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Pakistan

COI Compilation

June 2013



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ACCORD is co-funded by the European Refugee Fund, UNHCR and the Ministry of the Interior, Austria.

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The status reflected in this COI compilation is as of 30 April 2013. However, as an exception to this, sections 1.4.2, 2.2.4 and 5.6.4 also include more recent information.

This report serves the specific purpose of collating legally relevant information on conditions in countries of origin pertinent to the assessment of claims for asylum. It is not intended to be a general report on human rights conditions. The report is prepared on the basis of publicly available information, studies and commentaries within a specified time frame. All sources are cited and fully referenced.

This report is not, and does not purport to be, either exhaustive with regard to conditions in the country surveyed, or conclusive as to the merits of any particular claim to refugee status or asylum. Every effort has been made to compile information from reliable sources; users should refer to the full text of documents cited and assess the credibility, relevance and timeliness of source material with reference to the specific research concerns arising from individual applications.

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Table of Contents

List of Abbreviations	4
1 Background information	5
1.1 Maps of Pakistan	5
1.2 Status of tribal areas	5
1.2.1 Legal status of FATA and constitutional governance arrangements	5
1.2.2 Legal status of PATA and constitutional governance arrangements	9
1.3 General overview of ethnic and linguistic groups	11
1.4 Overview of the present government structures	16
1.4.1 Government structures and political system	16
1.4.2 Overview of main political parties	19
1.4.3 The judicial system	30
1.4.4 Characteristics of the government and state institutions	33
1.4.5 Role of the military in governance	37
1.5 Overview of current socio-economic issues	39
1.5.1 Rising fuel and food prices, electricity shortages, unemployment	39
2 Main political developments since January 2010	44
2.1 Current political landscape	44
2.2 Overview of major political developments since January 2010	46
2.2.1 Judicial ousting of Prime Minister Yusuf Raza Gilani	46
2.2.2 Actions (in Aid of Civil Power) Regulations (AACPR)	47
2.2.3 Taxation and plans to reduce tax evasions	50
2.2.4 General elections of 11 May 2013	53
2.3 Status of the Commission of Inquiry on Enforced Disappearances	56
3 Security situation/developments since January 2010	60
3.1 Overview of the current security situation	60
3.1.1 Violence by armed groups	60
3.1.2 Anti-terrorism operations	75
3.1.3 Forced recruitment by non-state armed groups	77
3.1.4 Human rights abuses by non-state armed groups	80
4 Security forces/military	88
4.1 General information on security forces	88
4.1.1 Armed forces	88
4.1.2 Paramilitary forces	89
4.1.3 Intelligence services	90
4.1.4 Police	91
4.2 Overview of issues surrounding security forces, military	94
4.2.1 Effectiveness of law enforcement in the face of terror attacks	94
4.2.2 Forced recruitment by government forces	96
4.2.3 Treatment of military deserters	97

4.2.4	Human rights violations by the armed forces	99
5	Human rights issues	106
5.1	Citizenship/nationality	106
5.1.1	Domestic legal framework	106
5.1.2	Citizenship and identity documentation	108
5.1.3	Situation of stateless individuals and individuals who cannot establish their right to Pakistani nationality	113
5.2	Ethnicity	116
5.2.1	Domestic legal framework for the protection of ethnic minorities	116
5.2.2	Treatment of ethnic groups/ethnic minorities in practice	119
5.3	Freedom of expression and association	123
5.3.1	Domestic legal framework	123
5.3.2	Treatment of (actual and perceived) members and supporters of political opposition parties	129
5.3.3	Treatment of civil society, human rights, and political activists	131
5.3.4	Treatment of journalists and other media professionals	134
5.4	Women and children	138
5.4.1	Domestic legal framework	138
5.4.2	Overview of current issues regarding women and children (rape and other forms of sexual violence, honour killings, acid attacks, domestic violence, forced marriage)	144
5.4.3	Situation of women (access to social services, including access to health care and education)	157
5.4.4	Situation of children (child labour, recruitment of children for military means, access to education and health care)	161
5.5	Sexual Orientation and Gender Identity	172
5.5.1	Domestic legal framework	172
5.5.2	Treatment of (actual and perceived) LGBTQI persons	174
5.6	Freedom of movement	177
5.6.1	Domestic legal framework	177
5.6.2	Imposition of travel restrictions for certain groups and in certain areas	178
5.6.3	Treatment of persons returning from abroad	181
5.6.4	Internal displacement (IDPs)	183
5.7	Trafficking of persons	187
6	Rule of law/administration of justice	193
6.1	Overview of issues surrounding the administration of justice in the Pakistani court system	193
6.1.1	Judicial independence	193
6.1.2	Torture and ill-treatment of criminal suspects	197
6.1.3	Impunity for extrajudicial killings, disappearances, and other human rights violations by state actors	198
6.1.4	Revival of the use of the death penalty	202
6.1.5	Due process (including arrest and detention procedures)	204
6.1.6	Prison conditions	209
	Sources	214

List of Abbreviations

ANP - Awami National Party
CNIC - Computerized National Identity Card
DCO - District coordination officer
ECL - Exit Control List
FATA - Federally Administered Tribal Areas
FBR - Federal Board of Revenue
FCR - Frontier Crimes Regulations
FIA - Federal Investigation Agency
IMU - Islamic Movement of Uzbekistan
KP - Khyber Pakhtunkhwa
KPK - Khyber Pakhtunkhwa
LeJ - Lashkar-e Jhangvi
LGR - Local Government Regulation
MQM - Muttahida (earlier, Muhajir) Qaumi Movement
NA - National Assembly
NAR - Nizam-e-Adl Regulation
NICOP - National Identity Card for Overseas Pakistanis
NOC - Non-objection certificate
NWFP - North-West Frontier Province
PA - Political agent
PATA - Provincially Administered Tribal Areas
PML-N - Pakistan Muslim League-Nawaz
POC - Pakistan Origin Card
PPP - Pakistan People's Party
PTI - Pakistan Tehreek-e-Insaf
TNSM - Tehrik-e-Nifaz-e-Shariat-e-Mohammadi
TTP - Tehrik-e-Taliban Pakistan

1 Background information

1.1 Maps of Pakistan

The following map shows the districts of the Pakistani provinces as well as the Agencies and Frontier Regions (FR) of the Federally Administered Tribal Areas (FATA):

- USAID/IMMAP - United States Agency for International Development/Information Management and Mine Action Programs: Pakistan Reference Map, 30 May 2012
<http://www.immap.org/files/maps/801.pdf>

A map showing FATA and the Provincially Administered Tribal Areas (PATA) of Khyber Pakhtunkhwa province can be found on page 5 of the following December 2012 report by Amnesty International:

- AI - Amnesty International: 'The Hands of Cruelty': Abuses by Armed Forces and Taliban in Pakistan's Tribal Areas [ASA 33/019/2012], 13 December 2012
<http://amnesty.org/en/library/asset/ASA33/019/2012/en/a38b1e69-afee-4e73-bcf2-1405fa0c71fc/asa330192012en.pdf>

1.2 Status of tribal areas

In contrast to the legal and administrative system applied in the rest of the country, Pakistan's North-Western "special territories" – the "Federally Administered Tribal Areas" (FATA) and the separately governed "Provincially Administered Tribal Areas" (PATA) – are characterised by what is referred to by Osama Siddique, Associate Professor at Lahore University of Management Sciences (LUMS), as "different, complicated and, at times conflicting, administrative and legal regimes". FATA consists of regions known as "Political Agencies" and "Frontier Regions" (Siddique, 5 December 2012, pp. 5-6). Geographically, FATA shares its borders in the North and East with Khyber Pakhtunkhwa (KP) Province (formerly known as the North West Frontier Province) while it is bounded to the South by Balochistan Province, and to the West by Afghanistan. The areas constituting PATA, on the other hand, are located in the provinces of KP and Balochistan. (Siddique, 5 December 2012, p. 7)

1.2.1 Legal status of FATA and constitutional governance arrangements

In Article 246 of the 1973 Constitution of Pakistan, the tribal agencies and frontier regions that make up the Federally Administered Tribal Areas (FATA) were determined and include: Bajaur Agency; Orakzai Agency; Mohmand Agency; Khyber Agency; Kurram Agency; North Waziristan Agency; South Waziristan Agency; Tribal Areas adjoining Peshawar district; Tribal Areas adjoining Kohat district; Tribal Areas adjoining Bannu district; Tribal Areas adjoining Lakki Marwat District; Tribal Areas adjoining Ismail Khan district, and Tribal Areas adjoining Tank District (Constitution of Pakistan, 1973, amended as of 8 February 2013, Article 246).

As outlined by the FATA Secretariat, a body of civil servants headed by the Governor of Khyber Pakhtunkhwa (KP), the Constitution of Pakistan mentions FATA among the territories of Pakistan (Article 1). It is represented in the National Assembly and the Senate [which, together with the President, form the Majlis-e-Shoora (Parliament) of Pakistan (Constitution of Pakistan, 1973, amended as of 8 February 2013, Article 50)], but remains under the direct executive authority of the President (Articles 51, 59 and 247). No law of the country's Parliament is

applicable to FATA unless the President so directs. The President is also entitled to make “regulations for the peace and good government of the tribal areas”. Today, FATA is still governed by the Frontier Crimes Regulations (FCR), established in 1901. It is administered by the Governor of KP Province “in his capacity as an agent to the President of Pakistan, under the overall supervision of the Ministry of States and Frontier Regions in Islamabad”. (FATA Secretariat, undated)

In a 2012 report, the Community Appraisal & Motivation Programme (CAMP), a Pakistani NGO working in the tribal region, notes with regard to the constitutional and administrative status of FATA:

“Administration of these territories is prescribed in Article 247 [of the Constitution of Pakistan], which states that ‘the executive authority of the Federation shall extend to the Federally Administered Tribal Areas’ and ‘no Act of Mejlis-e-Shoora (Parliament) shall apply to any Federally Administered Tribal Area or to any part thereof, unless the President so directs.’ Furthermore, Clause 7 of the article, bars the extension of superior courts, including Supreme Court and High Court, to FATA unless the Parliament so provides under law. In spite of the liberties afforded FATA, most laws – civil, criminal, electoral and fiscal – have been incorporated into local governance structures.

FATA is represented in the Lower (National Assembly) and Upper (Senate) Houses of the Parliament by 12 and 8 independent members respectively. However, because the parliament has no jurisdiction over FATA it is not clear what influence these representatives possess, particularly since the Constitution of 1973 does not afford the people of FATA full participatory status in political processes.” (CAMP, 2012a, pp. 21-22)

The International Crisis Group (ICG), an independent NGO working to prevent and resolve conflict through field-based analysis and high-level advocacy, in a report dated October 2009, mentions that under Articles 246 and 247 of the Constitution, neither the ordinary judiciary nor the national and provincial parliaments have jurisdiction over FATA. However, as added by the ICG, Article 247 allows for revisions: “The President can direct that a parliamentary act apply to FATA; and the national parliament can pass a law extending the jurisdiction of the Supreme Court or a provincial high court to the tribal areas”. (ICG, 21 October 2009, p. 2)

The US Department of State (USDOS) states that the FCR [which is based upon tribal customs (rivaj) and the Pashtunwali, the ethical code of the Pashtuns (Khan, 2011, p. 36)] provides “the framework for law and order in FATA” and is implemented through a political agent who is answerable to the President through the KP Governor (USDOS, 19 April 2013, section 1d). According to CAMP, a political agent, who is a federal civil servant, administers each tribal agency. Each sub-division (Tehsil) is headed by an assistant political agent. The political agent enjoys executive and judicial powers at the same time and acts as a revenue collector (CAMP, 2012a, p. 22). Barnett R. Rubin, Senior Fellow at the Center on International Cooperation at New York University (NYU), similarly notes in a book published 2013 that “[t]he real authority in a tribal agency is the political agent”. He exercises “legislative, law enforcement and economic management functions”. Apart from being the top civilian official in the agency, the political agent acts as “the judge, jury, police chief, jail warden, district magistrate, and public

prosecutor". He collects and disburses revenue with virtually no control and plays a supervisory role for all development schemes and public service departments. (Rubin, 2013, p. 374)

The ICG further describes the role and powers of the political agents as of 2009:

"Under a preventive clause [of the FCR] that provides for 'security and surveillance for the prevention of murder or culpable homicide or the dissemination of sedition', the PA [Political Agent] can require an individual believed to pose such a threat to provide a bond or surety 'for good behaviour or for keeping the peace'. By rejecting the bond, the PA can impose a three-year jail term.

Other clauses empower the PA to punish an entire tribe for crimes committed on its territory through fines, arrests, property seizures and blockades. In violation of international law that bars collective punishment, the PA can order detention of all or any members of the tribe, seize their property or block their access to the settled districts if he has 'good reason' to believe that a tribe or its members are 'acting in a hostile or unfriendly manner', have 'failed to render all assistance in their power' to help apprehend criminals, 'connived at, or abetted in a crime' or 'suppressed evidence' of an offence. The PA can even seize the property or businesses of tribesmen in settled districts who do not live in FATA. These decisions cannot be appealed in any court.

The PA grants tribal elders the status of malik, with the NWFP [North-West Frontier Province, today's Khyber Pakhtunkhwa] governor's consent, on the basis of male inheritance, but can arbitrarily withdraw, suspend or cancel malik status if he deems the individual is not serving the interests of the state. Maliks receive financial privileges from the administration if their tribe cooperates in suppressing crime, maintaining social peace and generally supporting the government. The PA can also convene and refer criminal and civil cases to a jirga (council of elders), presided over by handpicked maliks and other tribal elites. This body's decision can be appealed to the PA, whose judgment cannot be reviewed by a regular court." (ICG, 21 October 2009, pp. 2-3)

According to the above-mentioned 2012 report by the CAMP, "[t]he Political Agents, through the Maliks, maintain security through the use of Khasadars, police-like agents in tribal tradition", or tribal militias known as Lashkars (CAMP, 2012a, p. 22). As reported by the FATA Research Centre (FRC), a non-profit research organisation based in Islamabad, the Maliks, described as tribal elders that receive financial privileges in return for pledging "allegiance to the state", have several powers like executing decrees issued by the political agents and setting up Lashkars (FRC, 23 January 2013, p. 11).

The equivalent of the political agent in the frontier regions is the district coordination officer, "who exercises the same powers [...] as the political agent does in a tribal agency" (FATA Secretariat, undated).

As noted by the Center for Strategic and International Studies (CSIS), a foreign policy think tank based in Washington, D.C., the tribal agencies in FATA are classified as either "protected

areas”, where the government has partial control, or “tribal territories”, under the complete authority of local tribes:

“The FCR created two types of areas in each agency: protected areas (PA) and tribal territories (TT). In the protected areas, the government has partial control and its interests are represented by the office of the political agent with tribal maliks and jirgas. In the tribal territories, the government has no jurisdiction and the tribes have complete authority. The boundaries between the two areas are often blurred. The government has attempted to reduce the size of the tribal territories by providing infrastructure and other facilities. A large percentage of the tribal belt, approximately 70 percent, remains completely outside of the government’s writ.” (CSIS, June 2012, p. 21)

The United States Institute of Peace (USIP), a US federal institution that works to prevent, mitigate and resolve conflict, reports of “minor revisions” to the FCR that were promulgated in 2011 in response to criticism voiced by human rights advocates, jurists and the residents of FATA themselves. These changes, however, have been seen as “largely cosmetic” (USIP, 15 October 2012, pp. 1-2). In an article dated August 2011, Dawn, a Pakistani English-language newspaper, similarly quotes Ibn Abdur Rehman, director of the Human Rights Commission of Pakistan (HRCP), as saying that the amendments made to the FCR had “nice features” but were “still short of expectations” (Dawn, 13 August 2011). In an analysis for the Daily Times, another Pakistani English-language newspaper, Pakistani academic Farhat Taj briefly summarises the changes, which she regards as being “insufficient”:

“The changes in the FCR accorded limited human rights to the tribal people. No one can be indefinitely detained and people will have a right to appeal in the FCR tribunal. Cases will be decided in a fixed timeframe and arrested people can be released on bail. Women, children below the age of 16 and elders above the age of 65 will no longer be subject to the collective punishment provisions process. No person in FATA can now be deprived of their property without being provided compensation. The political agents’ use of state funds will now be subjected to audit by the auditor general of Pakistan.” (Daily Times, 20 August 2011)

The full text of the Frontier Crimes Regulation of 1901 (amended as of August 2011) can be accessed via the following link:

- Frontier Crimes Regulation (Regulation No. III of 1901), 1901, amended as of August 2011 (available at slideshare.net)
<http://de.slideshare.net/fatanews/frontier-crimes-regulation-1901-amended-2011-english-16663284>

Media sources indicate that in summer 2012, the federal government has announced plans to introduce a local municipal bodies system in FATA in 2013 and has promulgated the draft of Federally Administered Tribal Areas Local Government Regulation 2012 (LGR) (News International, 14 August 2012; Dawn, 14 August 2012; Nation, 25 July 2012; Express Tribune, 14 July 2012). As noted by the USIP, the LGR is “a complex regulatory instrument that, at its core, authorizes the governor to establish elected local councils at the municipal level to be

given responsibility for matters of local concern” (USIP, 15 October 2012, p. 2). The main characteristics of the LGR are summarised as follows:

Coverage. Unlike previous local government regulations in Pakistan’s so-called ‘settled’ areas, the LGR limits the establishment of local councils to urban areas, and grants the governor broad discretion in setting the geographic boundaries of local government jurisdiction.

Composition. At least three-quarters of the members of the local councils are directly elected for a four-year term, with up to one-quarter of seats allocated to ‘special groups’ elected indirectly by the council members. Each council then elects a chairman and vice chairman.

Staffing. Administrative control over the staff hired by the local councils resides with the FATA Secretariat in Peshawar, which in turn reports to the governor.

Responsibilities. The ‘compulsory functions’ delegated to local councils include responsibility for sanitation and drainage, water supply, public safety, development and implementation of municipal master plans, building control, streets and traffic management, and limited cultural activities. The list of ‘optional functions’ is more vague, including ‘education: As directed or authorized by the governor,’ and – listed but left undefined – matters pertaining to ‘social welfare.’

Funding. The LGR envisions three major sources of funding for the activities of the local councils: grants received from the governor, or provided at his direction; profits from property held or managed by the council; and taxes and fees levied by the council on the local population, final approval of which rests with the governor.” (USIP, 15 October 2012, p. 2)

The full text of the draft FATA Local Government Regulation 2012 is available via the following link:

- Federally Administered Tribal Areas Local Government Regulation, 2012 (draft), 16 July 2012 (available at [slideshare.net](http://de.slideshare.net/fatanews/draft-fata-local-government-regulation-july-2012-fata-secretariat))
<http://de.slideshare.net/fatanews/draft-fata-local-government-regulation-july-2012-fata-secretariat>

1.2.2 Legal status of PATA and constitutional governance arrangements

The Provincially Administered Tribal Areas (PATA) as defined in Article 246 of the 1973 Constitution include: districts of Chitral, Dir and Swat (which includes Kalam); Tribal Area in Kohistan district; Malakand Protected Area; Tribal Area adjoining Mansehra district; former State of Amb; districts of Zhob and Loralai (excluding Duki Tehsil); Dalbandis Tehsil of Chagai District, and Marri and Bugti tribal territories of Sibi district (Constitution of Pakistan, 1973, amended as of 8 February 2013, Article 246).

The Khyber Institute for Research & Strategic Studies (Institut de recherche et d’études stratégiques de Khyber, IRESK), a Paris-based non-profit organisation and think tank focussing on the Central and South Asian region, mentions in an article dated March 2012 that the

administration of PATA areas in Khyber Pakhtunkhwa (KP) and Balochistan is the “direct responsibility of these two provinces” (IRESK, 31 March 2012). Similarly, a January 2013 report by the ICG (in which the term “PATA” refers only to tribal areas in KP) states that PATA areas in KP fall under the jurisdiction of the provincial government. Citizens in PATA, just like those in other KP districts, are given the right to directly elect representatives to national and provincial assemblies. However, under the article 247 of the 1973 Constitution, a law passed by the federal or provincial legislature is not applicable to PATA unless the Governor orders its extension to the areas with prior approval by the President. According to the Constitution, the Governor may also make regulations for PATA’s peace and good government, again with the consent of the President. (ICG, 15 January 2013, p. 3)

The ICG report further states that PATA differs from FATA in that it has a formal justice system, a fact also mentioned in a February 2013 article by Pakistani English-language newspaper News International (“Pata is [...] under the jurisdiction of regular courts”, News International, 23 February 2013):

“Originally, the jurisdiction of a high court and the Supreme Court did not extend to either PATA or FATA, but a parliamentary act in 1974 extended the higher judiciary’s jurisdiction to the former. This is a critical distinction from FATA, which still lacks a formal justice system.” (ICG, 15 January 2013, p. 3)

As the ICG adds, the legal framework now existing in PATA is the Nizam-e-Adl Regulation 2009 under which Sharia is enforced by qazi (religious) courts, presided over by government-appointed judicial officers trained in Islamic law:

“[...] it [PATA] has been governed by a parallel justice system under an array of legal frameworks, including the PATA Regulations (1975-1994), the Nifaz-e-Shariat (1994-1999) and the Nizam-e-Adl 1999. In April 2009, the National Assembly endorsed yet another legal framework, the Nizam-e-Adl Regulation 2009, which imposed Sharia (Islamic law) through qazi (religious) courts as part of a military-devised peace deal with Swat-based militants.” (ICG, 15 January 2013, p. 1)

“Under Nizam-e-Adl Regulation 2009, Sharia is enforced in PATA by qazi courts, presided over by government-appointed judicial officers trained in Islamic law; an appellate court, the Dar-ul-Qaza, was established at the level of the High Court, and a final appellate court, the Dar-ul-Darul-Qaza, was established at the level of the Supreme Court. With the enactment of this legal framework, many national laws, including ones that protect women, are no longer extended to PATA.” (ICG, 15 January 2013, pp. 4-5)

Media sources indicate that in December 2012, President Asif Ali Zardari approved the extension of the Khyber Pakhtunkhwa Local Government Act 2012 to PATA areas in KP (Pakistan Today, 4 December 2012; News International, 4 December 2012), “paving the way for the revival of the pre-Musharraf era local bodies with minor changes” (Dawn, 17 December 2012). As reported by Dawn, the Act provides for the establishment of local councils in KP province from the beginning of 2013 (Dawn, 27 December 2012a), including a municipal corporation for Peshawar, a municipal committee for each city or town other than Peshawar, a union council, and a district council for each district (Dawn, 17 December 2012).

The full text of the Khyber Pakhtunkhwa Local Government Act 2012 can be accessed via this link:

- Khyber Pakhtunkhwa Local Government Act, 2012 (available at slideshare.net)
<http://de.slideshare.net/fatanews/khyber-pakhtunkhwa-local-government-act-may-2012>

1.3 General overview of ethnic and linguistic groups

The Pakistan Institute of Legislative Development And Transparency (PILDAT), a Pakistan-based independent think tank working towards strengthening democracy, notes in a report dated October 2011 that “Pakistan is a multilingual, multiethnic and multicultural country with more than sixty (60) languages being spoken and dozens of ethnicities residing in it” (PILDAT, October 2011, p. 8). According to the CIA World Factbook (last updated 16 April 2013), ethnic groups in Pakistan include Punjabis (44.68 percent of the population), Pashtuns (15.42 percent), Sindhis (14.1 percent), Sariaikis (8.38 percent), Muhajirs (7.57 percent), Balochis (3.57 percent) and others (6.28 percent). Among the native languages spoken in Pakistan are Punjabi (48 percent of the population), Sindhi (12 percent), Saraiki (a Punjabi variant) (10 percent), Pashtu (8 percent), Urdu (official language) (8 percent), Balochi (3 percent), Hindko (2 percent), Brahui (1 percent), English (official language; lingua franca of Pakistani elite and most government ministries), Burushaski and others (8 percent) (CIA, last updated 16 April 2013). Pakistan’s officially recognised nationalities are the Punjabis, the Sindhis, the Pashtuns and the Balochis (MRG, September 2010).

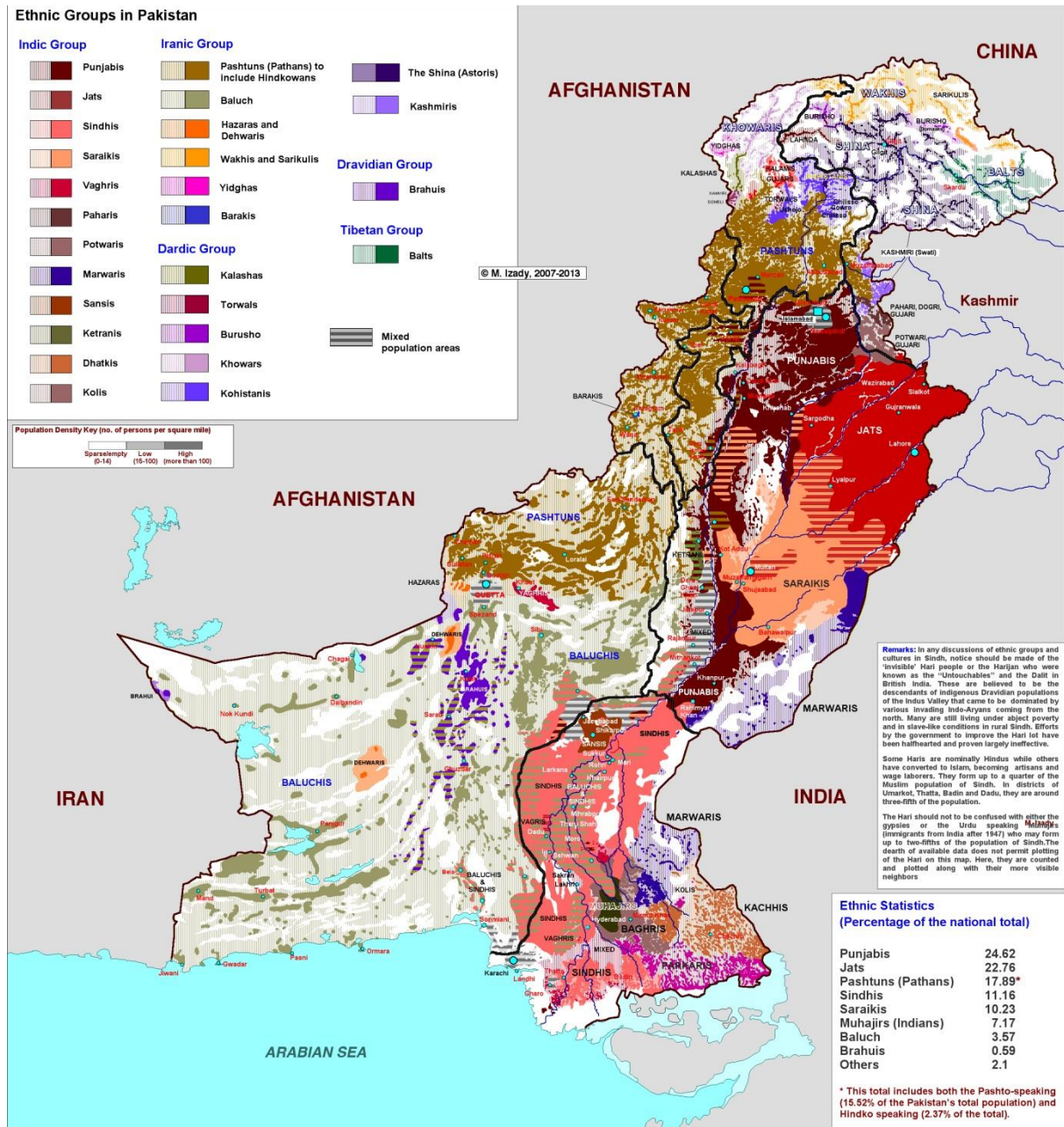
In an August 2007 report to the UN Committee Against Racial Discrimination, the Asian Centre for Human Rights (ACHR), an NGO based in New Delhi, describes the linguistic and ethnic composition of Pakistan as follows:

“Though Urdu is the national language, other regional languages spoken in Pakistan are Punjabi 48%, Sindhi 12%, Siraiiki 10%, Pashtu 8%, Balochi 3%, Hindko 2%, Brahui 1%, English and others 8%.

The key ethnic groups in Pakistan are Punjabis (44.15% of the population) followed by Pakhtuns (15.42%), Sindhis (14.1%), Sariaikis (10.53%), Muhajirs (7.57%) and Balochis (3.57%). The others smaller ethnic groups include Turwalis, Kafiristanis, Burusho, Hindko, Brahui, Kashmiris, Khowar, and Shina, and the Kalash etc. In addition, Pakistan had accommodated largest number of Afghan refugees comprising of the Pakhtuns, Tajiks, Uzbeks, Turkmen, Hazaras, etc and many of these refugees permanently settled in the country. A large number of Bengalis, Arabs, Burmese, and African Muslim refugees have also permanently settled in Karachi, whilst hundreds of thousands of Iranian migrants are scattered throughout the country.” (ACHR, August 2007, p. 13)

The following maps from Dr. Michael Izady at Columbia University's Gulf 2000 Project illustrate the distribution of ethnic groups (map 1) and languages (map 2) in Pakistan. Izady is a cartographer and writer on ethnic and cultural topics, particularly the Greater Middle East:

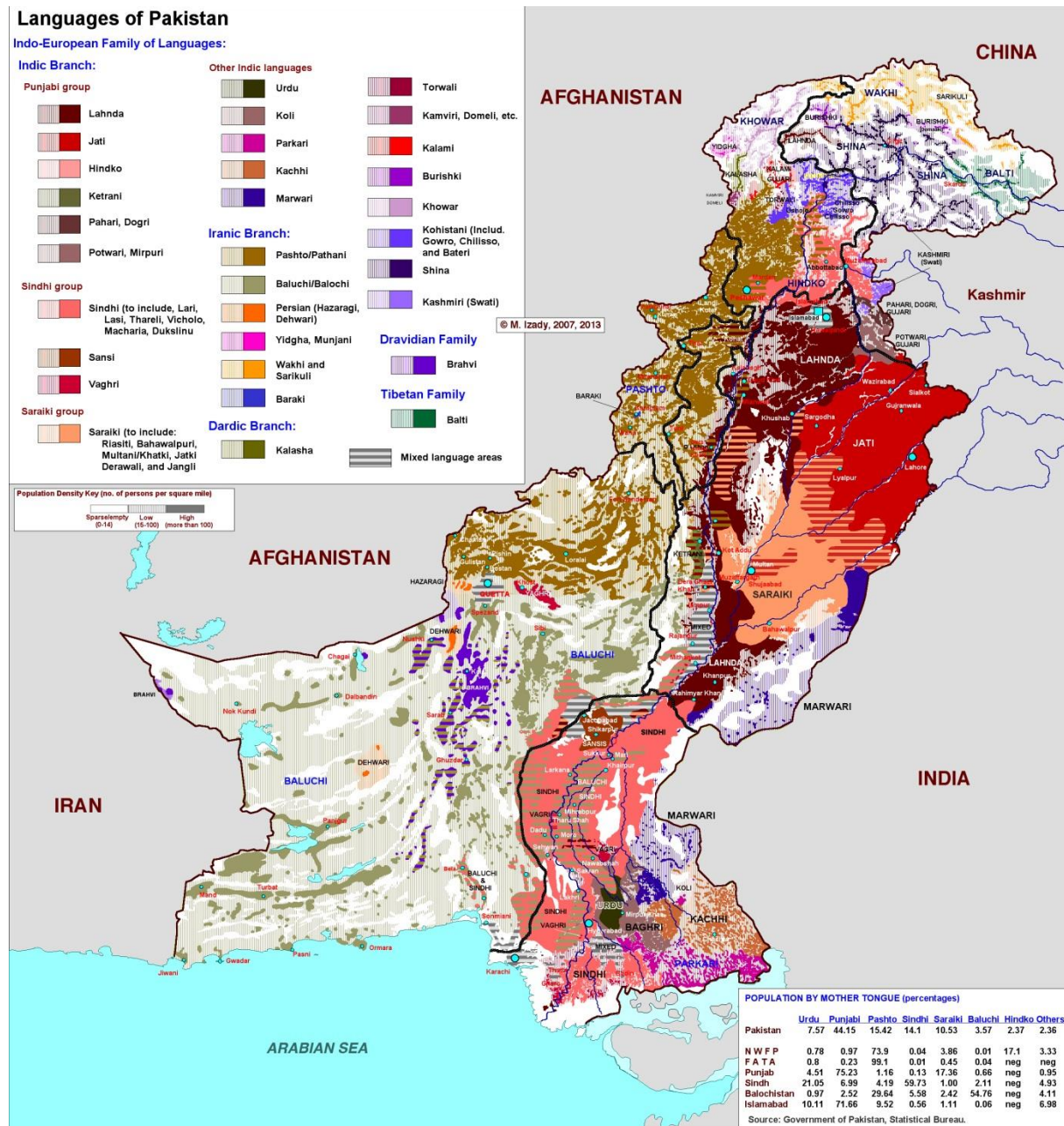
Map 1: Ethnic groups in Pakistan



Source: Izady, Michael: Pakistan, Ethnic groups, 2013 (available at Gulf 2000 website)

http://gulf2000.columbia.edu/images/maps/Pakistan_Baluchistan_Ethnic_lg.jpg

Map 2: Languages of Pakistan



Source: Izady, Michael: Pakistan, Languages, 2013 (available at Gulf 2000 website)

http://gulf2000.columbia.edu/images/maps/Pakistan_Baluchistan_Linguistic_Ig.jpg

In a guide to ethnic groups in the contemporary world, published 1998, cultural anthropologist David Levinson notes that Pakistan comprises of four provinces – Sindh, Baluchistan (today’s Balochistan), Punjab and North-West Frontier Province (today’s Khyber Pakhtunkhwa) – and that, in general terms, “the ethnic composition matches the four groups associated with these regions – Sind, Baluch [Baloch], Punjabi, and Pashtun” (Levinson, 1998, p. 267). Elaborating on these groups, and the Muhajirs (or Muhajireen), Levinson states:

“The Baluch (Baluchi) [Baloch (Balochi)] live in Pakistan’s western province of Baluchistan [today’s Balochistan], in Iran, and in Afghanistan. In Pakistan, they also live in Sindh and

Punjab. Estimates are unreliable, but the Baluch [Baloch] probably number about five million in Pakistan, Iran, and Afghanistan. The smallest of the four major ethnic groups in Pakistan, the Baluch [Baloch] are Sunni Muslims and trace their ancestry to Arab lineage and to Muhammad (the founder of Islam). It is likely, however, that some ancestors of the Baluch [Baloch] were resident in the region prior to the arrival of Islam. The Baluch [Baloch] live a seminomadic lifestyle based on farming and the herding of cattle, sheep and goats. Three dialects of the Baluch [Baloch] are spoken. Political organization is based on clans and tribes, and tribal leaders wield considerable authority and influence.

The Sindh live primarily in Sindh Province in southeastern Pakistan and number about 16 million, or 13% of the national population. Sindh itself has an ethnically heterogeneous population. The two major groups are the Sind and the Muhajireen. The Sind are the traditional residents of the region, speak three dialects of the Sindhi language, and are relatively poor farmers who grow wheat, cotton, rice, and other crops in irrigated fields. About 80% are Muslims, and 20% are Hindus. [...] Prior to the separation of India and Pakistan in 1947, the region had several million more Hindus and Sikhs. Many of them fled to India while Sindh in India, who were mainly Muslims and spoke Urdu, immigrated to Pakistan. This population is known as the Muhajireen or 'new Sindhis,' and they are mainly urban and middle class. [...]

Pashtuns (Pakhtuns, Pathan) live primarily in the North-West Frontier Province [today's Khyber Pakhtunkhwa] where they number about 11 million. There are also about 1.2 million Pashtun refugees from Afghanistan in the region and about 10 million Pashtuns in Afghanistan. The Pashtun live across a large region and in different administrative districts, and for those reasons there is considerable cultural diversity within the population. However, there is also considerable similarity and a strong sense of Pashtun identity, which rests on speaking the Pushto language, adherence to Sunni Islam, belief in descent from a common ancestor, and a strong sense of male honor. The Pashtun are a tribal society in the sense that the traditional primary social units were regional tribes composed of clans, which were in turn composed of lineages of related people who traced their family ties through their fathers' lines.

The Punjab is the fertile agricultural region that lies in both Pakistan and India. The Punjabi are the major ethnic group in the region and number about 85 million in Pakistan, or about 66% of the national population. Almost all Punjabis in Pakistan are Sunni Muslims [...]. Most Punjabis live in village farming communities. They are farmers and landowners, or are involved in occupations that support farming. Other Punjabis work in the professions and service industries in Pakistan's cities and have benefited from the economic development of the region in the last few decades. Rural Punjabis are organized into numerous occupational castes; the Jats (farmers) and Rajputs (landowners) are the two best known. Punjabis speak numerous dialects of the Punjabi language, and upper-class Punjabis in the cities speak Urdu." (Levinson, 1998, pp. 267-268)

Levinson also briefly mentions a number of smaller ethnic groups including the Brahui (a Sunni Muslim, tribal people in Balochistan and Sindh, numbering about one million and who subsist through farming and herding); the Burusho (Hunza) and small groups who speak Dardic

languages in the North; the Kalasha (Hindus) in Khyber Pakhtunkwa; the Khoja trading caste of Ismaili Muslims; the Kohistani Muslim farmers; and the Sidi (former African slaves, who form a caste of religious specialists in Sindh) (Levinson, 1998, p. 268).

In his encyclopaedia of ethnic groups of South Asia and the Pacific, published 2012, independent researcher James B. Minahan provides the following information on the Saraiki ethnic group:

"The Saraikis, sometimes known as Multanis, Seraikis, or Siraikis, are a Pakistani ethnic group inhabiting parts of central and southeastern Pakistan, primarily in Punjab Province, with smaller communities in adjacent parts of Indian Punjab, in other parts of Pakistan, Afghanistan, and in the United Kingdom. The estimated 15.2 million Saraikis speak an Indo-Aryan language that is the second most widely spoken in Pakistani Punjab. Many Saraikis also speak other regional languages along with Urdu and English, the two official languages of Pakistan. A large majority of Saraikis are Muslim, with smaller Hindu, Sikh, and Christian communities. [...] The Saraiki language is an Indo-Aryan one that has been developed as a standard language from a large number of disparate dialects since the founding of Pakistan in 1947. Historically, the Sarikis did not see themselves as a separate ethnic group." (Minahan, 2012, pp. 283-284)

Levinson, in his book cited above, notes that most inhabitants feel a stronger allegiance to their tribe or ethnic group than to the Pakistani nation, regardless of whether they live in their home province, in other provinces than their own or in cities that are ethnically diverse such as Karachi. The fact that there is no national language spoken by a majority of the population also contributes to ethnic division. Despite being the national language and the primary literary language of Pakistan, Urdu is foreign to most Pakistanis, who speak their respective ethnic languages in daily life. As noted by Levinson, Urdu is associated with the Muhajirs (Levinson, 1998, p. 268). In her contribution to a volume on Pakistan published 1995, Anita M. Weiss, then Associate Professor at International Studies at the University of Oregon, similarly states that Urdu is the official national language of Pakistan even though it is the native language of only 8 percent of the population. Those who speak Urdu as their native language commonly refer to themselves as muhajirs. Many people from educated backgrounds (and those people who attempt to achieve upward mobility) use Urdu language at home, "usually to help their children master it". The Punjabi elite in towns and cities, for example, "favor Urdu, although villagers in Punjab speak a plethora of similar dialects". (Weiss, 1995, p. 105)

Please consult the following websites for detailed information on ethnic groups and languages of Pakistan:

- Joshua Project: Pakistan – People Groups, undated
<http://www.joshuaproject.net/countries.php?rog3=PK&listing=Y>
- Ethnologue (edited by M. Paul Lewis, Gary F. Simons, Charles D. Fenning): Languages of the World: Languages of Pakistan, 2013
<http://www.ethnologue.com/country/PK/languages>

Further information on the Balochis, the Pashtuns, the Sindhis and the Muhajirs in Pakistan is also included in the World Directory of Minorities and Indigenous People, published by the London-based Minority Rights Group International (MRG):

- MRG - Minority Rights Group International: World Directory of Minorities and Indigenous Peoples: Pakistan: Baluchis, 2008a
<http://www.minorityrights.org/5626/pakistan/baluchis.html>
- MRG - Minority Rights Group International: World Directory of Minorities and Indigenous Peoples: Pakistan: Pathans, 2008b
<http://www.minorityrights.org/5620/pakistan/pathans.html>
- MRG - Minority Rights Group International: World Directory of Minorities and Indigenous Peoples: Pakistan: Sindhis and Mohajirs, 2008c
<http://www.minorityrights.org/5619/pakistan/sindhis-and-mohajirs.html>

1.4 Overview of the present government structures

1.4.1 Government structures and political system

Pakistan is a federal state comprising the provinces of Punjab, Sindh, Balochistan and Khyber Pakhtunkhwa (formerly North West Frontier Province - NWFP) and the Federally Administered Tribal Areas (FATA). The Pakistani Constitution provides that no act of Parliament is applicable to FATA unless so ordered by the President. Pakistan also controls the territories of Gilgit-Baltistan (formerly known as "Northern Areas") and Azad Jammu & Kashmir (AJK - "Free Kashmir"), which form the part of Kashmir that is located on the Pakistani side of the line of demarcation drawn between Pakistan and India ("Line of Control"). (German Foreign Office, March 2013)

For a brief review of different positions related to the politico-legal status of Azad Jammu & Kashmir (and Gilgit-Baltistan), please see pages 10 to 12 of the following September 2011 background paper by professional peacekeeper, trainer in counter-terrorism skills and writer, Muhammad Feyyaz:

- PILDAT - Pakistan Institute of Legislative Development And Transparency: Pakistan - Azad Jammu & Kashmir; Politico-Legal Conflict (author: Muhammad Feyyaz), September 2011
<http://progress.org.pk/wp-content/uploads/2013/03/Pakistan-AJKPoliticoLegalConflictSep2011.pdf>

Legislative power in Pakistan is vested in the Parliament, which consists of the National Assembly and the Senate. In the 342-member National Assembly, 272 seats are directly elected by the people using a first-past-the-post voting system. The National Assembly is elected for five-year terms. 60 seats are reserved for women and 10 for representatives of religious minorities (German Foreign Office, March 2013). These reserved seats are allocated, on the basis of proportional representation, to political parties that obtain more than five percent of the directly elected seats (EIU, 1 February 2013a). The Senate has 104 members, of whom 92 are elected by the provincial assemblies (23 by each provincial assembly, including 14 Senators on general seats, four technocrats including Ulema [religious scholars, remark ACCORD], four women and one on seat reserved for non-Muslims). Eight Senate members are elected from the Federally Administered Tribal Areas (FATA), while four members (two

Senators on general seats, one woman and one technocrat including Aalim [singular of Ulema, remark ACCORD]) are elected from the Federal Capital (Senate of Pakistan, undated).

As regards the representation of religious minorities in Parliament (National Assembly and Senate), the Human Rights Commission of Pakistan (HRCP) notes in its annual report for 2011, dated March 2012:

“Rather than being directly elected, members of religious minorities were nominated to parliament by political parties’ heads. The [HRCP] working group said that parliamentarians nominated in this manner often sought to please the party head rather than serving the minority community, which the parliamentarians did not deem their electorate. They noted that four senators from the minority communities were to be elected to the Senate in early 2012. Earlier, unlike the provincial and national legislative assemblies, members of minority communities did not have representation in the Senate. The four seats had been reserved for them under the 18th Amendment [to the Constitution]. The working group apprehended that as with lawmakers from minority communities in the national and provincial legislature, these senators would also have their first loyalty to the party and not to the religious minority community they claimed to represent.” (HRCP, March 2012, pp. 142-143)

In its annual report for 2012, published March 2013, the same source refers to an amendment bill, titled “Constitutional (Twenty-Third) Amendment Act 2012”, which seeks to enhance minorities’ seats:

“The government moved the bill titled ‘Constitutional (Twenty-Third) Amendment Act 2012’ to pass a law on the cabinet’s decision regarding enhancement of minorities’ seats in the Lower House of parliament as well as in provincial assemblies. This amendment contained the proposal to add four more seats for minorities in the National Assembly, while the seats reserved for minorities in Punjab, Sindh, Khyber Pakhtunkhwa and Balochistan were to increase to 10, 12, 4 and 4, respectively.” (HRCP, March 2013, p. 156)

In a December 2012 paper prepared for the House of Commons of the United Kingdom, researchers Jon Lunn and Gavin Thompson note that each of the four Pakistani provinces – Punjab, Sindh, Khyber Pakhtunkhwa and Balochistan – has a unicameral provincial assembly with reserved seats for women and non-Muslims” (Lunn/Thompson, 6 December 2012, p. 6). According to a factsheet on provincial assemblies in Pakistan published by the Washington-based International Foundation for Electoral Systems (IFES) in March 2013, the members of each provincial assembly are responsible for electing a chief minister, who is also the leader of the house (IFES, 27 March 2013, pp. 1-2). There is also a governor for each province, who is appointed by Pakistan’s president (e.g. GlobalSecurity.org, 13 September 2012a; EUEOM, 2013).

According to the Election Guide provided by the IFES, the President of Pakistan is the head of state and is chosen by an electoral college to serve a five-year term. The electoral college is made up of members of both Houses of Parliament (National Assembly and Senate) and members of the provincial assemblies (IFES, 27 November 2012). As stated on the website of

Pakistan's Ministry of Information and Broadcasting (MoIB), the president may not serve more than two consecutive terms and may be removed from office "for incapacity or gross misconduct" by a two-thirds majority vote of the parliament (MoIB, undated (a)). The Prime Minister is the head of government and is selected by the National Assembly (CIA, last updated 16 April 2013).

