black day’ over brutal response to anti-Musharraf protests’, *The Times*, 1 October

<http://www.timesonline.co.uk/tol/news/world/asia/article2563666.ece> – Accessed 8 February 2008 – Attachment 3; Weaver, M. 2007, ‘Bhutto urges supporters to back anti-Musharraf protests’, *Guardian Unlimited*, 6 November

<http://www.guardian.co.uk/pakistan/Story/0,,2206063,00.html> – Accessed 8 February 2008 – Attachment 4; for further information on the detainment of judges, which has been one of the causes of recent protests, see Human Rights Watch 2007, *Destroying Legality: Pakistan’s Crackdown on Lawyers and Judges*, vol. 19, no. 19, December

<http://hrw.org/reports/2007/pakistan1207/pakistan1207webwcover.pdf> – Accessed 8 February 2008 – Attachment 5).

February 2008 – Attachment 5).

### **Recent government responses to demonstrations**

Sources seem to indicate that the treatment of those participating in demonstrations varies, and there are a number of reports of different protests, and different government responses, from throughout the past year.

The alternative news site, *Media With Conscience*, provided an account of the number of people involved in recent protests by lawyers and judges in January 2008:

In Islamabad, hundreds of attorneys in black suits torched a small cloth dummy of Musharraf outside Chaudhry’s residence on Thursday and chanted “Death to Musharraf” and other slogans.

Separately around 3,000 lawyers, joined by members of former cricketer Imran Khan’s opposition political party, also burned a dummy of the president in the eastern city of Lahore.

At least 4,000 protesters shouted “Go Musharraf, go” in the southern city of Karachi and there were protests in the central Pakistani city of Multan and the northwestern city of Peshawar.

Meanwhile, a group of retired Pakistani military officers meanwhile urged Musharraf to step down and hand over power to Chaudhry, who has been under house arrest since he was sacked on November 3.

...Pakistan’s legal community has held weekly protests to call for the release of Chaudhry and several top lawyers who have been detained since November, despite the lifting of emergency rule on December 15 (‘Lawyers in Anti-Musharraf Protest’ 2008, *MWC News*, 31 January <http://mwcnews.net/content/view/19879/195/> – Accessed 8 February 2008 – Attachment 6).

The website of a minor political party in Pakistan, *Pakistan Tehreek-e-Insaf* (or ‘Pakistan Movement for Justice’), reported on the treatment of protesters who attempted to break through a police barricade in Islamabad during the above cited protest by lawyers and judges in January 2008:

**The protesters tried to break through a police barricade outside the upmarket Marriott Hotel, which is near [Chief Justice] Chaudhry’s house, but were forced back by baton-**

**wielding police who then fired tear gas** (Mansoor, A. 2008, 'Police tear-gas anti-Musharraf protest in Islamabad: witnessed', Pakistan Tehreek-e-Insaf website, 24 January <http://www.moveforjustice.org/News/tabid/60/articleType/ArticleView/articleId/755/Default.aspx> – Accessed 8 February 2008 – Attachment 1).

Another response by the government has been to arrest those demonstrating, and/or those planning to demonstrate. A report from *CBC News* noted a large number of arrests across Pakistan in November 2007 following a “ban on demonstrations”:

**Between 1,500 and 1,800 people have been detained across the country since Saturday, including opposition leaders, lawyers and human rights activists.**

**...At the largest demonstration, about 2,000 lawyers at High Court in the eastern city of Lahore staged a rally despite police warnings not to violate a ban on demonstrations.**

**Hundreds of officers stormed inside to try to disperse the crowd with tear gas and batons. Lawyers threw rocks and beat police with tree branches while shouting anti-Musharraf slogans.**

Sarfraz Cheema, a senior lawyer at the rally, condemned the police action.

“This police brutality against peaceful lawyers shows how the government of a dictator wants to silence those who are against dictatorship,” he said. “We don’t accept the proclamation of emergency” (‘State of emergency declared in Pakistan’ 2007, *CBC News*, 5 November [http://www.cbc.ca/news/yourview/2007/11/state\\_of\\_emergency\\_declared\\_in.html](http://www.cbc.ca/news/yourview/2007/11/state_of_emergency_declared_in.html) – Accessed 8 February 2008 – Attachment 7).

Also in November 2007, *Times Online* reported of arrests, the firing of tear gas, and the use of batons at demonstrations around Pakistan:

**More than 1,000 people were arrested in Pakistan today as lawyers, human rights activists and political moderates took to the streets to protest at the suspension of the country’s democracy.**

**Riot police were forced to fire tear gas and wield batons to break up angry demonstrations in almost all of Pakistan’s major towns and cities. More than 1,500 people have been arrested in the past 48 hours – some of them political opponents of President Pervez Musharraf who were rounded up on Sunday, and others lawyers and human rights activists held today** (Hussain, Z. 2007, ‘1,000 arrested as Pakistan protests’, *Times Online*, 5 November <http://www.timesonline.co.uk/tol/news/world/asia/article2809246.ece> – Accessed 8 February 2008 – Attachment 10).

Amnesty International also reported on the legal grounds for these arrests:

**The government initially charged people with anti-terrorism charges, but now charges of sedition are being issued. Three politicians and one trade unionist were charged with sedition yesterday. They were arrested on Tuesday in Karachi for making speeches and participating in an anti-emergency demonstration outside the press club. Karachi police have also filed a case of sedition against eight lawyers, but none of them has so far been arrested.**

The government is also in the process of introducing amendments to provide legal authority for the intelligence agencies to detain any citizen on suspicion of terrorism. This will allow them authorities to hold any citizen in arbitrary detention without any specific charges.

Military laws are also to be amended to allow the trial of civilians by military authorities under the Army Act. The attorney general has confirmed the process of such amendments (Amnesty International 2007, 'Opposition Defiant in Pakistan Despite Arrests', 9 November <http://www.amnesty.org/en/news-and-updates/news/opposition-defiant-in-pakistan-despite-arrests-20071109> – Accessed 11 February 2008 – Attachment 8).

Sources also indicate that at times Pakistani authorities have clamped down on protesters before the demonstrations started. Human Rights Watch reported on police violence and the detainment of protest leaders and politicians in November 2007:

After Bhutto on November 13 called off power-sharing negotiations with Musharraf, activists from the PPP have faced police violence and mass arrests, particularly in the provinces of Sindh and Punjab. On November 13, the government announced that it would not allow Bhutto to mount a protest march planned by her party for the same day. **Bhutto and many PPP leaders have been under house arrest in the central city of Lahore since November 13. There are multiple reports of the police tear-gassing and beating protesters with batons.**

...**Human Rights Watch has received reports that hundreds of PPP supporters along the route of the party's proposed protest march have been detained without charge to prevent mobilization for and turnout at the march.** Similarly, in the southern province of Sindh, the political base of the PPP, hundreds of party activists have been arrested in the cities of Karachi, Hyderabad, Jacobabad, Khairpur, Thatta and Larkana. Human Rights Watch has been able to confirm the detention of at least 600 PPP activists across Sindh who were protesting Bhutto's house arrest. Unconfirmed but credible reports indicate the numbers are likely to be much higher.

Human Rights Watch expressed concern at the use of anti-terrorism laws to detain peaceful opponents of the Musharraf government. **While most of the detained activists are being held without charge, many have been charged under Pakistan's Anti-Terrorism Act (ATA), while others are being held under provisions of the colonial-era Maintenance of Public Order Act (MPO)** ('Pakistan: Musharraf Uses Anti-Terror Laws to Jail Critics' 2007, *Reuters AlertNet*, 15 November <http://www.alertnet.org/thenews/newsdesk/HRW/c4381222161e25ca4c7fc683dfde9335.htm> – Accessed 8 February 2008 – Attachment 9).