In its fact sheet on Pakistan, updated February 2013, the Economist Intelligence Unit (EIU), the business information arm of the London-based media company Economist Group, states with regard to recent changes in power relations between president, prime minister and parliament that "[a]fter a series of constitutional altercations in recent years that increased the powers of the president at the expense of parliament and the prime minister, parliamentary supremacy was restored in 2010 when both houses of the legislature approved a landmark constitutional amendment that reversed the changes of the previous years" (EIU, 1 February 2013b). According to the German Foreign Office, key features of the constitutional amendment passed in April 2010 include the strengthening of the prime minister's role and the simultaneous limitation of the president's powers, the strengthening of federalism through the expansion of provincial capacities, and the enhancement of judicial independence through the introduction of a new appointment process for senior judges. The amendment also conferred two new fundamental rights on Pakistani citizens, namely the right to education and the right to information. (German Foreign Office, March 2013)

In an article on Pakistani politics (updated 16 January 2013), GlobalSecurity.org, a US-based website covering military and security issues, outlines the main elements of the 2010 constitutional reform as follows:

"On April 19, 2010 president Asif Ali Zardari signed into law the 18th Amendment to the Pakistani Constitution. The amendment realigns executive powers by restoring the prime minister as the premier civilian official and returning the presidency to its original, more ceremonial role, largely eliminates the 17th amendment constitutional changes made by former President Musharraf to strengthen the presidency. Zardari thus gave up key presidential powers. [...] The reform package also reorganized center-province relations, empowering provincial assemblies to elect their own chief ministers." (GlobalSecurity.org, 16 January 2013)

For more detailed information on changes introduced by the April 2010 constitutional amendment (18th Amendment), please see the following article by the Center for American Progress (CAP), a public policy research and advocacy organisation based in Washington, D.C.:

- CAP - Center for American Progress: The 18th Amendment and Pakistan's Political Transitions, 19 April 2010
<http://www.americanprogress.org/issues/security/news/2010/04/19/7587/the-18th-amendment-and-pakistans-political-transitions/>

The above-mentioned online article from GlobalSecurity.org refers to Pakistan's political system as "broken", stating that "its political parties are ineffective, functioning for decades as instruments of two families, the Bhuttos and the Sharifs":

"Pakistan's political system is broken: its political parties are ineffective, functioning for decades as instruments of two families, the Bhuttos and the Sharifs, two clans, both corrupt. The Bhutto-Zardari axis may be considered 'left leaning,' while the Sharif brothers may be considered 'right leaning.' The Sharifs are much closer to Pakistan's military, and to Pakistan's Muslim fundamentalists. Punjabi, the Sharifs represent Pakistan's major ethnic bloc, and the devout Sunni Sharif has an advantage over the Bhuttos, who have Shiite ties. [...] Voting in Pakistan is intensely personal, with parties gathering votes primarily through allegiance to an individual candidate who is either a feudal or has a proven ability to deliver services." (GlobalSecurity.org, 16 January 2013)

In the executive summary of a report dated March 2011, the ICG states:

"Electoral rigging has hampered Pakistan's democratic development, eroded political stability and contributed to the breakdown of the rule of law. Facing domestic pressure for democracy, successive military governments rigged national, provincial and local polls to ensure regime survival. These elections yielded unrepresentative parliaments that have rubber-stamped extensive constitutional and political reforms to centralise power with the military and to empower its civilian allies. Undemocratic rule has also suppressed other civilian institutions, including the Election Commission of Pakistan (ECP), which is responsible for holding elections to the national and four provincial assemblies, and local governments. With the next general election in 2013 – if the Pakistan Peoples Party (PPP)-led government completes its full five-year term – the ruling party and its parliamentary opposition, as well as the international community, should focus on ensuring a transparent, orderly political transition through free, fair and transparent elections." (ICG, 30 March 2011, p. i)

1.4.2 Overview of main political parties

In its Transformation Index for 2012, the Bertelsmann Foundation, a private operating non-profit foundation in Germany, provides the following information regarding the political party system in Pakistan:

"Pakistan's tradition of political parties goes back to colonial times, but post-colonial bureaucratic and military elites have never allowed them to take control. As a result, parties are not programmatic political bodies that compete in aggregating interests, but personality-centered and patronage-based platforms. As in many developing countries, the buying and selling of votes is common, and members of parliament often switch between parties before and after elections. As in many first-past-the-post (FPTP) electoral systems, a two-party system has evolved, with the PPP [Pakistan People's Party] as the center-left and the PML-N [Pakistan Muslim League (N)] as the center-right party. In addition, there are some regional parties with national weight, such as the Awami National Party (ANP) in KPK [Khyber Pakhtunkhwa] and the Muttahida Qaumi Mahaz [Muttahida Qaumi Movement] (MQM) in urban Sindh. The basic system has been sustained both by the social values still prevalent in rural areas and by the manipulation of state authorities. Under rapid social change, the system is beginning to erode. There are a number of younger parliamentarians, including some women, who are more open to democratic accountability. At the same time, ideological differences are sharpening, in

particular on social and moral issues. Additionally, a subset of party workers has become militant, as demonstrated in Karachi where supporters of the MQM clashed with those of the PPP and the ANP (although all three parties are coalition partners at the national level)." (Bertelsmann Foundation, 2012, p. 10)

In a March 2013 article for the Pakistani English-language daily newspaper Pakistan Today, Hasan Askari Rizvi, an independent political and defence analyst, notes a "proliferation of political parties in Pakistan". At the time of writing the article, there were 227 political parties registered with the Election Commission of Pakistan, with 123 of them entitled to contest the 2013 general elections. However, the author adds that not all of them will stand candidates and that there may be between 35 and 40 political parties (excluding independent candidates) that will compete in the elections. Only 15 to 20 of these parties are "expected to draw attention". In addition to those registered with the Election Commission, there are dozens more political parties that are not registered, bringing their total number to over 300. (Pakistan Today, 6 March 2013)

In an article on political parties in Pakistan (updated 11 July 2011), GlobalSecurity.org similarly notes that the number of parties has increased, while adding at the same time that their political power has declined, "particularly in relation to the military":

"Political parties have increased in number but declined in political power, particularly in relation to the military. Since the late 1990s, numerous parties have splintered into factions, dividing electoral support and leading to the formation of coalitions that often also dissolve into factions. The three parties with the greatest electoral support since 1988 all have become shadows of their former selves. The Pakistan People's Party (PPP) and Pakistan Muslim League-Nawaz Sharif (PML-N) have splintered into numerous parties, and the Muttahida Quami Movement (MQM) has lost substantial legitimacy as a result of involvement in violence." (GlobalSecurity.org, 11 July 2011a)

The May 2012 Freedom House report on political rights and civil liberties in Pakistan (reporting period 2011) notes that "[t]he institutional capacity and internal democratic structures of political parties – some of which are based more on personalities than ideologies or platforms – remain weak" (Freedom House, May 2012a). Similarly, Stephen Cohen, a former professor who conducts research on South Asian political and security issues, states in a book published December 2011:

"Pakistan's political parties lack both a democratic process and the ability to aggregate interests; most are only vehicles for individuals or narrow social classes. Even in the largest and most open of the parties, elections within the organization are pro forma. When asked shortly before her death, Benazir Bhutto told me that the Pakistan People's Party was not ready for internal democracy, that it needed a strong leader (herself) to keep its factions together and to develop strategies to protect the party's integrity from assaults by state intelligence agencies. That attitude is not changing. Some of the urban parties, like the Muttahida Qaumi Movement, appeal more to middle-class interests than to clan or family loyalty. But even the MQM has a strong ethnic base in the Mohajirs and

their descendants, who are migrants from North and Central India.” (Cohen, December 2011, pp. 26-27)

According to the above-cited Freedom House report dated May 2012, “[s]ome political parties [...] have armed or militant wings” (Freedom House, May 2012a), which is also confirmed by media reports suggesting that armed wings of political parties were actively involved in violence in the port city of Karachi (e.g. News International, 12 October 2011; NPR, 1 January 2013; Independent, 31 January 2013).

In the sections below, information on some of the main political parties in Pakistan is provided. They are displayed in the order of the number of directly elected seats they have won in the National Assembly election of 11 May 2013 (according to incomplete results announced by the Election Commission of Pakistan on 13 June 2013) (see ECP, 13 June 2013). The previous (thirteenth) National Assembly was dissolved on 16 March 2013 after it completed its five-year tenure for the first time in Pakistan’s 66 years history (Express Tribune, 16 March 2013a).

For further information on the political parties in Pakistan, please consult the following website on the May 2013 general elections operated jointly by web hosting company PakCyber and PakTribune, an online English-language newspaper in Pakistan:

- PakCyber/PakTribune: Pakistan Elections 2012-2013: Party List, undated
<http://elections.com.pk/partylist.php>

Additional information is also provided on pages 11-18 of a 2012 report by researchers Jon Lunn and Gavin Thompson as well as on pages 8-21 of a 2012 conference paper by Amna Mahmood Sandhu, Assistant Professor at the International Islamic University, Islamabad:

- Lunn, Jon/Thompson, Gavin: Pakistan in 2013 – Commons Library Research Paper, 6 December 2012
<http://www.parliament.uk/briefing-papers/RP12-76.pdf>
- Mahmood Sandhu, Amna: Regional Political Parties: Challenge to Political Stability in Pakistan, conference paper presented at Annual Conference of the Canadian Political Science Association (CPSA) held at University of Alberta in June 2012, 2012
<http://www.cpsa-acsp.ca/papers-2012/Mahmood.pdf>

Pakistan Muslim League – Nawaz (PML-N)

The Pakistan Muslim League – Nawaz (PML-N) was formed in 1993 by then Prime Minister Nawaz Sharif as an “offshoot of the country’s oldest party and the only major party existing at the time of independence” [which is the Muslim League (CRS, 24 January 2008, p. 4)]. The party is “[r]ight-leaning and home to many religious conservatives” and has its support base in Punjab, the second most populated province of Pakistan (CRS, 19 February 2013). As Hassan Abbas, Professor of International Security Studies at the Washington-based National Defense University, notes in 2013, the PML-N’s leadership is “known for close relations with the government of Saudi Arabia” (Abbas, 2013, p. 275).

A January 2012 Dawn profile of the PML-N describes the party as “centrist conservative” and notes that although party head Nawaz Sharif was twice elected as Prime Minister, his party members were “criticised for widespread corruption and extrajudicial killings”. As regards the party’s political stance, Dawn provides the following information:

“The party’s stance is to provide economic stability to all the citizens of Pakistan, an order which gives Pakistanis a right to make full use of the available resources. Moreover, social equality should remain the main focus of any government or political regime and violators should be penalized for discrimination.

PML-N’s political stance revolved around changing the status quo of current state of affairs by establishing a country governed in accordance with the ideologies of Quaid-e-Azam Muhammad Ali Jinnah and Allama Iqbal.” (Dawn, 17 January 2012b)

As reported by the US Congressional Research Service (CRS) in February 2013, the PML-N won 20 percent of the 2008 vote, it held 92 seats in the previous National Assembly and was leading the political opposition (CRS, 19 February 2013).

Agence France-Presse (AFP) news agency reports as follows on the PML-N’s performance in the National Assembly election of 11 May 2013:

“Nawaz Sharif declared victory for his centre-right party in Pakistan’s landmark elections Saturday, putting him on course to form the next government as prime minister for a historic third term. The partial, unofficial results represented a remarkable comeback for a man deposed in a 1999 military coup, after nearly 60 percent of the 86 million electorate turned out to vote, defying polling day attacks that left 24 dead. The party of his main rival, cricket star Imran Khan, whose promises to end corruption struck a chord with middle-class and youth voters, conceded defeat but vowed to form the next provincial government in the northwest.” (AFP, 11 May 2013)

According to incomplete results announced by the Election Commission of Pakistan (ECP) on 13 June 2013, the PML-N has secured 145 seats of the 272 directly elected seats of the National Assembly, after as many as 19 independent members-elect joined it (ECP, 13 June 2013).

Pakistan People’s Party (PPP)

According to a Dawn profile of the Pakistan People’s Party (PPP), published January 2012, the PPP is the largest political party of Pakistan and is jointly headed by President Asif Ali Zardari and [his son (Dawn, 27 December 2012b)] Bilawal Bhutto Zardari. (Dawn, 17 January 2012a)

In an article updated September 2012, GlobalSecurity.org informs that the PPP was established in 1967 with Zulfikar Ali Bhutto as its first chairman and that “[a]mong the express goals for which the Party was formed were the establishment of an ‘egalitarian democracy’ and the ‘application of socialistic ideas to realize economic and social justice’” (GlobalSecurity.org, 13 September 2012b). The 2009 edition of the Political Parties of the World similarly notes that “[t]he PPP was formed in 1967, advocating Islamic socialism, democracy and a non-aligned foreign policy” (Political Parties of the World, 2009, p. 446).

The above-mentioned Dawn profile of the PPP includes the following information regarding the party's history:

"The party has been active in Pakistani politics since the separation of East Pakistan and later gained much popularity and support during the era of Zulfikar Ali Bhutto. The party won the 1971 elections on a socialist mandate of 'Roti, Kapra, Makan' ('bread, clothes, shelter').

PPP took control of the country after the 1971 war. After the first parliamentary term, PPP secured a victory in the 1977 elections to rule for another five years. Opposition parties claimed that the election was heavily rigged by the PPP. Tensions mounted and despite an agreement reached between the opposition and PPP, martial law was imposed in the country by Gen. Zia ul Haq.

Bhutto was hanged in 1977 after a controversial trial, in which he was found guilty of murdering a political opponent. His daughter Benazir Bhutto was elected twice as the prime minister but her government was dismissed both times on corruption charges.

Initially PPP was a socialist nationalist party as Zulfikar Ali Bhutto wanted closer ties with China and more attention paid to the lower classes. Benazir Bhutto on the other hand adopted conservative privatisation policies in order to secure funding from the United States and the World Bank.

Although twice elected prime minister, Benazir Bhutto was criticised for corruption and extra judicial killings. Bhutto was sworn in as prime minister for the first time in 1988, but was removed from the office 20 months later on grounds of alleged corruption by president Ghulam Ishaq Khan. In 1993 she was re-elected but was again removed in 1996 on similar charges, this time by President Farooq Leghari.

In 2002, PPP Parliamentarians was formed as an electoral extension of the Pakistan People's Party (PPP) for the purpose of complying with electoral rules governing Pakistani parties." (Dawn, 17 January 2012a)

As regards the key features of the party's current political agenda, Dawn indicates that it includes "[f]aith in Islam, democracy, eradication of feudal system and peasantry and empowerment of general people" (Dawn, 17 January 2012a). In a background briefing on Pakistan's domestic political setting dated February 2013 (based on information from the Election Commission of Pakistan, other Government of Pakistan agencies and party websites), the Congressional Research Service (CRS) describes the PPP as "democratic socialist" and "home to many 'secularists'", with its support base in Sindh province. The PPP, which won 31 percent of votes in the 2008 general elections and had 125 seats in the previous National Assembly, was leading the previous federal ruling coalition. (CRS, 19 February 2013)

In an article dated 14 May 2013, Germany's international broadcaster Deutsche Welle (DW) notes the following with regard to the PPP's performance in the National Assembly election of 11 May 2013:

"No other political party in Pakistan suffered as much in the May 11 parliamentary elections as the Pakistan People's Party (PPP). The PPP, led by President Asif Ali Zardari ever since the assassination of former Prime Minister Benazir Bhutto [...] in an election rally in 2007, ruled Pakistan from 2008 to 2013. However, in the latest national polls, it could only secure 31 seats out of 272 in the country's national assembly or the lower house of parliament. The center-left PPP, probably the only party with nation-wide support, was reduced to its stronghold Sindh." (DW, 14 May 2013)

Incomplete results announced by the Election Commission of Pakistan (ECP) on 13 June 2013 show that the PPP won 33 of the 272 directly seats of the National Assembly, taking second place ahead of the Pakistan Tehreek-e-Insaf (PTI) (ECP, 13 June 2013).

Pakistan Tehreek-e-Insaf (PTI)

The 2009 edition of the Political Parties of the World reports that the Pakistan Tehreek-e-Insaf (PTI, Movement for Justice) was founded in April 1996 by former Pakistan cricket captain Imran Khan (Political Parties of the World, 2009, p. 447). The United States Institute of Peace (USIP) refers to the PTI as "a right-of-center political party" that has experienced a "sharp rise in popular support" since October 2011, when 100,000 people attended a PTI rally in Lahore (USIP, 24 May 2012, p. 1).

A March 2013 Q&A by the Washington, D.C.-based Center for Strategic and International Studies (CSIS) includes a brief profile of the Pakistan Tehreek-e-Insaf (PTI) stating:

"PTI was founded by Imran Khan, former captain of Pakistan's cricket team, and maintains an image as an outsider social movement. It boycotted the last election but has significantly grown in support since 2008. PTI's base of support is in Lahore, and it is likely to siphon votes away from PML-N in Punjab. Early polling points to a large base of support, though without established party mechanisms for mobilizing voters this backing may not translate into victory at the polls." (CSIS, 20 March 2013)

The Pakistani newspaper Dawn provides the following information with regard to PTI's emergence and its rise in Pakistani politics:

"During the 1997 election, PTI was a political non-entity. After a disappointing performance from 1996 until very recently, Khan – previously well known for his cricketing skills and a 'playboy personality' – suddenly and swiftly became a formidable opponent to PPP and PML-N. Although Khan has always been a popular public figure, PTI became prominent as a political party in 2011 with an impressive public gathering in Lahore. Political observers have described the meeting as one of the biggest rallies held in the provincial capital in over 20 years. With the Lahore meeting, PTI left an indelible mark on Pakistani politics. Khan followed it up with another large-scale public gathering in Karachi attended by over 100,000 people. Now the term 'tsunami' used by PTI to describe its rallies has become a popular term in public discourse." (Dawn, 23 March 2013)

On the party's political stance, Dawn adds:

"According to the party's manifesto, the PTI aims to establish Pakistan as a truly independent and sovereign state. The party further pledges that it would work to provide the people with a new and credible leadership committed to restoring 'Pakistan's political and economic sovereignty' by way of building 'a new bond of trust between the government and the people'. This has been the thrust of PTI's stated agenda, and also, what many believe, constitutes its appeal. Moreover, Khan and his party have also focused on an anti-corruption campaign with the former cricketer stating that eliminating corruption was PTI's 'top priority'. Also, with Pakistan being a country haunted by heavy debts, external loans and aid packages, PTI declares itself fiercely anti-aid and the said point is also stated clearly in the party's manifesto. Khan's party has also emerged as a staunch supporter of dialogue with the Pakistani Taliban and has been speaking out with considerable force against US drone strikes. The PTI also believes there should be no military operations in the country's Federally Administered Tribal Areas (Fata), branded by Washington as the main hub of Taliban and Al Qaeda militants plotting attacks on the West and in Afghanistan." (Dawn, 23 March 2013)

The Financial Times (FT) newspaper notes the following with regard to the PTI's performance in the National Assembly election of 11 May 2013:

"As results came in, it became apparent that Mr Khan's party would win a third or fewer of the seats claimed by Mr Sharif's Pakistan Muslim League-Nawaz (PML-N). [...] For all the deflated expectations, PTI leaders and political analysts said that after 17 years Mr Khan had now established his previously irrelevant party in Pakistani politics [...] and had injected energy into an election campaign that attracted millions of young, middle-class voters." (FT, 12 May 2013)

According to incomplete results announced by the Election Commission of Pakistan (ECP) on 13 June 2013, the PTI won 28 of the 272 directly elected seats of the National Assembly, taking third place behind the Pakistan People's Party (PPP) (ECP, 13 June 2013).

Muttahida Qaumi Movement (MQM)

According to a May 2013 article by the Express Tribune, "[i]n 1984, the All Pakistan Muhajir Student Organisation formed in 1978, gave birth to the Muhajir Qaumi Movement and after almost 10 years, the word 'Muhajir' was replaced by Muttahida" (Express Tribune, 24 May 2013).

In an article dated April 2013, French international broadcaster Radio France Internationale (RFI) offers a brief overview of the MQM's history:

"The MQM was formed when Altaf Hussein decided to transform the All Pakistan Muhajir Student Organisation, which he had founded in 1978, into a political party based on muhajirs, the Urdu-speaking migrants who had come to Pakistan from India at partition. It was at first known as the Muhajir Quami Movement and was dedicated to fighting the discrimination that the immigrants believed they faced in their new homeland. It built a

strong base of support in Sindh, especially Karachi, where many muhajirs had settled, enjoying a stormy relationship with the PPP, the largest party in the province.

In the 1980s Sindhi politics became increasingly violent and Nawaz Sharif's government launched a military operation ostensibly to crack down on all armed groups, both political and criminal. The MQM viewed the operation as an attempt to wipe it out and many of its activists were jailed or killed, while the violence persisted, especially in Karachi.

Claiming that his liberty and even his life were in danger, Altaf Hussein went into voluntary exile in London in 1992, while the party, along with others in the province, became increasingly militarised and was accused of involvement in criminal activities. In 1997 the MQM swapped Muhajir for Muttahida in its title to become the United National Movement in a bid to broaden its appeal to all Pakistanis." (RFI, 28 April 2013)

Party leader Altaf Hussein lives in exile in Britain where he was granted political asylum in 1992 after escaping an assassination attempt. Upon return to Pakistan, he could face a string of legal cases (CSM, 4 January 2011; Pakistan Observer, 17 January 2013), "including 31 for murder and 11 for attempted murder" (CSM, 4 January 2011).

In an article dated January 2011, the Christian Science Monitor (CSM), an international news organisation, provides the following information with regard to the MQM, which it describes as espousing "secularism and economic liberalization":

"The MQM started in 1984 as a party representing Muhajirs, a group of Pakistanis who moved into the country from present-day India during the partition of the subcontinent in 1947. Many Muhajirs settled in the commercial capital of Karachi, now ruled by the MQM. The MQM has made efforts to rebrand itself as a national party that transcends ethnic boundaries, but tensions with other ethnic groups have kept the party localized. [...] The party has teamed up at various points with both of the main political parties as well as the military regime of Gen. Pervez Musharraf, helping it win powerful positions in Islamabad and secure its dominance in Karachi." (CSM, 4 January 2011)

An article by GlobalSecurity.org (updated 11 July 2011) provides the following overview:

"The Muttahida (earlier, Muhajir) Qaumi Movement (MQM) claims to represent the Muhajirs (those who migrated from India after the partition, and their descendants). MQM has its biggest base in Karachi, the largest city in the country and the financial capital, where by one estimate the Muhajirs constitute about 60 percent of the population [reports of 90 percent are implausible]. The MQM has better been known for its leaders' lust of power than for their concern for the Muhajirs, who still find themselves somewhat rootless in their adopted country. [...] Founded by Altaf Hussain in 1984, the MQM had a meteoric rise in the political life of the country." (GlobalSecurity.org, 11 July 2011b)

In its above-cited article of April 2013, RFI states that the MQM "is resolutely secular and takes a more liberal stance than most large Pakistani parties on many social issues" (RFI, 28 April 2013). According to the CRS, the MQM is "largely secular" and "focused on provincial issues". Its support base is entirely limited to Karachi and other urban centres of Sindh

province. As further noted by the CRS, the MQM won seven percent of the 2008 vote, it held 25 seats in the previous National Assembly and was “a sometimes unreliable member of the ruling coalition, having withdrawn from and rejoined it at least three times since 2010”. (CRS, 19 February 2013)

Incomplete results of National Assembly elections held 11 May 2013, announced by the Election Commission of Pakistan (ECP) on 13 June 2013, show that the MQM has secured 18 of the 272 directly elected parliamentary seats (ECP, 13 June 2013).

Jamiat Ulema-e-Islam (Fazlur Rehman group) (JUI-F)

Hassan Abbas, Professor of International Security Studies at the Washington-based National Defense University, notes in 2013 that the Jamiat Ulema-e-Islam (JUI) was formed in 1945 and split into two factions in the mid-1980s – the JUI-F, led by Fazlur Rehman and the JUI-S, led by Maulana Sami-ul-Haq. As observed by Abbas, the JUI “is committed to the establishment of an Islamic state in Pakistan”:

“The JUI was founded by Maulana Shabbir Ahmed Usmani in 1945. In the 1970s, it was revived by Mufti Mahmud, whose son Maulana Fazlur Rehman took over in the early 1980s. The party split into two factions in the mid-1980s – JUI-F, led by Fazlur Rehman, and JUI-S, led by Maulana Sami-ul-Haq – following disagreements over political strategy. JUI played an important role during the Afghan jihad of the 1980s, and many graduates of the religious schools, or madrassas, associated with both JUI factions joined Taliban forces in Afghanistan in 1990s. [...] As per JUI’s official manifesto, the party is committed to the establishment of an Islamic state in Pakistan.” (Abbas, 2013, p. 276)

In an article updated July 2011, GlobalSecurity.org provides the following information pertaining to the JUI-F, which it describes as “pro-Taliban”:

“The pro-Taliban Maulana Fazl-ur-Rehman's Jamiat Ulema-e-Islam (JUI-F) and Sami-ul-Haq's Jamiat Ulema-e-Islam (JUI-S) are both Deobandi Sunni groups. The Jamiat Ulema-e-Islam (also written Jamiat-ul-Ulama-i-Islam and abbreviated JUI), led by Maulana Fazlur Rahman, had its origins in the Jamiat-ul-Ulama-i-Hind (JUH), founded by a group of ulama of the Deoband Movement in prepartition India. The JUH argued that Muslims could coexist with other religions in a society where they were not the majority. In 1945, however, a group of JUH ulama, led by Maulana Shabir Ahmad Usmani, split off from the JUH, formed the JUI, and gave their support to the movement for an independent Pakistan.

Since 1947 the JUI has undergone a number of organizational and program changes. It developed strong support in the North-West Frontier Province [today's Khyber Pakhtunkhwa] and Balochistan. [...]

Jamiat-ul-Ulema-e-Islam (JUI) is the largest Deobandi political outfit, and gave rise to the terrorist organizations like Harkat-ul-Mujahideen (HM), Jaish-i-Muhammad (JM), Sipah-e-Sahaba Pakistan (SSP) and Lashkar-e-Jhangvi (LJ). Not only these organisations have been active in Kashmir and other parts of India but subsequently they also challenged the

writ of Pakistani state. Jamiat-e-Ulama-e-Islam (Fazal-ur-Rehman Group-JUI-F), headed by the former MNA [Member of National Assembly], Maulana Fazal-ur-Rehman, is believed to be running a large chain of deeni madaris in Baluchistan and some parts of the NWFP. There is a well-known madrassa in Dera Ismail Khan, the hometown of Maulana Fazal-ur-Rehman." (GlobalSecurity.org, 9 July 2011b)

In a report dated December 2011, the ICG notes that the JUI-F, together with the Jamaat-e-Islami (JI), remains the "most influential" Islamic party in Pakistan, representing Deobandi school of thought. The party "depends on electoral success to be a major national-level player". (ICG, 12 December 2011, p. 2)

According to incomplete results of National Assembly elections of 11 May 2013, announced by the Election Commission of Pakistan (ECP) on 13 June 2013, the JUI-F won 11 of the 272 directly elected parliamentary seats (ECP, 13 June 2013).

Pakistan Muslim League – Quaid-e-Azam (PML-Q)

In its background briefing dated February 2013, the CRS states that the Pakistan Muslim League – Quaid-e-Azam (PML-Q) was launched by then President General Musharraf in 2002 "as an offshoot of the PML-N" and formed part of the country's previous ruling coalition:

"Pakistan Muslim League - Quaid-e-Azam (PML-Q) was formed by then-President General Musharraf in 2002 as an offshoot of the PML-N. This self-declared centrist party is led by Punjabi former Sharif loyalists-turned-former Musharraf supporters Shujaat Hussain and Mushahid Hussain Syed. The PML-Q holds 50 NA [National Assembly] seats, won 23% of the 2008 vote, and has since 2011 been a member of the ruling coalition." (CRS, 19 February 2013)

Another report by the CRS, dated January 2008, includes the following observations regarding the PML-Q:

"In the lead up to the 2002 national elections, most former (but still influential) politicians loyal to Nawaz Sharif joined the new PML-Quaid-e-Azam (PML-Q), a centrist-conservative group seen to enjoy overt support from the military. The PML-Q – also called the 'king's party' due to its perceived pro-military bent – won 118 of the total 342 parliamentary seats in the flawed 2002 election, almost all of them from Punjab. This gave the pro-Musharraf parties a plurality in the National Assembly, but fell well short of the majority representation needed to control the body outright. Today the party claims be promoting 'the vision of Pakistan's founding fathers,' Jinnah and Mohammad Iqbal, a renowned poet whose early 20th century Islamist writings inspired the Pakistan movement. This vision is to include democracy and respect for diversity, along with opposition to terrorism 'in all its forms.' Yet, while in power, the party came under fire for presenting or preserving legal and legislative obstacles to what Western countries might consider to be important human rights protections, such as those for women and religious minorities." (CRS, 24 January 2008, p. 6)

In the above-mentioned 2012 conference paper by Amna Mahmood Sandhu, it is noted that “[t]he PML (Q) is an important political party in the parliament with its presence in all the provincial assemblies but it has lost its political standings after Gen. Pervez Musharraf and restoration of democracy in Pakistan. Now they are the coalition partners of the PPP government. Some wise politicians are working for reunion of the PML (N) and PML (Q), so that the PML may emerge as a strong party”. (Mahmood, 2012, p. 12)

Incomplete results of the National Assembly elections of 11 May 2013, announced by the Election Commission of Pakistan (ECP) on 13 June 2013, the PML-Q won two seats of the 272 directly elected seats of the National Assembly (ECP, 13 June 2013).

Awami National Party (ANP)

The Awami National Party (ANP) was founded in 1986 (Political Parties of the World, 2009, p. 443) by a “merger of several left-leaning parties including the Awami Tehrik and the National Democratic Party” (GlobalSecurity.org, 9 July 2011a) and is headed by Asfandyar Wali Khan (Dawn, 5 March 2013).

In a Dawn profile of the ANP, published January 2012, the party’s political stance is outlined as follows:

“Awami National Party (ANP) manifests the teachings and ideologies of Khan Abdul Ghaffar Khan, also known by his followers and admirers as Baacha Khan. He devoted his life for the struggle of freedom and worked hard to achieve the same. His faction, popularly known as the ‘Khudai Khidmatgars’, offered great sacrifices and fought against colonialism, imperialism, and oppressions in all its forms.

Baacha Khan considered himself a social worker and believed that his political career was an extension to the sense of social development and the positive changes it tends to bring about. His ultimate aim remained to liberate the people of Southeast Asia specifically Pashtuns, from poverty and illiteracy so that they could excel as a race.

Keeping the same perspective and ideology in view, ANP like its predecessors, the NAP (National Awami Party) and the NDP (National Democratic Party), considers politics as an outlet to reach out to the masses and serve them. Eradication of poverty, protection of human rights, wiping out terrorism and education remain the core issues that top the party’s mandate.

Moreover, the party also aims to unite the people of Pakistan, irrespective of their faith and race, by empowering individual units and races established in Pakistan and giving them their share of autonomy and rights.” (Dawn, 17 January 2012c)

The February 2013 background briefing by the CRS describes the ANP as “a regional, ethnic Pashtun-based party” with a “democratic socialist and largely secular” agenda. The party’s political stronghold remains almost entirely limited to Khyber Pakhtunkhwa (KP) and parts of urban Sindh. As regards the party’s current political strength, the CRS adds that it won two

percent of the 2008 vote, held 13 seats in the (previous) National Assembly and was a member of the ruling coalition. (CRS, 19 February 2013)

According to incomplete results of the National Assembly elections of 11 May 2013, announced by the Election Commission of Pakistan (ECP) on 13 June 2013, the ANP has secured one of the 272 directly elected seats (ECP, 13 June 2013).

1.4.3 The judicial system

In an article updated July 2011, GlobalSecurity.org mentions that Pakistan has a legal system which is based both on English common law and on Islamic law (sharia) (GlobalSecurity.org, 11 July 2011c). As observed by Freedom House in its May 2012 report on political rights and civil liberties in Pakistan (reporting period 2011), "the judiciary consists of civil and criminal courts and a special Sharia (Islamic law) court for certain offenses" (Freedom House, May 2012a). The 2012 annual report of the Asian Human Rights Commission (AHRC) (published December 2012 and covering the year 2012) similarly notes that Pakistan operates a "dual judicial system, which comprises a secular system of national laws and courts, as well as parallel traditional jirgas and Shariah court systems" (AHRC, 10 December 2012, p. 2). Jirgas are described in the same report as "illegal tribal judicial courts" (AHRC, 10 December 2012, p. 9).

A US Department of State (USDOS) Background Note on Pakistan, dated 6 October 2010, provides the following overview of the judicial system of Pakistan:

"The judicial system comprises a Supreme Court, provincial high courts, and Federal Islamic (or Shari'a) Court. The Supreme Court is Pakistan's highest court. With the 18th Amendment now in place, the president names the most senior Supreme Court justice to be chief justice; also, the courts' and Parliament's influence are increased through a new judicial commission to oversee judges' appointments. Each province, as well as Islamabad, has a high court, the justices of which are appointed by the president after conferring with the chief justice of the Supreme Court and the provincial chief justice. The judiciary is proscribed from issuing any order contrary to the decisions of the president. Federal Sharia Court hears cases that primarily involve Sharia, or Islamic law. Legislation enacted in 1991 gave legal status to Sharia. Although Sharia was declared the law of the land, it did not replace the existing legal code." (USDOS, 6 October 2010)

As regards judicial appointments, the above-cited May 2012 report by Freedom House states that "[p]rovisions of the 18th Amendment granted power over judicial appointments to a judicial commission rather than the president, and the 19th Amendment further strengthened the role of the chief justice and other senior judges in the commission and appointment process" (Freedom House, May 2012a).

The USDOS notes in its April 2013 country report on human rights practices in 2012 that there are several areas in Pakistan, such as Azad Kashmir and Gilgit-Baltistan, which do not fall under the jurisdiction of the Supreme Court and the high courts and "operate under separate judicial systems" (USDOS, 19 April 2013, section 1e). As already noted in section 1.2.1 of this

compilation, the Federally Administered Tribal Areas (FATA) are also excluded from the jurisdiction of Supreme Court and high court (ICG, 15 January 2013, p. 3).

The above-mentioned July 2011 article by GlobalSecurity.org notes that there are also special courts and tribunals to deal with specific kinds of cases (GlobalSecurity.org, 11 July 2011c). According to the website of Pakistan's Ministry of Information and Broadcasting (MoIB), these are: Special Courts for Trial of Offences in Banks; Special Courts for Recovery of Bank Loans; Special courts under the Customs Act; Special Traffic Courts; Courts of Special Judges Anti-Corruption; Commercial Courts; Drug Courts; Labour Courts; Insurance Appellate Tribunal; Income Tax Appellate Tribunal and Services Tribunals (MoIB, undated (b)).

The April 2013 report by the USDOS notes that the Anti-Terrorism Act [of 1997 (ICG, 15 January 2013, p. 31)] allows for the use of special anti-terrorism courts "to try persons charged with violent crimes, terrorist activities, acts or speech designed to foment religious hatred, and crimes against the state". The report continues:

"After arrest, suspects must be brought before the antiterrorism courts within seven working days, but the courts are free to extend the period. Human rights activists criticized the expedited parallel system, charging it was more vulnerable to political manipulation." (USDOS, 19 April 2013, section 1e)

Similarly, Freedom House states in its May 2012 report that the anti-terrorism courts, like other parts of the judicial system, "operate with limited due process rights" (Freedom House, May 2012a).

The role and function of Pakistan's Federal Shariat Court and the Sharia bench of the Supreme Court are described by the International Religious Freedom Report of the USDOS as follows:

"The Federal Shariat Court and the Sharia bench of the Supreme Court serve as appellate courts for certain convictions in criminal courts under the Hudood Ordinance ["a law enacted in 1979 by the military ruler Zia-ul-Haq to implement a strict interpretation of Islamic law by enforcing punishments for extramarital sex, false accusation of extramarital sex, theft, and drinking of alcohol" (USDOS, 19 April 2013, section 1e)], including those for rape, extramarital sex, alcohol, and gambling. Judges and attorneys in these courts must be Muslim. The Supreme Court may bypass the Sharia bench and assume jurisdiction in such appellate cases in its own right and prohibit the Federal Shariat Court from reviewing decisions of the provincial high courts. The Federal Shariat Court may overturn legislation it judges inconsistent with Islamic tenets, but such cases can be appealed to the Sharia bench of the Supreme Court and ultimately may be heard by the full Supreme Court. The Federal Shariat Court applies to Muslims and non-Muslims, such as in cases relating to Hudood laws. Non-Muslims are allowed to consult the Federal Shariat Court in matters that affect them or violate their rights." (USDOS, 30 July 2012, section 2)

The same source indicates that in February 2009, the provincial government of Khyber Pakhtunkhwa (KP) signed a peace deal with the militant group Tehrik-e-Nafaz-e-Shariat-e-Mohammadi (TNSM) "to end Taliban violence in the Swat Valley". As part of the deal, it was

agreed to impose the Nizam-e-Adl Regulation (NAR),”establishing Sharia in the Malakand Division of KP”. As noted by the USDOS, the NAR “establishes time limits for deciding civil and criminal cases, recreates qazis (religious judges) chosen by the state, and establishes a local appeals court whose judges are selected by the Peshawar High Court” (USDOS, 30 July 2012, section 2). Reporting on the NAR, the International Crisis Group (ICG) similarly notes that the qazi courts, which enforce Sharia “in Swat and adjoining PATA [Provincially Administered Tribal Areas] districts”, are “presided over by government-appointed judicial officers trained in Islamic law”. In addition, “an appellate court, the Dar-ul-Qaza, was established at the level of the High Court, and a final appellate court, the Dar-ul-Darul-Qaza, was established at the level of the Supreme Court” (ICG, 15 January 2013, pp. 4-5). However, as mentioned in an April 2011 report by the USDOS (covering the year 2010), the interpretation and the enforcement of the regulation “was sufficiently flexible that it was criticized by the Taliban. Contrary to Taliban desires, judges were appointed from the existing cadre of the country’s judiciary and not from among ‘religious scholars’”. (USDOS, 8 April 2011, section 1e)

The full text of the Nizam-e-Adl Regulation (NAR) 2009 is available at the Daily Times website:

- NAR - Nizam-e-Adl Regulation, 2009 (available at Daily Times website)
http://www.dailytimes.com.pk/default.asp?page=2009\04\15\story_15-4-2009_pg7_51

Freedom House notes in its May 2012 report that “[m]ilitants in the tribal areas and parts of KP have reportedly set up their own courts, enforcing a strict interpretation of Islamic law and dispensing harsh penalties with little regard for due process” (Freedom House, May 2012a).

In an article dated August 2012, the Los Angeles Times, a daily newspaper published in the US, provides the following information regarding Pakistan’s tribal justice system:

“Jirgas [meetings convened by elders] are a cornerstone of tribal societies in Pakistan, from the badlands in the country's northwest to the plains of Punjab and Sindh provinces. They decide issues such as property disputes and squabbles over debt, and in regions where conventional courts are not trusted, locals embrace them as a swift means of obtaining justice. Often, however, they serve as vehicles for violence and revenge, and often the victims are women. [...] Pakistani law on jirgas is murky. The country's Supreme Court and other review courts have issued rulings that deem jirgas illegal, but those rulings don't lay out what constitutes a jirga and don't establish penalties for taking part in one. Pakistan's legal code has no specific law banning jirgas. [...] In some parts of Pakistan, jirgas operate as an unsanctioned parallel justice system. Local police tolerate, and even participate in, the meetings.” (Los Angeles Times, 1 August 2012)

The Express Tribune, a Pakistani English-language newspaper, notes in December 2012 that the jirga is a dispute resolution body consisting of tribal elders who make decisions by consensus, and whose rulings cannot be appealed. As further observed by the Express Tribune, “[i]n 2005, the SHC [Sindh High Court] declared all jirgas illegal but the practice continues”. (Express Tribune, 8 December 2012a)

In a report submitted to the UN Human Rights Council (HRC) in August 2012, the government of Pakistan provides the following observations with regard to jirgas:

“Traditional jirgas play an important role in peaceful settlement of small disputes at the village level. There have been cases where the jirgas have overstepped their authority and taken decisions on criminal matters, which do not fall within their mandate. The Government takes punitive action against members of jirgas when these take illegal action or make decision that infringe on human rights. The courts have taken serious notice of these illegal decisions and nullified such verdicts.

In April 2004, Sindh High Court imposed a ban on holding jirgas in the province. In 2008, the Sindh Government issued directives to all District Police Officers to ensure a complete ban on holding illegal jirgas and arresting those involved. Follow-up implementation has had mixed results. Despite the verdict of the Sindh High Court there have been reports of illegal jirgas being held in some parts of the country.” (HRC, 6 August 2012, p. 11)

The USDOS report dated April 2013 (covering events of 2012) gives the following overview with regard to local council meetings, “known as panchayats or jirgas”:

“Informal justice systems lacking the legal protections of institutionalized justice systems continued, especially in rural areas, and often resulted in human rights violations. Feudal landlords and other community leaders in Sindh and Punjab, and tribal leaders in Pashtun and Baloch areas, continued to hold local council meetings (known as panchayats or jirgas), at times in defiance of the established legal system. Such councils settled feuds and imposed tribal penalties on perceived wrongdoers, including fines, imprisonment, or at times the death penalty. Women often were sentenced to violent punishments or death for ‘honor’-related crimes [...]. In Pashtun areas, primarily located in FATA, such councils were held under the outlines of the FCR [Frontier Crimes Regulations]. Assistant political agents, supported by tribal elders of their choosing, are legally responsible for justice in FATA and conduct hearings according to Islamic law and tribal custom.” (USDOS, 19 April 2013, section 1e)

Similarly, Freedom House notes in its report dated May 2012:

“The justice system in the FATA is governed by the Frontier Crimes Regulation, which allows collective punishment for individual crimes and preventive detention of up to three years. It also authorizes tribal leaders to administer justice according to Sharia and tribal custom. [...] Feudal landlords and tribal elders throughout Pakistan adjudicate some disputes and impose punishments—including the death penalty and the forced exchange of brides between tribes—in unsanctioned parallel courts called jirgas. Human rights groups have noted that such jirgas impose hundreds of death sentences each year, the majority on women.” (Freedom House, May 2012a)

1.4.4 Characteristics of the government and state institutions

Corruption

Transparency International’s (TI) Corruption Perceptions Index (CPI) for 2012 places Pakistan at 139th position among 176 countries, with a score of 27. According to TI, a country’s score indicates the perceived level of public sector corruption on a scale from 0 (highly corrupt) to

100 (very clean) (TI, 5 December 2012). In 2011, Pakistan ranked 134th among 183 countries and territories, with a score of 2.5. The scale used in 2011 ranged from 0 (highly corrupt) to 10 (very clean). (TI, 1 December 2011)

The Bertelsmann Foundation notes in 2012 that corruption is “rampant” in Pakistan and that “[c]orrupt practices have accelerated at all levels under the new democratic government”. At the same time, however, “there is a vibrant anti-corruption discourse and although corruption charges have been used by governments and the intelligence agencies to intimidate, blackmail or eliminate political opponents, it is fair to say that the general value of holding politicians accountable has remained strong”. (Bertelsmann Foundation, 2012, p. 9)

Freedom House states in its May 2012 report (covering the year 2011) that “[c]orruption is pervasive at all levels of politics and the bureaucracy, and oversight mechanisms to ensure transparency remain weak” (Freedom House, May 2012a). The April 2013 report by the US Department of State (USDOS) (covering events of 2012) similarly describes corruption in Pakistan as “pervasive in politics and government”, adding that “various politicians and public office holders faced allegations of corruption, including bribery, extortion, cronyism, nepotism, patronage, graft, and embezzlement” (USDOS, 19 April 2013, section 4). The USDOS further notes that “[t]he law provides for criminal penalties for official corruption” but that in practice “the government did not implement the law effectively, and officials frequently engaged in corrupt practices” (USDOS, 19 April 2013, section 4).

Freedom House informs in its above-cited report of May 2012 that the National Accountability Bureau (NAB), an anti-corruption body established in 1999, failed to reopen scores of corruption cases that were closed under the 2007 National Reconciliation Ordinance (NRO) despite the judiciary’s calls to do so:

“Hundreds of politicians, diplomats, and officials, including Zardari, were granted immunity in ongoing corruption cases under the 2007 National Reconciliation Ordinance (NRO). Though the Supreme Court revoked the NRO in December 2009 and upheld this decision in a November 2011 ruling, prosecution of reopened cases remains uneven and ineffective. The National Accountability Bureau (NAB), established in 1999 to combat corruption, has been criticized for failing to act on the judiciary’s calls for it to reopen hundreds of cases. In late 2011, the opposition denounced Zardari’s nomination of an admiral to the post of NAB chairman.” (Freedom House, May 2012a)

The National Accountability Bureau (NAB) and the Supreme Court’s decision to annul the 2007 National Reconciliation Ordinance (NRO) are described by the USDOS as follows:

“The NAB [National Accountability Bureau] serves as the highest-level anticorruption organization, with a mandate to eliminate corruption through awareness, prevention, and enforcement. Government officials forced the former NAB chairman to resign in June 2010 but did not appoint the new NAB chairman, retired admiral Fasih Bokhari, until October 2011.

The 2007 National Reconciliation Ordinance (NRO), promulgated under former president Musharraf, provided an amnesty mechanism for public officials who were accused of corruption, embezzlement, money laundering, murder, and terrorism between January 1, 1986, and October 12, 1999. In 2009 the Supreme Court declared the NRO null and void and reopened all 8,000 cases against those who had received amnesty, including the president, ministers, and parliamentarians. In 2010 the Zardari government filed a review petition challenging the Supreme Court's 2009 decision and requesting its review. In 2011 the Supreme Court dismissed the government's review petition, upholding its earlier decision finding the NRO null and void. In November the government complied with an NRO-related directive instructing it to send a letter to the Swiss authorities seeking mutual legal assistance over alleged illicit funds that had been expatriated from Pakistan. Subsequently, the Supreme Court dismissed its review petition of Prime Minister Raja Pervez Ashraf." (USDOS, 19 April 2013, section 4)

The same source notes with regard to police and judicial corruption and the government's influence on the judiciary:

"Corruption within the lower levels of the police was common. A 2010 survey by Transparency International noted that the major cause of corruption was lack of accountability, followed by low salaries. Some police charged fees to register genuine complaints and accepted money for registering false complaints. Bribes to avoid charges were commonplace. Critics charged that appointments of station house officers were politicized.

Anecdotal reports persisted about corruption in the judicial system, including reports of small-scale facilitation payments requested by court staff. Lower-court judges lacked independence, and superior court judges sometimes pressured them on how to decide a case. Lower courts remained corrupt, inefficient, and subject to pressure from prominent wealthy, religious, and political figures. Government involvement in judicial appointments increased the government's control over the court system." (USDOS, 19 April 2013, section 4)

Human Rights Watch (HRW) states in its annual report for 2012, published January 2013, that "[d]espite the adoption of a National Judicial Policy in 2009, access to justice remained abysmal and courts remained rife with corruption and incompetence" (HRW, 31 January 2013). However, as noted in a December 2012 article by Deutsche Welle (DW), Germany's international broadcaster, "[t]he general perception in Pakistan is that the military and judiciary are not as corrupt as civilian politicians" (DW, 6 December 2012).

In an article dated January 2013, BBC notes that Pakistan's Supreme Court has decided to conduct its own inquiry into the death of Kamran Faisal, an officer who was investigating a corruption case against Prime Minister Raja Pervez Ashraf and was found dead in his hostel's room. The police said that Faisal might have committed suicide, which was rejected by his family. Faisal was involved in investigating accusations that Prime Minister Ashraf took bribes from power firms when he was minister for water and power in 2010. Although the Supreme Court ordered the arrest of the prime minister "along with 15 officials also accused in the so-

called Rental Power Projects case”, he “appears unlikely to be detained soon – the head of the NAB has said that there is not enough evidence to justify such a move”. (BBC, 23 January 2013)

Professionalism of civil service

In the executive summary of a report dated February 2010, the International Crisis Group (ICG) provides the following overview of the problems besetting the country’s civil service:

“Decades of mismanagement, political manipulation and corruption have rendered Pakistan’s civil service incapable of providing effective governance and basic public services. In public perceptions, the country’s 2.4 million civil servants are widely seen as unresponsive and corrupt, and bureaucratic procedures cumbersome and exploitative. Bureaucratic dysfunction and low capacity undermine governance, providing opportunities to the military to subvert the democratic transition and to extremists to destabilise the state. [...]

General Pervez Musharraf’s eight-year military rule left behind a demoralised and inefficient bureaucracy that was used to ensure regime survival. There was a dramatic rise in military encroachments as retired generals were appointed to key civil posts, such as the chairmanship of the Federal Public Service Commission, the premier agency for recruitment and promotions. The military regime’s poorly conceived devolution of power led to further administrative confusion and the breakdown of service delivery at the district level, the key administrative unit of governance. The decision to vest revenue and law and order functions in nazims (mayors), elected indirectly and on a non-party basis, led to greater collusion between unscrupulous district officials and corrupt police.

The civil bureaucracy’s ills, however, predate military rule. Archaic rules and procedures and a rigid hierarchical authority structure have undermined its oversight of a public sector that has expanded considerably since the 1970s. Low salaries, insecure tenure, and obsolete account- ability mechanisms have spawned widespread corruption and impunity. Recruitments, postings and promotions are increasingly made on the basis of personal contacts and political affiliation, instead of on merit.” (ICG, 16 February 2010, p. i)

Mohammad A. Qadeer, Professor Emeritus of Queen’s University, Canada, notes in an article dated January 2013:

“Pakistan’s civil services worked relatively effectively until the 1960s. [...] Public servants began to be rewarded and punished for their willingness to collude with politicians, notables and the military. The deadly blow to the bureaucracy’s professionalism and integrity was given by the Prime Minister Bhutto, who removed the constitutional security of tenure for civil servants. After that the authority to post, transfer or retire began to be used to beat public officials into submission. What he began was completed by the president Zia ul-Haq and Prime ministers Nawaz Sharif and Benazir Bhutto.

President Musharraf packed civil services with military officers at the top, and politicised local administration from the bottom. The erosion of professionalism in public services has

further accelerated in this round of the PPP's rule. Provincial administrations, though weak to begin with, have gone down the same path. Politicians and the military have demoralised the bureaucracy, turning it into a collection of self-serving individuals, instead of an institution based on rules, the hierarchy of authority, accountability and professional ethics." (Qadeer, 9 January 2013)

In an editorial dated March 2012, News International states that Pakistan's civil service is "deeply and profoundly over-politicised", being staffed with state officials who lack independence from the politicians who appoint them. As regards the allocation of civil service positions, the editorial further notes that "[n]epotism has become the basis for appointments and promotion and civil servants are seen transferring public funds to politicians and their political projects". As the Supreme Court has stated, "officials who try to follow rules often face resistance and humiliation by being immediately transferred, disallowed from completing their tenures, made officers on special duty or subjected to baseless proceedings of a disciplinary nature". (News International, 14 March 2012)

In a report dated November 2011, Freedom House notes that "[s]ince Musharraf's resignation civil servants have been recruited via open, impartial, and competitive examinations". At the same time, however, "they remain subject to enormous political pressures". As a case in point, Freedom House states that at the district level, "it is not uncommon to encounter reports of politically motivated bureaucratic postings, transfers, promotions, punishments, and dismissals". (Freedom House, 4 November 2011)

1.4.5 Role of the military in governance

In its annual report for 2012, published January 2013, Human Rights Watch (HRW) notes a "continuing political dominance of the military, which operates with almost complete impunity" (HRW, 31 January 2013). Similarly, Freedom House indicates in its May 2012 report (covering 2011) that "the military continues to exercise de facto control over many areas of government policy" (Freedom House, May 2012a). The same source further details:

"The military has a stake in continuing to influence both commercial and political decision-making processes, in addition to its traditional dominance of foreign policy and security issues. Serving and retired officers have received top jobs in ministries, state-run corporations, and universities, and they enjoy a range of other privileges. Although several thousand active-duty officers were withdrawn from civilian posts in 2008, a tenth of all civilian jobs remain reserved for officers." (Freedom House, May 2012a)

As regards the role of the military, the Congressional Research Service (CRS) notes in February 2013 that although "[t]he 2008 NA [National Assembly] elections (along with Musharraf's 2008 resignation) restored civilian governance after a decade-long hiatus", Pakistan's military "continues to wield considerable influence over the country's foreign and national security policies" (CRS, 19 February 2013).

The following information is provided by the Asian Human Rights Commission (AHRC) in its annual report for 2011, published February 2012:

"Pakistani society and the government remain under the strong hold of the military which does not allow them to interfere in the affairs of the armed forces. Pakistan remains a highly militarized society where economic, political, foreign affairs and judicial policies are dictated by the military. The laws for the benefits of women, religious minorities and against the torture and enforced disappearances cannot be made redundant and the decisions of the parliament are occasionally reverted through the judiciary on the behest of the military." (AHRC, February 2012, p. 2)

Malik Siraj Akbar, the editor of the Baloch Hal, Balochistan's first online English-language newspaper, and a contributing writer for the US online newspaper The Huffington Post, comments as follows on the role the military is playing in Pakistan:

"Unlike most democratic countries of the world, the army in Pakistan in reality is not under the control of the civilian government. The military closely scrutinizes the performance of the elected government and makes sure that the civilian authorities do not question or undermine the economic interests and political power of the army. Also, the army continuously tries to make sure that it remains absolutely immune to any kind of criticism, allegations and accountability for any reasons. Over the years, the military, with the help of the right-wing political parties and the media, has developed a state narrative that depicts the army as the most disciplined organization in the country." (Akbar, 4 February 2013)

Unlike the other sources listed above, a January 2013 article from the English-language section of the German news website Spiegel Online mentions that since the end of General Pervez Musharraf's military dictatorship, "the military's influence has diminished palpably", although adding that it continues to interfere in political and economic spheres:

"[...] the current situation is very much to the taste of a military that has lost both influence and standing since the end of General Pervez Musharraf's military dictatorship five years ago. [...] For decades, the military had been indisputably the most powerful force in the country. It was far more than an institution that could defend the country. The armed forces interfered with politics and had installed the country's leader for half of Pakistan's history. They controlled large swathes of the economy influenced most important decisions made in the country – from the appointment of important diplomatic posts to the operations of the state owned airline PIA. That remains true today, but the military's influence has diminished palpably. In addition, the current government has decided that only it and the opposition have a say in the creation of any transition government that has to be created under the constitution if a government collapses prior to an election. The military, which until now has had a say on this issue, no longer does." (Spiegel Online, 15 January 2013)

Reuters news agency reports that in October 2012, "[i]n a rare challenge to Pakistan's powerful generals", Chief Supreme Court Judge Iftikhar Chaudhry said military intelligence agencies must stay out of politics. As noted by Reuters, "Pakistan's government has little sway over generals":

"In a rare challenge to Pakistan's powerful generals, the country's Supreme Court ruled on Friday that the military should stop interfering in politics. In connection with a case dating back to 1996 in which a retired air marshal filed a petition against the army for sponsoring a political alliance, Chief Supreme Court Judge Iftikhar Chaudhry said military intelligence agencies must stay away from politics. [...] Pakistan's government has little sway over generals. The military is one of the biggest in the world and has vast financial might, to the tune of an \$11 billion, according to some estimates. The ISI [Inter-Services Intelligence] has been described as a state within a state and is believed to have vast influence over politicians." (Reuters, 19 October 2012)

Several media sources indicate that the military has declared it had no intention to interfere in the upcoming general elections (Dawn, 28 February 2013; UPI, 28 February 2013; Nation, 28 February 2013). According to a March 2013 article by South Asia analyst Shamila Chaudhary, there is no "clear path for significant military poll rigging, especially with a newly independent and neutral Election Commission". However, as she further argues, it can be assumed that "the military, like other stakeholders and constituents, is watching the elections process closely, assessing ways it can exert its influence and preserve its interests in the next government". (Chaudhary, 7 March 2013)

1.5 Overview of current socio-economic issues

1.5.1 Rising fuel and food prices, electricity shortages, unemployment

Rising fuel and food prices

As noted by the World Food Programme (WFP) in its October 2012 Global Food Security Update, "[t]here is an overall continued trend of rise in fuel prices which are 25 percent higher than a year ago, increasing transportation costs and thus putting pressure on food prices" (WFP, October 2012, p. 11). Dawn newspaper indicates that in March 2013, the main opposition parties Muttahida Qaumi Movement (MQM) and Pakistan Muslim League-Nawaz (PML-N) staged a walkout from National Assembly to protest against the increase of about four percent in the prices of petrol and petroleum products for March 2013 (Dawn, 1 March 2013). MQM lawmaker Asif Hasnain said the Oil and Gas Regulatory Authority (OGRA) "had once again increased the petroleum prices without mandatory consultation with the parliamentary committee formed for the purpose" (Pakistan Observer, 2 March 2013).

In its February 2013 Global Food Security Update, the WFP notes "a continuing trend to increasing food prices", which is affecting the food security situation of the poorer sectors of the population:

"At the national level, a continuing trend to increasing food prices is hampering poor populations' food access. The prices of main staple cereals have reached an all-time high; the prices of wheat and wheat flour in December 2012 were 12 and 10 percent higher compared to June. The wage-to-wheat terms of trade have deteriorated as wheat prices have increased and wage rates have remained almost stagnant. The food security situation of the poor is likely to deteriorate further in the next months, as food prices are

expected to continue rising. The next main harvest of wheat, Pakistan's main staple, is expected in April; food prices will therefore rise during this lean period. Furthermore, the government has increased the wheat support price from PKR 1,050 to PKR 1,250 per kg in November, making shortterm price rises likely during the lean season." (WFP, February 2013, p. 9)

Researchers Jon Lunn and Gavin Thompson state in a December 2012 report:

"Much of Pakistan's population is vulnerable to food fluctuations, such as the spike that occurred in 2008, and to natural disasters, such as the floods of recent years. Incidents of civil unrest – 2009 saw food riots, a stampede in Karachi to access free sacks of rice in which 20 women and girls were crushed to death, and a suicide bombing at the offices of the World Food Programme – highlight this vulnerability to food shortages and price fluctuations, and throw the links between food security and political security into high relief. Although wheat flour and rice prices are currently trending slightly downwards, they remain 59% higher than their five-year average." (Lunn/Thompson, 6 December 2012, p. 43)

A September 2012 article by Dawn argues that although Pakistan has witnessed a "sharp increase in food items prices" during the last four-and-a-half years, the federal or provincial governments failed to evolve "any effective price checking campaigns":

"A sharp increase in food items prices was witnessed during the last four-and-a-half years of the Pakistan People's Party government, and in the absence of any effective price checking campaigns by the federal or provincial and local governments, multinational and local companies continued to enjoy monopoly over prices. According to an expert, one cannot deny the negative impact of exchange rate parity, demand and supply gap, high world food prices, change in local taxes and import duties, but the government hardly took any practical measures to ascertain whether the price hike was artificial or genuine. Karachi Wholesalers Grocers Association chairman Anis Majeed said that no serious attempt was made to stop the price hike. Rupee-dollar impact and increase in petroleum prices, coupled with high power and gas rates, made an adverse impact on prices, he added. The government remained busy in other issues and did not take the price issue seriously." (Dawn, 26 September 2012)

In February 2013, however, News International notes that the federal government has finalised a draft of the National Food and Nutrition Security Policy (NFNS) to tackle food insecurity, sparked by rising food prices:

"The PPP-led coalition government has finally formulated a draft of the National Food and Nutrition Security Policy (NFNS) to counter food insecurity in the country where millions of people have limited access to food due to its high prices. Although a plenty of food is available in the market, its spiraling prices keep millions of people deprived, resultantly causing malnutrition among them, official sources said Wednesday.

In Pakistan, food inflation has been in double-digit for the last several years that according to economists is directly linked to food insecurity, especially in poor and underprivileged

areas. Secretary Ministry of National Food Security and Research Ahmed Bakhsh Lehri said in a consultation workshop held on this policy, 'Core objective of the policy is to reduce the current food insecurity situation by 50 percent by 2030 and to bring down the poverty and food insecurity to zero level by 2050.' [...]

According to the World Food Programme's last year estimates, about half of the country's population had limited access to food. In 2009, about 48 percent of Pakistani population was food insecure and a further 22 percent 'extremely food insecure.'" (News International, 21 February 2013)

Electricity shortages

The December 2012 report by researcher Jon Lunn and Gavin Thompson comprises the following observations with regard to electricity shortages in Pakistan:

"62% of Pakistanis have access to electricity, although those that do face chronic shortages. In the face of rising consumer demand, the problem of load-shedding (planned power cuts) has intensified in recent years and an unreliable supply remains a major obstacle to economic growth and competitiveness. In the summer of 2012, cuts of up to 20 hours per day led to street protests in Peshawar, Jhelum and Lahore.

Pakistan is not short of generation capacity. The problem of electricity shortages arises largely from the way distribution is subsidised and managed. Like India, Pakistan's government subsidises the cost of electricity by paying distribution companies the difference between the cost of production and the intended price. The fiscal burden of maintaining a subsidy for all end consumers has become substantial. The PPP-led Government has struggled to keep up with its pledges to make subsidy payments, which in turn has left distributors in arrears to suppliers. The upshot has been that the complex network of government-managed and private energy suppliers, generators and distributors has become weighed down by intra-corporate debt.

The problem is compounded by theft from the grid, with the collusion of public sector distribution workers, which is believed to be widespread (some companies report line losses of 30%-40%); indeed, in certain areas – notably the FATA – distribution and revenue collection remains under the control of organised crime gangs." (Lunn/Thompson, 6 December 2012, p. 46)

Arab News, an English-language daily newspaper published in Saudi Arabia, notes that the amount of energy produced in Pakistan is not sufficient to satisfy the domestic energy requirements, due to which Pakistanis are facing loadshedding problems and "have to adapt their daily schedules accordingly":

"On a national level, Pakistan generates an estimated 8,500 megawatts of electricity against a demand of 13,000 megawatts on a daily basis. The power deficit leads to long spells of loadshedding, forcing people to adapt their daily schedules accordingly. Over the years, the infrastructure has crumbled due to underinvestment and mismanagement. As around 20 different provincial and federal bodies manage the power business in Pakistan,

there is no coherent strategy and long-term planning in the energy sector.” (Arab News, 4 March 2013)

In a report dated October 2012, the Congressional Research Service (CRS) informs that “less than half of Pakistanis have access to modern energy services”, while adding that “the energy infrastructure is so overburdened that chronic electricity shortages result in rolling blackouts lasting 10 or more hours per day, even in vital business centers such as Karachi” (CRS, 4 October 2012, p. 2). Agence France-Presse (AFP) news agency notes in August 2012 that power blackouts have reached a peak, reportedly lasting up to 16 hours a day in urban areas and 22 hours a day in the countryside (AFP, 8 August 2012).

In an article dated 25 August 2012, News International cites Canada-based Certified Public Accountant Asif Ali Shahid as saying that “Punjab has frequent power and gas outages whereas Sindh is an energy-rich province and its industrial sector, based mostly in Karachi, faces nominal power cuts” (News International, 25 August 2012).

Amnesty International (AI) reports in its annual report for 2011, published in May 2012, that nationalist groups in Balochistan claimed responsibility for attacks on gas and electricity infrastructure which led to “severe energy shortages” in the province (AI, 24 May 2012).

BBC reports that on 24 February 2013, the country’s power supply network collapsed after a major power plant in Balochistan province developed a technical fault and led to massive outages. The blackout affected cities included Islamabad, Lahore, Peshawar and Rawalpindi. As noted by BBC, “[p]ower cuts are common in Pakistan, but a nationwide failure is rare”. (BBC, 25 February 2013)

Unemployment

According to CIA’s World Factbook (last updated 16 April 2013), the official level of unemployment is below six percent, “but this fails to capture the true picture, because much of the economy is informal and underemployment remains high” (CIA, last updated 16 April 2013).

In an article dated August 2012, the Express Tribune cites the president of Pakistan Economy Watch (PEW), an independent forum on the world economy with a special focus on Pakistan, as saying that “the country’s unemployment rate has risen to 6%” in 2012 “due to government’s failure to focus on growth-oriented policy”:

“The PEW [Pakistan Economy Watch] President Dr Murtaza Mughal said in a statement on Friday that the employment to population ratio has registered a nominal rise to 50.4% from 46.8% over the past ten years. However at the same time, anxiety is still relatively high as the employment rate is almost 80% for men. Mughal said that the country’s unemployment rate had risen to 6% percent this year. Pakistan has seen very low labour productivity over the last decade and low growth in labour productivity has not gone hand in hand with the rising labour force and employment growth, he said. Mughal said

that due to government's failure to focus on growth-oriented policy; unemployment has witnessed an upward trend in the country." (Express Tribune, 25 August 2012)

As regards the employment situation, the Human Rights Commission of Pakistan (HRCP) notes in its annual report for 2012:

"According to these surveys [Labour Force Survey (LFS) and Pakistan Integrated Household Survey (PIHS)], the total labour force in Pakistan in 2012 was 58 million. This number grows by around 3 percent every year. According to the latest World Bank Development Report, the wage employees were 37.1 percent of the Pakistani workforce, the self-employed constituted 23.1 percent and the farmers 39.8 percent of the workforce. The rate of unemployment increased to 6 percent in 2010-11, according to the Bureau of Statistics. This percentage includes a large number of women who suffer due to lack of employment opportunities and cultural barriers. Out of the total women of working age in Pakistan, only 28 percent are active workers, a majority of whom are employed as domestic help.

Unemployment was rampant as industries continued to shut down because of a difficult economic environment and energy shortages. The United Nation report on World Economic Situation and Prospects 2012 stated that new jobs were not created in the country due to long standing structural problems as well as security concerns and low investment. According to the World Bank, the top three reasons for joblessness in Pakistan were shortage of electricity, bad governance and political instability. Labour supply was also constrained by skills mismatch, malnutrition and low female participation. There were no statistics available on underemployment in Pakistan which was bound to be high due to a lack of jobs in the market." (HRCP, March 2013, pp. 199-200)

In its annual report for 2011, the same source states that "[a]ccording to media monitoring by HRCP, at least 299 people committed suicide and another 126 unsuccessfully attempted to end their own life in 2011 over financial problems and unemployment" (HRCP, March 2012, p. 192).

In an article dated August 2012, the Associated Press of Pakistan (APP), a government-operated national news agency, notes with regard to the geographic distribution of unemployment rates in Pakistan:

"The unemployment rate in Punjab is highest as compared to other provinces while in Khyber-Pakhtunkhwa (KPK) a fall in unemployment has been observed. According to an Statistics Division official the number of unemployed people in Sindh has increased from 0.44 million in 2008-09 to 0.70 million in 2010-11 and in Baluchistan [today's Balochistan] number of unemployed people increased from 0.06 million in 2008-09 to 0.07 million in 2010-11. In the Punjab unemployed persons in 2008-09 were 1.79 million but in 2010-11 the figure reached 2.10 million. The official said in rural areas unemployment rate has decreased from 4.8 percent in 2009-10 to 4.7 percent in 2010-11 due to supportive policies of government. To a question, he said unemployment rate in urban areas has increased from 7.2 percent in 2009-10 to 8.8 percent in 2010-11." (APP, 11 August 2012)

2 Main political developments since January 2010

2.1 Current political landscape

In a report published March 2013, the Washington, D.C.-based public policy research and advocacy organisation Center for American Progress provides the following statements regarding major shifts in Pakistan's political and economic system since the end of President Musharraf's rule in 2008:

"Structurally, Pakistan has moved from a centralized military-led regime toward a more pluralistic and federalist setup, partially devolving powers and responsibilities to provincial governments that have limited experience responding to the practical demands of their constituents on such a scale. Growth in the formal economy has stalled over the past five years under the weight of breakdowns in the energy sector, three successive years of disruptive floods, and chronic government deficits. But at the same time, a decades-long ongoing process of migration and urbanization, compounded by a new media landscape and the restoration of democratic politics, has opened the door to emergent interest group coalitions and reduced their barriers to entry into the political process.

Several populist political movements – and, at the extreme end of the spectrum, domestic militant groups – have challenged both the government and established opposition parties over the past five years. Overt conflicts between military and civilian authorities have generally been restrained, as [Chief of Army Staff] Gen. Kayani has maintained a focus on repairing damage done to its public image under the Musharraf era and protecting military institutional prerogatives, and the current government has ceded the army an effective veto over most areas of foreign and defense policy. Pakistan has also seen a major new effort by the judiciary to assert its independence from and authority over the branches of government, potentially creating a new institutional check on other actors within the system." (Center for American Progress, March 2013, p. 4)

Agence France-Presse (AFP) news agency reports in an article dated mid-March 2013 that Pakistan's parliament has completed its first full five-year term in office in the country's history, but that key achievements "which rolled back decades of meddling by military rulers" were accompanied by "staggering economic decline and worsening security":

"Pakistan's parliament made history Thursday by becoming the first in the country's history to complete a full term in office, dissolving in a low-key session that paves the way for elections. The nuclear-armed country of 180 million, where Taliban attacks and record levels of violence directed against the Shia Muslim minority has raised fears about security for the polls, is now due to elect new leaders by mid-May. [...] The dissolution of the national assembly is a milestone in Pakistan, where the military has seized power three times in coups and ruled for around half the country's existence. Analysts attribute the success to Zardari's wheeler-dealer ability to keep the coalition intact, the army chief of staff's determination to keep out of politics and the opposition's unwillingness to force early elections. But despite passing key legislation, which rolled back decades of meddling by military rulers, the parliament has presided over staggering economic decline and worsening security over the last five years." (AFP, 14 March 2013)

The New York Times (NYT) notes in mid-March 2013 that Pakistan has reached a “milestone”, with the government stepping down at the end of its five-year term and setting the stage for elections:

“Pakistan’s fragile democracy reached a milestone on Saturday when the government stepped down at the end of its five-year term, setting the stage for elections due to take place by mid-May. The action was a first in a country where the powerful military has regularly ousted civilian governments, either directly through coups or indirectly through constitutional maneuvers, and it offered hope that the parliamentary system was maturing. Still, a faltering economy and widespread militant violence have left many Pakistanis grumbling about the lack of tangible dividends from democracy, and the governing Pakistan Peoples Party, whose performance has been widely criticized, will face a strong challenge from the opposition leader, the former Prime Minister Nawaz Sharif. [...]

Recent polls indicate that the party of Mr. Sharif, who was ousted in a military coup in 1999, is the favorite to win the vote. A Gallup poll in February gave his party 27 percent support, with the Pakistan Peoples Party running a distant second. Since analysts say he is unlikely to muster an outright majority, a range of ethnic, regional and religious parties could hold the balance of power in determining a coalition government.” (NYT, 16 March 2013)

A March 2013 Q&A by the Washington, D.C.-based foreign policy think tank Center for Strategic and International Studies (CSIS) identifies the Pakistan People’s Party (PPP), the Pakistan Muslim League-Nawaz (PML-N) and the Pakistan Tehreek-e-Insaf (PTI) as the three main contenders in the May 2013 elections (CSIS, 20 March 2013).

For further information on the May 2013 general elections and events related to it, please refer to section 2.2.4 of this compilation.

As observed in the above-cited March 2013 report by the Center for American Progress, the May 2013 elections “also closely coincide with the scheduled expiration this year of the terms in office for Gen. Kayani, whose tenure was extended for an extra three years by President Zardari in July 2010; President Zardari, whose five-year term concludes in September but who could be potentially reelected by a new parliament; and Chief Justice Chaudhry, whose term lasts until December.” (Center for American Progress, March 2013, p. 2)

An April 2013 article by Radio Free Europe/Radio Liberty (RFE/RL) notes that former military ruler Pervez Musharraf, who had returned to Pakistan from self-imposed exile, was barred from contesting general elections in the country and “now faces a long list of potential charges he had avoided while abroad”:

“Former military ruler General Pervez Musharraf was officially taken out of the running for the country’s upcoming general elections on April 16, when an appeals court rejected his candidacy in a remote northwest district. Musharraf returned to Pakistan last month from self-imposed exile abroad with hopes of saving Pakistan from economic and political

ruin. The former president's strategy involved entering his name in four constituencies in the hope that he could win one, enter parliament, and put himself in a position to become prime minister. Earlier this week he was disqualified from running in Islamabad, Karachi, and the Kasur district of the eastern Punjab Province. His nomination was initially accepted in the Chitral constituency in Khyber Pakhtunkhwa Province, where as president from 2001 to 2008 he had traveled and launched development projects. But, on April 16, the Peshawar High Court's election tribunal ruled in favor of an appeal against his candidacy in Chitral. Musharraf's lawyer has said the decision will be appealed to the Supreme Court. In each case, his candidacy was ultimately denied in relation to his dismissal of senior judges and the imposition of emergency rule in 2007, which was deemed unconstitutional. Musharraf now faces a long list of potential charges he had avoided while abroad, including accusations of murder and treason." (RFE/RL, 16 April 2013)

Media sources indicate that on 26 April 2013, a Pakistani court ordered a three-day house arrest on Musharraf over the assassination of former Prime Minister Benazir Bhutto. He faces allegations of failing to provide adequate security to Bhutto. Musharraf is already under house arrest on charges stemming from his firing of judges when he imposed emergency rule in November 2007. That remand order is set to expire in early May 2013. (cf. BBC, 26 April 2013; VOA, 26 April 2013)

2.2 Overview of major political developments since January 2010

2.2.1 Judicial ousting of Prime Minister Yusuf Raza Gilani

On 26 April 2012, then Prime Minister Yusuf Raza Gilani of the Pakistan People's Party (PPP) was found guilty of contempt of court for refusing to ask Swiss authorities to reopen a corruption case against President and PPP co-leader Asif Ali Zardari (CSIS, 26 June 2012), but was given a mere symbolic prison sentence allowing him to walk free a few minutes later (EIU, 26 June 2012). As reported by the Economist Intelligence Unit (EIU), Gilani explained his refusal to comply with the Supreme Court's order by contending that Zardari enjoyed immunity while in office (EIU, 26 June 2012).

Elaborating on the factual and legal background to the case, the same source provides the following information:

"A number of years ago Mr Zardari and his wife, Benazir Bhutto, a former prime minister, were found guilty of money-laundering by a magistrate in Switzerland. The conviction was subsequently set aside by Swiss authorities following the passage of the National Reconciliation Ordinance (NRO) in Pakistan in 2007, which extended an amnesty to politicians in corruption cases. In 2009 the Supreme Court declared the NRO unconstitutional and subsequently ordered Mr Gilani to write to the Swiss authorities to request that they reopen the case against Mr Zardari (Ms Bhutto having been assassinated in 2007)." (EIU, 26 June 2012)

On 24 May 2012, then speaker of the National Assembly and PPP member Fahmida Mirza ruled that Gilani's conviction did not merit disqualification from legislature membership "and, by extension, his position as prime minister" (CSIS, 26 June 2012). As noted by CNN,

"[a]ccording to Pakistan's constitution, Speaker Fahmida Mirza had 30 days from the day of the verdict to ask the Election Commission to pursue disqualification proceedings if she viewed Gilani's conviction as cause for dismissal" (CNN, 24 May 2012). Members of opposition parties filed petitions against Mirza's ruling (CAP, 21 June 2012; CSIS, 26 June 2012), "which led to a reopening of the issue of Gilani's legitimacy" (CSIS, 26 June 2012). Finally, on 19 June 2012, a three-member bench of the Supreme Court hearing the petitions disqualified Gilani as a member of the National Assembly with effect from 26 April 2012 (Dawn, 19 June 2012) and declared that "Gilani had effectively not been prime minister" since his April 2012 conviction (Guardian, 19 June 2012). The court's ruling prevents Gilani from contesting elections and holding any public office for five years (Dawn, 2 February 2013). As noted in a June 2012 article by Deutsche Welle (DW), "[d]espite its reservations against the verdict, the PPP has accepted the court's ruling" (DW, 20 June 2012).

According to the EIU, the disqualification from office of Prime Minister Yusuf Raza Gilani was the culminating point of a "long-running battle between the ruling Pakistan People's Party (PPP) and the Supreme Court" (EIU, 26 June 2012). In a June 2012 article for the weekly news magazine Time, journalist Omar Waraich notes that "to many observers, the Supreme Court's decision was controversial" and "stood out as the latest in a series of interruptions of the democratic process by unelected and unaccountable institutions" (Time, 19 June 2012). The above-cited June 2012 article by Deutsche Welle (DW) states the following with regard to the court's ruling, which it refers to as "controversial":

"At the heart of Tuesday's verdict is Supreme Court's Chief Justice Iftikhar Muhammad Chaudhry, who is popular in Pakistan for taking up high-profile cases involving politicians and military generals. The court's actions are a significant turnaround in the Pakistani domestic politics. For much of Pakistan's history, courts have been pliant to the army's demands and validated three military coups against civilian prime ministers. [...] But many people in Pakistan view the current predicament as a clash of institutions – these being predominantly the judiciary and the parliament." (DW, 20 June 2012)

Several media sources indicate that on 15 March 2013, Gilani filed an appeal in the Supreme Court against his April 2012 conviction for contempt of court (Daily Times, 16 March 2013; Express Tribune, 16 March 2013b; Nation, 16 March 2013). In February 2013, Gilani had filed a review petition against his disqualification, but was advised by the Supreme Court to first challenge the conviction that led to his disqualification (Express Tribune, 14 March 2013).

2.2.2 Actions (in Aid of Civil Power) Regulations (AACPR)

In the executive summary of a report dated January 2013, the International Crisis Group (ICG) informs that "[i]n August 2011, President Asif Ali Zardari promulgated the Actions (in Aid of Civil Power) Regulation 2011 (AACP) for PATA [Provincially Administered Tribal Areas] and FATA [Federally Administered Tribal Areas], vesting the military with virtually unchecked powers of arrest and detention and further undermining fundamental rights and the rule of law" (ICG, 15 January 2013, p. ii). In an earlier report (dated October 2012), the same source states that, "pressured by the military", President Zardari promulgated the AACPR in June 2011 (ICG, 9 October 2012, p. 18).

Regarding the content of the regulations, the October 2012 report by ICG observes:

"These give the army exceedingly broad powers. Troops were authorised to detain any person in the notified area on grounds as vague as obstructing actions in aid of civil power 'in any manner whatsoever'; strengthening the 'miscreants' ability to resist the armed forces or 'any law enforcement agency'; undertaking 'any action or attempt' that 'may cause a threat to the solidarity, integrity or security of Pakistan'; and committing or being 'likely to commit any offence under the regulation'. They also provide the federal and provincial governments or 'any person' authorised by them with sweeping powers of indefinite detention. Retroactively applicable to 1 February 2008, they provide legal cover to the military's gross human rights and other abuses, including illegal detention of hundreds of suspects. The regulations will further legally isolate the tribal belt, as well as PATA." (ICG, 9 October 2012, p. 18)

As noted by Dawn in an article dated July 2011, "actions in aid of civil power" are defined as "series of measures that involve the mobilization of armed forces, in aid of civil power or their requisition by the federal government, including measures such as armed action, mobilisation, stationing etc till such time they are withdrawn by the written order of the government" (Dawn, 13 July 2011).

The same source states that the regulations "empower the [interning] authority to set up notified internment centres" and "give a set of offences, which are punishable by death penalty or imprisonment for life or up to 10 years along with fine and forfeiture of property". At the same time, the AACPR provides for the appointment of an "oversight board comprising two civilians and two military officers to review cases of each person interned within a period of time not exceeding 120 days, from the issuance of the order of internment" (Dawn, 13 July 2011). Amnesty International (AI), however, states in a report dated December 2012 and based on interviews with victims of human rights abuses, witnesses, lawyers, and representatives of the Pakistani authorities and armed groups in the tribal areas that it "has been unable to find any confirmation that the Oversight Board has been established or that it has examined any allegations of torture or other ill-treatment against detainees, reflecting the generally unaccountable and inaccessible nature of the detention regime under the AACPR" (AI, 13 December 2012, p. 22).

The UN Working Group on Enforced or Involuntary Disappearances, in a report on its mission to Pakistan in September 2012, published by the UN Human Rights Council (HRC) in February 2013, provides the following summary of key provisions of the regulations:

"Regulations to provide for Actions in aid of civil power (AACP) in the Federally Administered Tribal Areas (FATA) and in the Provincially Administered Tribal Areas (PATA) are intended to address the 'grave and unprecedented threat to the territorial integrity of Pakistan by miscreants and foreign funded elements' (second preambular paragraph). It allows the federal Government to requisite the armed forces in respect of any defined area to carry out actions in aid of civil power (sect. 3). It is difficult to assess whether these regulations were conceived to apply specifically to a zone of conflict. It is clear, however, that the regulations take up some of the principles of international humanitarian

law and of human rights law: it imposes the armed forces to take 'feasible precautions' (sect. 4) and prohibits the use of torture or inhuman or degrading treatment (sect. 15). At the same time, it allows the Governor of the Province to issue an order of internment on the basis of a mere security threat. Only after 120 days does the 'interning Authority' have the obligation to notify the internment to an oversight board comprising two civilians and two members of the military (sect. 14, para. 1). The board is then to periodically review the conditions of internment centres and recommend suitable action for the consideration of the provincial Government (sect. 14, para. 2). The board is also in charge of protecting the human rights of internees and, in particular, to take notice of any complaint or information with regard to any degrading treatment or torture against an internee, with the possibility of recommending 'suitable departmental action against the official concerned'." (HRC, 26 February 2013, pp. 7-8)

In its December 2012 report cited above, AI comments on the AACPR as follows:

"In respect of the Armed Forces at least, the AACPR in FATA effectively renders almost meaningless any of the minimal safeguards included in the FCR Amendment Regulations 2011, and represents a new legal framework for the Armed Forces in PATA that appears designed to circumvent human rights protections contained in the Constitution." (AI, 13 December 2012, p. 39)

In its annual report on human rights in 2012, the US Department of State (USDOS) notes that critics have condemned the AACPR as a violation of the constitution, while others have argued that "the regulation establishes a legal framework where none previously existed":

"The Actions in Aid of Civil Power Regulation 2011, which came into force in June 2011, grants wide powers to the military. The regulation allegedly responded to the need for a permanent federal statute to regulate the armed forces and give them legal authority to handle detainees under civilian supervision when called upon by the government. Retroactive to 2008, the regulation empowers the KP governor in FATA and the KP government in PATA to direct the armed forces to intern suspected terrorists. Critics stated that the regulation violated the constitution because, among other things, it empowers the armed forces to occupy property, makes statements or depositions by military officers sufficient to convict an accused, and makes all evidence collected, received, or prepared by the interning authority admissible and dispositive of guilt. Others noted that the regulation establishes a legal framework where none previously existed, prohibits the abuse or misuse of force by the military, and allows for more transparent treatment of detainees by requiring registration upon apprehension and providing a legal process for transfer of detainees from military to civilian authorities for prosecution. It also creates an appeals process for detainees and their relatives and, importantly, limits the powers of the armed forces in administering the regulation. Reports in November and December 2011 indicated that transfers of detainees had begun." (USDOS, 19 April 2013, section 1d)

In a February 2012 article for the Tokyo-based current affairs magazine *Diplomat*, Sikander Shah, legal fellow at the Institute for Social Policy and Understanding (ISPU) and Assistant

Professor of Law and Policy at Lahore University of Management Sciences (LUMS), refers to the AACPR as follows:

“There are some upsides to the regulations, on the surface at least. For a start, they direct the military to protect civilians wherever possible and to use force proportionally. They also prohibit torture and other ‘inhuman and degrading treatment.’ Proponents of the law argue, therefore, that this will bring about some transparency and accountability to military campaigns. However, fears that the regulations will allow the military to act with impunity under the garb of lawful sanction are gradually proving well-founded. Already, numerous cases have surfaced in which individuals have been abducted under the ambit of this legislation, and their whereabouts – and indeed the location of the detentions centers where they are held – aren’t known.” (Diplomat, 28 February 2012)

The full text of the Actions (in Aid of Civil Power) Regulation (AACPR) for FATA and PATA is accessible via the following links:

- Regulation to Provide for Actions in Aid of Civil Power in the Federally Administered Tribal Areas, 27 June 2011a (available at slideshare.net)
<http://de.slideshare.net/fatanews/fata-actions-in-aid-of-civil-power-2011-0627-june>
- Regulation to Provide for Actions in Aid of Civil Power in the Provincially Administered Tribal Areas, 27 June 2011b (available at slideshare.net)
<http://de.slideshare.net/fatanews/pata-actions-in-aid-of-civil-power-2011-0627-june>

2.2.3 Taxation and plans to reduce tax evasions

In an article dated February 2013, CNN reports that Pakistan “has no fewer than 37 government agencies levying more than 70 unique taxes on various goods and services”. The Federal Board of Revenue (FBR) is the “main tax collection agency”. (CNN, 11 February 2013)

A December 2012 article by NPR, a US-based non-profit media organisation, describes tax evasion as “a chronic problem in Pakistan”, adding that “only about 2 percent of the population is registered in the tax system” and that “the government collects just 9 percent of the country’s wealth in taxes, one of the lowest rates in the world” (NPR, 19 December 2012). Similarly, the executive summary of a December 2012 report jointly published by the Centre for Investigative Reporting in Pakistan (CIRP) and the Centre for Peace and Development Initiatives (CPDI) states that Pakistan “is characterized as having the lowest tax to GDP ratio not only among the peer countries but also in the region”, with the ratio varying “between 8.5 and 9 percent in recent years” (CIRP/CPDI, December 2012, p. 9). As reported by Dawn in November 2012, less than one percent of Pakistan’s population pays income tax and “no one is believed to have been prosecuted for tax evasion in 25 years” (Dawn, 5 November 2012).

In an article dated July 2012, the Daily Times notes that the Finance Act 2012 [which has been issued on 27 June 2012 (KPMG, 25 July 2012, p. 1)] has introduced new slab rates for tax on salary, which are as follows:

“If the income amounts from Rs 0 to 400,000, the payable tax will be zero percent. Where income ranges from Rs 400,000 to Rs 750,000 the rate of tax will be 5.0 percent of the amount exceeding Rs 400,000. Where income starts from Rs 750,000 and goes up

to Rs 1.5 million the tax payable will be Rs 17,500 plus 10 percent of the amount exceeding Rs 750,000. Where income stands at Rs 1.5 million and goes up to Rs 2.0 million the rate of tax will be Rs 95,000 plus 15 percent of the amount exceeding Rs 1.5 million. Where income amounts to Rs 2.0 million and goes up to Rs 2.5 million the tax payable will be Rs 175,000 plus 17.5 percent of the amount exceeding Rs 2.0 million. Where income amount to Rs 2.5 million and above the tax payable will be Rs 420,000 plus 20 percent of the amount exceeding Rs 2.5 million." (Daily Times, 29 July 2012)

In an article dated February 2013, the Frontier Post, an English-language newspaper based in Peshawar, cites FBR Chief Ali Arshad Hakeem as saying that tax revenue from personal income taxes has declined since early 2000:

"Ali Arshad Hakeem said that about 7.7 per cent of the country workforce—approximately 4.5 million—earned enough money to pay the income tax during fiscal year 2011 when the minimum taxable income was Rs 300,000 per year. He said 92.2 per cent of the country's labour force does not make enough money to pay income tax under existing income tax regime. FBR Chief said that out of 1,021,669 tax return filers in 2011, 394,169 paid an income tax less than Rs 10,000. He said country's tax yield from individuals income tax is inadequately low compared to other countries and has been on the decline since early 2000." (Frontier Post, 18 February 2013)

Based on information from the FBR and lawmakers themselves, the above-cited December 2012 report by CIRP and CPDI reveals that only 49 of the 104 Senators paid income tax in 2011, while only 90 of the 341 members of the National Assembly filed their tax returns during the same period. The report also finds that only 20 ministers of the 55-member federal cabinet filed their tax returns in 2011. (CIRP/CPDI, December 2012, p. 10)

In an article dated January 2013, The Nation, a Lahore-based English-language newspaper, reports that on 17 December 2012, the government has submitted "The Tax Laws (Amendment) Bill, 2012" to the National Assembly, introducing a tax amnesty scheme "that would allow evaders to whiten their black money and assets at home and abroad within three months against a nominal one-time charge to generate Rs 100 billion". Further elaborating on the proposed tax amnesty scheme, the article adds:

"The FBR has identified 2.9 million tax-evaders that would be brought under tax net by paying taxes by availing the tax amnesty scheme. Among 2.9 million, 2.7 million people would be given an option to come under the tax net by paying Rs 40,000 in the first month of scheme by declaring their hidden income/assets of up to Rs 5 million. They will have to pay Rs 50,000 in the second month and Rs 70,000 in the third month of the scheme to avail the facility. If the amount of undeclared income/assets/expenditures exceeds Rs 5 million, tax rate for the declared value will be one per cent in the first month of the scheme, 1.25 per cent in the second month and 1.75 per cent in the third month. No question about the source of undisclosed assets would be asked." (Nation, 21 January 2013)

Dawn notes with regard to the tax amnesty bill:

"The proposed bill will not only cover non-filers of tax returns but also those who did not figure on the tax roll to whiten income or assets up to Rs5 million and above in a period of three months. If parliament approves the tax amnesty scheme, even a taxpayer who files returns will also be able to legitimise his undeclared assets or cash of up to Rs5 million by paying just Rs100 to the Federal Board of Revenue. In order to give full protection to such tax dodgers, the bill proposes to exempt tax evaders from all kinds of investigations by tax officials and investigating agencies.

By incentivising tax evasion, experts say these amnesty schemes have discouraged documentation and tax compliance. However, FBR spokesman Asrar Rauf claimed that it would increase tax compliance in the country. He said the FBR expected to raise Rs120 billion to Rs150 bn from the amnesty schemes. Tax experts say such schemes in the past have brought paltry sums of revenue to the national exchequer while legalising enormous tax-evaded money." (Dawn, 18 December 2012)

As noted by several media sources, the National Assembly's Standing Committee of Finance and Economic Affairs on 5 March 2013 approved the Tax Laws Amendment Bill 2012, despite a protest walkout staged by Muttahida Qaumi Movement (MQM) members (News International, 5 March 2013; Business Recorder, 6 March 2013; Nation, 6 March 2013).

According to Pakistan's tax chief Ali Arshad Hakeem, as quoted by CNN, tax evaders refusing to take the amnesty offer will have their ID cards, bank accounts and foreign travels blocked "until they either pay or file an appeal" (CNN, 11 February 2013). Similarly, Dawn notes:

"The bill also proposes a penalty for those who did not avail the schemes. The penalty include cancellation of CNIC [Computerised National Identity Card], placement of tax evader's name on the exit control list, freezing of his/her bank accounts and blocking of his mobile phone SIM." (Dawn, 18 December 2012)

In a January 2013 article, Dawn reports of a second tax amnesty scheme, under which the owners of smuggled vehicles "will be allowed to legalise their vehicles after making a payment of reduced duty and taxes". While "[o]fficials say there are 100,000 smuggled vehicles in the country mostly used by the influential people", the customs intelligence has put the number of non-duty paid vehicles at 2.3 million. (Dawn, 28 January 2013)

The News International reports as follows on the amnesty scheme for smuggled vehicles, stating that it was issued by the FBR on 5 March 2013:

"The Federal Board of Revenue (FBR) on March 5 issued the amnesty scheme, under which smuggled or non-duty paid vehicles, having non-tampered engine or chassis numbers, which have been seized or voluntarily presented to the Customs on or before March 31, would be allowed release on payment of redemption fine along with duty and taxes." (News International, 13 March 2013)

2.2.4 General elections of 11 May 2013

In a press release dated April 2013, Amnesty International (AI) states that the run-up to the May 2013 general elections has been “marred” by a wave of attacks and threats against election workers, political party representatives and supporters:

“Campaigning ahead of Pakistan’s upcoming general elections [on 11 May 2013] has been marred by human rights abuses. At least 37 people have been killed and 183 injured in attacks on election officials and political party representatives and supporters countrywide. [...] Election officials as well as candidates and supporters have faced threats from a range of groups, and in the northwestern Tribal Areas the Taliban have banned certain parties from campaigning for being ‘too secular’. The Awami National Party (ANP) and MQM [Muttahida Quami Movement] have been particularly singled out for attack, although members of other parties have also been targeted.” (AI, 24 April 2013)

In a later press release issued in June 2013, AI notes with regard to politically motivated violence during Pakistan’s election campaign and in the weeks following the elections:

“But the campaigning period, from March this year when elections were announced to election day on 11 May, was marred by political violence across Pakistan. More than 150 people were victims of apparently politically motivated killings, including up to 64 people killed on election day alone. The Awami National Party (ANP), Muttahida Qaumi Movement (MQM) and the Pakistan Peoples Party (PPP) faced the largest number of attacks. However, members of Pakistan’s other major political parties and some independent candidates were also attacked. While the Pakistani Taliban have claimed responsibility for more attacks than any other group, some of those believed responsible for election-related violence actually belong to some of the political parties which came under attack. Politically motivated violence has also continued in the three weeks since elections ended, particularly in Karachi, where several individuals affiliated with the MQM have been abducted or killed. A senior member of the Pakistan Tehrik-e-Insaf party was also killed in broad daylight in Karachi on 19 May.” (AI, 5 June 2013)

A May 2013 report by the independent think tank Pak Institute for Peace Studies (PIPS) provides a comprehensive overview of election-related violence between 1 January and 15 May 2013, the report can be accessed via the following link:

- PIPS - Pak Institute for Peace Studies: Elections 2013: Violence against Political Parties, Candidates and Voters, May 2013
<http://san-pips.com/download.php?f=222.pdf>

In an article dated 11 May 2013, CNN provides the following information with regard to election day events:

“Polls closed in Pakistan Saturday, after a day of voting in which bursts of deadly violence aimed at polling stations failed to deter Pakistanis keen to have their say in landmark national and provincial elections. Voter turnout was nearly 60%, the chief election commissioner said early Sunday. [...] The Election Commission extended polling hours in some constituencies in the southern city of Karachi, where there were complaints about the vote. The Election Commission secretary, Ishtiaq Ahmed Khan, told a news conference

the election was free and fair across much of the country, despite the problems in Karachi. Aside from claims of irregularities, four blasts hit Karachi as people voted, killing 14 people and wounding dozens. Across the country, 29 people were killed in election day violence.” (CNN, 11 May 2013)

The Express Tribune cites information from the Election Commission of Pakistan (ECP), saying that “overall voter turnout in the 2013 general elections was recorded at 55.02% – a much higher percentage than elections since the 80s” (Expres Tribune, 21 May 2013).