At other times protests have proceeded without hindrance, as *Muslim World News* reported of a demonstration in Islamabad in April 2007:

Angry lawyers and opposition political activists Tuesday rallied outside the Supreme Court building in the Pakistani capital, where the country's suspended top judge appeared to face allegations of misuse of authority.

**Riot police and paramilitary forces were present in huge numbers but did not attempt to stop the demonstrators who marched up to the gates of the court building situated in between the offices of the president and prime minister** ('Protest in Pakistan as top judge faces charges' 2007, *Muslim World News*, 3 April [http://www.indianmuslims.info/news/2007/april/03/muslim\\_world\\_news/protest\\_in\\_pakistan\\_as\\_top\\_judge\\_faces\\_charges.html](http://www.indianmuslims.info/news/2007/april/03/muslim_world_news/protest_in_pakistan_as_top_judge_faces_charges.html) – Accessed 11 February 2008 – Attachment 12).

Similarly, *Citizen Journalist Report*, an openly collaborative/democratic news source, noted another uninterrupted protest in Lahore in early November:

**Alumni, Students and Faculty members of FAST-NUCES, one of the most prestigious educational institutes of the country organized a peaceful protest inside the campus**

**premises where a crowd of around 500 protested peacefully against the imposition of emergency in the country.**

The protesters were wearing black arm-bands and later a few senior students and faculty members addressed the crowd discussing the current situation of the country, criticized the current regime for imposing emergency in the country and demanded the constitution to be restored.

One of the senior faculty members, during his very balanced and rationale speech told the students that we should behave like responsible members of the civil society and protest peacefully, first knowing the very reason of protest, which should be the imposition of emergency. He added that constitution is an agreement between the people of Pakistan and the Government of Pakistan, the terms on which we have given them the right to rule on us, and thus they can not violate these terms.

The crowd chanted anti-Musharraf slogans like 'Go Musharraf Go' and various others like 'Restore the Constituion' ('FAST-NUCES students protest against imposition of emergency in Pakistan' 2007, *CJ Report*, 13 November <http://www.cjreport.com/news/862/fast-nuces-students-protest-against-imposition-emergency-pakistan.html> – Accessed 19 February 2008 – Attachment 38).

The US Department of State *Country Report on Human Rights Practices for 2006 – Pakistan* also provides a summary of the government response to protests throughout 2006. Included amongst these are detainments, baton charges, and the use of tear gas:

**While the law provided for this right, in practice, the government placed selective restrictions on the right to assemble and sometimes refused permits for processions in urban areas. Ahmadis have been prohibited from holding any conferences or gatherings since 1984 (see section 2.c.).**

The HRCP expressed concern that the government had permitted a rally on April 8 of the banned terrorist organization, Sipah-e-Sahaba Pakistan, during which the participants preached violence against non-believers and sold videos depicting violent acts.

**Police often used preventive detention and excessive force against demonstrators.**

**On February 2, police detained leaders of the Jammu and Kashmir Liberation Front,** including Amanullah Khan. Police detained Khan after he attended a peaceful demonstration in Rawalpindi against the construction of the Basha Dam in the Gilgit region of the Northern Areas. According to AI, Khan was not permitted to receive visitors, and his health deteriorated during his one-week detention.

**On April 15, police baton charged and used tear gas to disperse a rally of journalists and human rights activists in Choa Saidan Shah, Chakwal, Punjab,** when they demanded compensation for the owners of two shops that caught fire during the government's anti encroachment drive. Police also registered two criminal cases against Chaudhary Farzand Ali, president, and Malik Wazir Muhammad, secretary general, of a journalists' union, citing their disruption of the public order. Police also injured local human rights activist Chaudhary Nematullah.

On August 22, approximately 2,000 teachers of the Sindh Employees Alliance protested in front of the Karachi Press Club against the government's ban on teachers' unions. **According to the AHRC, police used teargas and batons to disperse the demonstration. Police arrested 45 teachers and injured six.**

On October 12, to protest General Musharraf's coup against Pakistan Muslim League-Nawaz (PML N) Prime Minister Nawaz Sharif in 1999, the PML N demonstrated in Karachi, Lahore and other cities. In **Lahore, police charged the crowd with batons when they did not disperse**. According to the Dawn and other newspapers, police injured 11 demonstrators and arrested others under section 16 of the Maintenance of Public Order law.

**On November 27, according to AHRC more than 400 human rights and political activists were arrested in Balochistan to prevent them from participating in peaceful protests in advance of President Musharraf's visit to the province.** Virtually all were released after the visit.

Unlike in previous years, the authorities did not restrict the domestic movements of leaders of religious political parties (US Department of State 2007, *Country Reports on Human Rights Practices for 2006 – Pakistan*, 6 March, section 2.b [www.state.gov/g/drl/rls/hrrpt/2006/78874.htm](http://www.state.gov/g/drl/rls/hrrpt/2006/78874.htm) – Accessed 8 March 2007 – Attachment 11).

### **Government treatment of the detained**

Once arrested, the treatment of those detained has also varied. Some have been released on bail, some have had charges laid against them, and some have even been subject to torture (for reports on releases see Amnesty International 2007, 'New Arrests Of Journalists Overshadow Pakistan Releases', 20 November <http://www.amnesty.org/en/news-and-updates/new-arrests-journalists-overshadow-pakistan-releases-20071120> – Accessed 19 February 2008 – Attachment 38, for reports on detainment and charges see Cheema, M. 2007, 'Musharraf's Real 'War on Terror' in Pakistan', *Jurist*, 6 November <http://jurist.law.pitt.edu/forumy/2007/11/musharrafs-real-war-on-terror-in.php> – Accessed 19 February 2008 – Attachment 39, and for reports on torture see Asian Human Rights Commission 2006, 'PAKISTAN: State widespread use of torture must be brought to an end', 26 June <http://www.ahrchk.net/statements/mainfile.php/2006statements/605/> – Accessed 11 February 2008 – Attachment 16).

An Amnesty International reports on the "revolving door" of arrests in Pakistan throughout November:

**Early reports suggest that these detainees are being released, but they and other journalists across Pakistan remain at risk of further intimidation, detention and possible ill-treatment. Since the imposition of emergency law on 3 November, a pattern has emerged of a "revolving door" of arrests and releases of those attempting to peacefully protest against emergency rule.**

Pakistan's free media was one first groups impacted by the imposition of emergency rule on 3 November. All independent TV channels, including international channels transmitted by cable, were blocked hours before the emergency came into force. Whilst restrictions on international news channels have been lifted, independent channels transmitting from Pakistan remain blocked.

In addition, existing laws regulating the media were amended to tighten restrictions on freedom of speech, with breaches attracting prison sentences and heavy fines.

**Further harassment and arrests of journalists remain likely. On 17 November, the editor of the Islamabad Urdu-language daily newspaper Tulu was arrested by the plainclothes police from his office. During his detention he was blindfolded, taken to an unidentified location and questioned about his writings. He was informed that he had been arrested on the orders of senior government officials. He was released on 19**

**November** (Amnesty International 2007, 'New Arrests Of Journalists Overshadow Pakistan Releases', 20 November <http://www.amnesty.org/en/news-and-updates/new-arrests-journalists-overshadow-pakistan-releases-20071120> – Accessed 19 February 2008 – Attachment 38).

Similarly, the University of Pittsburgh's *Jurist*, explored the charges laid against lawyers who were arrested during protests in Lahore:

The lawyers have been charged with a range of offences including attempted murder; property damage; rioting; public nuisance; and disobeying, hindering and assaulting public servants in order to deter the performance of their duties. This makes for rather mundane reading. More interestingly, the dissident lawyers have also been charged with a breach of §16 of the Maintenance of Public Order Ordinance, dating back to the early days of Pakistan's first military dictator, General Ayub Khan. This provision criminalizes the publicizing of 'rumours' that may spread alarm and endanger public safety: presumably, the dangerous rumour that was being spread by the protesters in this case is that there is Martial Law in the country.

Most interestingly, these protesting lawyers have also been charged with a violation of §7 of the Anti-Terrorism Act, 1997. In this regard, they were presented before the Anti-Terrorism Court in Lahore on Tuesday afternoon before being transferred to various jails in the country for a period of at least 14 days. It is anticipated that most of them shall be detained for a period of 60 days or more. Bail may not be granted to a person charged under this anti-terrorism provision, and hence the protesters may be detained without further recourse to judicial process. This may be somewhat frivolous, given that many of the lawyers who had gathered outside the Anti-Terrorism Court in Lahore were also attacked and arrested by the police.

The protesters who have been targeted with these specifically harsh measures include most of the leaders of the legal community. This action is clearly designed to prevent the reorganization of the legal community for further protests. The protesters include several female lawyers, and many senior members of the bar (Cheema, M. 2007, 'Musharraf's Real 'War on Terror' in Pakistan', *Jurist*, 6 November <http://jurist.law.pitt.edu/forumy/2007/11/musharrafs-real-war-on-terror-in.php> – Accessed 19 February 2008 – Attachment 39).

There are also several reports on the ill-treatment of detainees. A 2005 Human Rights Watch report on 'Torture Worldwide' noted:

**Torture is routinely used in Pakistan by civilian law enforcement agencies, military personnel, and intelligence agencies. While acts of torture by the police are generally aimed at producing confessions during the course of criminal investigations, torture by military agencies primarily serves to frighten a victim into changing his political stance or loyalties or at the very least to stop him from being critical of the military authorities. Suspects are often whipped to the point of bleeding, severely beaten, and made to stay in painful stress positions** (Human Rights Watch 2005, 'Torture Worldwide', 27 April <http://www.hrw.org/english/docs/2005/04/27/china10549.htm#PAKISTAN> – Accessed 11 February 2008 – Attachment 15; for more on the use of torture in Pakistan by both the police and the military see Asian Human Rights Commission 2006, 'PAKISTAN: State widespread use of torture must be brought to an end', 26 June <http://www.ahrchk.net/statements/mainfile.php/2006statements/605/> – Accessed 11 February 2008 – Attachment 16).

More recently, in November 2007 Amnesty International reported on their fears for the treatment of detained protesters:

**The hundreds of people caught up in sweeping arrests have included judges, lawyers, human rights activists, journalists and political party activists. Many of the early detainees were charged with unlawful assembly under public order provisions or detained without charge under preventative detention laws, including anti-terrorism laws. More recent detainees face charges of sedition. Many are at risk of torture and other ill-treatment** (Amnesty International 2007, 'Human Rights Crisis in Pakistan: Overview', 15 November [http://www.amnesty.ca/themes/pakistan\\_overview.php](http://www.amnesty.ca/themes/pakistan_overview.php) – Accessed 11 February 2008 – Attachment 17).

RRT *Research Response PAK16871* may also be of relevance as it provides details on anti-Musharraf and pro-democracy demonstrations in Pakistan since the military coup of 1999 (RRT Research Response 2004, *Research Response PAK16871*, 2 August – Attachment 18).

## **2. Is there any information to suggest different treatment of pro-democracy activists by the Pakistani police and the army?**

### **The roles of the Pakistani security forces**

Sources seem to indicate that the Pakistani police have usually been responsible for containing and suppressing protests and demonstrations, though the military and paramilitary have also been mentioned in reports for arresting people involved in protests (for reports on police involvement in protests see Mansoor, A. 2008, 'Police tear-gas anti-Musharraf protest in Islamabad: witnessed', Pakistan Tehreek-e-Insaf website, 24 January <http://www.moveforjustice.org/News/tabid/60/articleType/ArticleView/articleId/755/Default.aspx> – Accessed 8 February 2008 – Attachment 1; 'Pakistan: Musharraf Uses Anti-Terror Laws to Jail Critics' 2007, *Reuters AlertNet*, 15 November <http://www.alertnet.org/thenews/newsdesk/HRW/c4381222161e25ca4c7fc683dfde9335.htm> – Accessed 8 February 2008 – Attachment 2; Naveed, A. 2007, 'Journalists call 'black day' over brutal response to anti-Musharraf protests', *The Times*, 1 October <http://www.timesonline.co.uk/tol/news/world/asia/article2563666.ece> – Accessed 8 February 2008 – Attachment 3; for reports on military and paramilitary involvement in the arrests of protesters and activists see Human Rights Watch 2001, *Human Rights Watch World Report 2001: Pakistan*, (undated) <http://www.hrw.org/wr2k1/asia/pakistan.html> – Accessed 12 July 2004 – Attachment 19; Rashid, A. 2003, 'The Pakistan paradox: U.S. support for Musharraf undermines war on terror', *International Herald Tribune*, 28 November [http://www.iht.com/articles/2003/11/28/edrashid\\_ed3\\_.php](http://www.iht.com/articles/2003/11/28/edrashid_ed3_.php) – Accessed 11 February 2008 – Attachment 20; Asian Human Rights Commission 2007, 'UPDATE (Pakistan): Fifteen political activists are missing after their arbitrary arrest and detention', 7 February <http://www.ahrchk.net/ua/mainfile.php/2007/2207/> – Accessed 11 February 2008 – Attachment 14; 'Protest in Pakistan as top judge faces charges' 2007, *Muslim World News*, 3 April [http://www.indianmuslims.info/news/2007/april/03/muslim\\_world\\_news/protest\\_in\\_pakistan\\_as\\_top\\_judge\\_faces\\_charges.html](http://www.indianmuslims.info/news/2007/april/03/muslim_world_news/protest_in_pakistan_as_top_judge_faces_charges.html) – Accessed 11 February 2008 – Attachment 21).

A Library of Congress report suggests that the nature of the crime has usually determined whether a person has been held by the police or the military. Criminal matters have usually been handled by the police, 'internal security' and 'political security' have been handled by

the paramilitary, whilst 'state security' matters have been handled by the military. However, this division does not appear to be entirely concrete, and the amendment to the Pakistan Army Act, 1952 (as explained in the response to question 3), seems to have blurred the jurisdictional levels of these security forces even further. The 2005 Library of Congress' *Country Profile – Pakistan* reported:

**Under the constitution, the military is responsible for defending the nation against external aggression and threats of war and is to aid civil authorities only when called to do so.** The military is forbidden constitutionally from acting independently of the elected political leadership in domestic matters. However, from 1947 to 2004 military generals have acted as head of state for nearly 30 years, and in **times of civilian government the armed forces have routinely intervened on domestic and foreign policy issues.** The military justifies its consistent involvement in politics as protection from malign foreign interests and corrupt and incompetent politicians.