The German international broadcaster Deutsche Welle (DW) informs in an article dated 17 May 2013 that the parliamentary elections of 11 May 2013 have been described by national and international observers “as landmark and historic”. However, there have also been complaints about vote rigging and irregularities. The article further details:

“Former Pakistani Prime Minister Nawaz Sharif’s Pakistan Muslim League (PML-N) party defeated both the former ruling Pakistan People’s Party (PPP) and cricket star turned politician Imran Khan’s Pakistan Tehreek-e-Insaf (PTI) in the polls, and Sharif looks poised to form the new government in Islamabad. Though the PPP has conceded defeat without any major complaints, Khan’s PTI has accused Sharif and some other parties of rigging the elections.

Earlier this week, Michael Gahler, the chief observer of the European Union’s elections observation mission (EOM), confirmed ‘serious problems in polling.’ Despite a campaign marred by violence and irregularities, EU observers praised the elections as a ‘positive step for democracy.’ Still, they urge the new government to press on with reforms. [...]

On Thursday, May 16, the Pakistani election commission said in a statement that it received 110 complaints about voting irregularities. The commission ordered recounting of votes in nine constituencies in various parts of the country. It also set up 14 election tribunals which will look into the complaints. The tribunals are headed by retired judges and will have the authority to declare the results null and void if rigging complaints are proven to be correct. [...]

The PTI has particularly criticized the Karachi-based liberal Muttahida Qaumi Movement (MQM) for allegedly rigging the elections in several areas of Karachi. The PTI has held several protest rallies against the MQM in Karachi, which has been the MQM stronghold for more than two decades.” (DW, 17 May 2013)

The Economist, a weekly magazine published in London, refers as follows to the general elections of 11 May 2013:

“Violence aside, it was the cleanest election in years. Thanks to a noisy media, an updated electoral roll removing ‘ghost’ voters and enthusiasm for Mr Khan [of the Pakistan Tehreek-e-Insaf, PTI], voter turnout jumped to around 60% compared with 44% last time, in 2008. Despite a history of military rule, Pakistanis showed themselves fond of democracy. Crucially, the army did not interfere this time.” (Economist, 18 May 2013)

A 22 May 2013 election observation report published by the Free and Fair Election Network (FAFEN), a coalition of 42 civil society organisations, includes analysis of data received from more than 40,000 observers across Pakistan. The report contains information on voter turnout, barriers to women's voting, irregularities in polling stations during voting and counting procedures, and weak election results management, last-minute changes in polling schemes, pre-election violence, government interference and Code of Conduct violations, and constituency delimitations. (FAFEN, 22 May 2013, p. 2)

The full FAFEN report is available via the following link:

- FAFEN - Free and Fair Election Network: Observation of General Elections 2013: Key Findings and Recommendations, 22 May 2013
<http://www.electionpakistan.org/assets/publication/bb90e-FAFEN-Election-Observation-Report---Key-Findings-and-Recommendations-%2822-May-2013%29.pdf>

On 13 May 2013, the European Union Election Observation Mission to Pakistan issued a preliminary statement on Pakistan's general elections, which can be accessed at:

- EUEOM - European Union Election Observation Mission: Preliminary Statement: A competitive and improved election process in Pakistan despite militant violence and procedural shortcomings, 13 May 2013
<http://www.eueom.eu/files/pressreleases/english/eom-pakistan-preliminary-statement-13052013-en.pdf>

The Center for Strategic and International Studies (CSIS) elaborates as follows on the outcome of the general elections:

"The election has shaken the civilian political landscape. One of the two traditional parties, in fact the one with support across provinces, was resoundingly thrashed, even humiliated. The Pakistan People's Party headed by the Bhutto family for over 50 years was deeply wounded by its historic opponent, the eponymous Pakistan Muslim League-Nawaz headed by Mian Muhammad Nawaz Sharif and his brother, Shahbaz Sharif, the chief minister of Punjab. Unlike its opponents which were tied almost entirely to a single province, the PPP had arguably been the dominant party in Pakistan with support in all four provinces. Now it is left with seats only in its home province of Sindh and two seats in Punjab while the PML-N is the party with seats in all four provinces. The election has left the PPP with around 30 seats out of 272 in the National Assembly against 130-140 for PML-N and 30 (an equal number to the PPP) for the upstart PTI of Imran Khan, which had before won only a single seat and will now form the government in Khyber-Pakhtunkhwa (K-P) Province. Few observers predicted the PML-N dominance, let alone the PPP collapse. Most thought that Nawaz would probably receive the plurality of seats in the Assembly but not that many more than the PPP and therefore that the PPP or PML-N would be the largest but not the predominant party in a ruling and probably unruly coalition. Not anymore.

The political landscape of Pakistan is now less predictable than ever before. The Karachi-based and Muhajir-centered Mutahidda Qaumi Movement, long a majority-contributing coalition partner of the PPP was reduced in Sindh. The relatively moderate Awami National Party, based in K-P (and more recently also in Karachi) has been virtually wiped

out with only one seat left in K-P. Both the PPP and the PLM-N have suffered defeats and victories in the past but they have been relatively more moderate than in this election. The PML-N will be the core party in the governance of Punjab, the PTI will be the same in K-P, and the PPP will be reduced to Sindh. There will be no cross-provincial party with substantial seats in three of the provinces.” (CSIS, 21 May 2013)

In a 17 May 2013 article for the British newspaper *The Independent*, Niaz Ahmed, deputy country director of the NGO Democracy Reporting International’s (DRI) office in Pakistan, notes that although the Pakistan Muslim League-Nawaz (PML-N) has won Pakistan’s election and will form the national government, it does not have a majority in the country’s Senate. At the regional level, the elections resulted in a “patchwork of power”, with each province being ruled by a different political party or by coalition:

“What has become clear is that although the PML-N will form the national government, it does not have a majority in the Senate (the upper house). This is dominated by the PPP and its allies. For the Senate, which has a significant role under Pakistan’s constitution, to pass legislation, a degree of co-operation between the two houses will be required – tempering PML-N’s dominance. And at the provincial level, a patchwork of power is emerging, with each region being ruled by a different political party or by coalition.” (Ahmed, 17 May 2013)

For a detailed overview of results of the 11 May 2013 general elections (National Assembly elections and provincial assembly elections in Punjab, Sindh, Balochistan and Khyber Pakhtunkhwa), please consult the website of the Election Commission of Pakistan (ECP):

- ECP - Election Commission of Pakistan: General Elections 2013: Election Results, undated <http://www.ecp.gov.pk/>

Media sources report that the newly elected members of the National Assembly took oath on 1 June 2013 as the 14th National Assembly met for the first time (e.g. *Geo News*, 1 June 2013; *News International*, 1 June 2013). On 5 June 2013, the assembly formally elected PML-N’s Nawaz Sharif as Pakistan’s new prime minister (e.g. *UPI*, 5 June 2013; *VOA*, 5 June 2013).

2.3 Status of the Commission of Inquiry on Enforced Disappearances

The Commission of Inquiry on Enforced Disappearances [also known as Commission of Inquiry for Missing Persons (HRW, July 2011, p. 68)] is a state body set up to trace the whereabouts of missing people and to identify those responsible for their disappearance (USDOS, 24 May 2012, section 1b). The sources below further elaborate on the Commission of Inquiry. They differ as to when the Commission was established.

In a report on its September 2012 mission to Pakistan, published by the UN Human Rights Council (HRC) in February 2013, the UN Working Group on Enforced or Involuntary Disappearances provides the following information with regard to the setting up, duties and powers of the Commission:

“Two special bodies were set up successively on the issue of enforced disappearances. In April 2010, the Ministry of the Interior set up a committee to investigate the fate of

disappeared persons. In March 2011, the Supreme Court decided to institute a specific body to deal with cases of enforced disappearance, initially for six months; its mandate was subsequently extended for three years. The two-member Commission of Inquiry on Enforced Disappearances is tasked with following up the work of the committee from the Ministry of the Interior and to deal with cases already received by the Supreme Court, as well as with receiving new cases. The Commission may hear families and witnesses, in general in the presence of representatives of most law enforcement and intelligence agencies. The Commission has held hearings in different parts of the country, including in Balochistan.

Once a case is filed with the police by the relatives of a victim of enforced disappearance, the case can be reported to the Commission. The Commission may then order the setting up of a joint investigation team at the provincial level, consisting of police officers and representatives of federal and provincial intelligence agencies, who will be in charge of investigating the matter. The team is required to report to the Commission on the results of the investigation. The Commission has the power to summon any alleged perpetrators, including State officials, with the exception of the President and the Prime Minister. If the Commission is of the view that law enforcement officials have been involved in a case of enforced disappearance, it may order the issuance of a summons to appear, as well as register a criminal case against all those involved on the basis of article 365 of the Criminal Code. Alleged perpetrators of enforced disappearance may face the death penalty. However, no criminal investigation has ever been initiated since the establishment of the Commission – reportedly because the names of alleged perpetrators were never provided by the victims or because there was never enough evidence to trigger such an investigation.” (HRC, 26 February 2013, p. 12)

The same source notes in a statement after its September 2012 mission to Pakistan, published by the UN Office of the High Commissioner for Human Rights (OHCHR), that the Commission of Inquiry “is said to have limited authority on the various law enforcement or intelligence agencies, allegedly involved in the enforced disappearances reported to the Commission”. As mentioned in the statement, the Working Group “received reports that the Commission satisfied itself with the denial of the accused agency that it had the concerned person in custody”. The statement further continues:

“The Commission informed the WGEID [Working Group on Enforced or Involuntary Disappearances] that should its orders not be complied with, it had the power to initiate criminal proceedings against the potential perpetrators. But the WGEID has received no report of such criminal proceedings. Some families also reported to the WGEID that the Commission, after having reviewed a case, gave oral assurances to the family that their loved ones would soon return back home, which in fact never happened. They were not aware of whether or not a formal order had been delivered to the authority allegedly having the disappeared person in its custody. The families we met had different feelings about the fact that the hearings took place in the presence of representatives of different agencies, including those being accused of having abducted their loved ones: some said they had no fear to confront them, whereas others felt intimidated. The Commission has told the Working Group that families were given the choice to be heard alone with the

two members of the Commission, if they preferred to do so." (OHCHR, 20 September 2012)

Amnesty International (AI), in a report dated September 2011, elaborates as follows on the Commission of Inquiry, stating that it "has been criticized by human rights groups and victims' families for several deficiencies":

"In March 2010, the Pakistan government established the Commission of Inquiry on Enforced Disappearances to trace the disappeared, in view of the heavy case load of the Supreme Court. A second Commission was set up in March 2011 to take forward the work of the Commission of Inquiry. Of the several hundred cases that have come before both commissions, 224 people have been traced. However, disappearances continue unabated.

The Commission of Inquiry has been criticized by human rights groups and victims' families for several deficiencies, including lack of staffing capacity to investigate the high volume of cases, failure to give equal priority to all cases that come before it, and failure to trace individuals who disappeared during the Musharraf era. It has also failed to adequately investigate the security forces and intelligence agencies, which are frequently accused of involvement in disappearances. To date no security or intelligence official implicated in a disappearance case has been prosecuted." (AI, September 2011, p. 5)

In a July 2011 report by Human Rights Watch (HRW), the Commission of Inquiry for Missing Persons is referred to as follows:

"In May 2010 the Supreme Court formed the Commission of Inquiry for Missing Persons [CIMP], with a mandate to investigate enforced disappearances and provide recommendations for eliminating this practice. A new Commission of Inquiry for Missing Persons was established by the federal Ministry of Interior on March 1, 2011. While some of the disappeared were traced by the first commission, no perpetrators were brought to account, possibly because of fears within the courts about confronting Pakistan's powerful intelligence and security agencies." (HRW, July 2011, p. 6)

"The new commission's terms of reference are to trace the whereabouts of the 136 missing persons that the previous commission was unable to locate. The new commission will also seek to trace the whereabouts of missing persons referred to it by the Supreme Court of Pakistan, human rights organizations, or other non-governmental organizations and individuals. The commission is to 'fix responsibility on individuals or organizations responsible for enforced disappearance of persons,' including the registration of First Information Reports against individuals for whom prima facie there is evidence of culpability. The commission will also recommend standard operating procedures for law enforcement and intelligence agencies to record details of the arrest of individuals suspected of being involved in disappearances. It will have the power to order a police investigation into any matter coming before it, and the power to order the production of any person suspected of being in the illegal detention of law enforcement or intelligence agencies.

In a number of cases documented by Human Rights Watch, families said that they had submitted cases to the commission yet were not aware of any action taken by the CIMP on their cases aside from, in some cases, collecting the testimonies of the family members." (HRW, July 2011, p. 70)

The Associated Press of Pakistan (APP) reports the Commission of Inquiry as saying that from January 2011 to February 2013, it received 861 new cases, increasing the total number of cases to 999, out of which 621 remain under investigation:

"The Commission of Inquiry on Enforced Disappearances has said it received 861 new cases during the period of January 1, 2011 and February 28, 2013, taking the total number of such cases to 999. Out of these 999 cases, 378 cases have been disposed off and 621 remain under investigation, a press release issued by the commission said. It added that the commission was conducting regular proceedings in order to trace the 'missing' persons with assistance from the country's law enforcement agencies. The proceedings of the commission, comprising Justice (retd) Javed Iqbal and Muhammad Sharif Virk, were being held in Islamabad, Lahore, Karachi and Quetta periodically, it said." (APP, 9 March 2013)

However, as noted by the Express Tribune, „nationalist groups and non-governmental organisations in Balochistan report a much higher figure". The Commission of Inquiry, consisting of Justice Javed Iqbal and Muhammad Sharif Virk, "is known to not be trusted by Baloch nationalist parties – who have repeatedly protested the 'kidnapping and torturing' of missing people". (Express Tribune, 9 March 2013)

3 Security situation/developments since January 2010

3.1 Overview of the current security situation

3.1.1 Violence by armed groups

In its Pakistan Assessment 2013 (as of March 2013), the South Asia Terrorism Portal (SATP), which is managed by the New Delhi-based non-profit Society Institute for Conflict Management, writes:

“Through 2012, Pakistan continued to face the brunt of the Islamist extremism and terrorism that it has long produced and exported. According to partial data compiled by the South Asia Terrorism Portal (SATP), the country recorded a total of at least 6,211 terrorism-related fatalities, including 3,007 civilians, 2,472 militants and 732 Security Forces (SF) personnel in 2012 as against 6,303 fatalities, including 2,738 civilians, 2,800 militants and 765 SF personnel in 2011. [Since media access is heavily restricted in the most disturbed areas of Pakistan, and there is only fitful release of information by Government agencies and media reportage, the actual figures could be much higher]. The first 69 days of 2013, have already witnessed 1,537 fatalities, including 882 civilians, 116 SF personnel and 539 militants.” (SATP, as of March 2013)

Human Rights Watch (HRW) states in its annual report for 2012 with regard to the security situation in the country:

“In 2012, at least 325 members of the Shia Muslim population were killed in targeted attacks that took place across Pakistan. In Balochistan province, over 100 were killed, most of them from the Hazara community. [...] Students and teachers were regularly attacked by militant groups. [...]

Suicide bombings, armed attacks, and killings by the Taliban, al Qaeda, and their affiliates continued in 2012, targeting politicians, journalists, religious minorities, and government security personnel. Many of these attacks were claimed by groups such as the Haqqani network, the Lashkar-e-Jhangvi, and other al Qaeda affiliates.” (HRW, 31 January 2013)

According to the US Department of State (USDOS), “militants and terrorist groups killed hundreds and injured thousands with bombs, suicide attacks, and other forms of violence” during 2012 (USDOS, 19 April 2013, section 1a).

Lashkar-e Jhangvi (LeJ)

Lashkar-e-Jhangvi (LeJ) is described as a Sunni-Deobandi terrorist group (SATP, undated (a)) that was formed in 1996 by a group of men from the sectarian organisation Sipah-e-Sahaba Pakistan (SSP), which emerged in 1985 (CTC, 14 January 2013). In an article on Lashkar-e-Jhangvi published in 2005, the Jamestown Foundation, a US-based institute for research and analysis, provides details on the founding history of the group and concludes that LeJ is the armed wing of the powerful and Saudi-backed SSP and that it is ultimately controlled by SSP leaders:

"Ostensibly a break-away faction of Sipah-e-Sahaba Pakistan (SSP), LeJ was founded in 1996 by an extremist triumvirate within SSP – namely Riaz Basra, Akram Lahori and Malik Ishaque. Inspired by the ideals of SSP's founding leader Maulana Haq Nawaz Jhangvi, Basra and his followers accused the SSP leadership of not following the ideals of its slain leader. Another plausible reason for the emergence of LeJ was the rising violence of Sipah-e-Mohammed Pakistan (SMP), a Shi'a organization formed in 1994, ostensibly to target the leaders of SSP. Many top leaders of the SSP, including Israr-ul-Haq Qasmi and Zia ur-Rahman Farooqi were assassinated by SMP extremists in the following years. However it is widely believed that the split of 1996 was manufactured to protect the political integrity of SSP and enable the so-called breakaway faction to transform itself into a purely paramilitary-terrorist organization. In any case, events since 1996 have proved beyond doubt that the LeJ constitutes the armed wing of the SSP and is ultimately controlled by the leaders of that powerful and Saudi-backed sectarian organization." (Jamestown Foundation, 3 June 2005)

A detailed account on the creation of the LeJ can be found in a September 2009 profile published by the Combating Terrorism Center (CTC), a US-based academic institution dedicated to the study of terrorism. The profile mentions that "[a]lthough the LJ was formed as the armed wing of Sipah-i-Sahaba Pakistan (SSP), it has morphed into the collective armed wing of various Deobandi terrorist groups." The CTC continues that "[m]ost terrorist attacks blamed on the LJ were in fact carried out by several Deobandi terrorist groups, of which the LJ is only one." (CTC, 3 September 2009)

In its listing of terrorist organisations, the Australian Government states that "LeJ is estimated to have around 300 active members and is a collection of loosely coordinated sub-units with semi-autonomous chiefs for each sub-unit". Its members operate in small cells and often belong to multiple networks. This can lead to an overlap in personnel between the group and other extremist networks like Jaish-e-Mohammed and Jamiat-ul-Ansar/Harakat-ul-Mujahideen. (Australian Government, 15 March 2012a)

In its annual report on terrorism in 2011, the US Department of State (USDOS) states that Lashkar-e-Jhangvi "focuses primarily on anti-Shia attacks and other attacks in Pakistan and Afghanistan". The group was banned by Pakistan in 2001; after that many of its members sought refuge in Afghanistan with the Taliban (USDOS, 31 July 2012, chapter 6). In a BBC profile dated January 2013, Lashkar-e-Jhangvi is called "one of Pakistan's most violent Sunni Muslim militant groups". The profile elaborates on the group's links to the Taliban and to al-Qaida:

"Lashkar-e-Jhangvi (LeJ) is one of Pakistan's most violent Sunni Muslim militant groups. It takes its name from the late Sunni Cleric Haq Nawaz Jhangvi, who spearheaded the anti-Shia campaign which began in the country 30 years ago as a counter-movement to the Iranian Islamic revolution. Mr Jhangvi was a founding member of Sipah-e-Sahaba Pakistan (SSP), a group blamed by many for introducing sectarian violence to the country.

Researchers say that the Islamisation policy introduced by Pakistan's former military leader, General Zia-ul-Haq, in the 1980s allowed the emergence of SSP in 1985. The group

resorted to violence against the Shia community almost immediately. [...] The campaign got bloodier when a rival Shia group, Tehreek-e-Nifaz-e-Fiqah Jafferia (TNFJ) challenged it, resulting in the deaths of the top leaders of both sectarian groups, including Mr Jhangvi.

Within a decade the conflict led to fissures within the SSP and in 1996 LeJ broke away under the leadership of Riaz Basra. He wanted to continue on the path of violence against Shias and rejected a call from other Sunni militant leaders to join mainstream politics and scale down attacks. Calling themselves 'Jhangvi' loyalists, the LeJ - or Army of Jhangvi - began allying itself with the Taliban movement which was just taking over in Afghanistan. Both the Taliban and the LeJ belong to the same orthodox, puritanical Deobandi tradition of Islam associated with the Islamic revivalist movement in the region. The connection helped Mr Basra and his group to seek refuge in Afghanistan. Government intelligence agencies have pointed to several LeJ militant training camps in Afghanistan. These camps were used not only to train anti-Shia militants but also as safe havens for Pakistani criminals and militants. In August 2001, Pakistan's military leader General Pervez Musharraf banned a number of militant organisations, with LeJ top of the list. In May 2002 Riaz Basra was killed, and analysts believe that the group began to develop links with Osama Bin Laden's al-Qaeda network. Such fears were proved right when investigators found links between LeJ relating to three 2007 incidents in Pakistan which were all blamed jointly on al-Qaeda and the LeJ. These included the kidnapping and beheading of US Journalist Daniel Pearl, an attack on French engineers in Karachi and a bomb attack on an Islamabad church." (BBC, 11 January 2013)

The 2005 article of the Jamestown Foundation states that it is the core objective of Lashkar-e-Jhangvi to eradicate Pakistan's Shi'a community and to transform the country into a Taliban style Islamic state. The group is described as "the most prolific and callous terrorist organization in Pakistan" which stands out for its secrecy and lethality (Jamestown Foundation, 3 June 2005). In January 2013, a BBC report on a bombing in a Shia neighbourhood in Quetta mentions a "dramatic escalation" of attacks against Shia Muslims around Pakistan and refers to the anti-Shia agenda of Lashkar-e-Jhangvi and Sipah-e-Sahaba:

"Wednesday's bombings of a Shia Muslim neighbourhood in the Pakistani city of Quetta that killed almost 100 people is a grim reminder of the power of sectarian militants to act as the arbiters of peace - and war - in this country. Since 2004-05, they have steadily spread their wings in south western Balochistan province, where the ethnic Hazara community of Shia Muslims has been their main target. Figures released by the Balochistan government place the number of Shias killed in the province between 2008 and 2012 at 758. Members of the Hazara community say the figure is much higher.

The hatred these Sunni militant groups bear towards Shia Muslims is fundamentally theological although the groups' origins date back to the late 1970s, the time of neighbouring Iran's Shia revolution. [...] The group which has claimed responsibility for the blast, Lashkar-e-Jhangvi, was born out of another group called Sipah-e-Sahaba, whose name literally translates as 'Soldiers of the Companions of the Prophet'. So their anti-Shia agenda is there in the very origins and name of this group. But over the last few years there has been a dramatic escalation on attacks against Shia Muslims around Pakistan,

with some activists naming 2012 as the worst year in living memory for Shia killings. The key to the increasing power of these groups to wreak havoc on Shias is not just their ideological fervour, but also their ability to set up militant training camps - and Pakistan's complex political environment." (BBC, 12 January 2013)

In its listing of terrorist organisations, the Australian Government summarises LeJ's goals as follows:

"Lashkar-e Jhangvi (LeJ) is a Sunni Deobandi Islamist terrorist group based primarily in Pakistan's Punjab region. LeJ's goals are to establish an Islamist Sunni state in Pakistan based on Sharia law, by violent means if necessary; to have all Shias declared non-believers; and to eliminate followers of other faiths, especially Jews, Christians, and Hindus. Reflecting its hostility to Shias, LeJ also has targeted Iranian interests and Iranian nationals in Pakistan. (Australian Government, 15 March 2012a)

The USDOS mentions in its annual report on terrorism in 2011 that Lashkar-e Jhangvi is active primarily in Punjab, FATA, Karachi, and Balochistan (USDOS, 31 July 2012, chapter 6). The CTC refers to locations of attacks against Shias in 2012 and 2013, noting that LeJ claimed responsibility for the majority of attacks:

"In 2012, Pakistan suffered a significant increase in attacks against its minority Shi'a Muslim population. The incidents occurred in Quetta in Baluchistan [Balochistan] Province, as well as in Kurram Agency of the Federally Administered Tribal Areas, Gilgit-Baltistan, Karachi, Rawalpindi and other areas around the country. In most of the incidents, militants lined up civilians, checked their identities, and then executed those suspected of being Shi'a. Other attacks involved improvised explosive device (IED) or suicide bomb attacks on Shi'a worship places, congregations and mourning processions. The attacks continued into 2013. On January 10, for example, militants targeted Shi'a Muslims at a snooker club in Quetta, killing 86 people. The group Lashkar-i-Jhangvi (LJ) claimed responsibility for the majority of attacks." (CTC, 14 January 2013)

In its listing of terrorist organisations, the Australian Government refers to the involvement of LeJ operatives in sectarian attacks and lists their targets and methods of attacking:

"LeJ operatives continue to be involved in sectarian attacks across Pakistan, including in the Punjab region, targeting members of the Shia community and other groups considered to be heretics. LeJ has also expanded its focus to target Western interests in Pakistan and has claimed responsibility for several assassinations in Baluchistan [Balochistan]. Although LeJ generally uses suicide bombings to kill large numbers of Shias, it has also used various weapons such as assault rifles, rockets, landmines and other small arms." (Australian Government, 15 March 2012a)

The above document also contains a list of attacks claimed by, or attributed to, LeJ from January 2008 to July 2011 (Australian Government, 15 March 2012a). Likewise, the USDOS lists armed attacks, bombings and killings the LeJ was believed to be responsible for in the past (USDOS, 31 July 2012, chapter 6). An updated list of incidents and statements involving

Lashkar-e-Jhangvi in 2013 can be found on the website of the South Asia Terrorism Portal (SATP, last entry 21 March 2013).

The BBC addresses the influence of Lashkar-e-Jhangvi and Sipah-e-Sahaba in the Punjab province and the state patronage the groups enjoyed during the military regime of General Pervez Musharraf:

"Most analysts believe the state is far more powerful than the entire Pakistani militant network, but at the moment it lacks the will to pull the ground from under them. There are various reasons for this. In Punjab province, which is the breeding ground of sectarian militants, the Lashkar-e-Jhangvi and its parent organisation, Sipah-e-Sahaba Pakistan, have a strong electoral presence due mainly to the state patronage they enjoyed during the military regime of General Pervez Musharraf. All the major political parties in the province depend on this vote bloc in many areas of central and southern Punjab to win parliamentary seats. Therefore, any kind of a crackdown on these groups would run contrary to their interests, especially when elections are approaching. The country's powerful military establishment also has an ambivalent attitude towards these groups. Even as cadres of these groups are clearly seen as an enemy because they work with the Taliban, they serve several other major interests." (BBC, 12 January 2013)

In its annual report for 2012, Human Rights Watch (HRW) mentions the "ostensibly banned" Lashkar-e Jhangvi as a militant group with "known links to the Pakistani military, its intelligence agencies, and affiliated paramilitaries". HRW states that the group "operated with widespread impunity across Pakistan, as law enforcement officials effectively turned a blind eye to attacks". (HRW, 31 January 2013)

In January 2013, the Combating Terrorism Center (CTC) comments on the relationship between the Pakistani government and Lashkar-e Jhangvi as follows:

"Pakistan's government has a history of collaborating with militant groups that share its interests. Besides the obvious case of Lashkar-i-Tayyiba and the Kashmir conflict, Pakistan also reportedly supported the SSP and LJ in the 1980s to weaken Shi'a Muslims who might sympathize with the Iranian Revolution of 1979. Yet in most of these instances of state complicity with militant groups, Pakistan eventually lost control over the relationship.

A clear example is the case of Malik Ishaq and LJ. When the number of LJ armed activists was in the hundreds, the threat was limited and the relationship could be controlled. Yet now that thousands of radicalized youth have joined or support LJ, the relationship is no longer manageable. The January 10 attack on Hazara Shi'a in Quetta that killed 86 people underscores this problem." (CTC, 14 January 2013)

The Australian Government states that "LeJ activities have come under increased scrutiny by Pakistani authorities, resulting in the arrest of key leaders and hundreds of activists. However, the group remains a significant threat to Shia, Western, Pakistani Christian and Pakistani government targets". (Australian Government, 15 March 2012a)

In an article dated 22 February 2013, Radio Free Europe/Radio Liberty (RFE/RL) reports that a co-founder of Lashkar-e Jhangvi, Malik Ishaq, was arrested in the city of Rahim Yar Khan and ordered detained for one month (RFE/RL, 22 February 2013). The New York Times (NYT) also reports on the detention of Malik Ishaq:

“The Pakistani police on Friday detained the leader of a banned Sunni extremist group that had claimed responsibility for two sectarian bombings that killed nearly 200 people in the past six weeks. The detention of the leader, Malik Ishaq, who was jailed on separate accusations of hate speech, represented the government’s most prominent step yet against extremists responsible for escalating violence against minority Shiites. But analysts said the detention was unlikely to put Mr. Ishaq’s group, Lashkar-e-Jhangvi – which has led the bloodshed – out of business.

The two devastating bomb attacks that Lashkar claimed responsibility for were targeted against minority Hazara Shiites in the western city of Quetta on Jan. 10 and Feb. 16. The government’s failure to stem the bloodshed was highlighted by the freedom of movement enjoyed by Mr. Ishaq, who has roamed the country freely since being released from jail in July 2011, reportedly stirring hatred against Shiites. [...] Mr. Ishaq had been jailed for 14 years on numerous murder charges but never successfully prosecuted, in what was seen as an indictment of Pakistan’s weak judicial system in which militants intimidate judges and witnesses.” (NYT, 23 February 2013)

A concise summary on the LeJ was published by the Australian Government’s Refugee Review Tribunal (RRT) in its Issues Paper on Militant Groups in Pakistan (RRT, January 2013a, pp. 13-16). The paper can be accessed via the following link:

- RRT - Refugee Review Tribunal (Australia): Issues Paper; Pakistan Militant Groups, January 2013a (available at [ecoi.net](http://www.ecoi.net))
http://www.ecoi.net/file_upload/1226_1363603494_pakip1.pdf

Tehrik-e-Taliban Pakistan (TTP)

The US Department of State (USDOS) indicates in its annual report on terrorism in 2011 that the Tehrik-e-Taliban Pakistan (TTP) “was formed in 2007 in opposition to Pakistani military efforts in the Federally Administered Tribal Areas” as a coalition of militant tribes (USDOS, 31 July 2012). In its January 2013 Issues Paper on the Pakistani Taliban, the Australian Government’s Refugee Review Tribunal (RRT) summarises information based on various sources on the TTP’s structure and leadership:

“The TTP is the largest Taliban organisation in the FATA, with reported figures on the number of groups organised under the TTP banner ranging from 13 to 40. The group was led originally by Baitullah Mehsud, with Maulana Hafiz Gul Bahadur as his deputy. Baitullah Mehsud was killed in August 2009 and replaced by his relation Hakimullah Mehsud. Though Hakimullah is the TTP’s leader, or emir, the nature of the TTP’s organisational structure means that the ‘TTP’s participating militias and the field commanders make tactical decisions themselves as opposed to following the orders from the [e]mir or Shura.’ The TTP leadership group thus sets strategy, but allows local

commanders a high degree of autonomy. Factionalism is present and internecine fighting occurs frequently." (RRT, January 2013b, pp. 4-5)

The Danish Institute for International Studies (DIIS) lists three goals of the Tehrik-e-Taliban Pakistan: to enforce sharia, to unite against the coalition forces in Afghanistan and to perform defensive jihad against the Pakistani Army (DIIS, November 2010, p. 5; cf. CTC, 15 January 2008). The USDOS mentions that TTP has a strength of several thousand persons and is located in the FATA; it describes the group's goals and its relationship to al-Qaida as follows:

"TTP's goals include overthrowing the Government of Pakistan by waging a terrorist campaign against the civilian leader of Pakistan, its military, and NATO forces in Afghanistan. TTP uses the tribal belt along the Afghan-Pakistani border to train and deploy its operatives, and the group has a symbiotic relationship with al-Qa'ida (AQ). TTP draws ideological guidance from AQ, while AQ relies on TTP for safe haven in the Pashtun areas along the Afghan-Pakistani border. This arrangement gives TTP access to both AQ's global terrorist network and the operational experience of its members. Given the proximity of the two groups and the nature of their relationship, TTP is a force multiplier for AQ." (USDOS, 31 July 2012)

The RRT describes TTP's area of influence in its Issues Paper:

"The TTP is located primarily within the FATA, and parts of the Swat Valley of KPK [Khyber Pakhtunkhwa]. In addition to its presence in these areas, reports indicate that the TTP is capable of reaching targets in Islamabad, Rawalpindi, Faisalabad, Lahore, Multan, Karachi, and Quetta. It should be noted, however, that in the case of Karachi it is not always possible to distinguish between TTP and its ally TTP-Punjab, otherwise known as the Punjabi Taliban." (RRT, January 2013b, pp. 8-9)

A BBC article dated March 2013 elaborates on the growing influence of the Taliban in the port city of Karachi. The article, however, does not indicate whether it relates to the TTP or to the above-mentioned Punjabi Taliban:

"For years there have been fears that the Taliban were gaining ground in Pakistan's commercial capital, the port city of Karachi. There is now evidence that the militants' influence in the city has hit alarming new levels, reports the BBC's Ahmed Wali Mujeeb.

[...] The Taliban largely emerged in poor areas on the fringes of the city, run-down places with little or no infrastructure for health, education and civic amenities. Their mobile courts have been hearing complaints for quite some time, but in recent months they have also started administering punishments - a sign of their growing clout. In January, they publicly administered lashes to an alleged thief after recovering stolen goods from him. The goods were returned to the owner who had reported the theft.

[...] But the picture is complicated. There is a tussle under way between mafia groups (becoming more prolific and powerful in Karachi) who seek to seize land and militant groups who are also grabbing land. This includes the Taliban, for all their willingness to arbitrate in these disputes. It is clear that they want to tighten their grip in Pakistan's biggest city, its commercial centre. And they appear to have great influence in those

suburbs dominated by the Pashtun ethnic group. These include many of the districts on the edge of the highways and roads leading to neighbouring Balochistan province. They have long had a power base in the north-west of the country but this entry into Karachi is a more recent phenomenon." (BBC, 21 March 2013)

In its guide to Pakistani militant groups dated October 2010, the Integrated Regional Information Network (IRIN) gives further details on the area of operations of various Pakistani Taliban groups, mentioning South Waziristan, Orakzai Agency, Khyber Agency and southern Punjab:

"Area of operations: Traditionally, the Mehsud group of the TTP, which operates from bases in the tribal territory of South Waziristan; has spearheaded militant operations across the north. This changed after the death of leader Baitullah Mehsud in a US drone strike in August 2009. The TTP has since splintered, with new leader Hakimullah Mehsud operating mainly from his native Orakzai Agency. Other Taliban factions are based in the Khyber Agency and, according to media reports, in southern Punjab." (IRIN, 13 October 2010)

The South Asia Terrorism Portal (SATP) mentions that TTP has members from all tribal agencies of FATA and from Khyber Pakhtunkhwa (KP) province:

"The group contains membership from all of FATA's seven tribal agencies as well as several districts of the KP. Estimates place the total number of operatives between 30,000 and 35,000. Headquartered in the South Waziristan Agency of FATA, TTP has spread its networks into all of Pakistan's four provinces, establishing various 'Chapters' and groups led by local 'commanders' with common organisational goals. The TTP has also made its presence felt in neighbouring Afghanistan in recent times." (SATP, undated (b))

The RRT describes the activities of the TTP as follows:

"[...] the TTP has essentially established Sharia law in several parts of the FATA and KPK, which includes the banning of music, the closing of CD shops, forbidding the shaving of beards, the enforcement of conservative apparel for women, and even the banning of vaccinations. The process has been made more effective by the setting up of parallel government administrations in several agencies, which often includes the establishment of Islamic courts. The TTP promotes its dedication to Sharia via the slogan 'sharia ya shahadat' (Sharia or Martyrdom), and has been supported in its efforts by an alliance with Tehrik-e-Nafaz-Shariat-e-Muhammadi (TNSM), otherwise known as the Movement for the Implementation of Muhammad's Sharia, which is situated in the Swat valley of KPK and led by Sufi Mohammad.

As a consequence of its strict adherence to the Wahhabi/Deobandi Sunni philosophy and interpretation of Sharia various TTP commanders have been implicated in violent attacks on religious minorities, specifically Shia Muslims in FATA and KPK. Many TTP commanders have historic connections with violently anti-Shia organisations such Sipah-e-Sahaba Pakistan (SSP) Lashkar-e-Jhangvi (LeJ), and Lashkar-e-Tayyaba (LeT) and reported TTP attacks on Shia could be viewed as a continuation of that animosity.

Furthermore, TTP activities against Shia should be read as part of a broader strategic agenda. The most concerted anti-Shia attacks attributed to the TTP have occurred in the Kurram Agency in FATA. The Kurram Agency is a strategically significant region that borders Afghanistan giving ready access to Kabul. It also offers an important counter-insurgency base for activities against Pakistan Army operations in North and South Waziristan. Shia and Sunni tribes in the Kurram have had a long-standing conflict over land and resources. The strategic significance of Kurram has made it an important region for the Afghan Taliban/Haqqani Network and as such TTP activities against Shia tribes in Kurram can be seen as not only consistent with anti-Shia ideology but also vital to the strategic priorities of the TTP and its allies the Afghan Taliban/Haqqani Network.

An agenda to wage jihad against the Pakistani state distinguishes the TTP from other Taliban groups within the Afghan/Pakistan border regions. Pakistani security forces operations within the FATA and KPK to drive out foreign fighters between 2002 and 2004 provoked a violent response from a number of militant groups allied to the Afghan Taliban. Methods used by the security forces, which included 'demolishing the houses of defiant tribesmen and seizing their property', had the effect of increasing the popularity of local militant groups. Anti-government militancy was initially limited to North and South Waziristan, but subsequently spread to the rest of FATA and the Swat Valley. Resistance intensified in the wake of the Pakistan army's operation within the Red Mosque in Islamabad in July 2007, in which a number of conservative Islamic scholars with links to militant groups were killed or captured. The episode is associated with the formation of the TTP, and its subsequent identification of the Pakistani state as the 'enemy'. (RRT, January 2013b, pp. 9-11)

The USDOS annual report on terrorism in 2011 (reporting period 2011) lists the following attacks of the TTP:

"TTP has carried out and claimed responsibility for numerous terrorist acts against Pakistani and U.S. interests, including a December 2009 suicide attack on a U.S. military base in Khowst, Afghanistan, which killed seven U.S. citizens, and an April 2010 suicide bombing against the U.S. Consulate in Peshawar, Pakistan, which killed six Pakistani citizens. TTP is suspected of being involved in the 2007 assassination of former Pakistani Prime Minister Benazir Bhutto. TTP claimed to have supported the failed attempt by Faisal Shahzad to detonate an explosive device in New York City's Times Square on May 1, 2010. TTP's claim was validated by investigations that revealed that TTP directed and facilitated the plot.

Throughout 2011, TTP carried out attacks against the Government of Pakistan and civilian targets, as well as against U.S. targets in Pakistan. Attacks in 2011 included: a March bombing at a gas station in Faisalabad that killed 31 people; an April double suicide bombing at a Sufi shrine in Dera Ghazi Khan that left more than 50 dead; a May bombing of an American consulate convoy in Peshawar that killed one person and injured twelve; a May siege of a naval base in Karachi; the May assassination of the PNS [Pakistan Naval Station] Mehran Saudi diplomat in Karachi; and a September attack against a school bus that killed four children and the bus driver." (USDOS, 31 July 2012)

Human Rights Watch (HRW) mentions a summary execution of 22 persons carried out by the TTP in August 2012:

“On August 16, gunmen ambushed four buses passing through the Babusar Top area of Mansehra district in Khyber Pakhtunkhwa province. The attackers forced all the passengers to disembark, checked their national identity cards, and summarily executed 22 travelers whom they identified as belonging to the Shia community. A spokesman for the Tehrik-e-Taliban Pakistan, the Pakistani Taliban, claimed responsibility.” (HRW, 31 January 2013)

An updated list of incidents and statements involving TTP in 2013 can be found on the website of the South Asia Terrorism Portal (SATP, last entry 20 April 2013).

Central Asia Online, a news website sponsored by the United States Central Command (USCENTCOM), reports in January 2011 on five militant groups joining the TTP:

“Five banned militant outfits have joined the Tehreek-e-Taliban Pakistan (TTP) and are operating under the umbrella of the TTP, Taliban sources told Central Asia Online January 5. The mergers may have to do with recent arrests and security force operations, police said. Lashkar-e-Jhangvi, Sipah-e-Sahaba, Jaish-e-Muhammad, Harkat-ul-Mujahideen and Harkat-ul-Ansaar have merged with the TTP, militant sources said. [...] If jihadi organisations and individuals in Pakistan fighting for the cause of Islam and sharia share the TTP’s goals, they can become a part of the TTP, [TTP spokesman] Tariq said.

But the unification may be in response to a leadership crisis and displacement to Waziristan, Choudhry Aslam, chief of the Sindh Criminal Investigation Department (CID), said. ‘As the law enforcement agencies (have been) giving a tough time to the jihadi elements, the wanted militants have escaped to Waziristan, where they could have joined the TTP for their protection,’ Aslam said. The unification of the five banned outfits with the TTP could represent a militant strategy to join forces against law enforcement agencies nationwide, he said. Police have arrested more than two dozen important alleged members of the TTP and other banned outfits in Karachi in recent weeks, Aslam said. Police crackdowns on the militants have left them with no other choice but to escape to Waziristan and Wana to join the TTP, he said.” (Central Asia Online, 11 January 2011)

An Issues Paper on the Pakistani Taliban was published by the Australian Government’s Refugee Review Tribunal (RRT, January 2013b). The paper differentiates between the TTP, the Muqami Tehrik-e-Taliban (MTT) and the Punjabi Taliban (for details on the Punjabi Taliban, please see RRT, January 2013a) and can be accessed via the following link:

- RRT - Refugee Review Tribunal (Australia): Issues Paper; The Pakistani Taliban, January 2013b (available at [ecoi.net](http://www.ecoi.net))
http://www.ecoi.net/file_upload/1226_1363604144_pakiptaliban.pdf

Tehrik-e-Nifaz-e-Shariat-e-Mohammadi (TNSM)

According to the Danish Institute for International Studies (DIIS), the Tehrik-e-Nifaz-e-Shariat-e-Mohammadi (TNSM) is a Pashtun-based group created by the cleric Maulana Sufi

Mohammad. It is run by Mullah Fazlullah and is a constituent group of the TTP (DIIS, November 2010, p. 8). Sources disagree on whether the group was founded in 1989 (e.g. Jamestown Foundation, 30 November 2006) or in 1992 (e.g. IRIN, 13 October 2010). The RRT summarises the history and the aims of the TNSM as follows:

“The Tehrik-e-Nefaz-e-Shariat-e-Mohammadi (TNSM – Movement for the Implementation of Mohammad’s Sharia) was founded by Maulana Sufi Mohammad in 1992 in the Malakand division of Khyber Pakhtunkhwa. The aim of the TNSM is the full imposition of sharia in Malakand, Swat and surrounding districts; in 1998, Sufi Mohammad is reported to have stated that: ‘We want enforcement of the Islamic judicial system in totality: judicial, political, economic, jihad fi sabilillah [jihad for the cause of Allah], education and health’. The TNSM is reported to be affiliated with the TTP (it is sometimes referred to as the Swat Taliban’), particularly after the Lal Masjid operation in mid-2007, and current leader Maulana Fazlullah is reported to have been appointed the TTP commander for the Swat district. Fazlullah is particularly noted for his heavy use of illegal FM radio stations, on which he broadcasted his interpretation of the Quran and sharia. The TNSM was proscribed in 2002 by the Musharraf regime but flourished through the second half of the 2000s, until the Pakistani military moved against the TNSM in force in mid-2009.

During the mid- and late-1990s, the TNSM under Muhammad attempted to enforce sharia in the Swat valley. Widespread poverty, lack of development and infrastructure, and the inability of the government to provide education and security in the Swat valley rendered the anti-government, pro-sharia stance of the TNSM relatively appealing to the local population. The TNSM presented themselves as rebels against the wealthy clan leaders and large landowners, vowing to forcibly take the land and resources back for the people. The popularity and influence of the TNSM suffered a blow in the early 2000s, when Muhammad organised thousands of Pakistani fighters to go to Afghanistan to fight for the Taliban against the Northern Alliance (NA). Many of these fighters were killed or arrested by the NA, and others were arrested after their return to Pakistan and the banning of the TNSM. Muhammad himself was arrested and imprisoned on his return to Pakistan, and his son-in-law Fazlullah subsequently took command of the TNSM.” (RRT, January 2013a, p. 22)

The RRT Issues Paper continues to describe TNSM’s activities after the earthquake in northern Pakistan in October 2005 and lists some of the group’s political demands at that time:

“In the wake of the [October 2005] earthquake the TNSM was involved in local relief work, and Fazlullah used his radio broadcasts to promulgate the idea that the disaster was a punishment for the non-Islamic behaviour of the local population. He used his pirate radio stations to broadcast the demands of the TNSM, which include: the imposition of sharia in the Swat valley and across Pakistan; creation of a parallel government in the Swat valley; opposition to girls’ education and polio vaccination campaigns; prohibition on barbers shaving beards; closure of NGOs that employ female staff; and the closure of video and music shops.” (RRT, January 2013a, p. 23)

In 2008, the TNSM mounted attacks on government facilities in Swat and on schools, police, security forces, video and music shops, the RRT report continues. The group “took control of

hospitals and police stations, and set up checkpoints and sharia courts in areas they controlled”:

“Fazlullah was made the TTP commander in Swat in late 2007, although it has been suggested that the TNSM had been cooperating with the Taliban prior to this. Pakistani intelligence officials have reportedly stated that the support and training supplied by the TTP emboldened the TNSM in Swat. The TNSM mounted regular attacks on government facilities in Swat, as well as on schools, police, security forces, and video and music shops, throughout much of 2008. It has been reported that ‘scores’ of police officers were killed by the TNSM, and that half of the region’s police force deserted in fear of the group. The TNSM took control of hospitals and police stations, and set up checkpoints and sharia courts in areas they controlled, and meted out strict punishments to those convicted of offences. Fazlullah also established a militia named the ‘Shaheen Force’, which functioned as both a criminal and morals police force.” (RRT, January 2013a, p. 23)

The US Department of State (USDOS) reports on a peace deal to end violence in the Swat Valley. The government of Khyber Pakhtunkhwa (KP) concluded the agreement with the TNSM in February 2009. It included “a commitment to implement the Nizam-e-Adl Regulation (NAR), establishing Sharia in the Malakand Division of KP” (USDOS, 30 July 2012, section 2). According to the International Crisis Group (ICG), the NAR was often characterised “as a response to public demand for better and swifter justice”, but “in effect ceded control over the region to the Sunni extremist [...] TNSM [...] led by Sufi Mohammed and his son-in-law Mullah Fazlullah, leader of the Swat faction of the Tehreek-e-Taliban Pakistan” (ICG, 15 January 2013, p. 1). The RRT Issues Paper points out that the cease-fire was short-lived as the TNSM refused to lay down their arms. After a large-scale military offensive across the Swat valley, the TNSM was largely driven out of Khyber Pakhtunkhwa. Since then the group was made responsible for a number of attacks on Pakistani security forces:

“However, following the signing of the peace deal by President Zardari in April 2009, TNSM fighters began moving into areas of the districts of Buner, Shangla and Dir. The cease-fire was short-lived; the TNSM refused to lay down their arms, and when TNSM fighters entered Buner district and took police and paramilitary officers hostage in late April, the Pakistani military responded with a large-scale offensive against the TNSM across the Swat valley. Heavy fighting continued through May, with widespread civilian displacement, but by late June 2009 military authorities claimed to have cleared the ‘Taliban’ from Swat. Nonetheless, it has been reported that the military operation only succeeded in gaining control of the urban centres and major roads of the Swat valley.

Since being largely driven out of KPK by the Pakistani military in 2009, the TNSM has reportedly been based in Konar and Nuristan in Afghanistan. The group has been held responsible by the military and local officials for cross-border attacks on Pakistani security forces in KPK and FATA, including an August 2011 attack on two outposts in Chitral district of KPK in which at least 36 members of the Pakistani security forces were killed. In June 2012, Reuters reported that militants loyal to Fazlullah were responsible for the beheading of 17 Pakistani soldiers in a cross-border attack in the Dir district of KPK. This report does

not mention the TNSM, but rather notes Fazlullah in his role as a TTP leader, and quotes 'a Western diplomat' who claims that Fazlullah is still 'a very big problem for Pakistan'.

In October 2012, it was reported that Fazlullah was suspected of having ordered the assassination of Malala Yousafzai, the Swat schoolgirl who had spoken out against the Taliban and in favour of education for girls. A spokesman for Fazlullah also reportedly threatened to kill Malala's father in the aftermath of the failed assassination attempt. In December 2012, Pakistan Federal Interior Minister Rehman Malik demanded that Afghanistan arrest and extradite Fazlullah to Pakistan, stating that the TNSM had been responsible for cross-border attacks in Bajaur, Dir and Chitral districts." (RRT, January 2013a, p. 24)

The ICG states in a paper dated January 2013 that the power of TNSM has diminished compared to 2008-2009, however there are still regular attacks conducted by the group:

"Militant groups such as the Sunni extremist Tehrik-e-Nifaz-e-Shariat-e- Mohammadi (TNSM) and its Pakistani Taliban-linked Fazlullah faction are no longer as powerful in Swat and other parts of PATA as they were in 2008 and early 2009, but their leaders and foot soldiers remain at large, regularly attacking security personnel and civilians.

[...] Public and political support for action against the TNSM and allied Pakistani Taliban networks in Swat and its neighbouring districts remains strong, demonstrated by the outrage against the 9 October 2012 attack by Mullah Fazlullah's Taliban faction on Malala Yousafzai, a Swat-based fourteen-year-old activist for girls' right to education." (ICG, 15 January 2013, p. i)

An updated list of incidents involving Tehrik-e-Nafaz-e-Shariat-e-Mohammadi (TNSM) can be found on the website of the South Asia Terrorism Portal (SATP, last entry 3 January 2012).

Foreign militants in Pakistan: Haqqani Network, Uzbek and Tajik militants

The Fund for Peace (FFP), a US-based independent, nonpartisan, non-profit research and educational organisation describes the Haqqani Network in its October 2011 profile as an insurgent group that has been active mainly in the southeast of Afghanistan and operates from Pakistan's Federally Administered Tribal Areas (FATA). The FFP profile continues:

"For the past two years, the group has focused on gaining support and control of Kurram Agency, a province of Pakistan not far from Kabul, which is mostly beyond the scope of U.S. drone activity. It is led by Siraj Haqqani, the son of the network's founder, the famous anti-Soviet fighter and former CIA asset, Jalaluddin Haqqani. The Network falls under the larger umbrella of the Taliban, although they maintain their own command and control structures.

Under both Siraj and his father, the Haqqani Network has maintained a national Islamic objective, leaving the global jihad to their partners. It is closely connected to al-Qaeda and other jihadist and extremist groups in Pakistan. The network's goal of defeating the U.S. and foreign forces is not only to take control of Afghanistan, but also to bolster the

efforts and morale of global jihadists. The Haqqani Network has been named one of the largest threats to American operations in Afghanistan. Despite the fact that it remains a significant threat to both the U.S.-led coalition and the Afghan government, they continue to receive thinly veiled support from the Pakistani military." (FFP, October 2011, p. 3)

FFP mentions that the Haqqani Network "has been an integral part of insurgent operations from the 1980s to the present day" and "is today one of the most well-connected insurgent groups in the region". It was supported by the United States and Pakistan's intelligence service ISI while fighting the Russians. Haqqani coordinated and organised both local fighters and foreign fighters from all over the Muslim world. (FFP, October 2011, p. 3)

The RRT describes the Haqqani Network which is based in Dande Darpa Khel village near Miram Shah in FATA's North Waziristan Agency (NWA) and mentions that it is not directly involved in attacks within Pakistan and that it is reportedly protected by elements within the Pakistan security establishment:

"According to one source the Haqqani network 'is a coalition of militants that train terrorists, provide logistics, and organise operations against US, NATO, and Afghan forces in Afghanistan.' The Haqqani network is officially part of the Quetta Shura Taliban organisation, but it maintains its own command and operational structure. Like the Quetta Shura Taliban, the Haqqani network is reportedly protected by 'elements within the Pakistan security establishment', who view the Haqqani network as a 'proxy force' representing Pakistani interests. Despite denials from Pakistani officials that the ISI makes use of the Haqqani network in such a manner, a 2010 article cites a reported intelligence intercept from 2008 in which Pakistan's Army Chief referred to Jalaluddin Haqqani as a 'strategic asset'. Further, a March 2012 report from the Institute for the Study of War claims that the Haqqani network 'effectively organises the tribal and insurgent groups of the southern part of Pakistan's [FATA] in ways consistent with the interests of the Pakistani government'.

Although based in Dande Darpa Khel village, near Miram Shah in NWA, the Haqqani network has been involved in the ongoing conflict in Afghanistan for 'much of the last thirty years', and is not directly involved in attacks within Pakistan. The Haqqani network has allegedly been responsible for, or directly involved in, 'many of the high-profile, spectacular attacks' on Kabul over recent years." (RRT, January 2013a, p. 5)

Regarding the influence of the Haqqani Network, the RRT summarises:

"From the Miram Shah base, the Haqqani network reportedly trains and offers safe houses to militants from other insurgent groups targeting coalition forces and Afghan government targets in Afghanistan. The Haqqanis are reported to have links with foreign fighters and groups, as well as native Pakistani insurgent groups including the TTP, Sipah-e-Sahaba (SSP), Lashkar-e-Taiba (LeT) and Lashkar-e-Jhangvi (LeJ). Members of these Pakistani insurgent groups have been engaged in operations within Afghanistan. The network also reportedly has influence in the towns around Miram Shah, and in the areas of Pakistan bordering the Afghan provinces of Paktika, Khost and Paktia. An October 2011 report quoted a journalist from Bannu, in KPK, who stated that the influence of the

Haqqani network extends beyond NWA [North Waziristan Agency] to the South Waziristan, Kurram and Orakzai tribal agencies." (RRT, January 2013a, p. 6)

The RRT mentions US drone missile attacks against the leadership of the group and cites an analysis according to which the Haqqani Network had some three to four thousand fighters as of 2010:

"The US has been targeting the Haqqani network's leadership with drone strikes since 2009, which have killed senior insurgent leaders and limited the freedom with which the Haqqanis and other insurgent groups operate in NWA. The program of drone missile attacks, rather than on-ground military assaults, is reportedly due to the reluctance of Pakistani officials to take action against the Haqqani network and other insurgent groups operating from NWA. According to a 2011 analysis of Pakistani Taliban groups, the strength of the Haqqani network as of 2010 was some three to four thousand fighters." (RRT, January 2013a, p. 7)

Another organisation of foreign militants in Pakistan, the Islamic Movement of Uzbekistan (IMU) is described as a militant Islamist group formed in 1991 which operates training camps in Pakistan's region of Waziristan (RFE/RL, 6 August 2012). In its listing of terrorist organisations, the Australian Government mentions that the IMU changed its name to Islamic Party of Turkestan and Islamic Movement of Turkestan but is still reported under its old name. As regards the supporters of the IMU, the Australian Government states:

"The IMU has attracted supporters from a variety of ethnic backgrounds, principally Uzbeks, Kyrgyz, Tajiks, Chechens and Uighurs. The IMU's recruitment efforts have also been aimed at Germans, with a German member of the group, in a video released in 2010, inviting entire families to leave Germany to join the IMU in Pakistan's tribal areas.

The IMU continues to recruit fighters, and IMU members fight alongside the Taliban and al-Qa'ida against Coalition forces in Afghanistan and Pakistani forces in Pakistan. The Fergana Valley, where the Uzbek, Kyrgyz and Tajik borders converge, is a fertile recruiting ground for the IMU, which has successfully exploited the widespread poverty in the region in its recruitment strategy.

The IMU's losses in Afghanistan and Pakistan, as well as the defection of fighters to a splinter group, the Islamic Jihad Union, have not diminished the group's capability and intent to conduct terrorist attacks.

During the latter part of 2009, the IMU claimed that its fighters had been engaged in four months of severe fighting in four northern provinces of Afghanistan and in northwest Pakistan, and that the ranks of the IMU were being filled on a daily basis by new volunteers." (Australian Government, 15 March 2012b)

The Australian Government lists the following activities of the IMU in Pakistan:

"April 2009: the IMU claimed responsibility for a suicide bombing in North Waziristan, Pakistan, that killed a Pakistani soldier and seven civilians;

[...] Western European Muslims have been trained by the IMU in camps in North Waziristan, Pakistan. German nationals of Turkish and Moroccan origin have been trained in IMU camps and have made threats against Germany.

In September 2009, Pakistani investigators discovered a 'village' of German insurgents, including Muslim converts, who were being trained in a camp controlled by the IMU in the Waziristan area of Pakistan. A number of Swedish converts were also located there.

[...] The IMU has close ties with al-Qa'ida, the Taliban and other militant groups in the Afghanistan/Pakistan theatre. Senior IMU leaders have held positions in the al Qa'ida hierarchy. Current IMU chief Odil appeared in an October 2009 video with TTP leader Hakimullah Mahsud, shortly after both groups lost their leaders in US drone strikes." (Australian Government, 15 March 2012b)

Radio Free Europe/Radio Liberty (RFE/RL) reports in August 2012 that IMU leader Osman Adil was killed in a drone attack in Pakistan and that his deputy, Osman Ghazi, has succeeded him as the new leader of the group (RFE/RL, 6 August 2012).

3.1.2 Anti-terrorism operations

The US Department of State (USDOS) summarises in its annual report on human rights in 2012, dated April 2013:

"The Pakistani military continued to conduct counterinsurgency and counterterrorism operations in the FATA to stem the TTP militancy. The government also took actions to weaken terrorist ties around the country and prevent recruitment by militant organizations. For example, law enforcement agencies reported the seizure of large caches of weapons in urban areas such as Islamabad and Karachi. Police arrested Karachi gang members and TTP commanders who provided logistical support to militants in the tribal areas. Police arrested would-be suicide bombers in major cities of the country, confiscating weapons, suicide vests, and attack planning materials. The government continued to operate a center in Swat to rehabilitate and educate former child soldiers." (USDOS, 19 April 2013, section 1g)

In an analysis dated January 2013, the International Crisis Group (ICG) quotes a Pakistani security official as saying that Malakand division remains an active operation area. A military operation in Malakand's Swat district in September 2011 and another search operation in October 2011 is mentioned in the report:

"The 9 October 2012 shooting of fourteen-year-old activist Malala Yousafzai and two of her school friends in Mingora – in the vicinity of a well-guarded civil-military liaison office – has renewed domestic and international attention to Malakand's security challenges. Claiming credit, the Pakistani Taliban vowed to kill Malala if she survived. Adnan Aurangzeb, a former parliamentarian from Swat, said, 'Swat is on the radar again because of Malala's shooting. Before this, there was a sense that if it's not broken, why fix it?' But the cracks were visible well before this attack. Despite the military's claims to have defeated the insurgency, Malakand remains an active 'operation area', according to a Swat-based security official. In September 2011, for instance, after imposing a curfew, the

military launched an operation in Swat's Bishban area. Later that month, a curfew was imposed in Mingora, ahead of a clash with militants that left one soldier dead. In another search operation in Swat in October 2011, the military claimed it killed six militants and found heavy arms, including 35kg of explosives and fourteen hand-grenades. Militant attacks have continued unabated in Swat." (ICG, 15 January 2013, pp. 12-13)

ICG also reports about search operations and armed clashes in Malakand's Lower Dir district and violence in Chitral district, where an attack by militants in August 2011 and a rising army presence have raised security concerns:

"There are regular search operations and armed clashes between security forces and suspected militants in the [Lower Dir] district. In September 2012, two policemen were injured in a bomb attack, while a police station house officer (SHO – head of an individual police station) survived such an attack in June. 'All through the night, we hear guns going off', said an NGO worker and social activist in Lower Dir. 'We know that it isn't celebratory firing, as you have in Islamabad. These are battles. No one in the house can sleep, especially the children'. Another activist said, 'at home, my children don't play cops and robbers. They play Taliban versus army. This is what they will grow up with'. Violence has spread even to PATA's more peaceful districts, including Chitral, which has the longest of PATA's borders with Afghanistan.

[...] The August 2011 attack and a rising army presence in the district have raised security concerns in Chitral. A police official there believes that one of the most daunting security challenges in his district will result from a renewed drive by the Fazlullahed Taliban faction to conduct cross-border attacks from Nuristan. Yet, he complained, the Chitral police have not even been given four-wheel-drive vehicles in the mountainous region. (ICG, 15 January 2013, p. 14)

According to the ICG report, the military "reportedly apprehended over 1,000 alleged militants during the 2009 Malakand operation, and it continues to detain more during ongoing search operations" (ICG, 15 January 2013, p. 16).

In its annual report for 2012, Human Rights Watch (HRW) states that security forces "routinely violated basic rights in the course of counterterrorism operations". HRW also reports on aerial drone strikes by the US on suspected militants in northern Pakistan in 2012:

"Aerial drone strikes by the US on suspected members of al Qaeda and the Taliban in northern Pakistan continued in 2012, with some 44 strikes taking place through early November. As in previous years, these strikes were often accompanied by claims from Pakistanis of large numbers of civilian casualties, although lack of access to the conflict areas largely prevented independent verification." (HRW, 31 January 2013)

In January 2013, the BBC reports that militant leader Mullah Nazir and five others were killed by a US drone strike in South Waziristan. Mullah Nazir was said to form an alliance with the Pakistani government:

"Senior Pakistani militant leader Mullah Nazir has been killed by a US drone strike, security officials say. He died with at least five fighters when two missiles struck his vehicle in the north-west tribal district of South Waziristan. He was leader of one of four major militant factions in Pakistan and was accused of sending fighters to Afghanistan in support of the Taliban. Mullah Nazir is one of the most high-profile insurgents killed by drones. He had survived several attempts to kill him, including a suicide bomb attack blamed on rival militants in November. Mullah Nazir's group is one of several militant factions operating in Pakistan's restive north-west - in recent years there have been divisions among these groups. Analysts say Mullah Nazir formed an alliance with the government and opposed the Pakistani Taliban, with whom he was at odds because he favoured attacking US forces in Afghanistan rather than Pakistani soldiers. After November's attack on him, his faction told a rival group led by Taliban leader Hakimullah Mehsud, to leave the Wana area. Reports say he was also seen as an enemy of militants from the Islamic Movement of Uzbekistan (IMU), and praised by Pakistan for expelling Uzbek and other foreign fighters from Pakistan in 2007." (BBC, 3 January 2013)

Radio Free Europe/Radio Liberty (RFE/RL) cites a study published by the law schools at Stanford University and New York University according to which there were between 474 and 881 civilians killed by US drones between June 2004 and mid-September 2012, including 176 children (RFE/RL, 25 September 2012). The study can be accessed via the following link:

- International Human Rights and Conflict Resolution Clinic (Stanford Law School); Global Justice Clinic (NYU School Of Law): Living Under Drones - Death, Injury, and Trauma to Civilians From US Drone Practices in Pakistan, September 2012

<http://livingunderdrones.org/wp-content/uploads/2012/10/Stanford-NYU-LIVING-UNDER-DRONES.pdf>

3.1.3 Forced recruitment by non-state armed groups

In its June 2012 report on human trafficking (covering events from March 2011 to February 2012), the US Department of State (USDOS) reports about the coerced recruitment of children by militant groups:

"Non-state militant groups kidnap children or coerce parents with fraudulent promises or threats into giving away children as young as nine to spy, fight, or die as suicide bombers in Pakistan and Afghanistan. The militants often sexually and physically abuse the children and use psychological coercion to convince the children that the acts the children commit are justified." (USDOS, 19 June 2012)

As noted in an October 2009 report by the International Crisis Group (ICG), "[t]he [Pakistani] Taliban's rank and file reportedly receive a monthly salary of rupees (Rs.) 15,000 (almost \$190), much more than many other occupations - including the tribal levies who earn a monthly salary of Rs. 3,500 (roughly \$43)" (ICG, 21 October 2009, p. 10). A June 2010 article by the Pakistani newspaper Daily Times cites the Senior Adviser to the Punjab Chief Minister as saying that the Pakistani Taliban are recruiting the unemployed youth of southern Punjab by offering stipends of Rs. 16,000 to Rs. 20,000 per month (Daily Times, 19 June 2010).

In an August 2009 article by the Associated Press (AP) news agency, it is stated that the Pakistani Army recovered 20 boys from the Swat Valley who were allegedly being trained by

the Pakistani Taliban to become informants, fighters or suicide bombers. A clinical neuropsychologist called in by the army to assess the boys said some of them were “clearly depressed and traumatized”, but added that “it was unlikely all had been kidnapped as they claimed”. According to one of the boys, they were told that “jihad (holy war) is the duty of every Muslim”. (AP, 4 August 2009)

In an article dated April 2010, AP reports that police arrested Abdul Baseer, a man who was planning to carry out an attack on a luxury hotel in Lahore. The police also arrested a 14-year old boy Baseer “had groomed as his suicide bomber”. According to the article, “Baseer attended three Islamic boarding schools where children learn the Quran by heart and spend little time on secular subjects. The religious schools provide free board and lodging, but are widely criticized for indoctrinating students with an extreme version of Islam. At least one of the schools Baseer attended, Jamia Faridia in the capital, Islamabad, has been linked to terror.” (AP, 18 April 2010)

An August 2009 article from *Newsline*, a Pakistani monthly current affairs magazine, cites a senior army officer as saying that some 1,200 to 1,500 young boys were taken by the Swat Taliban to turn them into suicide bombers. One of these boys “who were lured by the Taliban into joining their camp” told that occasionally they had to train 16 hours a day. As the article further states, “[o]n the day of the attack, the bomber would be taken to a mosque, where he was congratulated by his colleagues for being chosen by God to become a martyr. ‘Sometimes he was heavily drugged before he was sent on his suicide mission,’ said an official”. According to the article, “[o]nce trained, the children could also be sold to other groups”. (*Newsline*, 8 August 2009)

The DIIS mentions in its report on the TTP that “[c]hild recruitment appears common” (DIIS, November 2010, p. 4). Among the TTP’s methods for recruiting children described by the DIIS, there are also examples of abducted teenage boys and threats of killing family members:

“On 27 July 2009, several ‘teenage bombers’ were rescued from a Taliban suicide training camp in Swat. One boy, age thirteen, was allegedly abducted from his school and taken to the Taliban mountain base in Swat. His training included sixteen hours daily of ‘physical exercise and psychological indoctrination’, with his instructors drumming into his head that ‘martyrdom is the biggest reward of Allah.’ Another boy, aged fifteen, studying at a madrassa, was apparently also lured to the Taliban’s training camp; he claimed: ‘I was told that it was a religious duty of every Muslim to get training to fight the enemies of Islam.’ Another teenager revealed that the Taliban endorsed the killing of one’s own family if they should be on the ‘wrong side.’ Furthermore, they are taught that the Pakistani army is an enemy of Islam, as it is fighting at the behest of Christians and Jews. Officials believe that up to 1,500 boys were recruited by Swati militants for suicide missions during an interval of peace negotiations that took place between the terrorists and the GoP in early 2009.” (DIIS, November 2010, pp. 46-47)

In October 2012, the BBC reports on two examples of cases of boys who were recruited and indoctrinated by the Taliban to commit suicide attacks:

"What is confirmed, though, is the fact that the Taliban have been recruiting and indoctrinating easily-impressionable teenage boys as suicide bombers for attacks in Pakistan. In February 2011, they used a 12-year-old boy to penetrate the well-fortified garrison in the north-western city of Mardan to attack army recruits. [...] At least 30 people were killed, most of them army recruits. Three months after that incident, the BBC interviewed another would-be suicide bomber who was caught by the police.

Omar Fidai, 14, said he was part of a double-attack plan at a Sufi shrine in Dera Ghazi Khan city. He was to detonate his explosives near the rescue workers after his partner - also a teenager - had blown himself up killing more than 40 people. But his vest did not explode properly. He was injured, but survived. He said he was trained at a camp for suicide bombers in the North Waziristan tribal region, and was given to believe that he would go straight to heaven once he had killed the infidels and the heretics. The UN's 2012 report has recorded 11 incidents during 2011 in which teenage boys, some as young as 13, were used by armed groups to carry out suicide attacks." (BBC, 23 October 2012)

In April 2013, Radio Free Europe/Radio Liberty (RFE/RL) reports on the arrest of a dozen children who have been recruited by the United Baloch army in Quetta:

"Pakistani police have arrested about a dozen children suspected of planting explosives for militants in Quetta, the capital of restive Balochistan Province. Local police chief Mir Zubair Mahmood displayed the young boys to the media at a news conference on March 13. Mahmood said the children came from poor families and were recruited by the United Baluch [Baloch] Army, a militant group based in Quetta. The police chief said the children, between 10 and 16 years old, could more easily avoid suspicion and leave packages containing homemade bombs in markets, trash cans, and on routes used by security forces." (RFE/RL, 10 April 2013)

The Integrated Regional Information Network (IRIN) reports in October 2012 on the motives of "desperate people" who turn to militant forces to be recruited for various purposes:

"Furthermore, the lack of development in Swat and the tribal agencies 'definitely nurture militancy', according to HRCP's Khan. He said government promises to create employment and bring development to Swat have 'not been met'. Huge floods in 2010 added to the problems, he said, with rebuilding and rehabilitation work affected. 'Whether it is Swat or somewhere else, what will people do if they have no jobs, no opportunity and they can see no government presence? They will turn to the militant forces who can recruit such desperate people for any purpose - as suicide bombers, as fighters and for other things. Naturally militancy grows in such conditions,' he said. 'People need choices in life. If they have none, it is easy for militant groups to lure them in.'" (IRIN, 12 October 2012)

3.1.4 Human rights abuses by non-state armed groups

Forced displacement

In April 2013, Radio Free Europe/Radio Liberty (RFE/RL) reports that “[a]t least four Pakistani soldiers and 14 militants have been killed in a new military offensive in the northwest”. The article continues:

“Officials said that the soldiers and insurgents were killed in the remote mountainous Tirah Valley in the Khyber tribal district on Afghanistan’s border, where the Taliban have been battling a local pro-government militia since January. Security officials say at least five soldiers were also injured in the clash. The clashes and casualties could not be independently verified because the remote battlefield is inaccessible to journalists. Fighting in the Tirah Valley has displaced some 44,000 civilians since January. Tehreek-e Taliban Pakistan, the main insurgent group in the tribal areas, is trying to control the strategic mountainous region to dominate the neighboring Kurram, Orakzai, and Peshawar valley regions.” (RFE/RL, 5 April 2013)

An article published by the Integrated Regional Information Network (IRIN) in April 2013 quotes the Internal Displacement Monitoring Centre (IDMC) as saying that 40,000 persons have been displaced as a consequence of intensified fighting in the Tirah Valley in Khyber Agency. At least three militant groups and government soldiers are involved in the fighting. The article also mentions a car bomb attack on a camp for internally displaced persons (IDPs):

“According to the Geneva-based Internal Displacement Monitoring Centre, some 750,000 persons are already internally displaced in Pakistan due to conflict and natural disasters. The ‘escalation of hostilities in [the] Bagh Maidan area of Tirah Valley in Khyber Agency has resulted in the displacement of over 5,200 families (40,600 individuals). The displacements started mid-last week. Most of the IDPs [internally displaced persons] are children (46 per cent) and women (32 per cent),’ according to an update by the UN’s Office for the Coordination of Humanitarian Affairs (OCHA), citing information from the FDMA. Fighting between government soldiers and militants in Tirah Valley, which has strategically important routes into Afghanistan, has been underway for several months, but intensified recently with militants seizing control of key areas. [...] The conflict is a complicated one, involving at least three militant groups that also have internal divisions. The humanitarian community is setting up operations to register the 40,000 IDPs and provide assistance at the New Durrani, Jalozi and Togh Sarai IDP camps, said Jean-Luc Siblot, the Acting Humanitarian Coordinator for aid agencies in Pakistan and the World Food Programme’s country representative. [...] Those fleeing have not always ended up in safer places. A car bomb blast at a food distribution point at the Jalozi Camp last week left 17 dead and many others injured. The district police officer, Muhammad Hussain, told IRIN, ‘We believe the blast may have been carried out by militants targeting tribespeople who opposed them and fled their villages as they moved in to capture these areas.’ The security threat is making it more difficult for humanitarian groups to provide aid.” (IRIN, 1 April 2013)

The BBC reports on battles between four different militant groups vying for control in the Takhtakai valley in Tirah in March 2013:

"In the first week of February, his native Takhtakai valley - located in Khyber's picturesque Tirah region - was simultaneously hit by heavy snowfall and fierce battles between four different militant groups vying for control. Takhtakai's strategic value is obvious to those who know the area. It is one of the highest human settlements in Tirah, overlooking both a Pakistani military supply route to the border with Afghanistan in the north, and the Taliban-infested Orakzai region in the south. The local tribe held back the militants for four long years, until the fighters of the Tehrik-e-Taliban Pakistan (TTP) group of Taliban joined forces with an erstwhile rival militant outfit, Lashkar-e-Islam, and stormed the posts of the tribal defenders. 'Bombshells flew across the valley for a day, and by the evening there were reports about the outer posts having fallen and most local fighters having been killed,' Mr Saeed recalls. Fearing Taliban reprisals, people started to flee, leaving their cattle and their winter food stocks behind." (BBC, 4 March 2013)

In February 2013, Dawn provides some details on the actors involved in the fighting in Tirah:

"More than 300 Kamarkhel families were forced to leave their houses as outlawed militant group Lashkar-i-Islam strengthened its control over the northern part of Takhtakai area in Tirah valley of Khyber Agency. Situated at a high altitude, the picturesque Takhtakai, inhabited mostly by Khoedakhel sub-tribe of Kamarkhel, witnessed some bloody clashes between Kamarkhel Amn Sareshta, a local peace committee, and Lashkar-i-Islam (LI) during the last one week. The clashes left more than 20 persons dead and several others injured from both sides. Ali Mat Khan, a resident of Takhtakai, told Dawn that his family along with some 300 others left the area. The residents of the area shifted to Bagh-Maidan, Orakzai, Hangu, Peshawar and Cherat during the last three days, he added. He said that LI members were in control of Lar Kallay, Bar Kallay and Shengarhi localities, situated in the northern part of Takhtakai. He said that except for a few young Kamarkhel tribesmen, who surrendered to LI and joined the group, the rest of the population moved out of the area. [...] Khyal Mat Shah, another resident of the area said, that volunteers of the local peace committee backed by Ansaarul Islam activists were occupying bunkers in Tor Lagad and Lakai Sar area in the southern part of Takhtakai. [...] The Kamarkhel tribe maintained its neutrality during the last seven years of hostility between LI and Ansaarul Islam and did not allow any of the militant groups to either occupy their area or establish hideouts in any part of Takhtakai. Capturing of strategically important Takhtakai will also expose the defence lines of Ansaarul Islam to its all time foe, Lashkar-i-Islam. Both the groups fought some fierce battles in the past to gain control of the entire Tirah valley. Now with Taliban knocking at the doors of Bagh-Maidan, the AI headquarters, and the near-fall of Takhtakai to LI, Ansaar will find it difficult to hold its feet in the areas under its control." (Dawn, 4 February 2013)

Land confiscations

BBC reports in March 2013 that mafia groups and militant groups are competing in land-grabbing activities in Karachi:

"There is a tussle under way between mafia groups (becoming more prolific and powerful in Karachi) who seek to seize land and militant groups who are also grabbing land. This includes the Taliban, for all their willingness to arbitrate in these disputes." (BBC, 21 March 2013)

The Center for Strategic and International Studies (CSIS) describes the situation in Karachi in an analysis dated September 2011. Armed politico-militant forces engage in "bloody turf warfare for political space" in the city linking politics and crime, with land-grabbing being one of the methods applied:

"Karachi sits astride a vicious ethnic fault-line, pitting the growing Pashtun minority against the dominant Mohajir community and their loosely confederated Sindhi partners. Each ethnic base represents its interests through its political party—the Muttahida Qaumi Movement (MQM) for the Mohajirs, the Awami National Party (ANP) for the Pashtuns and the Pakistan People's Party (PPP) for the Sindhis. On the streets of Karachi their well-armed politico-militant forces have waged bloody turf warfare for political space in the city. Expanded territorial control has meant votes, patronage from legal businesses and powerbrokers, as well as involvement in various lucrative criminal enterprises, facilitating a nexus between politics and crime. The relationship can be symbiotic. Criminal gangs help augment the street strength of political parties, and both profit from various criminal schemes, including land-grabbing, extortion, and even kidnapping, drugs and trafficking." (CSIS, September 2011, p. 125)

In March 2013, News International reports on the security situation in Karachi mentioning the land and weapons mafia, no-go-areas and target killers affiliated with various political and armed groups:

"Karachi: Chief Justice Iftikhar Muhammad Chaudhry observed that peace could not be maintained in Karachi until the land and weapons mafia were eliminated and the delimitation of constituencies was ensured. 'Peace in Karachi cannot be restored until the writ of the state is established in every part of the city,' the five-member bench, headed by Chief Justice Iftikhar Muhammad Chaudhry, observed, while hearing the Karachi law and order suo moto implementation case. The apex court directed the police and the Rangers to purge Lyari of criminal elements and establish the 'writ of the state' there and other troubled areas of the city and remove all no-go areas come what may. The court observed that the existence of no-go areas meant that the police were accepting defeat and directed the IG Sindh to name the influentials who were creating hurdles for a police operation in Lyari. According to NNI, the Inspector General of Sindh Police presented a detailed report over incidents of target killings and extortion in the city. According to NNI, the report submitted by IG [Inspector General] Sindh included a list of 224 arrested target killers, having affiliation with different political parties and banned outfits. IG Sindh reported that these arrests were made after 2011. It was mentioned in the report that 81 arrested target killers were affiliated with the Muttahida Qaumi Movement (MQM), 38 with Sunni Tehreek (ST), 9 with Tehrik-e-Insaf and 13 others belonged to the Awami National Party (ANP). The list also included names of 27 members of the Tehreek-e-Taliban Pakistan (TTP), 17 from the Lyari gang war, six from the People's Amn Committee,

two from the Lashkar-e-Jhangvi (LJ) and five from Jandullah.” (News International, 22 March 2013)

The Immigration and Refugee Board of Canada (IRB) mentions land-grabbing in Karachi in a query response of December 2011:

“The Supreme Court of Pakistan and the HRCP [Human Rights Commission of Pakistan] indicate that ‘land grabbing’ is also evident in the city (Pakistan 6 Oct. 2011, 150; HRCP 8 Oct. 2011). As the HRCP explains, ‘political power and state machinery have been used to grab land’ since 2002, ‘while gangs of land-grabbers and mafias have tried to exploit the breakdown of law and order’ (8 Oct. 2011). Sources also report of the destruction of property (Pakistan 6 Oct. 2011, 150; HRCP 8 Oct. 2011; RFE/RL 8 Aug. 2011; AFP 7 Aug. 2011), noting that homes and businesses are being burned down (ibid.; HRCP 8 Oct. 2011; RFE/RL 8 Aug. 2011).” (IRB, 7 December 2011)

In October 2011, World Watch Monitor, a Christian news website, reports on a land-grabbing incident committed by an armed group of Muslims in southern Punjab. One Christian was killed and 21 others were injured in the incident:

“Muslims in Pakistan’s Mian Channu area in southern Punjab Province shot dead an unarmed Christian man and injured 21 others, six of them critically, in an attempted land-grab on Wednesday (Oct. 5). Residents of the area told Compass by phone that 40 to 45 heavily-armed Muslims on 10 to 12 motorcycles, two tractor-trolleys and in a car reached Chak 134-16/L village, in Khanewal district, and forcibly entered the home of Adeel Kashif, a Christian carpenter who was living on a government-owned piece of land. ‘The attackers forced their way into Kashif’s house and started throwing the family’s belongings onto the street,’ Wazir Masih, a Christian elder in the area, told Compass. ‘They also tore the clothes off Kashif’s three female family members – Violet, 40, Parveen, 35, and Esther, 17, and tortured the family.’ Masih said the assailants wanted to take illegal possession of the 18-marla piece of land (in Pakistan, one marla equals 30.25 square yards).

[...] Before Kashif, a Muslim carpenter named Muhammad Iqbal was allowed to live on the property, he said. ‘Iqbal lived there for over 10 years and moved out about two months ago,’ Masih said. ‘However, before leaving he prepared fake papers of the land in connivance with the Patwari [local revenue officer] and a local Muslim group and ‘sold’ it to them for 130,000 rupees [US\$1,480],’ Masih said, adding that the entire process was fraudulent because no one can sell the government’s land in a personal capacity. He said that on Wednesday (Oct. 5), armed Muslims led by men of the area’s powerful Jagrane family arrived at the house and tried to force the Christians out.

[...] Masih said the Muslims suddenly opened indiscriminate fire on the Christians, instantly killing 25-year-old Sajid Bashir Masih and seriously injuring 21 others, including women and children. He added that six of the injured were in critical condition, one of them Sajid Bashir Masih’s younger brother, Haroon. [...] Police besieged the house and eventually managed to arrest 16 armed assailants, but the primary suspects remain free. [...] A.D. Sahil, a Christian schoolteacher of the area, told Compass that the Christians suspected police complicity in the incident.” (World Watch Monitor, 7 October 2011)

The Express Tribune reports in April 2012 on a protest against the police for not taking action against a gang of land grabbers in Faisalabad:

"Faisalabad: Dozens of residents of Saddar on Saturday staged a protest against the police for not taking action against a gang of land grabbers in the area. The demonstrators marched from the District Council Chowk to the office of the regional police officer where they staged a sit-in. They accused the police of supporting some influential men in their illegal occupation of a residential plot they said was owned by Muhammad Afzal, also present on the scene.

Afzal said Saddar police had yet to register his complaint against one Nawaz Gujjar and his accomplices in the matter. He said he had obtained directions for the police from an additional sessions judge to register the case. He said a plot he owned in the area had been illegally occupied by Gujjar and Muhammad Ajmal for five days. 'They beat up five men of my family for putting up resistance,' he said. He said four of the injured were still hospitalised. Afzal alleged that the Saddar police were protecting and supporting several criminals in the area. He said cattle lifting, land-grab, organised gambling and drug peddling were reported every other day but the police had yet to arrest anyone of these." (Express Tribune, 29 April 2012)

In a query response dated January 2013, the Immigration and Refugee Board of Canada (IRB) quotes various sources reporting on land grabbing:

"The BPCA [British Pakistani Christian Association] stated that, in rural Punjab, 'rich landlords and Muslim businessmen' target Christian communities and institutions, including hospitals and orphanages, to take ownership of their land by 'brute force' (14 Dec. 2012). Similarly, JI [Jinnah Institute] reports that in rural Punjab, a large percentage of anti-Christian incidents are associated with 'land-grabbing' by Muslims (2011, 31). JI explains that after some of the more serious mob attacks such as Gojra, Christian residents often did not return to their homes. Personal property and land was in most cases taken by local Muslim residents (2011, 31).

According to a Pakistani professor of Sharia and Law, the case of Rimsha Masih, a young Christian girl falsely accused of blasphemy by a local Muslim cleric (The Economist 8 Sept. 2012; BPCA 14 Dec. 2012), was intended to clear the girl's neighbourhood of Christians to make room for a religious seminary (CRSS 7 Sept. 2012). The Economist similarly reports that the incident appears to have been intended to permanently drive out several hundred Christian families (8 Sept. 2012). Sources report that, after the girl's arrest, Christians fled the area out of fear of being attacked (Al Jazeera 28 Aug. 2012; The Economist 8 Sept. 2012). Al Jazeera also indicates that Muslim community leaders had reportedly pressured landlords to evict Christian tenants (28 Aug. 2012). The Guardian adds that 900 Christians were evicted from the neighbourhood, which had been the site of religious tension for several months prior to the incident (19 Aug. 2012)." (IRB, 14 January 2013a)

In its annual report for 2012, the Human Rights Commission of Pakistan (HRCP) mentions land-grabbing activities against religious minorities (HRCP, March 2013, pp. 100, 106 and 111). HRCP reports on hundreds of mosques being illegally built on encroached land:

"In other places, hundreds of mosques were illegally built on encroached land in complete disregard of the law. It was extremely difficult to take action after the mosques had been built as the encroachers banked on exploiting religious sentiments of the population. According to the Capital Development Authority, in Islamabad alone, around 40 illegal mosques were reportedly built while in Multan in the southern part of Punjab a media report counted 45 illegal mosques in 2012." (HRCP, March 2013, p. 111)

The World Organisation Against Torture (OMCT) reports in March 2013 on the murder of the activist Perveen Rehman in Karachi. The incident is said to show a nexus between criminal and political elements involved in land grabbing:

"Ms. Perveen Rehman had recently been documenting the situation in villages close to Karachi, which are affected by land grabs and religious extremism. The motive behind her murder remains unclear, but the incident appears to be another case of ongoing targeted and violent attacks on human rights defenders, NGOs representatives and social workers in many parts of the country. It also demonstrates the nexus between criminal and political elements involved in land grabbing." (OMCT, 19 March 2013)

Arbitrary taxation and extortion

According to the report of the Danish Institute for International Studies (DIIS) on the TTP, "the Pakistani Taliban collects revenue from the local population in terms of taxes, penalties and extortion" (DIIS, November 2010, p. 52). The following details are provided in the DIIS report:

"In North Waziristan, the Taliban have levied 'taxes' on transport and trucking – for example, ten-wheel trucks entering Waziristan are required to pay 1,500 rupees for 'safe' road access for six months. The TTP also charges smugglers for the 'safe passage' of contraband shipments from Afghanistan to FATA/NWFP [Federally Administered Tribal Areas / North-West Frontier Province (today's Khyber Pakhtunkhwa)] and to Balochistan. Protection money is also extorted from non-Muslim minorities as jiziya. For example, in April 2009, the Sikh community in FATA agreed to pay Rs. 20 million to the militants as jiziya after being coerced by the Taliban, who confiscated their houses and kept a Sikh leader hostage. Economic penalties have also been prescribed for offences, especially those in violation of sharia law. Fund-raising campaigns also bring in extra rupees for the TTP; this includes donations from Waziristani families living in other provinces outside FATA.

'Commando squads' hired to kidnap for ransom are also thought to be used to bring in cash to the militants. Kidnappings of NGO workers, locals belonging to NWFP's [North-West Frontier Province (today's Khyber Pakhtunkhwa)] business community, security personnel and government officials have witnessed a steep rise. In June 2007, an NGO worker, a government employee and a bank manager were kidnapped in the Bannu district of the NWFP [North-West Frontier Province (today's Khyber Pakhtunkhwa)] for a

ransom of Rs. 1.2 million, which was paid. Businessmen and the wealthy have been a popular target. For example, a captured Swat militant reportedly confessed: 'We kidnapped Najeebullah Afghani, the owner of a company transporting cement from Hayatabad to Afghanistan, for ransom and received Rs 10 million for his release.'

Soldiers and government employees have also been routinely targeted for kidnappings for ransom. In August 2007, for the release of 280 kidnapped soldiers, the terrorists were paid Rs. 60 million. On 11 February 2008, Pakistan's ambassador to Afghanistan, Tariq Azizuddin, was kidnapped and subsequently released for a ransom of \$2.5 million paid to Baitullah Mehsud. Likewise, recently militants demanded 25 million rupees exchange for releasing the Afghan ambassador-designate to Pakistan, Abdul Khaliq." (DIIS, November 2010, pp. 53-54)

The Fund for Peace (FFP) mentions in its profile of the Haqqani Network in October 2011 that "[t]he Haqqanis also earn revenue from criminal enterprises such as the illegal sale of chromite, an iron oxide used in many metal alloys, and timber smuggling and, to a lesser extent, kidnapping and extortion" (FFP, October 2011, p. 3).

In August 2012, the Daily Times reports on extortion practices in Karachi:

"Karachi: The recent trend of grenade attacks of shops and markets that refuse extortion has terrorised local traders and businessmen, besides totally blackened the chances of further investment in Karachi. All Pakistan Organization of Small Traders and Cottage Industries (APOSTCI) Karachi chapter president Mehmood Hamid said in past the extortionists backed by the ruling parties used to send bullets wrapped in extortion demand chits to Karachi traders, but embolden by covert backing from the corridors of power, now these mafia men are hurling grenades on shops and markets that refuse or delay Bhatta. He said a famous chain store at NIPA Chowrangi was attacked with grenade. Last week shops at Yousuf Plaza and Water Pump were attacked with hand grenades and earlier grenades were hurled in bazaars of Hussainabad, Liaquatabad and Quaidabad by extortionists. He said the APOSTCI has record of more than one dozen such grenade attacks in Karachi.

He said extortion mafia is collecting forces Fitra and Zakat at the rate of Rs 3,000 to Rs 5,000 per shop in Karachi, but the police and administration are playing the role of silent spectator. He said small traders are the worst affected segment of society due to Karachi lawlessness and a lot of small trades and cottage industries have closed their doors for good due to lack of business. He demanded of the government to realise the gravity of the situation as the ongoing 'Bhatta war' in Karachi is hitting hard the economy of not only Karachi but also the whole country." (Daily Times, 6 August 2012)

Extortion practices in Karachi are also described by the Immigration and Refugee Board of Canada (IRB) in its query response of December 2011:

"Sources report of extortion [also called bhatta or bata] (Pakistan 6 Oct. 2011, 45, 150; Reuters 28 Aug. 2011; HRCP 8 Oct. 2011; The Economist 27 Aug. 2011), and that its victims include both home and business owners in Karachi (ibid.). According to the HRCP, all

businesses, small, medium and large, are subject to extortion by criminals 'believed to have links with all political groups' in Karachi (8 Oct. 2011). The Supreme Court of Pakistan corroborates the HRCP's observation that criminals, backed by political parties 'who are the stakeholders,' are extorting money, approximately 10 million rupees a day [113,000.00 CAD (Canada 6 Dec. 2011)], from push-cart peddlers, shopkeepers, and top businessmen (Pakistan 6 Oct. 2011, 45). The Economist identifies three rival political parties as being involved in the extortion of businesses: the Muttahida Quami Movement (MQM), the PPP, and the Awami National Party (ANP) (27 Aug. 2011). In addition, Pakistan's supreme court also names the Jamat-e-Islami and Sunni Tehrik as groups that extort money (Pakistan 6 Oct. 2011, 45). According to the HRCP, '[m]uch of the violence' in Karachi is 'linked to disputes over who collects from which area' (8 Oct. 2011)." (IRB, 7 December 2011)

4 Security forces/military

4.1 General information on security forces

4.1.1 *Armed forces*

According to the Central Intelligence Agency's (CIA) World Factbook, the Pakistani Armed Forces comprise the Pakistan Army (including the National Guard), the Pakistan Navy (including Marines and Maritime Security Agency) and the Pakistan Air Force (Pakistan Fiza'ya). The age for voluntary military service is 17-23 years, however, soldiers cannot be deployed for combat until the age of 18 (CIA, last updated 16 April 2013). The US Department of State (USDOS) notes in its annual report on human rights in 2012:

"The armed forces are responsible for external security. During the year there were times when the government assigned domestic security responsibilities to the armed forces. [...]

The Actions in Aid of Civil Power Regulation 2011, which came into force in June 2011, grants wide powers to the military. The regulation allegedly responded to the need for a permanent federal statute to regulate the armed forces and give them legal authority to handle detainees under civilian supervision when called upon by the government. Retroactive to 2008, the regulation empowers the KP governor in FATA and the KP government in PATA to direct the armed forces to intern suspected terrorists.