...The central government (specifically the Ministry of Interior) controls the coast guard, paramilitary forces, and numerous specialized police agencies, such as the Federal Investigative Agency and railroad and airport police forces. **However, provincial governments organize paramilitary forces, which often act as an extension of the army to assist provincial police in internal security matters. In addition, senior government officials often have strong control over security forces and have at times established personal security forces.**

**...Provincial governments are charged with police administration in their respective jurisdictions, and provincial police forces operate independently. The federal government is largely uninvolved in provincial police administration but controls police in federally administered and tribal areas.** The federal minister of interior supervises police nationwide, and the Police Service of Pakistan (PSP) selects, trains, and assigns senior officers to provincial or central government agencies. Although service in the PSP is competitive and well paid, lower-ranking police personnel often have far lower education, skills, and motivation. Police often are accused of routine extortion, violating civil liberties, and acting to preserve the tenure of government officials rather than the rule of law (Library of Congress – Federal Research Division 2005, *Country Profile – Pakistan*, February, pp. 23-26 <http://lcweb2.loc.gov/frd/cs/profiles/Pakistan.pdf> – Accessed 15 February 2008 – Attachment 22).

Most of the accounts obtained in the searches conducted attribute the arrest of protesters over the past twelve months to police. For example, on 7 November 2007 *The Nation* reported on protests in several cities across Pakistan:

Lawyers said the police took over the LHC bar room and anyone entering the premises was being whisked away.

About 50 others were held in various cities across the country, including Multan and Quetta.

**Police unleashed indiscriminate baton charge on lawyers in Multan and arrested at least 28 persons including 26 attorneys and two other citizens.** The black coats were protesting against enforcement of emergency in the country and torture on attorneys in Lahore.

The district court compound presented the view of a battlefield as it was bombarded with tear gas shells by police while the same episode was replicated at High Court Bar. The provoked lawyers allegedly attacked at the city district nazim office and destroyed furniture, computers and other electronic goods.

**Although the lawyers ignited riot at district courts, police carried out baton charge without any provocation at High Court and badly thrashed the lawyers. The clothes of High Court Bar president Habib Ullah Shakir and many others were ripped by the cops** ('Dozens more arrested' 2007, *The Nation*, 7 November <http://www.nation.com.pk/daily/nov-2007/7/index6.php> – Accessed 15 February 2008 – Attachment 23; see also 'State of emergency declared in Pakistan' 2007, *CBC News*, 5 November [http://www.cbc.ca/news/yourview/2007/11/state\\_of\\_emergency\\_declared\\_in.html](http://www.cbc.ca/news/yourview/2007/11/state_of_emergency_declared_in.html) – Accessed 8 February 2008 – Attachment 7; Hussain, Z. 2007, '1,000 arrested as Pakistan protests', *Times Online*, 5 November <http://www.timesonline.co.uk/tol/news/world/asia/article2809246.ece> – Accessed 8 February 2008 – Attachment 10).

Nonetheless, the involvement of other forces has been reported. *CNN* also reported on arrests made by police and paramilitary forces in the Sindh province during April 2007:

**At least 1,200 people have been arrested in Pakistan's southern Sindh province in a crackdown on pro-democracy activists, an opposition politician says.**

**The military government sent police and paramilitary troops to homes and political party headquarters throughout the province, said Mohamad Shah, a member of former Prime Minister Nawaz Sharif's political party.**

**But the government admitted to detaining only 500. They will be released after May 1, the day of a planned pro-democracy rally in Karachi, the regime said.**

The rally, organized by the Alliance for the Restoration of Democracy representing 15 political parties in Pakistan, is being held to press the army to return the nation to democratic rule ('Hundreds of pro-democracy activists arrested in Pakistan' 2001, *CNN*, 27 April <http://archives.cnn.com/2001/WORLD/asiapcf/south/04/27/pakistan.arrests/> – Accessed 15 February 2008 – Attachment 24).

### **Different treatment of detainees by Pakistan security forces**

Sources also report on the different treatment of detainees by different sections of the Pakistan security forces (for reports on the ill-treatment of detainees by police and the military see Asian Human Rights Commission 2006, 'PAKISTAN: State widespread use of torture must be brought to an end', 26 June <http://www.ahrchk.net/statements/mainfile.php/2006statements/605/> – Accessed 11 February 2008 – Attachment 16; for reports, and details of specific cases, on the ill-treatment of political leaders and protesters by different forces see Immigration and Refugee Board of Canada 2006, *PAK102074.E – Pakistan: The treatment of members, activists and workers of the Pakistan People's Party (PPP) by the government, police and military; treatment by opposing political activists*, 5 December – <http://www.irb-cisr.gc.ca/en/research/rir/?action=record.viewrec&gotorec=450737> – Accessed 11 February 2008 – Attachment 25; Human Rights Watch 2000, 'Reform Or Repression? Post-Coup Abuses in Pakistan', vol. 12, no. 6, October <http://www.hrw.org/reports/2000/pakistan/pakio09-04.htm> – Accessed 11 February 2008 – Attachment 26).

The Asian Human Rights Commission reported on the treatment of people held in detention by the military:

Since its election on May 9, 2006 gross human rights violations including torture and forced disappearance have been committed against political and religious groups in Pakistan. **Twenty persons from the Shia community, a religious sect of Islam, are missing after being arrested from their homes or work places.** It is reported that they were severely tortured in military confinement cells. **Two persons belonging to Jeay Sindh Qaumi Mahaz (Sindhi Nationalist Organisation), Mr Aakash Mallah and Mr Manjhi Khan have disappeared after being arrested and taken to a military cantonment in Hyderabad Sindh. Ten students and 13 political workers from Balochistan were arrested and taken directly to military torture cells situated in Dera Ghazi Khan, Punjab, after which they have been missing. In the north-western frontier province of Pukhtoon Khaw, 63 persons have been arrested and taken to military camps in the name of the ‘war against terrorism’.**

... Most recently, Mr Mukesh Rupeta, a reporter for Geo Tv and Mr Sunjay Kumar, a cameraman, were arrested by the military in March 2006, after which their whereabouts were not known. Three months later, they were finally produced in court on June 22, 2006. According to their family members they were so severely tortured that both were unable to speak or move much. On June 15, 2006 journalist Mr Hayat Ullah’s bullet-riddled body was found after he was picked up by the military on December 5, 2005. The same day that his body was found, government officers had reassured his family that they would soon hear good news. According to his family members, Hyat Ullah was kept in a military torture camp in South Waziristan and his body was found to have many signs of torture besides the bullet wounds on his back (Asian Human Rights Commission 2006, ‘PAKISTAN: State widespread use of torture must be brought to an end’, 26 June <http://www.ahrchk.net/statements/mainfile.php/2006statements/605/> – Accessed 11 February 2008 – Attachment 16).

The Asian Human Rights Commission report also commented on the various forms of ill-treatment given to detained suspects (though not necessarily activists) by the police and the military:

It is common practice in Pakistan for arrested persons to be subjected to physical and mental torture in order for the police to obtain a confession, other information, and extort money. **Methods of torture used by the police include beating with fists, legs, wooden sticks or a piece of reinforced leather and burning the victim with cigarettes butts. In fact, police and law enforcement agencies are conditioned to think that it is their duty to torture suspected criminals.**

... **Military methods of torture include forcing detainees to dance naked before an audience for several hours, forcing them to do push-ups the entire night, putting rats in their pants or pyjamas, forcing them to listen to audio and video cassettes of other torture victims, as well as stitching their lips together** (Asian Human Rights Commission 2006, ‘PAKISTAN: State widespread use of torture must be brought to an end’, 26 June <http://www.ahrchk.net/statements/mainfile.php/2006statements/605/> – Accessed 11 February 2008 – Attachment 16).