Critics stated that the regulation violated the constitution because, among other things, it empowers the armed forces to occupy property, makes statements or depositions by military officers sufficient to convict an accused, and makes all evidence collected, received, or prepared by the interning authority admissible and dispositive of guilt. Others noted that the regulation establishes a legal framework where none previously existed, prohibits the abuse or misuse of force by the military, and allows for more transparent treatment of detainees by requiring registration upon apprehension and providing a legal process for transfer of detainees from military to civilian authorities for prosecution. It also creates an appeals process for detainees and their relatives and, importantly, limits the powers of the armed forces in administering the regulation. Reports in November and December 2011 indicated that transfers of detainees had begun." (USDOS, 19 April 2013, section 1d)

Jane's Information Group, a US publishing group specialised in military issues, indicates that the total strength of Pakistan's armed forces was recorded as 590,000 (520,000 Army, 45,000 Air Force and 25,000 Navy personnel). Apart from the regular forces, there are 500,000 reservists intended as individual replacements and reinforcements. According to Jane's, reservists receive only "minimal" training for a triennial three week period but are drawn from recent regular service-leavers, who "remain liable for service to the age of 45 and have readily-employable skills." Jane's further notes:

"The army is large, well trained, reasonably well equipped and senior leadership is of a high quality, although there is some evidence of dilution due to 'rank creep'. There is no evidence of religious extremism among senior officers, largely due to tight monitoring of promotion and selection boards by successive army chiefs, although it appears there may

be some extremists in junior ranks.” (Jane’s Information Group, updated between 10 October 2011 and 23 April 2012, as cited in UKBA, 7 December 2012, pp. 52-53)

An overview of Pakistan’s army is given on the undated website Pakistan Defence, a US-based portal providing information and news coverage on the Pakistan Armed Forces:

“Pakistan army is the biggest force in its defense mechanism. There are 651,000 personnel employed in the army with 500,000 personnel in the reserve force. The present General of the Army is General Ashwaq Pervez Kayani. [...]

There are two main branches in the Pakistan Army – Services and Arms, the Services wing consists of Army Services Corps, Corps of Military Police, Military Intelligence Corps, Electrical and Mechanical Engineers, Army Ordnance Corps, Pakistan Army Medical Corps, Army Dental Corps, Remount Veterinary and Farms Corps, Army Education Corps, JAG Corps and Army Clerical Corps. The Arms wing consists of the Armored Corps division, artillery, infantry, air defense, engineers, aviation, signals, chemical corps and airborne division. [...]

Originally, the Pakistani army consisted predominantly of Punjab regiment. However, as of now, the army is equipped with a number of regiments that fight in various formations. Important regiments in the army are Punjab regiment, Frontier Force Regiment, Baloch regiment, Azad Kashmir Regiment, Sind Regiment and Northern Light infantry. Besides these, there are a number of cavalry regiments under Pakistani Armored Corps. A special force is formed for the protection of the President called The President’s Bodyguard. [...]

The headquarters of the Pakistani army is at Rawalpindi in Punjab state. The army has thirteen corps divisions, each located in a different part of the country. Each of these Corps, in turn, has a number of armored brigades, artillery brigades, Infantry brigades and anti-tank brigades. The Corps are headquartered at Mangla Cantonment, Multan, Lahore, Gujranwala, Bahawalpur, Karachi, Rawalpindi, Peshawar and Quetta. The air defense command forces and army strategic forces command have their headquarters at Rawalpindi.” (Pakistan Defence, undated)

4.1.2 Paramilitary forces

A report on Pakistan’s Police and Law Enforcement Infrastructure by the US Institute of Peace (USIP), dated February 2011, lists the following five paramilitary organisations under the Ministry of the Interior: the Pakistan Rangers in Sindh and Punjab, the Frontier Corps in Khyber Pakhtunkhwa and Balochistan, the Frontier Constabulary, the Northern Areas Scouts in Gilgit-Baltistan and the Pakistan Maritime Security Agency (USIP, February 2011, p. 4). A joint report by the Human Rights Commission of Pakistan (HRCP) and the Commonwealth Human Rights Initiative (CHRI) states that these agencies are broadly tasked with securing and checking illegal border crossings, preventing smuggling, enforcing drug control and assisting provincial governments in maintaining law and order. They are led by cadres from the Armed Forces (HRCP/CHRI, May 2010, p. 10). The total strength of these forces is given as 168,555 (HRCP/CHRI, May 2010, p. 47).

The Rangers in Sindh and Punjab are described as an organisation that “secures Pakistan’s border with India and assists when called in by respective provincial governments to maintain law and order”. The Sindh Rangers are especially active in Karachi. Both Ranger organisations “regularly assist police in border regions and focus on intelligence gathering”. They also comprise an anti-terrorist wing (USIP, February 2011, p. 16).

The Frontier Corps in Khyber Pakhtunkhwa and Balochistan “supports local law enforcement in maintaining law and order when requested by the federal government”. Its primary task is “to monitor and obstruct smuggling along Pakistan’s borders with Afghanistan and Iran”, but they are increasingly involved in counterterrorism and counterinsurgency operations, especially in FATA (USIP, February 2011, p. 16). The Frontier Corps has a strength of 55,000 and is almost entirely composed of Pashtuns from FATA and Khyber Pakhtunkhwa, though the commanding officers are seconded from the Pakistan army (AI, 10 June 2010, p. 32).

The Frontier Constabulary is largely drawn from KP, but can be deployed anywhere in Pakistan by the Ministry of the Interior. It operates mostly in KP, FATA and Islamabad (USIP, February 2011, p. 16). Historically, its task was to guard the border to the tribal areas of FATA (USIP, February 2011, p. 17, footnote e).

The Northern Areas Scouts secure areas that border Gilgit-Baltistan and the Pakistan Maritime Security Agency (Pakistan Coast Guards) is deployed in the coastal areas of Sindh and Balochistan Provinces (USIP, February 2011, p. 16).

Apart from the official paramilitary organisations described above, the International Crisis Group (ICG) mentions the lashkars, informal state-supported militias tasked with acting on the military’s behalf to counter militants:

“The use of informal militias (lashkars) has also undermined the state’s writ, the rule of law and human rights in PATA. Questioning the state’s approach, an NGO worker in Lower Dir asked: ‘How do you arm one group and say that that’s okay, but then say that if this other group arms itself, it is not okay?’ These lashkars have been renamed ‘peace committees’ to avoid association with terrorist groups such as the Lashkar-e-Jhangvi and Lashkar-e-Tayyaba. Regardless of the name change, lashkars remain state-supported militias, tasked with acting on the military’s behalf to counter militants. But an NGO worker and social activist in Swat described their basic functions as ‘one, to do what the army says; and, two, to settle personal vendettas’. Anecdotal accounts of abuses by lashkars, including destruction of homes, revenge killings, raids and abductions, are extensive throughout PATA.” (ICG, 15 January 2013, p. 21)

4.1.3 Intelligence services

The Carnegie Endowment for International Peace names three main intelligence agencies in Pakistan: the Inter-Services Intelligence (ISI), which is sometimes characterised as “semimilitary”, the Military Intelligence (MI), which is a purely military institution, and the Intelligence Bureau (IB), which is a civilian agency (Carnegie Endowment for International Peace, 6 March 2009).

The February 2011 report by the US Institute for Peace (USIP) states that the responsibilities of the Intelligence Bureau (IB) include gathering intelligence (including for counterterrorism purposes) within Pakistan and “disseminating it through the Ministry of Interior to political leadership and various police organizations”. Its director general is either a serving police officer (typically the case during periods of civilian rule), or a serving major general from the army (often the case during military rule). As indicated by the USIP, the number of IB employees supporting police work is around 2,000 (USIP, February 2011, p. 17; see also HRCP/CHRI, May 2010, p. 54).

Inter-Services Intelligence (ISI) was created in 1948 “to co-ordinate intelligence between the different branches of the Pakistani military” and constitutes “the largest of Pakistan’s three intelligence agencies” although “its exact budget and the size of its payroll are classified” (Al Jazeera, 1 February 2012). The ISI only partly deals with law enforcement issues. Its internal wing, the Counter Terrorism Centre, “focuses on intelligence gathering and analysis and provides intelligence assessments to the government. The ISI is responsible for sharing relevant information with police organizations through the federal government” (USIP, February 2011, p. 17). As indicated by the USIP, the agency’s director-general is a serving lieutenant general of the Pakistan Army who directly reports to the prime minister of Pakistan but also sits in meetings of the army corps commanders and reports to the Chief of Army Staff (USIP, February 2011, p. 17). Al Jazeera notes that the director of the ISI is “appointed by the army chief of staff” while the prime minister merely confirms the decision, and that many Pakistanis see the agency as being “accountable only to itself and to the powerful military, not the civilian government in Islamabad”. Al Jazeera further reports that according to estimates by analysts, the ISI has “more than 10,000” employees as well as “a network of tens of thousands of informants and assets” in and outside Pakistan (Al Jazeera, 1 February 2012). The USIP states that approximately 3,500 ISI employees are involved in work linked to police work and counterterrorism (USIP, February 2011, p. 17).

4.1.4 Police

The US Institute for Peace (USIP) distinguishes two sets of law enforcement organisations in Pakistan: those organisations operating under the federal government, and the provincial and regional police organisations (USIP, February 2011, p. 4).

The federal law enforcement agencies comprise 18 organisations which, according to the USIP, can be grouped into four broad categories: 1. the Forces of the Ministry of the Interior which comprise the Islamabad Police and the Federal Investigation Agency (FIA) as well as the five paramilitary organisations described in section 4.1.2 above; 2. police planning and management organisations under the Ministry of the Interior which include the National Police Bureau, the National Police Management Board, the National Police Foundation, the National Public Safety Commission and the National Counter-Terrorism Authority; 3. other federal organisations outside the direct control of the Ministry of the Interior which include the National Highways and Motorway Police under the Ministry of Communications, the Pakistan Railways Police under the Ministry of Railways, the Airport Security Force under the Ministry of

Defense, and the Anti-Narcotics Force under the Ministry of Narcotics Control; 4. intelligence organisations described in section 4.1.3 above (USIP, February 2011, pp. 4-5).

The USIP notes that the Islamabad Police (Capital Territory Police) “performs standard police duties in Islamabad [...] and operates directly under the control of the Ministry of the Interior” (USIP, February 2011, p. 16). According to the undated website of the Islamabad Police, Pakistan’s capital has a total of 18 police stations (Islamabad Capital Territory Police, undated).

As reported by the USIP, the Federal Investigation Agency (FIA) “investigates offenses committed in connection with matters that concern the federal government, are of interprovincial scope, or involve transnational organized crime”. The FIA’s jurisdiction “encompasses economic crimes, terrorism, cyber crimes, banking offenses, and enforcement of immigration laws and exit control lists”. (USIP, February 2011, p. 16)

On the provincial and regional levels, Pakistan has four provincial police organisations and regional police organisations for Gilgit-Baltistan and Azad Kashmir. All of those are organised along similar lines and abide by the same set of laws and rules. Thus the procedural criminal laws (the Penal Code, the Code of Criminal Procedure and the Qanun-e-Shahadat Order) are uniformly applicable to all parts of the country with the exception of the Federally Administered Tribal Areas (USIP, February 2011, p. 5). The Police Service of Pakistan (PSP), which is recruited, trained and managed by the federal government, provides the bulk of senior officers to the provincial police departments. Thus police leadership throughout Pakistan has the same training and recruitment background. (HRCP/CHRI, May 2010, p. 10)

The US Department of State (USDOS) lists several law enforcement entities operating in FATA. Besides the paramilitary Frontier Corps (named Frontier Scouts by the USDOS) and the Frontier Constabulary described in section 4.1.2 above, the report mentions “levies, which operate in FATA and report to the political agent; khassadars (hereditary tribal police), which help the political agent maintain order; and lashkars (tribal militias), which are convened by tribal leaders to deal with temporary law and order disturbances”. (USDOS, 19 April 2013, section 1d)

The May 2010 report by HRCP/CHRI provides the following details on Levies and Khasadars in FATA and PATA:

“Levies and Khasadars: An approved Rs. 2 billion package will create 5,713 new vacancies in the Federal Levies Force that has jurisdiction in FATA and PATA. The Federal Levies date back to the British era; members were (and continue to be) recruited on a tribal basis by political agents of the federal government. The Levies work under the Ministry of States and Frontier Regions (SAFRON). The Khasadar force also dates back to the British era and is focused on maintaining law and order and establishing the writ of the government in tribal areas. However, with growing militancy in tribal areas and Khyber Pakhtunkhwa, their roles have recently been extended to regions of the Provincially Administered Tribal Areas (PATA). There are more than 15,000 Khasadars in total. Although remuneration for the members of the Levies and Khasadars are in the process of

being raised, they do not receive any pension benefits, are not properly trained to maintain law and order, and are ill-equipped." (HRCP/CHRI, May 2010, pp. 60-61)

In January 2013, the International Crisis Group (ICG) reports on a new regulation signed by President Zardari in June 2012 which shifted the responsibility for the PATA Levies from the Ministry of States and Frontier Regions to the District Coordination Officer (DCO), the senior bureaucrat at the district level:

"In June 2012, President Zardari signed the Federal Levies Force regulations for PATA and FATA, which revised service and salary structure, providing the same pay, benefits, training and equipment as the Frontier Constabulary, and gave the same responsibilities to police the region between KPK's settled districts and FATA agencies. They also decentralised command, making the PATA Levies answerable to the DCO [District Coordination Officer], rather than the police or provincial-level authority such as the home ministry or a federal entity such as the states and frontier regions ministry (SAFRON) that previously oversaw the force. Rather than delegating responsibility to the Levies or the Frontier Constabulary, the government should absorb their personnel into the regular police, provided they satisfy training and vetting procedures." (ICG, 15 January 2013, p. 29)

In a December 2012 article, the Express Tribune states that the operation area of the Levies is between FATA and the Frontier Region. The article quotes a retired Brigadier as saying that the Levies do not operate across the province of Khyber Pakhtunkhwa and FATA:

"The Levies are part of a security apparatus installed between the Federally Administered Tribal Areas (Fata) and settled areas known as the Frontier Region (FR). As opposed to the khasadars, referred to as 'tribal police' and appointed by tribal authorities, the Levies are appointed by the political administration on merit basis and are given arms and ammunition by the government. [...] Defence analyst Brigadier (retd) Mehmood Shah said that Levies Forces do not operate across Khyber-Pakhtunkhwa (K-P) and Fata, and the name used for such forces there is Frontier Constabulary and Frontier Corps. The Frontier Constabulary is a federal paramilitary unit largely drawn from K-P, said Shah. Its main function is to protect the borders of the province, check cross-border infiltration and smuggling. The Frontier Corps is also responsible for protecting the western border regions of the country. The force is answerable to the Ministry of States and Frontier Regions and the General Headquarters. Shah informed that, in actuality, the Levies force work in Balochistan as government employees who abide by state regulation. Tribal identity is not taken into consideration at the time of hiring. The Levies force was established in 1859 in the Malakand area during British rule, and later expanded to Dir, Bajaur and Orakzai agencies. Political agents and district coordination officers act as commandants of Levies forces within their respective jurisdictions." (Express Tribune, 31 December 2012a)

The ICG mentions another special body in Malakand, the Community Police Force:

"In 2009, after the military declared victory in Malakand, yet another special body, the Community Police Force, was created, with some 7,000 personnel, mostly youth and

retired low-level police and army, trained for two months by the army, and, in theory, selected by local communities. Members serve for one year and can be extended by six months. Creating more parallel bodies is unlikely to promote law and order in conflict zones. Instead, the focus should be on meaningful reform of the regular police. However, the overall emphasis of reform thus far, in addition to creating new forces, has been on enhancing the KPK police's coercive tools rather than the 'softer' aspects of policing that would boost public confidence in and cooperation with the institution. Nor has there been sufficient investment in improving investigative tools and skills." (ICG, 15 January 2013, p. 29)

The ICG concludes that the law enforcement structure in PATA leads to overlapping roles but little cooperation and undermines police functioning:

"There is also dire need to reform PATA's peculiar law enforcement structure that beside regular police includes Levies, paramilitary Scouts, the individual Frontier Corps units, the army and military intelligence agencies. Chitral also has a border police, under command of the DCO, the district administrative head, rather than the police. That these entities have overlapping roles but little cooperation undermines police functioning, casework, and institutional memory." (ICG, 15 January 2013, p. 29)

In the province of Balochistan, the Balochistan Levies have been revived, as stated in the May 2010 report by HRCP/CHRI. Thus police in the province will largely be confined to urban areas (A areas), whereas the Levies will have jurisdiction in the rest of the province (B areas):

"The province of Balochistan, with the passage of the Balochistan Levies Force Act, 2010, has revived the use of the Balochistan Levies – a policing arrangement that has traditionally consisted of locals controlled by the Tribal Sardars. In the past, the security establishment often viewed the Levies as a private army for the Sardars. It was therefore decided to gradually disband the force during the Musharraf regime. However, the local elites and political leadership resented this and thus the Levies have been resurrected. Balochistan will remain divided into the A Areas (where the police have jurisdiction) and B Areas (where the Levies force will have jurisdiction). As a consequence of the passage of the Balochistan Levies Force Act, a greater part of Balochistan will come under the jurisdiction of the Levies Force. Thus, the operations of the Balochistan police will largely be confined to urban areas." (HRCP/CHRI, May 2010, p. 63)

4.2 Overview of issues surrounding security forces, military

4.2.1 Effectiveness of law enforcement in the face of terror attacks

The US Department of State (USDOS) states in its annual report on human rights in 2012 that police effectiveness "varied greatly by district, ranging from reasonably good to ineffective. Some members of police committed human rights abuses or were responsive to political interests." The report also states that police "often failed to protect members of religious minorities, including Christians, Ahmadis, and Shia Muslims, from attacks". The USDOS refers to "improvements in police professionalism" during 2012:

"There were improvements in police professionalism during the year. As in previous years, the Punjab provincial government conducted regular training in technical skills and protection of human rights for police at all levels. During the year police were active in thwarting attempts by protesters to reach foreign embassy property during protests against a film that protesters believed defamed the Prophet Muhammad. Unlike in previous years, police did not indiscriminately fire lethal weapons into the crowd." (USDOS, 19 April 2013, section 1d)

The Human Rights Commission of Pakistan (HRCP) states in a report on a fact-finding mission to Karachi, dated October 2011, that law enforcement agencies are "inefficient, ill-prepared, poorly resourced, and lack the political support to be effective". The report mentions that hundreds of policemen in Karachi have been killed in the past decade; this "has affected morale and the policemen are not keen to stick their necks out". The report continues:

"The government has completely failed to ensure safety of life or property, or provide justice or compensation to the affected families. Families narrate harrowing accounts of killing and torture of family members, and arson attacks on shops and other property. Even when cases are lodged with the police and some arrests made, families do not see the judicial process moving forward. The complaints against law-enforcing agencies received by the HRCP mission range from dereliction of duty, abandonment of post, and long delays in responding to distress calls to downright collusion with criminals. In at least some cases where police have failed to take action, policemen asked the victims' families to take revenge on their own. The people of Karachi feel that unless these shortcomings are removed there is little hope of peace and security." (HRCP, 8 October 2011)

In an article on violence in Karachi, Agence France-Presse (AFP) states that "[d]espite the deployment of extra police and paramilitary forces, residents complain that the security personnel do nothing to help" (AFP, 7 August 2011).

The Immigration and Refugee Board of Canada (IRB) published a query response on criminal activity and violence in Karachi in December 2011. Quoting various sources, the IRB refers to the effectiveness of the Rangers and the police in the city:

"Media sources indicate that 'paramilitary units' (The Guardian 28 Aug. 2011), called Rangers, were operating in Karachi in July, August and September 2011 (ibid.; The Nation 9 July 2011; Dawn 26 Aug. 2011; ibid. 15 Sept. 2011). The Supreme Court of Pakistan notes that the government of Sindh empowered the Rangers 'to apprehend the criminal elements involved in firing and killing of innocent citizens' on 8 July 2011 (Pakistan 6 Oct. 2011, 24). According to Dawn, the Rangers were given temporary, not permanent 'special powers of search and arrest' for 90 days only (15 Sept. 2011). Dawn also reports that the Rangers claim to have apprehended approximately 236 suspects and 327 weapons (15 Sept. 2011). However, Dawn questions the effectiveness of the Rangers and states that the apprehended individuals may be 'petty criminals or innocent citizens' (26 Aug. 2011). The interior minister of Pakistan reportedly said that the efforts of the Rangers would be 'futile' if the armed wings of the political parties continue to operate (Dawn 15 Sept. 2011). He also said that 'a law should be enacted barring all political parties from having

criminals or militant wings in their ranks' (ibid.). The HRCP reportedly stated that the presence of the Rangers is not a 'long-term solution' to Karachi's violence (ibid. 9 Oct. 2011). [...]

Sources also indicate that police officers are powerless (UN 11 July 2011; AFP 7 Aug. 2011), lack resources (Reuters 28 Aug. 2011; AFP 8 Oct. 2011; HRCP 8 Oct. 2011), and are 'ill-prepared' (ibid.). Political analyst Zaidi says that Karachi is 'poorly policed' (15 Aug. 2011). According to Reuters, the time between violent attacks is diminishing, which means that police officers do not have sufficient time to gather intelligence (28 Aug. 2011). The Supreme Court of Pakistan indicates that various groups involved in the violence have designated certain areas as 'no-go areas' (Pakistan 26 Oct. 2011, 152).

The Capital City Police Officer of Karachi reportedly stated that the police force is 'doing nothing' about 'target killers' in Karachi (Pakistan Today 18 Aug. 2011). The Economist says that police officers are 'stay[ing] out' of the conflict (27 Aug. 2011). The HRCP reports that policemen often want to stay out of conflicts because hundreds of police officers in Karachi have been killed over the past 10 years (8 Oct. 2011). The Supreme Court also says that the police fear they will be shot by the individuals that they have apprehended or their 'associates' (Pakistan 6 Oct. 2011, 149). Sources indicate that the police are not taking any action in cases of extortion (ibid., 86; HRCP 8 Oct. 2011). Police morale is said to be low (ibid.; Pakistan 6 Oct. 2011, 149)." (IRB, 7 December 2011)

The Human Rights Commission of Pakistan (HRCP) reports on protests by industrialists and workers in Karachi against extortionists operating with impunity in the city. The report states that "law enforcement agencies abjectly failed in ensuring protection and apprehending the extortionists" (HRCP, March 2013, pp. 210-211).

4.2.2 Forced recruitment by government forces

The International Crisis Group (ICG) mentions forced recruitment of locals for joining informal state-supported militias (lashkars) tasked with acting on the military's behalf to counter militants in PATA:

"While these militias have been given considerable local power, not all those joining them do so voluntarily. Many locals are forced to form or join lashkars and then fight alongside the military during operations. A Swat resident said, 'the army was supposed to come here to provide us with security. Now we're told that we have to provide them with security'. Another commented: 'They [lashkar members] are told to pick up a gun, but with absolutely no rules of the game'. Many coerced to join such militias are neither trained nor even want to use weapons but are forced to assume considerable personal risk by combating well-trained and motivated militants." (ICG, 15 January 2013, p. 21)

The Pakistani academic Farhat Taj writes in an analysis published by the Daily Times in October 2011 that several tribal people have told her that "the military authorities have been forcing them to raise anti-Taliban lashkars":

"It is true that wars cannot be won by armies alone. The people must back the armies if the latter have to win. But for that to happen, the people and the army must be on the

same page, supporting the same cause in which both are sincere to each other. This is not so in Pakistan. The country's army generals are playing double games with its partners in the war on terror as well as the people in the country, especially people in the tribal area. The people do not trust the army. The lashkar volunteers hold state collusion with the Taliban responsible for the losses they had suffered at the hands of the militants. The 'bad' Taliban of today that the army is asking the tribal people to fight may not be so tomorrow, if they turned their bombs towards the US, NATO and the Afghan forces in Afghanistan and stopped attacking Pakistani defence forces. Why should the tribal lashkars clash with the Taliban on behalf of the Pakistan Army when the army generals, who run the country's foreign policy, aim to control rather than eliminate the al Qaeda-led Taliban? Tomorrow the generals may be on good terms with the 'bad' Taliban, but the animosity that the tribal lashkars invite upon themselves by clashing with the Taliban may continue to haunt them for an indefinite time in the future. 'The government of Pakistan, the US and Afghanistan will one day make peace with the Taliban, but our coming generations will continue to suffer in our animosity with the Taliban,' once a man, whose lashkar has killed Taliban militants and the militants have killed his relatives and co-villagers in retaliation, told me. As long as the generals continue to nurture one set of militant groups for foreign policy objectives and fight with the other set, who might any time join the first set, there is no question that the tribal communities can trust the generals. It is in this context that I keep hearing from several tribal people that the military authorities have been forcing them to raise anti-Taliban lashkars.

The way the war on terror is conducted by the Pakistan Army has left the tribal people oppressed and terrorised by both the army and the al Qaeda-led Taliban. They are under a double occupation of the army and the Taliban. Asking the tribal people to make lashkars against the Taliban is a brutality against them. The generals created the Taliban and their army must fight them, not the tribal people." (Daily Times, 22 October 2011)

Among the sources consulted by ACCORD within time constraints no further information could be found regarding this issue.

4.2.3 Treatment of military deserters

The Pakistan Army Act 1952 stipulates in Section 36:

"36. Desertion and aiding deserters: (1) Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by court martial,

if he commits the offence when on active service or when under orders for active service, be punished with death, or such less punishment as is in this Act mentioned; and

if he commits the offence under any other circumstances, be punished [with rigorous imprisonment for a term which may extend to five years] or with such less punishment as is in this Act mentioned." (Pakistan Army Act, 13 May 1952, Section 36)

Section 135 of Pakistan's Penal Code of 1860 relates to the abetment of desertion from the armed forces, Section 136 relates to the harbouring of a deserter and Section 137 deals with the hiding of a deserter in a merchant vessel through the negligence of the ship's master:

"135. Abetment of desertion of soldier, sailor or airman: Whoever abets the desertion of any officer, soldier, sailor or airman, in the Army, Navy or Air Force of Pakistan, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

136. Harboursing deserter: Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, sailor or airman, in the Army, Navy or Air Force of Pakistan, has deserted, harbours such officer, soldier, sailor or airman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Exception: This provision does not extend to the case in which the harbour is given by a wife to her husband.

137. Deserter concealed on board merchant vessel through negligence of master: The master or person in charge of a merchant vessel, on board of which any deserter from the Army, Navy or Air Force of Pakistan is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding [one thousand five hundred rupees], if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel." (Penal Code, 6 October 1860, amended as of 2006, Sections 135-137)

The Pakistan Rangers Ordinance of 1959, which "extends to the Provinces of the Punjab and Sind and applies to every member of the Force wherever he may be serving" (Pakistan Rangers Ordinance, 1959, amended as of 1997, Section 1 (2)), contains the following provisions regarding desertion:

"13. Offences punishable with transportation for life or rigorous imprisonment for seven years. – Any member of the Force who – [...]

(g) who, while on active duty – [...]

(ii) deserts the service" (Pakistan Rangers Ordinance, 1959, amended as of 1997, Section 13 (g) (ii))

"14. Offences punishable with one year rigorous imprisonment or fine or both. – Any member of the Force who: – [...]

(n) who, while not on active duty – [...]

(ii) deserts the service" (Pakistan Rangers Ordinance, 1959, amended as of 1997, Section 14 (n) (ii))

"15A. Capture of deserters.–

(1) Whenever any member of the force deserts or absents without leave, his Commandant shall give written information of the desertion or absence to such civil authorities as in his opinion may be able to afford assistance towards the capture of the deserter and such

authorities shall thereupon take steps for the apprehension of the said deserter or absentee in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter or absentee, when apprehended, to Force custody.

(2) Any police officer may arrest without warrant any person whom he reasonably believes to be a member of the Force and a deserter or absentee without leave and bring him without delay before the nearest Magistrate as if he were a deserter from the Pakistan Army." (Pakistan Rangers Ordinance, 1959, amended as of 1997, Section 15 A)

Among the sources consulted by ACCORD within time constraints no further information could be found regarding the treatment of military deserters.

4.2.4 Human rights violations by the armed forces

Human Rights Watch (HRW) writes in its annual report for 2012, dated January 2013, that security forces "routinely violated basic rights in the course of counterterrorism operations. Suspects were frequently detained without charge or were convicted without a fair trial." The report further states that the army "continued to deny lawyers, relatives, independent monitors, and humanitarian agency staff access to persons detained during military operations. Terrorism suspects, particularly in the Swat Valley, reportedly died inexplicably of 'natural causes'." (HRW, 31 January 2013)

Amnesty International (AI) notes in its 2010 report on the human rights crisis in northwest Pakistan that "the Pakistani authorities are applying old and new security laws that authorise prolonged, arbitrary, preventive detention by the Armed Forces, and breach international human rights law" in the tribal areas (AI, 13 December 2012, p. 8).

Extrajudicial killings

The UK Foreign and Commonwealth Office (FCO) states in its annual report on the human rights situation in 2012 that "there continue to be reports of mistreatment and extrajudicial killings by the security forces with impunity" (FCO, April 2013).

The US Department of State (USDOS) informs in its annual report on human rights in 2012:

"There were many reports that the government or its agents committed arbitrary or unlawful killings. Security forces reportedly committed extrajudicial killings in connection with conflicts in Balochistan, FATA, and KP [...]. The Human Rights Commission of Pakistan (HRCPP) issued an August 30 fact-finding mission report on Balochistan that called for a probe into accusations of state agencies' involvement in extrajudicial killings and forced disappearances. According to the report, dumping of bodies and forced disappearances continued in the province, while perpetrators enjoyed impunity. It stated that the bodies of at least 57 missing persons were found in different parts of Balochistan since January. The report indicated that there were no fundamental changes to the situation regarding enforced disappearances since 2011. [...]. On March 14, the National Assembly unanimously adopted a resolution calling for a comprehensive law to regulate intelligence and security

agencies often blamed for extrajudicial killings and forced disappearances of dissidents. During the year a parliamentary committee, led by Senator Raza Rabbani, looked into killings in Balochistan in 2011. In October Senator Rabbani presented a five-point formula to improve the situation. However, the committee did not conclude its findings or make recommendations by year's end. In May another special parliamentary committee was formed on missing persons. In July a cabinet committee on Balochistan was formed, headed by Federal Minister for Defense Naveed Qamar.

[...] According to the Asian Human Rights Commission (AHRC), extrajudicial killings of nationalist political activists in Sindh Province were on the rise. A February 15 AHRC report stated that authorities found more than a dozen bodies of persons who were shot in Sindh since January. According to the report, most of the victims were student activists linked to nationalist groups. AHRC concluded the bodies belonged to activists who had been 'arrested by intelligence personnel in the presence of police officers and taken to the torture cells run by military and its intelligence agencies.' According to the Jeay Sindh Qaumi Mahaz (JSQM) and other Sindh nationalist parties, intelligence agencies poisoned prominent nationalist leader and JSQM chairman Bashir Khan Qureshi on April 7. Qureshi's death sparked violence across Sindh, which resulted in the death of at least two more JSQM workers.

In a January 23 statement, the HRCP expressed serious concern over the recovery in Peshawar of the body of Abdul Saboor, one of 11 persons held on charges of involvement in the 2011 attack on the army general headquarters in Rawalpindi. He was the fourth civilian detained in the case to have died under mysterious circumstances in the second half of 2011.

[...] In December an Amnesty International report documented several cases of security force abuse. For example, in February 2011 soldiers arrested Jahanzeb, a poultry farmer from Swabi, Khyber Pakhtunkhwa, at his home. More than a year later, on June 27, Jahanzeb's body was found dumped in Haripur District, about 46 miles from where he was arrested. Authorities did not begin an investigation into case by year's end." (USDOS, 19 April 2013, section 1a)

Disappearances

The US Department of State (USDOS) writes in its annual report on human rights in 2012:

"Kidnappings and forced disappearances continued, with reports of disappearances in nearly all areas of the country. Some police and security forces held prisoners incommunicado and refused to disclose their location. Human rights organizations reported that many Sindhi and Baloch nationalists were among the missing, and there were reports of disappearances during the year in connection with the conflicts in FATA and KP [...]. Nationalist political parties in Sindh Province, including JSQM, reported disappearances and claimed that some of their members were in the custody of the intelligence agencies.

According to a July 31 Interior Ministry report, at least 619 persons had been kidnapped and 2,390 had disappeared in Balochistan since 2010. The Supreme Court continued its hearings on missing persons' cases. In KP more than 200 petitions pertaining to missing persons were pending before the Peshawar High Court. The Sindh High Court heard approximately 35 petitions about missing persons. It was common for hundreds of family members to visit the courts whenever such cases were heard. According to Amnesty International, during the year the courts gained unprecedented access to individuals secretly detained by the country's security authorities, highlighting the importance of an independent justice system. [...]

On August 16, the Peshawar High Court also took action on its own regarding the recovery of bodies packed in sacks. The court pointed out that 16 bodies were recovered in Peshawar in a single month, while reports of bodies found in other parts of KP continued throughout the year. Some of these bodies were of missing persons whose cases had been brought before the court by their family members.

The three-member Judicial Commission of Inquiry on Enforced Disappearance, formed in 2010 and headed by Justice Javed Iqbal, continued its proceedings. On May 11, State Minister for Interior Imtiaz Safdar Warraich stated that 138 cases had been transferred to the commission, it had received 538 new cases, and it had disposed of 209 cases. On June 10, the newspaper Daily Times quoted Justice Iqbal as stating that the total number of missing persons was 460, with the majority from Punjab, Sindh, and KP. The UN Working Group on Enforced or Involuntary Disappearances alleged that the commission had too narrow a mandate and was failing to record statements of released individuals to gain information about the circumstances of their disappearances or to use this information to bring perpetrators to justice. The UN group criticized the commission for its failure to investigate the role of intelligence agencies, the main organs accused of involvement in acts of forced disappearances. Baloch groups rejected the commission's findings, accusing it of siding with intelligence agencies.

Disappearances from Balochistan remained a problem, with Baloch political groups demanding political and human rights. Starting in April Chief Justice Iftikhar Muhammad Chaudhry began hearing a case on law and order in Balochistan at the Supreme Court's Quetta registry. The chief justice ordered officials in Balochistan to produce all missing persons and continued to examine allegations about involvement of state agencies, especially Frontier Corps, in these disappearances and killings. As a result some missing Baloch persons were recovered, but the whereabouts of many remained unknown. On October 12, an interim order issued by the Supreme Court said that the Balochistan government had failed to curb human rights violations, target killings, and kidnappings for ransom in the province. It asked the federal government to take immediate action under the constitution to provide security for the province.

According to the NGO Voice of Baloch Missing Persons, more than 400 persons disappeared between January and December. The bodies of 140 missing persons also were found, whereas 10 people were killed in an army operation in Mashkay, Awaran district of Balochistan, in December. The NGO estimated that more than 14,800 persons had

disappeared in Balochistan since 2001. The number of missing persons that the organization was able to document in detail was considerably lower." (USDOS, 19 April 2013, section 1b)

Amnesty International (AI) reports in December 2012 that it "uncovered 39 cases of enforced disappearance carried out by the Armed Forces in the Tribal Areas" and expresses concerns that these cases "represent only a fraction of the total" (AI, 13 December 2012, p. 23). The AI report continues:

"Given the secretive and unaccountable nature of detention practices, Amnesty International has been unable to determine the exact number of individuals held in detention in the Tribal Areas. Over 1,000 detainees have already been named by the authorities in the internment center detention lists produced before the courts. But lawyers and activists estimate that this represents only a fraction of all detainees and believe thousands more remain in detention. According to a senior government official familiar with the government's detentions process, over 2,000 cases have been registered at the Peshawar High Court. 'But, the actual figure of missing persons [i.e.: victims of enforced disappearance or other unlawful detentions whose fate or whereabouts are unknown] is much higher.'" (AI, 13 December 2012, p. 25)

Human Rights Watch (HRW) states in its annual report for 2012:

"The human rights crisis continued to worsen in the mineral-rich province of Balochistan. Human Rights Watch recorded continued enforced disappearances and killings of suspected Baloch militants and opposition activists by the military, intelligence agencies, and the paramilitary Frontier Corps. Baloch nationalists and other militant groups also stepped up attacks on non-Baloch civilians. Pakistan's military continued to publicly resist government reconciliation efforts and attempts to locate ethnic Baloch who had been subject to 'disappearances.' Pakistan's government appeared powerless to rein in the military's abuses. As a result, large numbers of Hazara community members sought asylum abroad." (HRW, 31 January 2013)

The HRCP summarises in its annual report dated March 2013:

"At the outset, it is important to stress that HRCP does not in any way suggest that the number of disappearances mentioned here are exhaustive. The actual number of incidents of enforced disappearance might have been higher but the figures below only represent cases that the families of the victims had brought to HRCP's attention and where the information was detailed enough to enable the Commission to verify the cases. HRCP was able to verify 87 cases of enforced disappearance occurring in 2012. In Balochistan, according to cases that HRCP could verify, 34 people were picked up in 2012 and 26 of them were traced or released. The rest remained missing. In Sindh, a total of 50 were picked up but all but four were traced or released. Reports of two people being picked up from Punjab (from Multan and Lahore) and one from FATA (Khyber Agency) were submitted to HRCP. All three remained missing. In the continuation of a disturbing trend, the bodies of at least 72 people who were reported to have gone missing were found in deserted places in 2012, all in Balochistan. Another 29 bodies found in the province in

2012 could not be identified. It was believed that some of them might also have been victims of enforced disappearance. Several dead bodies of missing persons were also recovered from Nowshera and Peshawar in Khyber Pakhtunkhwa. The issue of enforced or involuntary disappearances was under the spotlight in September when the UN Working Group on Enforced or Involuntary Disappearances visited Pakistan on the government's invitation and released its preliminary report and recommendations at the conclusion of its mission. The preliminary report spoke of the ordeal of families of missing persons and gave extensive recommendations apart from focusing on the issues of impunity; supervision and training of law enforcement agencies and intelligence agencies; and assistance to the victims' families and reparation. The working group's detailed report was to be discussed at the UN Human Rights Council early in 2013." (HRCP, March 2013, pp. 78-79)

The report by the UN Working Group on Enforced or Involuntary Disappearances mentioned in the quotation above is available under the following link:

- HRC - UN Human Rights Council: Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Pakistan; Addendum; Mission to Pakistan [A/HRC/22/45/Add.2], 26 February 2013 (available at [ecoi.net](http://www.ecoi.net))
http://www.ecoi.net/file_upload/1930_1363883432_a-hrc-22-45-add-2-en.pdf

Torture

The US Department of State (USDOS) writes in its annual report on human rights in 2012:

"The constitution prohibits torture and other cruel, inhuman, or degrading treatment, but there were reports that security forces, including the intelligence services, tortured and abused individuals in custody. The law has no specific section against torture; it sanctions 'hurt' but does not mention punishing perpetrators of torture. At year's end the government had yet to legislate on torture provisions as provided under the UN Convention Against Torture, which it ratified in 2010.

According to the AHRC, the absence of proper complaint centers and a particular section in the criminal code to define and prohibit torture contributed to the spread of such practices. The AHRC stated that there had been no serious effort by the government to make torture a crime and added that the state provided impunity to the perpetrators, who were mostly either police officers or members of the armed forces." (USDOS, 19 April 2013, section 1c)

As noted in the Freedom House annual report on political rights and civil liberties in 2011, "[p]olice and other security services routinely engage in excessive force, torture, extortion, arbitrary detention, rape of female detainees, and extrajudicial killings" (Freedom House, May 2012a).

A statement by the Asian Legal Resource Centre (ALRC), submitted to the UN Human Rights Council (HRC) and published by the latter in February 2013, provides the following observations:

"Due to the absence of a functioning criminal justice framework and weak prosecution, torture in custody and extrajudicial executions has increased rapidly in comparison with previous years. Every police station has its own private torture centres besides their lock ups. Every cantonment area of the armed forces runs at least one torture centre and the Inter-Services Intelligence (ISI) offices have their 'safe houses'. The Air Force and Navy also operates their torture cells." (HRC, 18 February 2013b, p. 2)

As reported by the Asian Human Rights Commission (AHRC), "[t]orture is used by the military and intelligence agencies in the contexts of counter-terrorism and armed conflict, such as that in Balochistan province, but is also widespread in routine investigations by the police" (AHRC, 10 December 2012, p. 23).

The Human Rights Commission of Pakistan (HRCP) notes in its annual report of March 2013 that "59 detainees died in the custody of prison authorities in 2012, another 81 were injured and 10 incidents of alleged torture of detainees were reported" (HRCP, March 2013, p. 76) and that torture in police custody "continued as a norm". The report further mentions that "one juvenile was reported to have been killed in police custody in Jhang district of Punjab in August 2012" and that interviews conducted with nearly 100 children from eight juvenile prisons of Punjab in 2012 have shown that "more than 95 percent complained of torture of varying degrees in police custody". (HRCP, March 2013, p. 187)

Forced displacement

The Integrated Regional Information Network (IRIN) reports in April 2013 that 40,000 persons have been displaced as a consequence of intensified fighting in the Tirah Valley in Khyber Agency. At least three militant groups and government soldiers are involved in the fighting. (IRIN, 1 April 2013)

The International Crisis Group (ICG) reports in October 2012 on the displacement of people in FATA and Khyber Pakhtunkhwa (KPK) in the course of military operations against non-state armed groups:

"In the first five months of 2012, fresh military operations against the Lashkar-e-Islami, a radical Deobandi group, displaced more than 52,400 families from Khyber Agency. In mid-March 2012, the UN High Commissioner for Refugees (UNHCR) was registering as many as 10,000 people a day; by August 2012 the number of IDPs from Khyber Agency was 300,000, the agency's largest displacement since military operations against the militants began in mid-2008. While many of those displaced by earlier military operations in northern FATA's Mohmand and Bajaur agencies had returned home by 2011, there were still 742,209 registered IDPs in KPK and FATA in mid-September 2012. Most of the displaced were from South Waziristan, Khyber, Kurram and Orakzai agencies, where military operations have been repeatedly conducted since 2009." (ICG, 9 October 2012, p. 2)

The UK-based international charity organisation Basic Human Rights (BHR), which operates a country office in Pakistan, describes the situation of persons displaced from the Tirah valley in its August 2012 Assessment Report on IDPs in FATA's Khyber Agency:

"Khyber Pakhtunkhwa (KP) and the Federally Administered Tribal Areas (FATA) have been experiencing significant movement of local population since 2008 because of government operations against non-state armed groups as well as sectarian violence. Since August 2008, more than four million individuals have been displaced due to crisis in the Federally Administered Tribal Areas (FATA). At present, three registered IDP (Internally Displaced Person) camps are in operation in Jalozai and Togh Sarai in KP and New Durrani in Kurram Agency, FATA. An estimate reflects that 156,473 families remain internally displaced in KP/FATA due to the ongoing conflict, of which 17,456 families are living in-camp and 139,017 families are living off-camp in host communities. Large-scale spontaneous and government-assisted returns to areas of origin have occurred each year. However, expanded security operations in Khyber agency, FATA, have resulted in nearly 64,000 families registered as newly displaced from Khyber agency since January 2012. During the past month, 2,200 displaced families fled to host communities in the Kuki Khel tribal area of Jamrud Tehsil in Khyber agency to relative safety. [...]

The situation is becoming worsened due to expanded security operations in Khyber agency that resulted in 2,200 fresh displaced families from Tirah Valley. People from Tirah are forced to move to Jamrud, another sub-division of Khyber agency. Since, there is minimal military presence; therefore, local people are not able to put a strong front against militant groups. Recent figure suggest that, local authorities had registered more than 1,900 families (about 13,300 people) displaced from 10 villages in Tirah Valley. Local sources at ground suggest that the entire population of Sra Vela, Ghakhi, Bagh, Ochay Ounay, Bharrai, Purrhi, Puk Darra, Maniyakhel and Daman-i-Koh had moved out of their areas. Further two dozen families had opted to stay back at Toor Darra in Abdalkhel locality of Tirah and a similar number of people had gone to Ningarhar province of Afghanistan, while the rest about 1,500 families had relocated to Jamrud and temporarily residing with their relatives. Affected families left their homes due to planned security operations against non-state actors in the area. According to local authorities, up to 5,000 families may be displaced to Jamrud in the coming weeks if and when security operations commence. Humanitarian partners estimate that up to 18,000 families (50 per cent of the population) could be displaced from Tirah Valley this year due to security operations." (BHR, August 2012, p. 3)

A map with figures on displaced persons in FATA (as of July 2012) is available via the following link:

- Information Management and Mine Action Programs; US Agency for International Development: FATA - IDPs Statistics, 16 July 2012 (available at [ecoi.net](http://www.ecoi.net))
http://www.ecoi.net/file_upload/1930_1342613093_map-2607.pdf

5 Human rights issues

5.1 Citizenship/nationality

5.1.1 Domestic legal framework

A 2012 report by the Community Appraisal & Motivation Programme (CAMP) informs that “[i]n Pakistan, citizenship and related matters are dealt with by the Pakistan Citizenship Act 1951 and the Pakistan Citizenship Rules 1952” (CAMP, 2012b, p. 67). According to the UK Border Agency, the “principal legislation” governing Pakistani citizenship is “the Pakistani Citizenship Act 1951, as amended by the Pakistan Citizenship (Amendment) Act 1952, the Pakistan Citizenship (Amendment) Act 1972, the Pakistan Citizenship (Amendment) Act 1973, the Pakistan Citizenship (Second Amendment) Act 1973 and the Pakistan Citizenship (Amendment) Ordinance 2000” (UKBA, 8 June 2010, p. 1).

The Pakistani Citizenship Act, 1951, states that Pakistan citizenship may be obtained by birth (Section 4), by descent (Section 5), by migration (Section 6), by naturalisation (Section 9) or by marriage (Section 10) (Pakistan Citizenship Act, 1951, amended as of 2000). This is further explained in the above-quoted CAMP report as follows:

“- By Birth: This category of acquiring citizenship by birth in is the easiest and well known method which, in most cases, automatically confers nationality to a person. Sections 4 and 5 of the CA [Citizenship Act] 1951 cover cases of citizenship by birth; these provisions do not apply to a person whose father is not a citizen but has been residing in the country for a long time. It has been held that these sections must be read together and operate to provide every person born in Pakistan after 13th April 1951 [date of commencement of PCA 1951] with citizenship and subject to Section 3 which provides that a person will be a citizen by descent if his or her father is a citizen at the time of birth. Prolonged residences of foreigners cannot give them citizen status unless due process of law is followed; a case in point is the presence of registered Afghan citizens in Pakistan who have been residents for decades – it is imperative to note that the State policy towards them which entails temporary protection, so the provisions of the PCA 1951 do not apply to them.

A person claiming citizenship by birth must apply in the prescribed form under Rule 8 of PCR 1952 to the relevant officer of the district of birth or residence, accompanied by a birth certificate issued by either a village official, police station official, Municipal/Town committee personnel or a Registrar of Births and Deaths [appointed under the Births, Deaths & Marriages Registration Act 1886]. In case the applicant is a minor, a statement by parents or guardian is also required. Upon receipt of these documents, the relevant officer will scrutinize the validity of all the information provided and upon being satisfied, request the provincial authority to grant a certificate of citizenship.