A Human Rights Watch report from October 2000 provides details on the arrest and ill-treatment of detainees by security forces:

**Even this official account of events suggests that Sanaullah did nothing more at the meeting than peacefully express his opposition to army rule.** According to Sanaullah, a heavy contingent of police headed by Deputy Superintendent of Police (DSP) Tariq Kamboah, surrounded his house in Faisalabad three days later on November 28, stormed into his bedroom, and took him away. **The arrest was supervised by the superintendent of police for Faisalabad, Captain Saif, and the Additional Deputy Commissioner, Wasim**

**Ajmal.** “They locked me in a torture cell at Quilla Gojar Singh police station in Lahore,” Sanaullah said. He told Human Rights Watch what happened next:

On the night of November 29, DSP Jamaat Ali Bukhari and Inspector Ilyas, leading ten to twenty armed men, entered my cell, put me in a jeep, and drove me toward the [Lahore] airport. The jeep stopped, they blindfolded and handcuffed me, and put me in another jeep. After driving ten to twelve kilometers they stopped at the Lahore Army Cantonment area, and took me off the jeep.

They put a rope through my handcuffs and hung me up by it, so that my feet could barely touch the ground. A person whose presence I could sense in front of me ordered, “Five-five.” Within no time, cutting into the air, a whip hit my back. After he completed the first round of whipping, there was complete silence for five or ten minutes. A doctor checked my pulse and heart beat. The whipping man resumed and he did another four rounds. My back bled profusely, as I had been hit with a kaura [a leather strap] twenty times. He whipped me in such a way that my clothes stuck to my bleeding skin, and my skin and shreds of cloth came ripping off together. They made me lie on the floor with my back turned for hours.

**... Kulsoom Nawaz issued a call on March 13 for protests against Raad’s assassination, to be held two days later. As a preemptive measure, police conducted midnight raids throughout Sukkur district on the night of March 14. Five PML activists were detained under Section 188 of the Penal Code and then released the following day. The police succeeded in preventing any protest rally in the city or district from taking place.**

The crackdown on PML activists widened after the government’s March 15 ban on rallies. An attempt by Kulsoom Nawaz to lead a 500-kilometer procession from Lahore to Peshawar starting on July 8 resulted in a wave of arrests. **In an attempt to forestall the procession, police conducted pre-dawn raids throughout the city on July 7, arresting 165 PML members by the official count and up to 300 according to PML leaders.** Police said they were acting on the orders of the Punjab governor, Mohammad Safdar, who had declared that the planned procession would violate the ban on rallies. The following day, Kulsoom Nawaz was stopped in her car and arrested by police while trying to join the procession. After she refused to turn back or leave her car, police brought a crane to the site and hauled the vehicle into a police compound. On July 9, police armed with tear gas and shields surrounded the PML party headquarters in Rawalpindi, sealed off the exits, and forcibly entered the premises. Twenty-nine PML members present, who had gathered to discuss a response to the previous day’s arrest of Kulsoom Nawaz, were detained under the Maintenance of Public Order Ordinance.

... The authorities in Sindh province launched a crackdown against activists and leaders of the JSQM and the MQM on February 19, 2000, after the two parties had jointly called for a strike-observed in many parts of the province-against the government’s dismissal of 400 Pakistan Steel Mills employees. **Paramilitary troops and rangers conducted search and siege operations in urban areas and searched for JSQM activists in rural areas of Sindh, resulting in the arrest of about forty activists.** (Human Rights Watch 2000, ‘Reform Or Repression? Post-Coup Abuses in Pakistan’, vol. 12, no. 6, October <http://www.hrw.org/reports/2000/pakistan/pakio09-04.htm> – Accessed 11 February 2008 – Attachment 26).

### **3. Is there retrospective legislation allowing anti-government activities to be dealt with by military tribunals by military personnel and not the civil courts? Is it operating?**

On 11 November 2007, the Pakistan government under Musharraf amended the Pakistan Army Act, 1952. The amendments legally allow a new range of offences to be tried by military authorities and military personnel, and not the civil courts as was the case previously. Amongst these is the offence of “statements conducive to public mischief”. An Amnesty International report from 12 November commented on these changes:

**In a highly disturbing development, the government also amended the Pakistan Army Act, 1952, yesterday (Sunday) to allow the trial of civilians under by the military authorities. Under these amendments, which have been backdated to be effective from January 2003, civilians can be tried by the military authorities on charges including from treason, sedition and “statements conducive to public mischief”.**

**The offence of “statement conducive to public mischief” poses a serious threat to print and electronic media and civil society activists. Publishing any materials that include comments against the imposition of the emergency could be at the risk of being taken as “public mischief”. This seriousness of this threat is clear in the light of recent sedition charges filed against political activists and lawyers who protested against the imposition of the emergency.**

**Offences under the Army Act had previously been tried by magistrates’ courts. Now, in trials by military authorities, the accused will not have full legal representation. Counsel can only represent an accused in the capacity of a friend, while ordinary rules of evidence do not apply.**

**Asma Jahangir, the Chair of the Human Rights Commission of Pakistan, has said that this retrospective application of the amended Army Act will allow the government to legitimise all illegal acts of disappearances carried out by the intelligence and other agencies with impunity. Asma Jahangir has herself been under detention at her house since 3 November.**

Restriction on the broadcast of independent TV and radio channels within Pakistan continues and the government ordered 3 reporters of the UK newspaper, The Daily Telegraph, to leave the country within 72 hours on Saturday. The orders came after the newspaper published an editorial critical of General Musharraf. The newspaper has confirmed that it has withdrawn its Pakistan correspondents.

In Lahore, an anti-terrorist court granted bail to 350 lawyers arrested on 5 November and charged under terrorism laws on Saturday. Another 47 arrested on the same day and under the same charges, but considered most active in the campaign against the emergency, remain in detention. The court adjourned hearing on their bail applications for 17 November.

Some senior lawyers, including the president of SCBA, are still being held in incommunicado detention, while there are no details about the whereabouts of others (Amnesty International 2007, ‘Crackdown Intensifies in Pakistan’, 12 November <http://www.amnesty.org/en/news-and-updates/news/crackdown-intensifies-in-pakistan-20071112> – Accessed 11 February 2008 – Attachment 27).

An additional report from Amnesty International from 13 November 2007 noted:

Worryingly, the impunity with which the Pakistani authorities have operated for the last six years threatens to become entrenched with the amendment – on 11 November – of the 1952

Army Act. **The amended Act also gives military courts the power to try civilians suspected of a range of alleged offences, including terrorist activities, treason or sedition, for cases dating back to 2003** (Amnesty International 2007, 'Hopes Dashed for Pakistan's Disappeared', 13 November <http://www.amnesty.org/en/news-and-updates/feature-stories/hopes-dashed-pakistans-disappeared-20071113> – Accessed 11 February 2008 – Attachment 28).

A Human Rights Watch report from 15 November 2007 commented on human rights abuses by intelligence agencies and raised concerns with the new amendments:

**“The military is Pakistan’s principal human rights abuser and the use of torture by its intelligence agencies is widespread and well-documented,” said Brad Adams, Asia director at Human Rights Watch. “Granting it legal authority to detain, interrogate and try its opponents amounts to throwing them to the lions and providing license for repression and torture.”**

...Under the amendment to the 1952 Army Act, the military can now try civilians for a wide range of offenses previously under the purview of the country’s judiciary. These include offenses punishable under: the Explosive Substances Act, 1908; Prejudicial conduct under the Security of Pakistan Act, 1952; the Pakistan Arms Ordinance, 1965; the Prevention of Anti-National Activities Act, 1974; the Anti-terrorism Act, 1997; and several sections of the Pakistan Penal Code. For example, civilians can be tried in military courts for acts of treason, sedition and less specific offenses such as “giving statements conducive to public mischief.”

“This change in the law is a brazen attempt by the Pakistani military to avoid accountability for its widespread abuses,” said Adams. “By backdating the legal change, Musharraf is trying to conveniently kill cases pending before the Supreme Court concerning the ‘disappearances’ and torture of hundreds of his opponents” (Human Rights Watch 2007, ‘Pakistan: Rescind Decree Allowing Military Trials of Civilians: Amended Law Gives Impunity to Intelligence Agencies’, 15 November <http://www.hrw.org/english/docs/2007/11/15/pakist17348.htm> – Accessed 11 February 2008 – Attachment 13; for more on the different treatment of those arrested see Asian Human Rights Commission 2007, ‘UPDATE (Pakistan): Fifteen political activists are missing after their arbitrary arrest and detention’, 7 February <http://www.ahrchk.net/ua/mainfile.php/2007/2207/> – Accessed 11 February 2008 – Attachment 14).

A report on the amendments appearing in *Dawn* on 10 November 2007 noted:

**Under the amended act, the Army can now try civilians on charges ranging from treason, sedition and attack on army personnel to “assaulting the president with intent to compel or restrain the exercise of any lawful power” and “giving statements conducive to public mischief”.**

**The unamended Army Act, too, had a provision to hold court martial of civilians but only when at least one of the accused belonged to the armed forces.**

In recent years, several members of the extremist Islamic groups have been tried and sentenced by different field court martial, but in all these cases members of the armed forces were also involved. Many of these cases related to abortive attempts on General Pervez Musharraf’s life.

Although not stated in clear terms, one of the underlined reasons for the amendment to the Army Act is said to be the inability of the existing anti-terrorism courts to hold proper or speedy trials of the people involved in acts of terrorism or fanning religious or other brands of armed militancy in the country.

“For quite some time some amendments were being considered, but the proposed amendment has now been notified,” Attorney-General Malik Mohammad Qayyum told Dawn on Saturday from Lahore.

The amendment, he said, had been made only in Section 2 (1-d) of the Pakistan Army Act, 1952, by adding some more offences of the Pakistan Penal Code (PPC) and allowing the military courts to try and convict the civilians.

The amendment has been made through an ordinance that will come into force at once and will be deemed to have taken effect from Jan 2003.

Under the amendment, a sub-clause (iia) will be inserted into the sub-clause (ii) which says: “Any offence, if committed in relation to defence or security of Pakistan or any part thereof or Armed Forces of Pakistan, punishable under the Explosive Substance Act, 1908 (VI of 1908), prejudicial conduct under the Security of Pakistan Act, 1952 (XXXV of 1952), the Pakistan Arms Ordinance, 1965 (W.P.Ord. XX of 1965), the Prevention of Anti-national Activities Act, 1974 (VII of 1974) or Anti-terrorism Act, 1997 (XXVII of 1997), Sections 109 (punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment), 117 (abetting commission of offence by the public, or by more than ten persons), 120B (punishment of criminal conspiracy), 121 (waging or attempting to wage war or abetting waging of war against Pakistan), 121A (conspiracy to commit offences punishable by Section 121), 122 (collecting arms, etc., with intention of waging war against Pakistan), 123 (concealing with intent to facilitate design to wage war), 123A (**condemnation of the creation of the state and advocacy of abolition of its sovereignty**), 124 (assaulting president, governor, etc., with intent to compel or restrain the exercise of any lawful power), 124A (sedition), 148 (**rioting, armed with deadly weapon**), 302 (punishment of Qatl-i-amd), 353 (assault or criminal force to deter public servant from discharge of his duty) and 505 (**statement conducive to public mischief**) of the Pakistan Penal Code or attempt to commit any of the said offences” (Iqbal, N. 2007, ‘Civilians can be court-martialled : Army Act amended’, *Dawn*, 10 November <http://www.dawn.com/2007/11/11/top1.htm> – Accessed 11 February 2008 – Attachment 29).

As an Amnesty International report notes, these amendments have been backdated to January 2003, effectively allowing authorities to charge people for the offence of “statement conducive to public mischief” made since this date (Amnesty International 2007, ‘Crackdown Intensifies in Pakistan’, 12 November <http://www.amnesty.org/en/news-and-updates/news/crackdown-intensifies-in-pakistan-20071112> – Accessed 11 February 2008 – Attachment 27).

Sources also indicate that these amendments are now in operation. A recent report in *The News* stated:

President General Pervez Musharraf disclosed here on Friday that all nine police officers and men, involved in the dramatic escape of the most wanted terrorist Rahid Rauf, were now facing a court martial in Pakistan.

The president made this disclosure during a question-answer session at the British think tank RUSI, where he gave a lecture on the current situation in Pakistan. **After the statement of the president, analysts said these cops are most likely to be tried under the newly amended military act which has now given powers to the military courts to try civilians.**

**...Meanwhile, a top official in Islamabad told The News that the president did not mean to say that these cops would now be tried in a military court, although what he said to**

**the audience, clearly gave a loud message to all that by court martial of these cops, he meant that they would be tried under the army act.**

**Meanwhile, it has been confirmed to The News that these nine civilian security men would be the first ones to be tried under the Army Act. They would be charged-sheeted and brought before the military court to face the trial for letting the most wanted terrorist escape** (Klasra, R. 2008, 'Court martial of nine civilians ordered in Rashid Rauf escape case', *The News*, 15 February [http://thenews.jang.com.pk/top\\_story\\_detail.asp?Id=12545](http://thenews.jang.com.pk/top_story_detail.asp?Id=12545) – Accessed 15 February 2008 – Attachment 30).

This report states that these police officers are the first to be judged following the amendments. No other information could be found in the searches conducted on any other trials underway involving these amendments.

**4. If there were outstanding charges against someone at the time of their departure from Pakistan, would these have been likely to be detected by the authorities at the airport and would any action be taken against them at that point?**

Sources suggest that a person who is a criminal suspect, or who has been charged with a criminal offence, or who has been targeted by an arrest warrant, may still leave Pakistan providing they have not been registered on a separate 'Exit Control List'. RRT *Research Response PAK17755* comments on the exit procedures within Pakistan and provides several relevant sources, the most relevant of which have been provided below (RRT Research Response 2006, *Research Response PAK17755*, 19 January – Attachment 31). An Immigration and Refugee Board of Canada report also directly addresses "Whether an individual, who has a First Information Report (FIR) or an outstanding warrant of arrest against him/her, can obtain a Pakistani passport". This response argues:

In 24 May 2005 correspondence to the Research Directorate, the Human Rights Commission of Pakistan (HRCP) indicated that individuals who have First Information Reports (FIRs) **or outstanding arrest warrants against them can apply for and obtain a Pakistani passport**. This information was also stated in 16 May 2005 correspondence to the Research Directorate by a Karachi-based lawyer, who added that

[t]he Government of Pakistan however, ha[s] what is called [an] Exit Control List (E.C.L.) which is updated from time to time and kept by the Immigration/Emigration Officers at the Airport/other outposts where they can place the names of the persons and the Officer would not let him/her ... travel out of Pakistan (16 May 2005).