- By Descent: Under the principle of ‘jus sanguinis’, a person can be automatically granted citizenship if either or both of his or her parents are citizens already even if he or she is born outside the particular geographical territory. Section 5 used the term ‘father’ initially, but it has been substituted for ‘parent’ by the Pakistan Citizenship [Amendment] Ordinance 2000, hence now a person can acquire citizenship by descent under this section

if either his or her mother or father is a citizen. Rule 9 outlines the procedural requirements to be fulfilled for a person claiming citizenship under Section 5 which includes an application in the prescribed form accompanied by a certificate of citizenship of one of the parents, and evidence establishing the applicant's relationship with either of them.

- By Migration: Section 6 deals with citizenship by migration which entails migrants from the territories of the subcontinent as well as those from 'outside these territories' which in theory at least, points to migrants from other countries as well. The one prerequisite is that the intention of permanent residence must be established for a person to be granted a certificate of domicile under this section.

- By Naturalization: Under Section 9, a person who has been granted a certificate of naturalization under the Naturalization Act 1926 may apply to be registered as a citizen of Pakistan by naturalization. The Federal Government is also empowered to grant citizenship without the production of a certificate of naturalization.

- By Marriage: Section 10 states that a woman who is not a citizen is married to a Pakistani male citizen, she will be entitled to citizenship, but not in the opposite case, i.e. when a non citizen man is married to a female Pakistani citizen. The latter prohibition has been the subject of much debate and controversy since this provision seems discriminatory towards foreign males; however, it has been held in a High Court ruling that given the cultural and religious protection given to women in our society, it is justified to grant an alien woman married citizenship on the basis of her marriage to a Pakistani, while denying an alien man in the same position on the grounds of public policy. However, the Federal Shariat Court has called for striking down this provision as it is 'discriminatory, negates gender equality and is in violation of Articles 2A and 25 of the Constitution and also against international commitments of Pakistan, and most importantly is repugnant to Holy Qur'an and Sunnah' and recommended its amendment to allow foreign men to obtain citizenship on account of their marriage to Pakistani women.

The procedural requirements for a foreign woman to obtain citizenship on account of her marriage to a Pakistani man includes furnishing the prescribed form accompanied by a marriage certificate, her husband's certificate of citizenship, and if her husband is no longer alive, an oath of allegiance and certificate of domicile. Upon receipt of the necessary documents, the Federal Government will conduct the necessary inquiries and issue an order either in favor or otherwise." (CAMP, 2012b, pp. 69-70)

The text of the Pakistan Citizenship Act, 1951, amended as of 2000, is accessible through the following link:

- Pakistan Citizenship Act, 1951 (II of 1951), amended as of 2000 (available at punjablaws.punjab.gov.pk)
<http://punjablaws.punjab.gov.pk/index/showarticle/ref/29fdd56a-5ecc-487f-8464-46d4bc9a0fbf>

On the Pakistan Citizenship Rules, 1952, the CAMP report states that "these rules [...] deal with the procedures to be followed when a person is claiming to be a citizen of Pakistan and

the powers of officials to act on behalf of the federal or provincial governments grant or reject citizenship applications, along with the prescribed formats and fees for such applications, and the manner in which they are to be submitted to the concerned officials” (CAMP, 2012b, p. 68).

DeltaQuest Group, a business consultancy and legal services firm, operates a website providing individuals with information on areas of immigration, second passport, second citizenship, residency and work visas. According to this website, the following are ways to lose Pakistani citizenship:

“Pakistan Loss of Citizenship:

- Voluntary renunciation of Pakistani citizenship is permitted by law. [...]
 - Involuntary: The following are grounds for involuntary loss of Pakistani citizenship:
 - Person obtains foreign citizenship.
 - Naturalized citizenship was obtained through fraud or falsity.
 - Naturalized citizen shows disloyalty to government.
 - Naturalized citizen is convicted of a crime in first five years of citizenship.
 - Citizen has resided outside the country for over seven years without registering.”
- (DeltaQuest Group, undated)

In an article dated July 2012, PakTribune, an online English-language newspaper in Pakistan, notes that “[d]ual citizenship was not permitted under the 1951 law” but that “now the Government of Pakistan recognizes and allows citizens to hold citizenship of 16 countries which are, UK, Italy, France, Belgium, Iceland, Australia, New Zealand, Sweden, Ireland, Netherlands, Switzerland, Canada, Egypt, Jordan, Syria, and the [...] USA” (PakTribune, 27 July 2012).

This is corroborated by the Directorate General of Immigration & Passports (DGIP) of the Pakistani Ministry of Interior, which notes that Pakistan has dual nationality arrangements with 16 countries whose nationals “are not required to renounce their nationality while acquiring Pakistan Citizenship”. The DGIP lists the same 16 countries as are enumerated in the PakTribune article. (DGIP, undated (a))

In its annual report for 2012, the Human Rights Commission of Pakistan (HRCP) mentions a Supreme Court ruling according to which Pakistanis holding dual nationalities are not eligible to hold “high elective offices”:

“The Supreme Court ruled that Pakistanis holding the nationality of another country could not hold high elective offices because by acquiring citizenship of a foreign state they created a serious conflict of interest, as such persons took oath of allegiance to the foreign state after renouncing their allegiance to Pakistan. More than a dozen members of the parliament and provincial assemblies were disqualified. The court made it clear that its verdict did not affect Pakistani citizens’ right to acquire a foreign country’s nationality, a right granted by the Citizenship Act.” (HRCP, March 2013, p. 43)

5.1.2 Citizenship and identity documentation

The Pakistan Citizenship Rules, 1952, contain provisions on issuing a certificate of citizenship (Pakistan Citizenship Rules, 1952, 6 February 1951).

The text of the Pakistan Citizenship Rules, 1952, is available through the following link:

- Pakistan Citizenship Rules, 1952, 6 February 1951 (available at Refworld)
<http://www.refworld.org/docid/3ae6b4fc1c.html>

The Directorate General of Immigration & Passports (DGIP) of the Pakistani Ministry of Interior lists the following kinds of applications for certificates of citizenship:

"Application for a certificate of Citizenship of Pakistan at the commencement of Pakistan Citizenship Act, 1951 (II of 1951).

Application for a certificate of Citizenship of Pakistan after the commencement of Pakistan Citizenship Act, 1951 (I of 1951).

Application for citizenship of Pakistan from a person born in Pakistan who having migrated to India after 1st March 1947 has returned to it under the permit for resettlement or permanent return.

Application for Registration as a citizen of Pakistan by a person of Indo-Pakistan origin residing abroad

Application for a certificate of registration as a citizen of Pakistan by naturalization.

Application by a married women for a certificate of Citizenship of Pakistan by registration.

Application for registration Minor as a Citizen of Pakistan.

Application for a certificate of Domicile in Pakistan.

Application for a certificate of Citizenship from a person whose citizenship is in doubt.

Application for registration as a citizen of Pakistan by a British subject (or a Commonwealth Citizen).

Application for registration of the birth of a child of a citizen of Pakistan born in a country outside Pakistan.

Form of statement for annual registration by a citizen of Pakistan resident abroad.

Application for copy of (citizenship or domicile certificate) or its replacement with changed particulars.

Form of Declaration of Renunciation of Citizenship under Section 14-A of the Pakistan Citizenship Act, 1951." (DGIP, undated (a))

There are three distinct types of Pakistani passports that are issued to applicants: ordinary, diplomatic and official passports (DGIP, undated (b)). According to the US Department of State (USDOS), ordinary passports have a green cover and are issued "to any qualifying citizen of Pakistan for private travel". Diplomatic passports have a red cover and are issued "to

ambassadors, career diplomats, head of state and government and federal ministers". Official passports have a blue cover and are issued "to members of the National Assembly and their immediate family members, high-ranking civil service personnel and military personnel traveling on official business". (USDOS, undated)

As noted by the DGIP, the "Machine Readable Passport System is replacing the existing manual system" (DGIP, undated (b)). With effect from 1 November 2012, the validity of newly issued Machine Readable Passports is for a period of ten years (DGIP, undated (c)).

Media sources report in August 2012 that then Interior Minister of Pakistan, Rehman Malik, announced to extend the validity period of new passports from five to ten years. However, the sources do not specifically mention Machine Readable Passports. (Dawn, 26 August 2012; Pakistan Today, 26 August 2012)

For further information on Pakistani passports, please refer to the following December 2012 query response prepared by the Immigration and Refugee Board of Canada (IRB):

- IRB - Immigration and Refugee Board of Canada: Pakistan: Requirements and procedures to obtain passports; multi-biometric electronic passports, including procedures for issuance within and outside the country, including Canada; manual passport procedures [PAK104250.E], 20 December 2012 (available at [ecoi.net](http://www.ecoi.net))
http://www.ecoi.net/local_link/237360/346383_en.html

The website of the National Database and Registration Authority (NADRA) provides the following undated information about the Computerized National Identity Card (CNIC), the National Identity Card for Overseas Pakistanis (NICOP) and the Pakistan Origin Card (POC):

"CNIC (Computerized National Identity Card) is the core product of NADRA issued to a valid/legitimate citizen of Pakistan. It is a blend of state-of-the-art technology and well-defined business rules to guarantee its authenticity and validity. Every genuine, 18 Years and above, citizen of Pakistan is eligible for CNIC. [...]

A CNIC applicant is required to produce the following documents at the time of application: Birth Certificate or Old NIC or Matriculation Certificate or CNICs of immediate/blood relatives; Citizenship certificate issued by MOI [Ministry of Interior]

Note: No documents are demanded from illiterate applicant for age verification for first time. Residents of FATA/PATA will only be entertained at their native DAUs [Data Acquisition Units] and their forms will be attested by concerned PA/APA [Political Agent/Assistant Political Agent]." (NADRA, undated (a))

"NICOP (National Identity Card for Overseas Pakistanis) is a registration document to be issued to a valid/legitimate citizen of Pakistan. Previously it was issued to overseas Pakistanis working/living/staying/studying abroad for consecutive time period of six months or possessing dual nationalities but now it can be issued to any citizen of Pakistan. [...]

A NICOP applicant is required to produce the following documents at the time of application: Birth Certificate or Old NIC or Matriculation Certificate or CNICs of immediate relatives or Passport (mandatory in case of new)" (NADRA, undated (b))

"The POC [Pakistan Origin Card] program endeavors to provide eligible foreigners with unprecedented incentives to get back to their roots, while ensuring that the motherland remains tightly integrated with expatriates worldwide which includes

- Visa-free entry into Pakistan.
- Indefinite stay in Pakistan.
- Exemption from foreigner registration requirements.
- Permission to purchase and sell property.
- Right to open and operate bank accounts. [...]

Documentation Requirements:

- Completed POC Application Form.
- 2 photographs (passport size).
- Bank Draft/Bank Receipt for the fee
- Renunciation letter required (In case of dual status country)/Affidavit (In case of single status country)
- Copy of Foreign passport.
- Marriage Certificate Attested by Pak Mission (In Case of married applicant)
- At least 1 proof of Pakistani origin:
 - Copy of Pakistani passport
 - Copy of CNIC/NICOP/NIC
 - Proof of property owned in Pakistan
 - Copy of CNIC/NICOP of blood relative

Note: In case of doubt, any supporting document may be demanded. Issuance of POC to foreign spouses is temporarily banned." (NADRA, undated (c))

According to the High Commission for Pakistan in the UK (Pakistan High Commission London, PHC London) the following categories are eligible for a Pakistan Origin Card (POC):

"a. Former Pakistani Citizens: Any person who does not currently hold Pakistani citizenship but has ever remained a Pakistani citizen in his/her lifetime.

b. Foreigners with links to Pakistan: A person who has never been a Pakistani citizen but any of whose parents or grandparents is/was a citizen of Pakistan at any time during his/her lifetime, provided that at least one of his/her living relatives is presently a Pakistani citizen.

c. Any person who has never been a Pakistani citizen but who either himself, or any of whose parents or grandparents

i. was born in the territories included in the Indo-Pak sub-continent; ii. was domiciled in the territories now included in Pakistan;

and who acquired the citizenship or nationality of a foreign state or country before the commencement of the Pakistan Citizenship Act, 1951 (II of 1951) i.e. 13th April 1951. Such person shall have to present proof that at least one of his living relatives is presently a Pakistani citizen. [...]

Important: Pakistani citizens who are holding dual nationality or are only on work or residence permit in a country outside Pakistan, are not eligible for Pakistan Origin card (POC) but are eligible for National Identity Card for Overseas Pakistanis (NICOP)." (PHC London, undated)

In an article dated October 2012, the Business Recorder, a financial daily newspaper in Pakistan, reports that NADRA Chairman Tariq Malik unveiled the design and features of Pakistan's new Smart National Identity Card (SNIC), Smart National Identity Card for Overseas Pakistanis (SNICOP) and Smart Pakistan Origin Card (SPOC). Malik is quoted as saying that "[t]he introduction of smart card is aimed at improving security by making forgery more difficult". As stated by the Business Recorder, "[t]he Smart NIC Card has 36 security features and is technologically the most advanced identity document in the world at present". (Business Recorder, 13 October 2012)

For further information on Computerized National Identity Cards (CNICs), National Identity Cards for Overseas Pakistanis (NICOPs) and Pakistani Origin Cards (POCs), please see the following January 2013 query response by the Immigration and Refugee Board of Canada (IRB):

- IRB - Immigration and Refugee Board of Canada: Pakistan: Computerized National Identity Cards (CNICs), including overseas identity cards; issuance procedures [PAK104251.E], 7 January 2013 (available at [ecoi.net](http://www.ecoi.net))
http://www.ecoi.net/local_link/237362/346386_en.html

As regards Child Registration Certificates (CRC) and Family Registration Certificates (FRC), the NADRA website provides the following undated information:

"CRC: Child Registration Certificates is a registration document used to register minors under the age of 18 years. [...]

Following are the basic documentation requirements for CRC: No Documents are required for applicants below the age of 10 years; Birth or School Certificate is required for applicants over the age of 10 years" (NADRA, undated (d))

"FRC: Family Registration Certificates are documents issued to nationals of Pakistan highlighting the family tree structure of the applicant. [...]

Following are the documentation requirements for FRC: CNIC numbers of all family members, CRC numbers of all family members" (NADRA, undated (e))

5.1.3 Situation of stateless individuals and individuals who cannot establish their right to Pakistani nationality

The US Department of State's (USDOS) annual report on human rights in 2012 includes the following information regarding statelessness in Pakistan:

"Statelessness continued to be a problem during the year. There is no national legislation on statelessness, and the government does not recognize the existence of stateless persons. International and national agencies estimated there were possibly thousands of stateless persons deriving from the breakup of India and Pakistan, and of Pakistan and Bangladesh." (USDOS, 19 April 2013, section 2c)

On the same subject, the UN High Commissioner for Refugees (UNHCR) states in its submission to the Working Group for the Universal Periodic Review of Pakistan, dated April 2012:

"Pakistan is not a State party to the 1954 Convention relating to the Status of Stateless Persons, or to the 1961 Convention on the Reduction of Statelessness. [...] The [Pakistan] Citizenship Act [1951] has no safeguards against statelessness for foundlings (abandoned children), which may result in statelessness. The Act also defines 'certain persons to lose and others to retain citizenship' under Section 16-A – which sets out the conditions for being considered a Pakistani citizen at the time of the separation of East and West Pakistan in 1971. It is nevertheless believed that a number of Biharis and Bengalis have not acquired Pakistani Citizenship due to a range of political and social reasons.

While the GoP [Government of Pakistan] considers Bengalis, Biharis and Burmese as illegal immigrants and aliens, these population groups consider themselves as citizens of Pakistan. The governments of Bangladesh and Myanmar do not consider these groups as their nationals. Such individuals are neither handed over to law enforcement agencies for penal action or deportation, nor referred to the National Aliens Registration Authority (NARA) for registration. Statelessness has not been properly mapped in Pakistan and there are no procedures in place for determining whether a person is stateless. The issue is not a priority for the GoP and other actors, and is sensitive due to its political dimensions." (UNHCR, April 2012, pp. 8-9)

As observed by the USDOS, "[t]ravel documents are not available for refugees or stateless persons" in Pakistan (USDOS, undated).

In an article dated October 2010, the Policy Research Group (POREG), an independent think tank focusing on Asia and Africa, notes that there are approximately 3.5 million Bengalis in Pakistan, very few of whom have official documentation as Pakistani citizens. The situation of these Bengalis is briefly described as follows:

"The problem for many Bengalis, who had fled the then East Pakistan because of the war of independence in 1971, is that they have no legal documents from either Pakistan or Bangladesh. Despite living in Pakistan for decades and originating from former East Pakistan, they are given the status of 'aliens' and not recognized as Pakistani citizen. They cannot return to Bangladesh now because they had supported the occupation forces of

Pakistan and were opposed to creation of Bangladesh in 1971. Many had left the erstwhile East Pakistan before it officially became a new country. [...]

After Bangladesh was created in 1971, a lot of Bengalis left Pakistan for the newly formed country, but came back again in the 80s in search of employment and better opportunities. The Bengali-speaking people are the poorest segment of Pakistani society. They are hindered by their status as 'aliens' and there are very few, almost negligible number, who hold official documentation as Pakistani citizens. These Bengalis are facing harassment and problems and are living in constant tension.

When they contact NARA¹ [National Aliens Registration Authority] for getting their ID cards as Pakistani citizens, local officials deliberately create problems and turn them away under one or other pretext. NARA officials, who are entrusted with the responsibility of extending necessary services to them, are highly corrupt, and if bribes are not paid, the hapless Bengalis are sent to jail on charges of illegally staying in Pakistan.

Accounts of Bengalis being turned away from public hospitals and clinics are common. There are some instances when despite having official Pakistani national identity card (NIC) the Bengalis were denied medical treatment because of their Bengali origin and meager income.

The government of Pakistan has declared general amnesty for Bengalis who migrated to Pakistan before 1974, and they were granted permission to seek citizenship through proof of residence in the country. Those immigrants who had entered the country after 1974 till June 2000 are not entitled to citizenship, but they can seek temporary registration and permission to work. According to the NARA rules, all the Bengalis who entered Pakistan after July 10, 2000, have no right to work or do business; they are, in fact, supposed to be deported." (POREG, 25 October 2010)

The Express Tribune writes in an article dated April 2013 that there are nearly 2 million Bengali-speaking people in Pakistan, but that "[d]espite their numbers, the issue of citizenship for Bengalis has not seen a solution". According to the article, the status of the Bengalis as illegal immigrants "often prevents them from getting a decent education, health care, securing upper-tier jobs and participating in the electoral process". (Express Tribune, 13 April 2013)

On the issue of registration with the NARA, the same source states:

"[...] according to Nayab Hassan, Deputy Director for National Alien Registration Authority (NARA), the expectation of being granted a Pakistani NIC [National Identity Card] because they were born here or have lived here for decades is incorrect. Hassan says the communities should get themselves registered with NARA, which exempts them from punishments under the Foreigners Act and protects them from undue harassment from

¹ Please note that according to sources, the state body responsible for issuing ID cards in Pakistan is the National Database and Registration Authority (NADRA) (e.g. Shirkat Gah, 25 January 2013, p. 7; Hameed, Faraz et al., 2012, p. 5; IRIN, 14 January 2010). The National Aliens Registration Authority (NARA) is tasked with registering aliens and allotting alien registration cards (e.g. Express Tribune, 26 October 2012, News International, 20 January 2012).

state agencies. The NARA card also gives them legal status; allowing them to open bank accounts and so on. NARA also issues work permits to migrants seeking employment.

'Instead of protesting and applying for NICs, they need to apply for NARA cards first, which at least guarantee them a basic standard of living. But there are fears of being arrested and deported which prevent them from doing so,' he said. According to Hassan, only 80,000-90,000 Bengalis have a NARA card at the moment. But most Bengali immigrants view NARA with great suspicion. According to Saifullah [a resident of Mehran Town born to Bengali-origin parents who migrated to Pakistan before the 1971 war], having a NARA card also made you an easy target for exploitation by authorities and crushed the dream of being a legal Pakistani citizen forever. 'If you have a NARA card, they know you are a foreigner. It gives them a reason to pick us up and lock us in cells until we pay them,' he said." (Express Tribune, 13 April 2013)

In an article dated December 2011, Dawn quotes the chairman of the Pakistani Bengalis Action Committee as saying:

"Around 75 per cent of over three million people of Bengali-origin Pakistanis do not have Computerised National Identity Cards and are living like aliens and illegal migrants in their own country, the Pakistani Bengalis Action Committee chief patron has said. [...] He said the National Database Registration Authority, the National Alien Registration Authority and the Federal Investigation Agency were harassing Bengali-origin Pakistanis on one pretext or other. They were not being issued CINC's [sic], B-forms, passports and other legal documents, he said. Their votes were also not being added to voters' lists, he said, adding that these people were not only living in Karachi, but also in Badin, Golarchi, Lahore and Rawalpindi." (Dawn, 1 December 2011)

An older article from Time magazine, dated September 2000, states that due to their illegal status, Bengalis are often subjected to "police harassment, blackmail and sexual abuse":

"Perhaps 2 million Bengalis live in Pakistan illegally. At least 1 million reside in Karachi alone, spread out over 82 neighborhoods. They have become a vital part of the city's melting pot, working in the fishing and carpet-weaving industries and as domestic servants. But their illegal status means they face frequent police harassment, blackmail and sexual abuse – all without recourse, as they fear being arrested as aliens. [...] Female immigrants face the greatest dangers. Hundreds of Bengali women have been forced into prostitution in Pakistan, and some have even been sold into slavery." (Time, 25 September 2000)

In an article published December 2012, the Express Tribune quotes social activist Rana Asif as saying that Bengalis and Burmese women do not possess National Identity Cards (NICs) and are not considered Pakistani citizens, making it "easy to smuggle them within the country" (Express Tribune, 8 December 2012b).

A profile on the Biharis published by Minority Rights Group International (MRG) in 2008 provides the following information:

"The term 'Biharis' refers to the 250,000-300,000 non-Bengali citizens of the former East Pakistan who remain stranded in camps in Bangladesh (many others have assimilated into the Bengali population). Most of these people originated from the north Indian state of Bihar. Today many Biharis also live in Pakistan and India. Like the majority of Bengalis, Biharis are generally Sunni Muslims. Neither Pakistan nor Bangladesh has agreed to grant citizenship to the Biharis (also called stranded Pakistanis) which has resulted in their stateless for the past 35 years." (MRG, 2008d)

In an article dated March 2012, the Express Tribune states that according to sources, the Pakistani Interior Ministry made recommendations to extend full citizenship rights to Bengalis and Biharis living in Pakistan. An official is cited as saying that "the government decided to go ahead with a plan to grant permanent status to them in anticipation that the step would ease the unrest in Karachi and promote peace in the country". (Express Tribune, 9 March 2012)

Among the sources consulted within time constraint, no further information on these recommendations or their status of implementation could be found.

An August 2009 article by Dawn reports of nomads on the Pakistan-Afghanistan border who are "without nationality" but "have freedom to move across territorial limits of the two countries because of their divided families and property on both sides of the border". Regarding the status of these nomads, the article quotes then Secretary Interior Syed Kamal Shah as saying:

"Unfortunately none of the two countries have so far decided the status of these people," said Secretary Interior Syed Kamal Shah in a meeting of the National Assembly Standing Committee on Interior.

The secretary while describing the problems being faced by the National Database Registration Authority (Nadra) in Balochistan, said there were two tribes living on both sides of the border.

Some of these separated families have relatives and some own houses on either sides of the border and they have been given easement rights and so they do not need visas to travel across the border, he said. They only require permits from the concerned officials of the two countries after crossing border, he added.

'We have installed biometrics system at some points on the border to monitor movements of these people and issued special cards to them and asked Afghan government to install a similar system on its side,' the secretary said. He said Afghan government had neither installed such a system nor accepted the cards issued by Pakistan and therefore the status of these tribes was still undecided." (Dawn, 14 August 2009)

5.2 Ethnicity

5.2.1 *Domestic legal framework for the protection of ethnic minorities*

The 1973 Constitution of Pakistan contains several provisions to safeguard the rights of persons belonging to minority groups:

"26. Non-discrimination in respect of access to public places.

(1) In respect of access to places of public entertainment or resort not intended for religious purposes only, there shall be no discrimination against any citizen on the ground only of race, religion, caste, sex, residence or place of birth." (Constitution of Pakistan, 1973, amended as of 8 February 2013, Article 26)

"28. Preservation of language, script and culture.

Subject to Article 251 any section of citizens having a distinct language, script or culture shall have the right to preserve and promote the same and subject to law, establish institutions for that purpose." (Constitution of Pakistan, 1973, amended as of 8 February 2013, Article 28)

"33. Parochial and other similar prejudices to be discouraged.

The State shall discourage parochial, racial, tribal, sectarian and provincial prejudices among the citizens." (Constitution of Pakistan, 1973, amended as of 8 February 2013, Article 33)

"36. Protection of minorities.

The State shall safeguard the legitimate rights and interests of minorities, including their due representation in the Federal and Provincial services." (Constitution of Pakistan, 1973, amended as of 8 February 2013, Article 36)

"37. Promotion of social justice and eradication of social evils.

The State shall: (a) promote, with special care, the educational and economic interests of backward classes or areas; [...] (c) make technical and professional education generally available and higher education equally accessible to all on the basis of merit; [...]" (Constitution of Pakistan, 1973, amended as of 8 February 2013, Article 37)

"251. National language.

(1) The National language of Pakistan is Urdu, and arrangements shall be made for its being used for official and other purposes within fifteen years from the commencing day.

(2) Subject to clause (1), the English language may be used for official purposes until arrangements are made for its replacement by Urdu.

(3) Without prejudice to the status of the National language, a Provincial Assembly may by law prescribe measures for the teaching, promotion and use of a Provincial language in addition to the National language." (Constitution of Pakistan, 1973, amended as of 8 February 2013, Article 251)

Pakistan's Penal Code, in Sections 153-A and 505, provides penalties for the promotion of enmity between different groups and statements that may incite group differences:

"153-A. Promoting enmity between different groups, etc.:

Whoever

(a) by words, either spoken or written, or by signs, or by visible representations or otherwise, promotes or incites, or attempts to promote or incite, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities; or

(b) commits, or incites any other person to commit, any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities or any group of persons identifiable as such on any ground whatsoever and which disturbs or is likely to disturb public tranquillity; or

(c) organizes, or incites any other person to organize, and exercise, movement, drill or other similar activity intending that the participants in any such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in any such activity will use or be trained to use criminal force or violence or participates, or incites any other person to participate, in any such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in any such activity will use or be trained, to use criminal force or violence, against any religious, racial, language or regional group or caste or community or any group of persons identifiable as such on any ground whatsoever and any such activity for any reason whatsoever cause or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community. shall be punished with imprisonment for a term which may extend to five years and with fine.

Explanation: It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different religious, racial, language or regional groups or castes or communities." (Penal Code, 6 October 1860, amended as of 2006, Section 153-A)

"505. Statements conducing to public mischief:

[..]

(2) Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment for a term which may extend to seven years and with fine.

Explanation: It does not amount to an offence within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report has

reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it in good faith and without any such intent as aforesaid.” (Penal Code, 6 October 1860, amended as of 2006, Section 505)

5.2.2 Treatment of ethnic groups/ethnic minorities in practice

The UK Foreign and Commonwealth Office (FCO) states in its annual report on the human rights situation in 2012 that it receives “regular reports from many communities – including Christian, Hindu, Ahmaddi, Sufi, Shia and minority ethnic communities – who continue to face intimidation and violence, forced conversion, destruction of property and vandalism of graves and other forms of targeted persecution and discrimination” (FCO, April 2013). Similarly, the US Department of State (USDOS) notes that “[s]ocietal discrimination against national, ethnic, and racial minorities continued” in 2012 (USDOS, 19 April 2013, Executive Summary).

As observed by the Human Rights Commission of Pakistan (HRCP) in its annual report for 2012, “[t]he state failed to provide protection to its religious and ethnic minorities as they were threatened and attacked repeatedly in various parts of the country” (HRCP, March 2013, p. 60).

The same source notes ethnic inequalities in educational opportunities:

“Disparities in educational opportunities in Pakistan continue to be influenced by multiple factors including wealth, gender, ethnicity and geographic location.” (HRCP, March 2013, p. 228)

This is corroborated by a joint written statement by the NGOs Marist International Solidarity Foundation (FMSI), Franciscans International (FI), Dominican for Justice and Peace (Order of Preacher) and VIVAT International published by the UN Human Rights Council (HRC) in February 2013. According to the statement, “[s]ome students from certain ethnic minority and religions are [...] being discriminated against in the Pakistani education system.” (HRC, 18 February 2013a, p. 2)

A report by Minority Rights Group International (MRG) under the heading “World Directory of Minorities and Indigenous Peoples – Pakistan Overview”, last updated September 2010, gives the following brief overview of the situation for ethnic minorities in Pakistan:

“The situation for Pakistan's ethnic minorities has shown little improvement. Ethnic minorities such as the Baluchis [Balochis] have been targeted and, in general, the country continues to be plagued by human rights violations. Particularly following the 11 September 2001 attacks, there has been an increase in arrests and detention of ethnic minorities under anti-terror laws. In early 2007 Pakistan's Human Rights Commission [Pakistani NGO Human Rights Commission of Pakistan (HRCP), remark ACCORD] said they had reports of 400 disappearances since 2002. According to the human rights body, the disappearances and abductions increased post-11 September 2001, but rather than being terror suspects, most of those affected were ethnic minorities.” (MRG, September 2010)

A compilation of reports prepared by the Office of the High Commissioner for Human Rights (OHCHR) and published by the UN Human Rights Council (HRC) in August 2012 includes the following information regarding indigenous communities and ethnic minorities:

"UNCT [United Nations Country Team] noted that the indigenous communities in Pakistan including migratory (Koochis) pastoral (Rebari and Bakarwal), nature-based (Kalash and Kehal), and in some cases entertainment and occupation-based (Jogi, Kabootra and Sanyasi), remain excluded and vulnerable as the national laws do not recognize and protect their particular culture and livelihood practices. Most are not registered in voter lists.

[...] CERD [Committee on the Elimination of Racial Discrimination] welcomed the steps taken by Pakistan to ensure adequate political participation of minorities. However, it noted that minorities are comprehended by Pakistan exclusively as religious minorities other than Muslims and that no specific policy or legislative framework appeared to exist to ensure appropriate representation of all ethnic groups. It expressed concern about reports on the situation in Baluchistan [Balochistan] regarding acts of violence against foreigners and Baluchi [Balochis] civilians." (HRC, 13 August 2012, pp. 12-13)

Human Rights Watch (HRW) writes in its annual report for 2012 that it "recorded continued enforced disappearances and killings of suspected Baloch militants and opposition activists" by Pakistan security forces:

"Human Rights Watch recorded continued enforced disappearances and killings of suspected Baloch militants and opposition activists by the military, intelligence agencies, and the paramilitary Frontier Corps. Baloch nationalists and other militant groups also stepped up attacks on non-Baloch civilians. Pakistan's military continued to publicly resist government reconciliation efforts and attempts to locate ethnic Baloch who had been subject to 'disappearances.' Pakistan's government appeared powerless to rein in the military's abuses." (HRW, 31 January 2013)

A written statement by the Germany-based NGO Society for Threatened Peoples, published by the UN Human Rights Council (HRC) in February 2013, includes the following information regarding enforced disappearances of ethnic Baloch:

"Baloch insurgency and tensions between the central government and its Baloch opposition especially, date back to Pakistan's independence in 1947. Since the beginning of military operations by the Frontier Corps (FC) and the Pakistan Army in 2005, the conflict intensified. The spread and increased scope of fighting have led to a dire humanitarian crisis with thousands of Baloch political activists, journalists and academics internally displaced, brutally tortured and killed in custody. Corroborating evidences show a dramatic increasement of cases of enforced disappearances in recent years. International human rights groups have documented 5000 cases of disappearances in 2012. While Baloch human rights groups claim 14000 disappeared Baloch men and women and 500 recovered mutilated bodies, the Pakistani Ministry of the Interior admitted 2.186 victims of violence in January 2013.

Cases documented by Human Rights Watch (HRW) show that Pakistan's security forces, especially its intelligence agencies Military Intelligence (MI), Inter-Services Intelligence (ISI), Intelligence Bureau (IB) and the paramilitary Frontier Corps (FC) are targeting ethnic Baloch suspected of alleged involvement in the Baloch nationalist movement, like the Baloch Republican Party (BRP), Baloch National Front (BNF), Baloch National Movement (BNM) and Baloch Students Organization (BSO). Predominantly, victims are men in their mid-20s to mid-40s, subjected to brutal torture before they were killed and their bodies dumped in desolated areas. Abductions are carried out in broad daylight, often in public busy places by armed men in civilian clothes, and assisted by the police being present at the scene." (HRC, 22 February 2013, p. 2)

Freedom House reports on a mobile phone block in Balochistan during the Pakistan Day celebrations in March 2012, which the authorities said was aimed at maintaining security, but which "some saw [...] as part of the government's continual campaign of oppression against the Baloch people and nationalist movement":

"The southern province of Balochistan, where a conflict between Baloch nationals and the Government of Pakistan has persisted since 1948, has been subject to increasing efforts by the Pakistani authorities to obstruct the ability of Balochi residents to access ICTs [information and communication technologies]. In a worrisome incident during the national celebration of Pakistan Day on March 25, 2012, the entire province was cut off from cellular services for a day based on 'an order to implement national security policy,' according to the chairman of the PTA [Pakistan Telecommunication Authority]. The stated aim of the mobile phone block was to thwart militant activity during the national holiday, though some saw the incident as part of the government's continual campaign of oppression against the Baloch people and nationalist movement." (Freedom House, 24 September 2012)

Among the sources consulted by ACCORD within time constraints no information could be found that would support the view that the authorities' efforts to obstruct the ability of Balochi residents to access ICTs are based on ethnic discrimination.

According to an MRG report dated July 2010 (reviewing events of 2009), "[t]here were reports that Pashtun displaced in other provinces were being discriminated against, through excessive demands for security documents based on a presumption that they were Taliban supporters" (MRG, 1 July 2010).

A July 2009 press release by Amnesty International (AI) states that ethnic Pashtuns who have fled fighting in northwestern Pakistan face discrimination in host communities:

"More than two million people who have fled fighting in northwestern Pakistan do not have access to aid distributed in official displacement camps, Amnesty International warned today. Ethnic Pashtuns who have fled fighting also face discrimination from host communities, said Amnesty, as it called on the Pakistani government to ensure that ethnic Pashtuns fleeing to other provinces of Pakistan are not discriminated against. [...]"

Amnesty International has documented two dozen cases from Pakistan where displaced Pashtuns have been told they cannot rent property, access healthcare or place their children in school without security clearance, something particularly difficult for many people who lost their documentation as they fled. This problem is particularly acute for women and women-led households because in areas of northwestern Pakistan under Taliban control, many women were barred from receiving national identity documents. Conditions seem particularly difficult in Sindh province, where some local political groups have fanned fears that the influx of Pashtuns would threaten the local population." (AI, 3 July 2009)

A January 2010 article by the American daily newspaper Washington Post (WP) states that Pashtuns in the port city of Karachi "are facing social and political ostracism because they share linguistic and tribal roots with the Taliban". The article further observes that "Pashtun leaders here denied supporting the extremists and said their community has been unfairly tarred with the Taliban brush. They said the problem has exacerbated ethnic discrimination by the Mohajir majority, which dominates the corridors of power in Karachi under the MQM [Muttahida Quami Movement], often denying Pashtuns jobs, education and health benefits." (WP, 7 January 2010)

A response to information request (RIR) by the Immigration and Refugee Board of Canada (IRB), dated July 2012, provides the following information regarding the treatment of Muhajirs in Islamabad, Lahore and Faisalabad based on correspondence with a representative of the Washington-based Middle East Media Research Institute (MEMRI) and a representative of the Human Rights Commission of Pakistan (HRCP):

"In correspondence with the Research Directorate, the MEMRI [Middle East Media Research Institute] representative provided the following information on the situation of the Muhajirs in Lahore, Islamabad and Faisalabad:

In Islamabad, Lahore and Faisalabad, Muhajirs face severe competition in government jobs from mainly Punjabis, who control the levers of government and military throughout Pakistan. In Islamabad, the federal capital, the Muhajirs face discrimination in government jobs. So, there is some pattern of discrimination against them, but there are no violent attacks except for occasional incidents. (21 June 2012)

In correspondence with the Research Directorate, a representative of the Human Rights Commission of Pakistan (HRCP), a non-profit independent NGO (HRCP n.d.), stated that he was not aware of any 'discrimination or political victimization' targeting members of the MQM in Lahore, Islamabad and Faisalabad (HRCP 27 June 2012)." (IRB, 5 July 2012)

A profile on the Sindhi and Muhajir groups, published by the Minority Rights Group International (MRG) in 2008, observes in a section headed "Current issues":

"The Sindhis as well as the Mohajirs make substantial allegations of discrimination and persecution. Their grievances are largely directed at the Punjabis who dominate the bureaucracy and the armed forces. While the military coup in October 1999 was led by General Pervez Musharraf (himself a Mohajir) the persistent bias towards the Punjabis

has exacerbated provincial tensions. There is a common concern expressed by Sindhis and Mohajirs on several issues including the lack of regional and provincial autonomy and continuous interference from Islamabad in the affairs of Sindh. Sindhis and Mohajirs also demand a ban on further settlements of Punjabis and Pakhtuns, and insist that restrictions should be placed on the sale of properties and allotment of businesses to those not domiciled in the province." (MRG, 2008c)

5.3 Freedom of expression and association

5.3.1 Domestic legal framework

Freedom of expression

Article 19 of the Constitution of Pakistan guarantees the right to freedom of speech and expression of every citizen:

"19. Freedom of speech, etc.

Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court [commission of] or incitement to an offence." (Constitution of Pakistan, 1973, amended as of 8 February 2013, Article 19)

The US Department of State (USDOS) notes in its annual report on human rights in 2012 that "[c]itizens could criticize the government publicly or privately, but they were restricted when criticizing the military. Blasphemy laws restricted individuals' right to free speech concerning matters of religion and religious doctrine." (USDOS, 19 April 2013, section 2a)

In its annual report on press freedom, published May 2012 and covering events of 2011, Freedom House mentions the following legal restrictions on freedom of speech:

"The constitution and other legislation, such as the Official Secrets Act, authorize the government to curb freedom of speech on subjects including the constitution itself, the armed forces, the judiciary, and religion. Harsh blasphemy laws have occasionally been used to suppress the media. There were some calls to reform the blasphemy laws in early 2011, but several prominent politicians who spoke out in favor of reform were threatened or killed by extremists, leading to a major chilling effect on discussion of the issue. Under the 2004 Defamation Act, offenders can face minimum fines of 100,000 rupees (\$1,200) and prison sentences of up to five years, but the legislation has not yet been used to convict journalists. Since 2010, broadly defined contempt laws have increasingly been used by the judiciary to curb reporting on particular cases or judges, and a number of print and television outlets were threatened with contempt charges during 2011." (Freedom House, May 2012b)

The full text of the Official Secrets Act of 1923 mentioned in the above quote can be accessed via the following link:

- Official Secrets Act (1 Act No. XIX of 1923), 1923 (available at intermedia.org.pk)
<http://www.intermedia.org.pk/mrc/medialawdocs/OfficialSecretAct.pdf>

Section 499 of Pakistan's Penal Code of 1860 defines the criminal offence of defamation as follows:

"499. Defamation: Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said except in the cases hereinafter excepted, to defame that person.

Explanation 1: It may amount to defamation to impute anything to a deceased person, if the imputator would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2: It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3: An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4: No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful."
(Penal Code, 6 October 1860, amended as of 2006, Section 499)

However, the Penal Code, in the same Section, provides for ten cases of exception to the offence of defamation. The text of these exceptions can be accessed via the following link:

- Pakistan Penal Code (Act XLV of 1860), 6 October 1860, amended as of 2006, Section 499 (available at pakistan.org)
<http://www.pakistan.org/pakistan/legislation/1860/actXLVof1860.html>

The Defamation Ordinance of 2002 and the Defamation Act of 2004 (amending the Defamation Ordinance 2002 and the Pakistan Penal Code, Section 500) can be found at the following links:

- Defamation Ordinance, 2002 (available at intermedia.org.pk)
<http://www.intermedia.org.pk/mrc/medialawdocs/defamation-law.pdf>
- Defamation Act, 2004 (available at Pakistan Press Foundation website)
<http://www.pakistanpressfoundation.org/media-and-governance/27493/text-of-defamation-bill-2004/>

The Defamation Act of 2004 amends Section 500 of Pakistan's Penal Code to include a new clause which provides that "the originator of the defamatory imputation shall be punished with imprisonment of either description for a term which may extend to five years, or with fine which shall not be less than rupees one hundred thousand, or with both" (Defamation Act, 2004, Section 8). However, as noted by Freedom House, the Defamation Act "has not yet been used to convict journalists" (Freedom House, May 2012b).

On the issue of regulations and legislation affecting media freedom, Freedom House states:

"Broadcast media are regulated by the Pakistan Electronic Media Regulatory Authority (PEMRA). Officials continued to engage in sporadic efforts to temporarily suspend certain broadcasts or programs under other media regulations, including an official code of conduct, or through the ad hoc banning of broadcast rights or blockage of transmissions around sensitive events, such as the killing of terrorist leader Osama bin Laden in May 2011. Recent legislative proposals emanating from both the National Assembly and the Senate would restrict live coverage of violence or terrorist attacks. The proposals also contained broadly worded clauses that would ban the broadcast of any content considered 'defamatory against the organs of the state.' The bills were not approved by year's end." (Freedom House, May 2012b)

The PEMRA Ordinance 2002, as amended by the PEMRA (Amendment) Act, 2007, and PEMRA Rules 2009 are available via the following links:

- Pakistan Electronic Media Regulatory Authority Ordinance 2002, as amended by the Pakistan Electronic Media Regulatory Authority (Amendment) Act (Act No. II of 2007), 2007 http://www.pemra.gov.pk/pemra/images/docs/legislation/Ordinance_2002.pdf
- Pakistan Electronic Media Regulatory Authority Rules, 2009 http://www.pemra.gov.pk/pemra/images/docs/legislation/PEMRA_Rules_2009.pdf

As observed by the USDOS, "[u]nder the Anti-Terrorism Act (ATA), any action, including speech, intended to incite religious hatred is punishable by up to seven years' imprisonment" (USDOS, 30 July 2012, section 2). The relevant provisions of the Act read as follows:

"8. Prohibition of acts intended or likely to stir up sectarian hatred. - A person who: -

(a) uses threatening, abusive or insulting words or behavior; or

(b) displays, publishes or distributes any written material which is threatening, abusive or insulting; or words or behavior; or

(c) distributes or shows or plays a recording or visual images or sounds which are threatening, abusive or insulting; or

(d) has in his possession written material or a recording or visual images or sounds which are threatening, abusive or insulting with a view to their being displayed or published by himself or another, Shall be guilty of an offence if: --

i. he intends thereby to stir up sectarian hatred; or

ii. having regard to all the circumstances, sectarian hatred is likely to be stirred up thereby.

9. Punishment for offence under section 8. - Whoever contravenes [...] any provision of section 8 shall be punished with rigorous imprisonment for a term which may extend to seven years, or with fine, or with both." (ATA, 1997, sections 8 and 9)

Freedom of assembly and association

The 1973 Constitution of Pakistan guarantees the fundamental rights of freedom of assembly and association:

"16. Freedom of assembly.

Every citizen shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order.

17. Freedom of association:

(1) Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality.

(2) Every citizen, not being in the service of Pakistan, shall have the right to form or be a member of a political party, subject to any reasonable restrictions imposed by law in the interest of the sovereignty or integrity of Pakistan and such law shall provide that where the Federal Government declares that any political party has been formed or is operating in a manner prejudicial to the sovereignty or integrity of Pakistan, the Federal Government shall, within fifteen days of such declaration, refer the matter to the Supreme Court whose decision on such reference shall be final.

(3) Every political party shall account for the source of its funds in accordance with law." (Constitution of Pakistan, 1973, amended as of 8 February 2013, Articles 16 and 17)

In its annual report on human rights in 2012, the US Department of State (USDOS) notes with regard to freedom of assembly and association:

"Although the constitution provides for the freedom of assembly, the government placed selective restrictions on it. By law district authorities can prevent gatherings of more than four persons without police authorization. The law permits the government to ban all kinds of rallies and processions, except funeral processions, for reasons of security. [...] The constitution provides for freedom of association subject to restrictions imposed by law." (USDOS, 19 April 2013, section 2b)

The Pakistan Penal Code of 1860 contains the following provisions pertaining to unlawful assembly and rioting:

"141. Unlawful assembly: An assembly of five or more persons is designated an 'unlawful assembly' if the common object of the persons composing that assembly is:-

First: To overawe by criminal force, or show of criminal force, the Federal or any Provincial Government or Legislature, or any public servant in the exercise of the lawful power of such public servant; or

Second: To resist the execution of any law, or of any legal process, or

Third: To commit any mischief or criminal trespass, or other offence; or

Fourth: By means of criminal force, or show of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth: By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation: An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

142. Being member of unlawful assembly: Whoever being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of any unlawful assembly.

143. Punishment: Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both. [...]

145. Joining or continuing in unlawful assembly, knowing it has been commanded to disperse: Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

146. Rioting: Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

147. Punishment for rioting: Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both." (Penal Code, 6 October 1860, amended as of 2006, Sections 141-147)

Section 11-F of the Anti-Terrorism Act (ATA) of 1997 contains provisions regarding involvement with a "prescribed organization":

"11-F. Membership, support and meetings relating to a Prescribed Organization.

1. A person is guilty of an offence if he belongs or professes to belong to a prescribed organization.
2. A person is guilty of an offence under sub-section (1) shall be liable of conviction to a term not exceeding six months imprisonment and a fine.
3. A person commits an offence if he,
 - a. Solicits or invites support for a prescribed organization, and the support is not, restricted to, the provision of money of other property; or
 - b. Arranges, manages or assists in managing, or addressing a meeting which he know is –
 - i. To support a prescribed organization;
 - ii. To further the activities of a prescribed organization; or
 - iii. To be addressed by a person who belongs or professes to belong to a prescribed organization.
4. A person commit an offence if he addresses a meeting, or delivers a sermon to a religious gathering, by any means whether verbal, written, electronic, digital or otherwise, and the purpose of his address or sermon, is to encourage support for a prescribed organization or to further its activates.
5. A person commits an offence if he solicits, collects, or raises funds for a prescribed organization.
6. A person guilty of an offence under sub-sections (3), (4) and (5) shall be liable on conviction to a term of imprisonment not less than one year and not more than five and a fine." (ATA, 1997, section 11-F)

In its annual report of March 2013 (covering 2012), the Human Rights Commission of Pakistan (HRCP) informs that "[u]nder sections 30-32 of the Police Act applicable in all provinces, the police are responsible for keeping public order in the streets, thoroughfares, etc., and assemblies/processions convened without a licence from the competent authority can be stopped or dispersed" (HRCP, March 2013, p. 133).