According to information posted on the Website of the Pakistani Ministry of Interior,

**[the] Exit from Pakistan (Control) Ordinance, 1981, empowers the Federal Government to prohibit any person from proceeding abroad.**

Ordinarily [the] following categories of persons are placed on [the] ECL:

- a. Persons involved in mass corruption and misuse of power / authority causing loss to the government funds/property.

- b. Government employees involved in economic crime where large government funds have been embezzled or institutional frauds committed.
- c. Hardened criminals involved in acts of terrorism / conspiracy, heinous crimes and threatening national security.
- d. Key directors of firms having tax default / liabilities of Rs. 10 million or more [CDN \$211,900.00 (Bank of Canada 24 May 2005)].
- e. Only 2 -3 key directors of firms having more than Rs. 100 million loan default / liabilities [CDN \$2,119,000.00 (Bank of Canada 24 May 2005)].
- f. Names of persons if recommended by the Registrar, High Courts / Supreme Court of Pakistan and Banking Courts only.
- g. Drug traffickers (Immigration and Refugee Board of Canada 2005, *PAK100046.E – Pakistan: Whether an individual, who has a First Information Report (FIR) or an outstanding warrant of arrest against him/her, can obtain a Pakistani passport (May 2005)*, 25 May. <http://www.irb-cisr.gc.ca/en/research/ndp/ref/?action=view&doc=pak100046e> – Accessed 18 January 2006 – Attachment 32)

Another Immigration and Refugee Board of Canada report also provides further details on the ‘Exit Control List’ and the potential for criminal suspects to leave Pakistan:

#### Documents Required by Pakistani Citizens to Exit Pakistan

**A human rights activist based in Lahore, Pakistan informed the Research Directorate that Pakistani citizens exiting Pakistan are required to present to border authorities their passport, a valid visa for the country of destination and, if exiting via an airport, an embarkation card, which includes such information as address in Pakistan, country of destination and flight number** (28 Oct. 2005). Immigration officials may ask exiting Pakistani citizens whether they have sufficient funds to sustain themselves overseas for the period of stay and perhaps request proof of these funds (Human rights activist 28 Oct. 2005). In 2002, the Minister of the Interior reported that the Pakistani government would introduce machines to read passports at entry and exit points, but confirmation of the implementation of these machines could not be found among the sources consulted for this Response (Daily Times 12 Nov. 2002).

Country Reports 2004 and Country Reports 2003 state that government employees and students must obtain a “no objection” certificate to travel abroad (Country Reports 2004 28 Feb. 2005, Sec. 2.d; Country Reports 2003 25 Feb. 2004, Sec. 2.d). However, while confirming that government employees, including teachers, are required to obtain such certificates, the human rights activist was of the opinion that students are exempt from obtaining them (28 Oct. 2005). Country Reports 2004 and Country Reports 2003 acknowledged that the “no objection” certificate requirement was “rarely” enforced against students (ibid.; Country Reports 2004 28 Feb. 2005, Sec. 2.d).

#### The Exit Control List (ECL)

**The Exit Control List (ECL) contains the names of Pakistani citizens banned from travel abroad** (HindustanTimes.com 20 July 2005; Country Reports 2004 28 Feb. 2005, Sec. 2.d). **The ECL is in place to prevent those undergoing criminal investigations as well as criminals at large from travelling abroad** (ibid.; Country Reports 2003 25 Feb. 2004, Sec. 2d). **According to Country Reports 2004 in 2004, there were approximately 2,153 names on the list (28 Feb. 2005, Sec. 2.d), and according to the Human Rights Commission of Pakistan (HRCP), 21 names were added to the list in January 2004** (HRCP Feb. 2005). Country Reports 2003 stated that there were approximately 352 names on the list in early 2003 (25 Feb. 2004, Sec. 2.d); however, an article in the Pakistani daily Dawn reported that there were 2,939 persons on the list in 2003 (6 Mar. 2003).

**Although the Ministry of the Interior maintains the ECL (Dawn 21 July 2005; ibid. 27 Mar. 2005; HRCP Feb. 2005), the National Accountability Bureau may recommend names to be added to the list (Dawn 21 July 2005); judicial action is not required to add a name to the ECL** (Country Reports 2004 28 Feb. 2005, Sec. 2d; Country Reports 2003 25 Feb. 2004, Sec. 2d), though permission from the courts is required to remove a name from the ECL (Dawn 27 Mar. 2005). There is no limit to the amount of time a person's name remains on the list (Dawn 6 Mar. 2003).

A search of news articles on the ECL reveals that the names of people of various backgrounds have appeared on the ECL, including an alleged victim of gang rape (PPI 21 July 2005; Frontier Star 19 July 2005), an ex-naval chief (PPI 4 August 2005), a nuclear scientist (PPI 15 July 2005; HRCP Feb. 2005), a representative of a non-governmental organization (ibid.), various government ministers (PPI 12 July 2005; Frontier Star 19 July 2005; ibid. 6 Apr. 2004; Dawn 6 Mar. 2003; ibid. 17 Dec. 2004; ibid. 12 May 2004; ibid. 13 Mar. 2005) or their family members (ibid.), several political party leaders, a government advisor (ibid. 12 Mar. 2004), "suspected militants" (HRCP Feb. 2005), a former school principal (ibid. 16 Apr. 2005) and businessmen (ibid. 8 Nov. 2003). Although, according to HRCP, there were conflicting statements from state officials in 2004 about whether scientists, including the nuclear scientist mentioned above, were on the list (HRCP Feb. 2005).

... Those named on the list can appeal to the courts and to the Ministry of the Interior to have their name removed from it (Country Reports 2004 28 Feb. 2005, Sec. 2d; Country Reports 2003 25 Feb. 2004, Sec. 2d; Dawn 27 Mar. 2005). Several news articles reported that people challenging the inclusion of their name on the ECL had applied to the Sindh High Court (PPI 4 August 2005; PPI 12 July 2005; Dawn 12 Mar. 2004), Lahore High Court (PPI 15 July 2005; Dawn 6 April 2004) and the interior minister (ibid. 8 Nov. 2003) for removal of their name. In practice, the courts have issued name removal orders, and people whose names have been removed from the list on such orders include opposition leaders (Country Reports 2004 28 Feb. 2005, Sec. 2d) and politicians (Country Reports 2003 25 Feb. 2004, Sec. 2d; Dawn 29 Dec. 2004; ibid. 11 Jan. 2003; Gulf News 29 Dec. 2004; AFP 28 Dec. 2004). The HRCP revealed that the ECL was not used as often as in previous years to prevent travel abroad by opponents of the government and confirmed that the courts removed names from the ECL in 2004 (HRCP Feb. 2005). This information was corroborated by a human rights activist based in Lahore, Pakistan, who confirmed that "more and more persons prevented from travel abroad have ... challenged the placing of names on the ECL in courts, and have often won the right to go abroad" (28 Oct. 2005).

**HRCP also reported that in 2004, several people whose names were on the ECL had been able to leave the country, including 2 Pakistan People's Party leaders (HRCP Feb. 2005).**

The Personal Identification Secure Comparison and Evaluation System (PISCES)

According to the Website of the Federal Investigation Agency of the Government of Pakistan, the Personal Identification Secure Comparison and Evaluation System (PISCES) is a computerized tracking system that captures “vital” information of travellers entering and exiting Pakistan, allowing for the monitoring and identification of individuals “of interest” (Pakistan n.d.a) including tax evaders (ibid. n.d.d), those wanted by the International Criminal Police Organization, Interpol (ibid.), and those suspected of holding stolen or lost passports (ibid. n.d.b). News articles explain that PISCES photographs those who enter Pakistan at legal ports of entry (BBC 18 July 2005) and contains biographic details, fingerprints and facial images of travellers (TOI 13 Oct. 2004).

The Federal Investigation Agency Website reports that PISCES has been installed at the Islamabad, Karachi, Lahore, Peshawar, Quetta, Multan and Faisalabad airports (Pakistan n.d.a; ibid. n.d.c), as well as at two seaports, on three land routes and at one railway station, though the Website does not specify on which date this system became operational or the exact locations of the seaports, land routes or railway station where it has been installed (ibid.). News articles corroborated the information that in November 2002, PISCES was operational at Islamabad, Karachi and Lahore (Daily Times 12 Nov. 2002; ; Dawn 10 Jan. 2004) airports, and was to be installed in Peshawar and Quetta airports (Daily Times 12 Nov. 2002). In 2002, plans to implement the system at Peshawar airport and Quetta airport, as well as in Chaman, Taftan, were announced (Daily Times 12 Nov. 2002). A news article also confirmed that PISCES infrastructure was installed at Torkham land port in November 2004 (Dawn 25 Nov. 2004). State officials announced in January 2004 that installation of PISCES at Lahore and Wagah rail stations would be complete by the end of 2004 (ibid. 10 Jan. 2004). However, information on these or other subsequent installations could not be found in the sources of information consulted for this Response.

#### First Information Report

**First Information Reports (FIR) are the legal basis for all police arrests in Pakistan and are issued based on “reasonable proof” a crime has been committed (Country Reports 2004 28 Feb. 2005, Sec. 1d). Police may detain a suspect for 24 hours on an FIR (ibid.).**

In 2003, a Lahore-based lawyer, who is an advocate in the Supreme Court of Pakistan, stated that

**A simple FIR would not bar a person from leaving Pakistan...In [Pakistan], even if you are convicted [of an offense], you are not [automatically put] on the ECL...[Your name is] only [included in the ECL] if you have absconded from the law,...for political reasons or for corruption charges – real or otherwise (7 Nov. 2003).**

This information was corroborated in 2003 by a Karachi-based lawyer, who indicated that

**A person can exit Pakistan even if there is a First Information Report registered against him, unless the name is put on the Exit Control List or there is a court order to the immigration officer that the passenger be detained (6 Nov. 2003) (Immigration and Refugee Board of Canada 2003, PAK42150.E – Pakistan: Security measures in place and verifications made by border authorities of Pakistani citizens departing Pakistan for a country abroad (2000-2003), 13 November – Attachment 33).**

Nonetheless, sources indicate that even people on the ‘Exit Control List’ have managed to leave the country. RRT Research Response PAK15068 provides details on the illegal production of false passports in Pakistan, and how these are used to leave Pakistan (RRT

Research & Information 2002, *Research Response PAK15068*, 4 April – Attachment 34). Likewise, another Immigration and Refugee Board of Canada report noted:

#### Travel Documents

In a 2001 report, the U.S. Committee for Refugees (USCR) stated that false passports were readily available in Pakistani cities.

In January 2003, the Associated Press (AP) reported that a sophisticated ring involved in the production of fraudulent documents was in operation in Pakistan (7 Jan. 2003). At the same time, Dawn reported that a visa and passport ring was operating in Pakistan, and that this was evidenced in the frequency of local news articles reporting on passengers with false travel documents who had been apprehended at the Islamabad airport, as well as in the frequency of news articles reporting on the theft of blank passports and the seizure of illegal passports during security raids (8 Jan. 2003).

Between 1998 and 2002, an estimated 20,000 blank Pakistani passports had reportedly been stolen in at least six Pakistani cities, of which 2,000 were stolen in January 2002 from a post office in Peshawar (Dawn 8 Jan. 2003). Five postal workers were reportedly suspended because of their connection with the theft, but according to Dawn, no additional action was taken (*ibid.*).

In May 2002, 1,400 blank Pakistani passports were stolen from a passport office in Sukkur (*ibid.*; The Nation 1 Feb. 2003). Four persons were detained by the police in connection with this theft, and although local passport officials were reportedly thought to be involved, no one from the passport office was arrested (Dawn 8 Jan. 2003). In November 2002, two of these stolen passports were recovered when two persons on their way to Holland were apprehended at the Islamabad airport, and another was recovered in February 2003 when a person en route to Paris was apprehended at the same airport (The Nation 1 Feb. 2003).

In May 2003, 3,975 blank Pakistani passports were stolen from a regional passport office in Faisalabad by four armed men, three of whom had entered the office wearing police uniforms (AP 4 May 2003). Information on whether anyone was investigated, detained or arrested in connection with this crime could not be found by the Research Directorate among the sources consulted.

Although Pakistani authorities reportedly acknowledged in 2003 that the passport forgery was widespread across the country, an official of the Federal Investigative Agency (FIA) said that approximately 70 per cent of all fraudulent travel documents originated in Gujranwala and Gujrat (AP 4 Jan. 2003). According to AP, despite the increased difficulties in obtaining documents for travel to western countries following 11 September 2001, persons from Gujrat have “a reputation for finding a way” (4 Jan. 2003). Similarly, in April 2003, Dawn reported that the use of fraudulent travel documents by people seeking to emigrate from Pakistan was most common in Gujrat, Gujranwala, Mandi Bahauddin, Jhelum and Sialkot (10 Apr. 2003). More recent information on whether the aforementioned locations continue to be prominent producers of fraudulent travel documents could not be found among the sources consulted by the Research Directorate.

In 30 March 2004 correspondence to the Research Directorate dated, the Information Centre on Asylum and Migration of the German Federal Office for the Recognition of Foreign Refugees indicated that the prevalence of fraudulent official documents continues to be high in Pakistan.

According to AP, the most common method of travel document forgery as at early 2003 was known as the “PC” (picture change) method, which involves the replacement of the original photograph in a passport (4 Jan. 2003; see also Dawn 10 Apr. 2003).

Pakistanis who obtain forged documents, particularly travel documents, generally do so for financial reasons, specifically in the hopes of finding better employment abroad (AP 10 Feb. 2003; *ibid.* 4 Jan. 2003; Dawn 8 Jan. 2003). This usually involves the use of “travel agents” or traffickers who, according to Jean-Philippe Chauzy, spokesman for the International Organisation for Migration, make travel arrangements and provide fraudulent travel documents to potential migrants, along with advice on what to tell authorities in the destination country (Financial Times 5 Nov. 2001) (Immigration and Refugee Board of Canada 2004, *PAK42535.E – Pakistan: The prevalence of fraudulent documents (January 2001 – June 2004)*, 18 June – Attachment 35).

Sources also indicate that bribery has occurred in Pakistani airports, and this may be another avenue through which a wanted individual can leave the country (see for example Mitchell, A. 1993, ‘Bomb Suspects Used Notorious Path to U.S.’, *New York Times*, 21 May <http://query.nytimes.com/gst/fullpage.html?res=9F0CEED6103AF932A15756C0A965958260&sec=&spon=&pagewanted=all> – Accessed 18 February 2008 – Attachment 36; ‘A Survival Guide for Pak-Americans when dealing with bribery in Pakistan’ 2002, *Yes Pakistan*, 17 June [http://www.yespakistan.com/forpakistan/survival\\_guide.asp](http://www.yespakistan.com/forpakistan/survival_guide.asp) – Accessed 18 February 2008 – Attachment 37).

Finally, sources indicate that the primary purpose of the Exit Control List has been to prevent people from leaving the country, and no information could be found in the searches conducted on the subsequent actions taken.

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