Under the heading "Section 144 curbs on assembly", the same source notes that the Code of Criminal Procedure (CrPC) empowers a district government to issue temporary orders in public interest:

"Under section 144 of the Code of Criminal Procedure (CrPC) a district government was empowered to make temporary orders in emergency cases of nuisance or apprehended danger, where immediate prevention or a speedy remedy was desirable. Powers under this section could be exercised where the authority considered its direction likely to prevent or intended to prevent obstruction, annoyance, injury to any person lawfully employed, danger to human life, health or safety, or a disturbance to public tranquility, or

a riot, or an affray (Section 144). The power was, however, extraordinary in nature in view of the fact that it suspended the lawful and fundamental rights of a citizen." (HRCP, March 2013, p. 139)

The HRCP report gives some instances where bans on rallies, processions and public meetings were imposed under section 144 of the CrPC (HRCP, March 2013, p. 139).

In its annual report for 2011, the HRCP states that the Political Parties Act has been extended to the Federally Administered Tribal Areas (FATA), allowing political parties to operate legally in the region. Further, the report notes that the right to form trade unions "was still non-existent in FATA" and that "[e]lsewhere in Pakistan, certain labour laws contributed to limiting the freedom of association for workers":

"The main advance in 2011 was the extension of the Political Parties Act to the Federally Administered Tribal Areas (FATA), which enabled political parties in Pakistan to formally work in the region and for political parties to be formed in FATA for the first time. Apart from that, there were few other positive developments regarding the freedom of association in Pakistan in 2011. The right of labour to form trade unions was still non-existent in FATA. Elsewhere in Pakistan, certain labour laws contributed to limiting the freedom of association for workers. The failure of the state to create conditions for enjoyment of the right without violence, intimidation and interference of employers also added to the challenges. The opposition to workers' organising themselves was not confined to labourers in factories alone, even senior government officials were arrested and intimidated when they went about demanding their rights by agitating under the banner of their associations." (HRCP, March 2012, pp. 125-126)

The full text of the Political Parties Order, 2002, replacing the Political Parties Act of 1962, is accessible via the following link:

- Political Parties Order, 28 June 2002, amended as of 2011 (available at slideshare.net)
<http://de.slideshare.net/fatanews/political-parties-order-2002-final-amended-200220042011>

5.3.2 Treatment of (actual and perceived) members and supporters of political opposition parties

Freedom House notes in its annual report on political rights and civil liberties in 2011 that Pakistan's 2008 parliamentary elections were "not completely free and fair", with international election observers reporting "abuse of state resources and media, inaccuracies in the voter rolls, and rigging of the vote tallies in some areas". Freedom House further indicates that "[o]pposition party workers faced police harassment, and more than 100 people were killed in political violence during the campaign period". (Freedom House, May 2012a)

Similarly, as regards the treatment of political party workers in the 2008 elections, the US Department of State (USDOS) notes:

"For the 2008 elections, the Election Commission of Pakistan (ECP) reportedly accredited approximately 25,000 domestic observers, the majority of whom were from the Free and Fair Election Network (FAFEN). [...] In particular, observers noted that some police

pressured candidates and political party workers by threatening to register cases against them. Police often reportedly did not allow rallies for opposition parties and pressured individuals to vote for certain parties. FAFEN documented cases in which intelligence services pressured candidates to withdraw." (USDOS, 19 April 2013, section 3)

Reviewing events of 2009, Freedom House notes that in March 2009, police in Punjab arrested more than 300 members of the Pakistan Muslim League-Nawaz (PML-N) and other opposition parties to prevent them from joining a government-banned public demonstration in favour of the ousted chief justice Iftikhar Chaudhry (Freedom House, 29 April 2010).

In its annual report for 2012, the Human Rights Commission of Pakistan (HRCP) mentions violence specifically directed against political party activists and leaders:

"Although there were no legal curbs barring association with any political or religious-political party, streaks of violence in some parts of the country were specifically directed against activists or leaders of one political party or another. Such violence was most frequent in parts of Balochistan and Khyber Pakhtunkhwa provinces and in Karachi." (HRCP, March 2013, p. 143)

In a report dated November 2011, Freedom House states that political opposition in Pakistan "is both widespread and risky". As observed in the report, "[d]issidents, including those who advocate greater regional autonomy, are subject to enforced disappearance, among other hazards. The state has also resisted full compliance with Chief Justice Chaudhry's orders to disclose the location of several hundred citizens alleged to have disappeared in Balochistan." (Freedom House, 4 November 2011)

According to its annual report for 2012, Human Rights Watch (HRW) "recorded continued enforced disappearances and killings of suspected Baloch militants and opposition activists by the military, intelligence agencies, and the paramilitary Frontier Corps" (HRW, 31 January 2013).

A July 2011 report prepared by the same source details 45 alleged cases of enforced disappearances by Pakistan security forces, the majority in 2009 and 2010. The report is based on over 100 interviews conducted in Balochistan, including with family members of "disappeared" individuals, former detainees, local human rights activists, lawyers and witnesses. Reporting on the victims of enforced disappearances and the response of provincial authorities, HRW states:

"All of the victims were ethnic Baloch, from Quetta and other districts of Balochistan. Most victims appeared to be targeted because of their affiliation with Baloch nationalist political parties and movements, including the Baloch Republican Party (BRP), Baloch National Front (BNF), Baloch National Movement (BNM), and Balochistan National Party (BNP). Among the disappeared were senior leaders of Baloch nationalist parties, such as members of the BRP central committee Sangat-Sana Baloch and Mir Abdul Waheed Resani Baloch, and BRP secretary general, Bashir Azeem." (HRW, July 2011, pp. 29-30)

"Information shared with Human Rights Watch by the families of disappearance victims shows the inability or unwillingness of provincial authorities to address the problem. In seven cases documented in this report, relatives managed to raise disappearance cases with high-level provincial authorities, yet none of those personal appeals led to establishment of the victim's whereabouts or prosecution of the perpetrators, though in some cases authorities confirmed to the families that the victims had been taken by the intelligence agencies." (HRW, July 2011, pp. 59-60)

A March 2011 press release by Amnesty International (AI) reports on the abduction of two members of Sindhi nationalist political parties and another Sindhi activist allegedly by government security officials (AI, 4 March 2011). As noted in the press release, "[d]espite several pledges by the newly elected Pakistan's civilian government in 2008 to resolve the country's crisis of 'disappearances', the authorities have not yet provided information about hundreds of cases of people believed to be held secretly by the government as part of the so-called 'war on terror', or in response to internal opposition in Balochistan or Sindh provinces." (AI, 4 March 2011)

In its report dated November 2011, Freedom House informs:

"Members of the parliamentary opposition have argued that ongoing public-accountability campaigns are but a vehicle for politically motivated witch hunts. This accusation received some support when the list of those prosecuted by the National Accountability Bureau (NAB) under Musharraf was made available in 2006, showing that opposition politicians were more likely to be prosecuted. Former NAB chief Shahid Aziz, a retired general, explained in an interview with Dawn that he was often pressured to close cases against pro-Musharraf politicians and businessmen. He was also instructed to abandon cases against top opposition figures like Benazir Bhutto because influential diplomats from the United States and the United Kingdom were working on a political reconciliation between Bhutto and Musharraf. This pattern of politically motivated legal proceedings also extended to prosecutions for tax evasion, which is reportedly rampant among the country's elite." (Freedom House, 4 November 2011)

5.3.3 Treatment of civil society, human rights, and political activists

In its report on digital media and Internet freedom published September 2012 (reporting period January 2011 to May 2012), Freedom House informs that most online commentators exercise a degree of self-censorship when writing on sensitive topics. Furthermore, in 2011, there were a few reports of bloggers being contacted by authorities to remove specific content:

"Despite numerous limitations on content, Pakistanis have relatively open access to international news organizations and other independent media, as well as a range of websites representing Pakistani political parties, local civil society groups, and international human rights organizations. Nevertheless, most online commentators exercise a degree of self-censorship when writing on topics such as religion, blasphemy, separatist movements, or human rights protection for women and homosexuals, given the sensitivity of both the government and non-state actors to these subjects. In 2011, there were a few reports of

authorities contacting bloggers to remove specific content or requiring moderators on discussion forums to delete certain messages.” (Freedom House, 24 September 2012)

The US Department of State (USDOS) April 2013 report notes with regard to Internet freedom:

“There were reports of some restrictions on Internet access and reports that the government monitored Internet use, some e-mail, and Internet chat rooms. According to a Freedom House report, the government justified politically motivated restrictions on Internet freedom as necessary for security purposes. There were also reports that the government attempted to control some Web sites, including extremist and proindependence Baloch sites. The provincial government in Balochistan blocked access to a Baloch human rights blog run by journalists.” (USDOS, 19 April 2013, section 2a)

The Asian Human Rights Commission (AHRC) states in a report dated December 2012 that human rights defenders continue to be subjected to violence and other malpractices by state and non-state actors, with the government failing to provide effective protection:

“Human rights defenders (HRDs) remain subject to: threats and reprisals against them and their families; harassment; legal and physical attacks; arbitrary arrests and detention; forced disappearance; and torture and extra-judicial killing by state and non-state actors. The government has failed to establish an effective national policy of protection for HRDs or to combat impunity by effectively investigating and prosecuting those responsible for such attacks.” (AHRC, 10 December 2012, p. 6)

In its annual report for 2012, Human Rights Watch (HRW) provides the following information with regard to the situation of human rights activists in Pakistan:

“Community-based human rights activists faced increased threats. In June, Asma Jahangir, the country’s most prominent human rights defender, alleged that she had discovered that an assassination attempt was being planned against her from ‘the highest levels of the security establishment.’ In the preceding months, Jahangir had been at odds with the Pakistani military in a series of high-profile standoffs, including over the military’s policies in Balochistan and elsewhere.” (HRW, 31 January 2013)

In its annual report on political rights and civil liberties in 2011, Freedom House outlines the situation for NGO workers and human rights activists in Pakistan as follows:

“Authorities generally tolerate the work of nongovernmental organizations (NGOs) and allow them to publish critical material. However, NGOs that focus on female education and empowerment, and female NGO staff in general, have faced threats, attacks, and a number of murders by radical Islamists, particularly in the FATA and KP. Citing security concerns, the government has at times prevented aid groups from operating in Balochistan, exacerbating the province’s humanitarian situation, and access to KP and the FATA remains challenging. Working or commenting on issues concerning blasphemy or the intelligence services became more risky in 2011, for both local and international activists. Attacks on human rights defenders appeared to be on the rise.” (Freedom House, May 2012a)

The US Department of State (USDOS) annual report on human rights in 2012 contains the following information regarding the government's attitude towards NGOs:

"Domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Other groups that reported on issues implicating the government, military, or intelligence services faced restrictions on their operations. Very few NGOs had access to KP, FATA, and some areas in Balochistan. While government officials were sometimes cooperative, they were only somewhat responsive to these groups' views. The PPP-led government delayed or blocked issuance of visas to international staff members of organizations whose work challenged the image of the government. There were also reports that security agencies blocked the issuance of visas for international staff members due to concerns about their activities and links to foreign governments." (USDOS, 19 April 2013, section 3)

On security threats for NGO workers and women's rights organisations, the same source notes:

"Security threats were a problem for NGO workers due to the instability in FATA and KP, and organizations that promoted women's rights faced particular challenges." (USDOS, 19 April 2013, section 5)

The following information regarding security threats for NGO workers are provided by the Human Rights Commission of Pakistan (HRCP) in its annual report for 2012:

"The women and men working with NGOs or as part of the civil society in general found that that association brought with it considerable threats to their lives. The risks were most severe in the Khyber Pakhtunkhwa province and the neighboring FATA region. Those working for the rights of women and promotion of education faced increased risks.

In May 2012, a politically influential cleric from Kohistan district in Khyber Pakhtunkhwa warned female NGO workers against entering Kohistan and threatened that any females who ignored the warning would be married to local men. The cleric accused NGOs of pursuing western agenda and said that NGO workers would not be allowed to 'influence' local women in the name of empowerment. The threat was not followed by an official response, verbal or otherwise.

On July 4, Farida Afridi, head of women's rights organization Society for Appraisal and Women Empowerment in Rural Areas (SAWERA), located in FATA, was shot and killed outside her home by two armed men on a motorbike. She had reportedly been facing threats for working to help women.

Civil society organisations kept calling upon the government to improve conditions for NGO workers and human rights defenders especially in areas where extremist militants held sway but the situation certainly did not improve in 2012." (HRCP, March 2013, pp. 145-146)

The same source notes with regard to the treatment of trade union leaders:

"Trade union leaders also faced risks to their lives from elements who were upset by their efforts to organise workers. In July, the president of All Pakistan Clerks Association (APCA) at the Lahore Accountant General's office, Bakhsh Elahi, was shot and killed by unidentified men. The APCA workers at the Accountant General's office, led by Elahi, had been on strike for the preceding 12 days. The murderers of a WAPDA [Water and Power Development Authority] union leader in Jhang and president of PIA workers union in 2011 were neither identified nor brought to justice till the end of 2012.

The ordeal of six power loom union leaders in Faisalabad who had been convicted to a total of 594 years in prison continued as they entered the third year of their sentence. The workers decried the unduly harsh sentence as a ploy to undermine trade unions' struggle for labour's rights. Until the end of 2012, the hearing had not started on an appeal filed against the conviction in the Lahore High Court." (HRCP, March 2013, pp. 142-143)

In its annual report for 2012, the Asian Human Rights Commission (AHRC) recounts the case of six trade union activists who were arbitrarily arrested by the Pakistan Rangers on the behest of the owners of a power loom factory. The activists were tortured in the custody of the Pakistan Rangers and later handed over to the police, where they were tortured again:

"The AHRC received information that six trade union activists were arbitrarily arrested by the Pakistan Rangers, a paramilitary organization, on the behest of the owners of a power loom factory and accused of creating a trade union for the workers. The six trade union activists were tortured for 30 hours, while in the custody of the Pakistani Rangers. The activists were subsequently handed over to the police, where they were also severely tortured in order to extract confessional statements of being involved in extortion. The labourers resisted and refused to confess and, in revenge, the police filed a case of terrorism against them. They were produced before the Anti-Terrorism Court, where the judge ordered that the victims should be provided with medical treatment. But, the judge failed to order an investigation of the torture committed by the police officials, and did not request for a copy of the medical certificate from the hospital in order to confirm that torture had taken place. The trade unionists accuse the chief of the Citizen-Police Liaison Committee (CPLC) for using his office to arrest and torture people. The CPLC is a government organization that facilitates contact between citizens and the police." (AHRC, 10 December 2012, pp. 26-27)

The International Trade Union Confederation's (ITUC) annual survey of violations of trade union rights, published June 2012, examines the state of trade union rights in Pakistan (ITUC, 6 June 2012). In the introduction, the report indicates that "[t]rade union rights are not fully guaranteed in law at the federal or provincial level. In practice, trade union rights are also often violated. Several trade union activists were arrested, beaten, detained or discriminated against during the year, while at least one was murdered." (ITUC, 6 June 2012)

5.3.4 Treatment of journalists and other media professionals

In its annual report for 2012, the Human Rights Commission of Pakistan (HRCP) provides the following information with regard to the safety of journalists in Pakistan:

"Over the years Pakistan has gained notoriety for being one of the most dangerous countries in the world for journalists. In the year under review, the hazards associated with being a journalist continued. According to Press Freedom Index, Pakistan was one of the deadliest countries for journalists for the second year running, with a ranking of 151 out of 179 countries. Journalists were targeted in broad daylight and faced repeated threats. Threats made against highly acclaimed journalists indicated a sense of impunity among the perpetrators. The threats that the journalists in Balochistan and FATA faced were the most daunting anywhere in Pakistan. In terms of dangers to journalists, Khuzdar district was to Balochistan what Balochistan was to Pakistan." (HRCP, March 2013, p. 118)

The same source adds that perpetrators of journalists' killings continued to enjoy impunity in 2012:

"Impunity for perpetrators of journalists' killings continued in 2012 and no headway was made in apprehending or prosecuting the killers of any of the journalists killed in 2012. Out of the over 80 journalists killed in Pakistan since the year 2000, the perpetrators have been tried only in one case, that of American journalist Daniel Pearl. Several high profile cases of attacks on journalists remain unsolved and the perpetrators roam free. From the government's action it appeared as if its responsibility to bring the killers to justice stood fulfilled the moment a terrorist or militant organisation claimed responsibility for an attack. Numerous probes were launched and commissions formed to investigate journalists' killings but there was no concrete result. The well-known cases of the murder of journalists Wali Khan Babar and Saleem Shahzad gained much coverage in the media but unfortunately that did not translate into the capture of those responsible. In the case of Wali Khan Babar, the Geo reporter gunned down on a busy road in Karachi, the last eyewitness of the murder was also gunned down in November 2012. The complainant's lawyer also skipped court amid threats. There was much talk of introducing a witness protection law, however, the plans did not materialise in 2012. The ring leader, Faisal Mota, was still at large at the end of 2012 while the prime suspect in the murder, Liaqat Ali, was killed in a police encounter.

The judicial commission formed to probe the Saleem Shahzad case presented its report in 2012. Despite pointing fingers in general at the intelligence agencies in Pakistan, the commission failed to identify the individuals responsible for the murder. The report was called disappointing by the family of the deceased as well as the civil society." (HRCP, March 2013, pp. 124-125)

Under the heading "Freedom of expression", the Human Rights Watch (HRW) annual report for 2012 notes:

"At least eight journalists were killed in Pakistan during the year, including four in May alone. [...] On May 18, the bullet-riddled body of Express News correspondent Razzaq Gul was found dumped in a deserted area near Turbat in Balochistan province. [...] A climate of fear impeded media coverage of the state security forces and militant groups. Journalists rarely reported on human rights abuses by the military in counterterrorism operations, and the Taliban and other armed groups regularly threatened media outlets over their coverage. [...] However, as has been the case since the return to civilian rule in

2008, journalists vocally critical of the government experienced less interference from elected officials than in previous years." (HRW, 31 January 2013)

HRW further observes that Chief Justice Iftikhar Chaudhry and the provincial high courts issued threats to stifle media criticism of the judiciary:

"As has been the case since Pakistan's independent judiciary was restored to office in 2009, Chief Justice Iftikhar Chaudhry and the provincial high courts muzzled media criticism of the judiciary in 2012 through threats of contempt of court proceedings. In October, both the Lahore and Islamabad high courts effectively barred media from criticizing the judiciary or giving airtime to critics in the aftermath of a multi-million dollar corruption scandal involving Arsalan Iftikhar, the son of the Supreme Court chief justice." (HRW, 31 January 2013)

In its annual report on human rights in 2012, the US Department of State (USDOS) gives the following overview of the situation for journalists in Pakistan:

"The independent media were active and expressed a wide variety of views; journalists often criticized the government. Previously unreported events, such as persecution of minorities, were covered; however, journalists were restricted when criticizing or questioning the role of the military. Section 99 of the penal code allows the government to restrict information that might be prejudicial to the national interest. Threats and violence against journalists who reported on sensitive problems such as security force abuses occurred during the year. The government also impeded criticism by monitoring political activity and controlling the media. In May the Committee to Protect Journalists (CPJ) reported that the government-controlled Pakistan Electronic Media Regulation Authority (PEMRA) sent broadcasters a media advisory with the names of 40 banned organizations. The television stations were not to give them any coverage, including conducting interviews with their leaders. PEMRA also asked channels to stop broadcasting political satires and parodies of political leaders. [...]

During the year security forces, political parties, militants, and other groups subjected media outlets and journalists and their families to violence and harassment. Journalists were abducted. Media outlets that did not practice self-censorship were often the targets of retribution. According to the CPJ, seven journalists were killed during the year for reporting on sensitive topics. Reporters Without Borders reported 10 journalists killed and two imprisoned. According to the South Asia Media Commission's Media Monitor 2012 report, 13 journalists were killed during the year. A number of journalists also reportedly were subjected to physical attack, harassment, intimidation, kidnapping, or other forms of pressure during the year. The CPJ included the country in its annual 'impunity index' because the government allowed deadly violence against members of the press to go unpunished." (USDOS, 19 April 2013, section 2a)

In its annual report on political rights and civil liberties in 2011, Freedom House provides the following information regarding media freedom and treatment of journalists:

"Pakistan's outspoken newspapers and private television stations present a diverse range of news and opinion. However, powerful figures, including military officials and members of the higher judiciary, attempt to silence critical reporting, and there is a high level of violence against journalists. The constitution and other laws authorize the government to curb speech on subjects including the armed forces, the judiciary, and religion. Blasphemy laws are occasionally used against the media, and since 2010 broadly defined contempt laws have increasingly been employed to restrict reporting on particular court cases or judges. The government in 2011 continued to engage in sporadic efforts to temporarily suspend certain broadcasts or programs under other media regulations or on an ad hoc basis surrounding sensitive events, such as the killing of Osama bin Laden.

According to the Committee to Protect Journalists, at least seven journalists were murdered because of their work in 2011, making Pakistan the world's deadliest country for members of the press. In late May, investigative reporter Syed Saleem Shahzad was abducted, tortured, and killed, allegedly by the military's powerful Directorate for Inter-Services Intelligence (ISI); Shahzad had previously received threats from the agency. Amid an outcry over his death, an official commission was established to investigate the murder, but had not released a report by year's end. Intimidation by the security forces – including physical attacks and arbitrary, incommunicado detention – continues to occur, as do harassment and attacks by Islamic fundamentalists and hired thugs working for feudal landlords or local politicians. A number of reporters covering the conflict between the military and Islamist militants in Khyber-Pakhtunkhwa (or KP, as NWFP was renamed in 2010) and the FATA were detained, threatened, expelled, or otherwise obstructed in 2011, by either government forces or militants. Conditions for journalists in Balochistan also deteriorated sharply." (Freedom House, May 2012a)

5.4 Women and children

5.4.1 Domestic legal framework

Women

The United States Institute of Peace (USIP) points to the following constitutional provisions regarding women:

"It [Pakistan's 1973 Constitution] affirms in its fundamental rights and principles that the state is committed to eliminating exploitation. Article 25 (1) guarantees that all citizens are equal under the law and are entitled to equal protection of law; Article 25 (2) adds, 'There shall be no discrimination on the basis of sex.' Article 27 prohibits discrimination on the basis of sex, race, religion, or caste for government employment. Finally, Article 34 in the principles of policy section states that 'steps shall be taken to ensure full participation of women in all spheres of national life,' and Article 38(a) adds that it is the responsibility of the state to 'secure the well-being of the people, irrespective of sex, caste, creed, or race, by raising their standard of living.'" (USIP, May 2012, p. 4)

In its April 2013 report, the US Department of State (USDOS) describes the legal situation of women in Pakistan as follows:

"The law prohibits discrimination on the basis of sex, but authorities did not enforce this provision. Women faced discrimination in family law, property law, and the judicial system. Family law provides protection for women in cases of divorce, including requirements for maintenance, and lays out clear guidelines for custody of minor children and their maintenance. However, many women were unaware of these legal protections or unable to obtain legal counsel to enforce them. Divorced women often were left with no means of support, as their families ostracized them. Women are legally free to marry without family consent, but women who did so frequently were ostracized or faced becoming the victims of honor crimes.

The inheritance law also clearly discriminates against women; however, the Anti-Women Practices Act, passed in December 2011, makes it illegal to deny women inheritance of property by deceitful means. Female children are entitled to one-half the inheritance of male children. Wives inherit one-eighth of their husband's estate. In practice women often received far less than their legal entitlement." (USDOS, 19 April 2013, section 6)

As regards legal provisions related to rape, the same source notes that "[r]ape is a criminal offense, with punishment that ranges from a minimum of 10 to 25 years in prison and a fine to the death penalty. The penalty for gang rape is either death or life imprisonment, but in practice sentences were often less severe. Although rape was frequent, prosecutions were rare. Spousal rape is not a crime under the current penal code." (USDOS, 19 April 2013, section 6)

The offence of rape is dealt with in Sections 375 and 376 of the Pakistan Penal Code of 1860 (amended as of 2006):

"375. Rape: - A man is said to commit rape who has sexual intercourse with a woman under circumstances falling under any of the five following descriptions,

(i) against her will.

(ii) without her consent

(iii) with her consent, when the consent has been obtained by putting her in fear of death or of hurt,

(iv) with her consent, when the man knows that he is not married to her and that the consent is given because she believes that the man is another person to whom she is or believes herself to be married; or

(v) With or without her consent when she is under sixteen years of age.

Explanation: Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

376. Punishment for rape

(1) Whoever commits rape shall be punished with death or imprisonment of either description for a term which shall not be less than ten years or more than twenty - five years and shall also be liable to fine.

(2) When rape is committed by two or more persons in furtherance of common intention of all, each of such persons shall be punished with death or imprisonment for life." (Penal Code, 6 October 1860, amended as of 2006, Section 377)

The USDOS reports as follows on procedures for lodging complaints in rape cases, as established under the 2006 Women's Protection Act:

"As in previous years, the government's enforcement of the Women's Protection Act of 2006 was poor. The act brought the crime of rape under the jurisdiction of criminal rather than Islamic courts. In cases of rape, by law police are not allowed to arrest or hold a woman overnight at a police station without a civil court judge's consent. The law requires a complaint to be made directly to a sessions court, a trial court for heinous offences. After recording the victim's statement, the sessions court judge officially lodges a complaint, after which police can then make arrests. While this procedure was meant to eliminate abuses relating to social norms that make it difficult for women to seek legal redress with police, NGOs reported that it created other barriers for rape victims who could not afford to travel to the courts or access the courts. Rape continued to be a severely underreported crime due to societal taboos that prevented persons from speaking about it." (USDOS, 19 April 2013, section 6)

However, as further noted by the USDOS, in 2010, "the Federal Shariat Court (FSC) declared several clauses of the Women's Protection Act un-Islamic and unconstitutional" and "sought to reinstate certain provisions of the 1979 Hudood Ordinance and expand the FSC's jurisdiction in

cases of adultery and false accusations of adultery". The FSC's decision was appealed by the federal government to the Supreme Court in May 2011. No hearing date was set by the Supreme Court by the end of 2012. (USDOS, 19 April 2013, section 6)

While it is noted in the USDOS report of April 2013 that "[n]o specific law prohibits domestic violence" (USDOS, 19 April 2013, section 6), media sources indicate that on 8 March 2013, the Sindh Assembly unanimously passed the Domestic Violence (Prevention and Protection) Bill (Pakistan Today, 8 March 2013; Nation, 9 March 2013) for "safeguarding women, children and any other vulnerable person from domestic violence" (Pakistan Today, 8 March 2013). According to the Express Tribune, "Sindh is the country's first province in which the bill has been passed" (Express Tribune, 1 April 2013). As regards the content of this legislation, the same source observes that under the law, "anybody who inflicts physical or mental damage on another can face up to two years in prison. The law also calls for the formation of a special committee to educate complainants about their rights." (Express Tribune, 1 April 2013)

Further legal aspects pertaining to the treatment of women are addressed as follows in the USDOS report of April 2013:

"The practice of buying and selling brides also continued in rural areas, although prohibited by law. Many tribes, communities, or families continued the practice of sequestering women from all contact with men other than their relatives. Despite prohibitions on handing over women as compensation for crimes or as a resolution of a dispute (also known as 'vani' or 'swara'), the practice continued in Punjab and KP. In rural Sindh landowning families continued the practice of 'marriage to the Quran,' forcing a female family member to stay unmarried to avoid division of property. Property of women married to the Quran remained under the legal control of their fathers or eldest brothers, and such women were prohibited from contact with any man older than age 14. These women were expected to stay in the home and not to contact anyone outside their families.

In response to these problems, the Senate passed the Prevention of Anti-Women Practice Amendment Act in December 2011. The law criminalizes and punishes giving a female in marriage to settle a civil or criminal dispute; depriving a woman of her rights to inherit movable or immovable property by deceitful or illegal means; coercing or in any manner compelling a woman to enter into marriage; and compelling, arranging, or facilitating the marriage of a woman with the Quran, including forcing her oath on the Quran to remain unmarried or not to claim her share of an inheritance. During the same session, the Senate also unanimously passed the Acid Control and Acid Crime Practice Bill 2010, which makes maiming or killing via corrosive substance a crime and imposes stiff penalties against perpetrators. As with other laws, these measures are not applicable to FATA and PATA unless the president issues a notification to this effect." (USDOS, 19 April 2013, section 6)

As noted in the above-mentioned May 2012 report by the USIP, Pakistan acceded to the Convention on the Elimination of All Forms of Discrimination against Women in 1996 (USIP, May 2012, p. 6).

In its concluding observations on the fourth periodic report of Pakistan, dated March 2013, the Committee on the Elimination of Discrimination against Women (CEDAW), a UN body monitoring the implementation of the Convention, notes a number of positive aspects:

"The Committee notes with appreciation that, since the consideration of its combined initial, second and third periodic report (CEDAW/C/PAK/1-3) in 2007, the State party has enacted and revised numerous laws and legal provisions aimed at eliminating discrimination against women. In particular, it welcomes the adoption of:

- a) The Criminal Law Act (Second Amendment, 2011), referred to as the Acid control and Acid Crime Prevention;
- b) The Criminal Law Act (Third Amendment, 2011), referred to as Prevention of Anti-Women Practices; and
- c) The Protection against Harassment of Women at the Workplace Act, 2010." (CEDAW, 1 March 2013, p. 1)

On the other hand, the CEDAW states that it "is concerned about the lack of full incorporation of the Convention in national legislation, including the absence of a prohibition of all forms of discrimination against women, in line with article 1 of the Convention and about the persistence of discriminatory provisions against women in a number of laws [...]" (CEDAW, 1 March 2013, p. 3).

Children

The undated website of the Office of the High Commissioner for Human Rights (OHCHR) provides the following information with regard to the adoption of the UN Convention on the Rights of the Child:

"Pakistan signed the UN Convention on the Rights of the Child (UNCRC) on 20 September 1990 and it was ratified on 12 November 1990. It entered into force [in Pakistan, remark ACCORD] on 12 December 1990. At the time of ratification, Pakistan made a reservation that the provisions of the UNCRC would be interpreted according to the principles of Islamic Laws and values, although this reservation was subsequently withdrawn. On 26 September 2001, Pakistan signed the Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution and Child Pornography, which was ratified on 5 July 2011, and Optional Protocol on Involvement of Children in Armed Conflict, which has yet to be ratified." (OHCHR, undated)

In its concluding observations on Pakistan, dating from October 2009, the UN Committee on the Rights of the Child (CRC) notes regarding the legal definition of a child and the minimum age of criminal responsibility:

"The Committee reiterates its previous concern (see CRC/C/15/Add.217) about legal inconsistencies concerning the definition of a child at federal, provincial and territorial levels and between secular and sharia law. It notes in particular the difference between

the minimum legal age for marriage of boys (18 years) and that of girls (16 years) and the definition of a girl child contained in the Zina and Haddood Ordinances (1979) (until 16 years or puberty).” (CRC, 15 October 2009, p. 6)

“The minimum age of criminal responsibility continues to remain very low (7 years) [...]” (CRC, 15 October 2009, p. 24)

The age of criminal responsibility is defined in Sections 82 and 83 of the 1860 Penal Code (amended as of 2006):

“82. Act of a child under seven years of age: Nothing is an offence, which is done by a child under seven years of age.

83. Act of a child above seven and under twelve of immature understanding: Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion” (Penal Code, 6 October 1860, amended as of 2006, Sections 82-83)

The UK-based NGO Child Soldiers International states in its Global Report 2008 that “[t]he minimum voluntary recruitment age was 17, but training requirements meant that under-18s did not take part in active service” (Child Soldiers International, May 2008). The CIA World Factbook similarly notes on age requirement regarding military service:

“Military service age and obligation:

17-23 years of age for voluntary military service; soldiers cannot be deployed for combat until age 18” (CIA, last updated 16 April 2013)

The US Department of State (USDOS) provides the following information with regard to further national legal provisions pertaining to children:

“The constitution mandates that the government provide free and compulsory education to all children between the ages of five and 16. In practice government schools often charged parents for the cost of books, uniforms, and other materials. [...]

The penal code defines statutory rape as sexual intercourse with a female younger than age 16. The punishment for rape is death or 10 to 25 years’ imprisonment and a fine. Gang rape is punishable by death or life imprisonment. [...]

Despite legal prohibitions, child marriages occurred. The act sets the legal age of marriage at 18 for men and 16 for women and prescribes punishment and fines, ranging from imprisonment up to a month, 1,000 rupees (\$10), or both. In practice the penalties were too low to have any deterrent effect. [...]

Child pornography is illegal under obscenity laws.” (USDOS, 19 April 2013, section 6)

“The constitution expressly prohibits the employment of children below the age of 14 in any factory, mine, or other hazardous site. The law limits a child’s workday to seven

hours, including a one-hour break after three hours of labor, and sets permissible times of day for work and time off. Children are not allowed to work overtime or at night, and a child should have one day off per week. In addition, the law requires employers to keep a register of children working for them for labor inspectors to verify. These prohibitions and regulations do not apply to family businesses or government schools.

The law protects all children younger than age 18 from exploitation and defines exploitative entertainment as all activities related to human sports or sexual practices and other abusive practices. Parents who exploit their children are also liable under the law. The law makes bonded labor by children punishable by up to five years in prison and 50,000 rupees (\$515) in fines. The government considers four occupations and 34 processes illegal for children, including street vending, surgical instrument manufacturing, deep-sea fishing, leather manufacturing, brick making, production of soccer balls, and carpet weaving. Despite this, there were reports of children working in all of these areas.” (USDOS, 19 April 2013, section 7c)

In its annual report for 2011, published July 2012, the Society for the Protection of the Rights of the Child (SPARC), a Pakistani NGO dedicated to protecting the rights of children, gives the following overview of legal developments relating to children’s rights:

“There was not progress during the year 2011 with regard to the state of Pakistan’s children. In fact, many of the child rights related laws, that had been the pipeline for a number of years, could not be passed by the Parliament due to the 18th Constitutional Amendment following which child rights became a provincial subject. The progress on the Child Protection (Criminal Laws Amendment) Bill, the National Commission on the Rights of Children Bill, the Charter of Child Rights Bill, the Prohibition of Corporal Punishment Bill and the Child Marriages Restraint (Amendment) Bill came to a stop as ambiguities relating to jurisdiction emerged.

At the provincial level, Sindh was the only province where the provincial assembly passed the Sindh Child Protection Authority Act 2011. The provincial government however failed to take any steps for its implementation including notification of the rules or budgetary allocation for the establishment of the Child Protection Authority and Child Protection Units at the districts level.

The Government of Khyber Pakhtunkhwa took some initiatives for the implementation of the Khyber Pakhtunkhwa Child Protection and Welfare Act 2010. The Khyber Pakhtunkhwa Child Protection and Welfare Commission was notified and Child Protection Units were established in nine districts.

In Punjab, the Home Department is still the parent department for the Punjab Destitute and Neglected Children (Amendment) Act 2007. This is despite the fact that the Department of Social Welfare is responsible for child rights.

In Balochistan a consultative process has been underway for children related laws but without any results so far.

In FATA some changes were introduced in the Frontier Crimes Regulations. It is worth appreciating that children up to 16 years of age are now excluded from the domain of the collective responsibility clause. However under the JJSO [Juvenile Justice System Ordinance], which was extended to FATA in 2004, a child is defined as a person below 18 years of age. [...] On a positive note the FATA Secretariat introduced the FATA Child Protection Policy and banned corporal punishment in schools through a notification." (SPARC, July 2012, pp. iv-v)

In an article dated March 2013, the Institute for Social Justice (ISJ), a Pakistan-based non-profit advocacy and research NGO, notes that the National Assembly has so far failed to enact pending legislation on child rights, including the Child Protection (Criminal Law Amendment) Bill 2009, the National Commission on the Rights of the Child Bill 2009, the Charter of Child Rights Bill 2009, the Prohibition of Corporal Punishment, the Child Marriages Restraint (Amendment) Bill 2009 and the National Immunization Bill 2009:

"There are only five days left to the national assembly of Pakistan, it will be dissolved before or on 16th March without enacting pending legislation on child rights which includes the Child Protection (Criminal Law Amendment) Bill 2009, the National Commission on the Rights of the Child Bill 2009, the Charter of Child Rights Bill 2009, the Prohibition of Corporal Punishment, the Child Marriages Restraint (Amendment) Bill 2009 and National Immunization Bill 2009. The Institute for Social Justice (ISJ) realizes that this assembly has enacted only the Right to Free and Compulsory Education Act 2012 after too much hue and cry from civil society. But the government has not done anything considerable to address grave matters of child rights violations which ranges from child sexual abuse, worst forms of child labour including child domestic labour, child marriages, corporal punishment, child trafficking, children in armed conflict, street children and so on. The Prime Minister Raja Pervez Ashraf declared 2013 'the year of the child rights' but unfortunately there are taken no efforts to comply with this announcement, nor even a formal notification has been issued by the Prime Minister Secretariat." (ISJ, 11 March 2013)

5.4.2 Overview of current issues regarding women and children (rape and other forms of sexual violence, honour killings, acid attacks, domestic violence, forced marriage)

Human Rights Watch (HRW) states in its annual report for 2012, published January 2013, that "[v]iolence against women and girls – including rape, 'honor' killings, acid attacks, domestic violence, and forced marriage – remained a serious problem. Intimidation and threats against women and girls out in public increased in major cities in 2012." (HRW, 31 January 2013)

In its annual report for 2012, the Asian Human Rights Commission (AHRC) provides the following information with regard to the treatment of women in Pakistan:

"Women face discrimination in all facets of life in Pakistan and brutal treatment such as domestic abuse, sexual violence and rape (by state and non-state actors), torture, honour killings, and murder. Verdicts by jirgas (illegal tribal judicial courts) ensure the persistence of violence against women. Those responsible typically go unpunished due to discriminatory laws and gender bias." (AHRC, 10 December 2012, p. 9)

In a July 2012 press briefing on its annual report for 2011, the Aurat Foundation (AF), a Pakistani women's rights organisation, notes with regard to Violence against Women:

"The fourth annual report shows that 8539 women became victims of violence in 2011 and there was an overall 6.74 % increase in reported cases of VAW [Violence against Women] in the country as compared to year 2010. The figure was 8000 in 2010; in 2009, the incidents of violence against women 8548 and; in 2008, these incidents were 7571. [...] In some forms of violence there has been not able increase, for instance, sexual assault increased by 48.65%, acid throwing increased by 37.5%, 'honour' killings by 26.57%, and domestic violence increased by 25.51%." (AF, July 2012a, p. 1)

"Out of total 8539 cases of violence, 6188 incidents were reported in Punjab, 1316 in Sindh, 694 in KPK, 198 in Balochistan, and 148 in Islamabad." (AF, July 2012a, p. 3)

The full annual report of the Aurat Foundation (AF) is accessible via the following link:

- AF - Aurat Foundation: Annual Report January - December 2011; Violence Against Women in Pakistan: A qualitative review of statistics 2011, July 2012b
<http://www.af.org.pk/PDF/VAW%20Reports%20AND%20PR/Violence%20Against%20Women%20Annual%20Report%202011.pdf>

According to a November 2012 article by the Express Tribune, a report by the Awaz Foundation Centre for Development based on media monitoring and data collection from 15 districts and 53 tehsils found 2,713 cases of violence against women in South Punjab since the start of 2012. These cases (number of cases in brackets) included:

"[...] aas-aaf custom (10) – in which women accused of 'bringing shame to the family' take an oath of innocence on the Holy Quran and then walk on burning coals spread over six metres–, abduction and torture after abduction (577), acid attacks (20), burning by throwing kerosene oil and petrol (17), kaala kaali (25), assault after divorce (45), assault by in-laws (100), 'honour' killings (112), murder and assault for contracting a marriage with their free will (114), murder (162), victims of panchayat decisions where women were either sold or killed (37), rape (304), assault by police (20), suicide in reaction to family pressure, rape or other forms of violence (444), torture leading to physical or mental disability (489), wani (37), watta satta (25) and cases of gender discrimination and disinheritance (175)." (Express Tribune, 3 November 2012)

The Society for the Protection of the Rights of the Child (SPARC) notes with regard to violence against children in Pakistan:

"In Pakistan, some of the most pervasive forms of violence against children include; corporal punishment in homes, schools and places of work, child sexual abuse, harmful traditional practices, kidnapping, trafficking and recruitment of children in armed conflict." (SPARC, July 2012, p. 178)

"Violence against children remains strongly entrenched in the Pakistani society because of two major reasons. Firstly, a tacit cultural approval encourages violence as a legitimate

instrument for disciplining children. Secondly, social and political upheavals end up exacerbating certain forms of violence against children.” (SPARC, July 2012, p. 197)

A January 2013 article by the Daily Times states that according to Madadgaar, a Pakistani helpline for women and children, 6,444 cases of violence against children were reported by “mainstream media” during 2012. A total of 1,113 children were murdered, 582 kidnapped, 246 sodomised, 455 sexually assaulted, 330 raped and 235 trafficked. In addition, 476 cases of forced marriages, 188 of Karo-kari, 582 of torture and 195 of Vani were reported, while 355 children committed suicide. Province-wise, 2,947 cases were reported from Punjab, 1,818 from Sindh, 1,073 from Khyber Pakhtunkhwa and 606 from Balochistan. (Daily Times, 13 January 2013)

In its annual report on human rights in 2012, the US Department of State (USDOS) provides the following information regarding government assistance for female victims of gender-based violence and abuse:

“To address societal norms that disapproved of victims who reported gender-based violence and abuse, the government established women’s police stations, staffed by female officers, to offer women a safe haven where they could safely report complaints and file charges. Men are also able to utilize these police stations. Women’s police stations continued to struggle with understaffing and limited equipment. Training for female police officers and changing cultural assumptions of male police officers also remained challenges. Due to restrictions on women’s mobility and social pressures related to women’s public presence, utilization of women’s police centers was limited, but NGOs and officials reported that use was growing and that more centers were needed.

The government operated the Crisis Center for Women in Distress, which referred abused women to NGOs for assistance. A total of 26 government-funded Shaheed Benazir Bhutto centers for women across the country provided women with temporary shelter, legal aid, medical treatment, and psychosocial counseling. These centers served women who were victims of exploitation and violence. Victims later were referred to a ‘darul aman’ or a shelter house (approximately 200 centers for women and children who were victims were established with funds from the Provincial Women Development Department). These centers provided shelter, access to medical treatment, limited legal representation, and some vocational training. Many government centers were full beyond capacity and lacked sufficient staff and resources. In some cases women were abused at the government-run shelters, found their movements severely restricted, or were pressured to return to their abusers.” (USDOS, 19 April 2013, section 6)

Rape and other forms of sexual violence

The US Department of State (USDOS) notes in its April 2013 report (covering events of 2012) that “[t]here were no reliable national, provincial, or local statistics on rape due to underreporting and the lack of any centralized law enforcement data collection system. However, based on media reports, the Aurat Foundation estimated that nationally 3,461

women were raped between 2008 and 2011, with 827 rapes and gang rapes in 2011.” (USDOS, 19 April 2013, section 6)

In July 2012, the Aurat Foundation (AF) reports 827 cases of rape/gang rape across Pakistan in 2011, compared with 928 cases in the previous year (AF, July 2012b, p. 8).

The Human Rights Commission of Pakistan (HRCP) notes in its annual report for 2010, published April 2011, that “[a]ccording to statistics by the police departments in the four provinces, cases of rape of 2,903 women, nearly eight women a day, were reported to the police”, including at least 51 cases of gang rape. However, as further noted by the HRCP, “[t]hese figures were believed to be only a fraction of the actual problem as cases are often not reported or are hushed up”. The geographic distribution of the reported rape cases was as follows:

“Official figures for rape from Khyber Pakhtunkhwa could not be ascertained but according to police statistics at least 52 women had been abducted in the province. In the province of Sindh there were 239 cases of rape and 50 cases of gang rape. There were 161 incidents of Karo Kari [a traditional, feudal custom which still continues whereby couples found in, or more often merely suspected of, adulterous relationship are summarily done to death by the family members themselves] as well. In Balochistan, police figures suggested that there were 32 cases of rape and one gang rape. There were 23 incidents of Karo Kari/Siyah Kari. In Punjab 2,581 cases of rape were reported to the police. These figures were believed to be only a fraction of the actual problem as cases are often not reported or are hushed up.” (HRCP, April 2011, p. 207)

A list of rape cases in Pakistan reported by the Express Tribune during 2012 is accessible via the following link:

- Express Tribune: Pakistan’s ‘shame’: Rape cases in 2012, 31 December 2012b
<http://tribune.com.pk/story/486966/pakistans-shame-rape-cases-in-2012-timeline/>

In its annual report on political rights and civil liberties in 2011, Freedom House gives the following information with regard to sexual violence against women:

“Traditional norms, discriminatory laws, and weak policing contribute to a high incidence of rape, domestic abuse, and other forms of violence – including acid attacks – against women. According to the HRCP, up to 80 percent of women are victims of such abuse during their lifetimes. Female victims of sexual crimes are often pressured by police not to file charges, and they are sometimes urged by their families to commit suicide. Gang rapes sanctioned by village councils to punish the targeted woman’s relatives continue to be reported, even though perpetrators in some cases have received harsh sentences. In April 2011, the Supreme Court upheld the acquittals of five of the six accused in the 2002 gang rape of Mukhtar Mai, whose case garnered international attention.” (Freedom House, May 2012a)

The USDOS mentions in its above-cited annual report on human rights in 2012 that there were reports of women being raped by police and security forces. However, “[t]he government rarely took action against those responsible”. The report continues:

“A June 12 press release by Karachi-based War Against Rape deplored the growing number of rape cases that were being ‘settled out of court’ in Karachi. It said that between January 1, 2008, and December 31, 2011, of 315 cases investigated by the organization and 60 cases taken for prosecution, an estimated 22 cases (approximately 37 percent) ended in an out-of-court settlement or a ‘compromise’ brokered by police, prosecutors, and judges. ‘The police and the judiciary were seen to actively pressure survivors (or members of their families) to accept settlements and forgo their right to a fair trial,’ the Karachi group claimed. There also were reports that police sexually abused street children (see section 6, Children).

On June 9, the Express Tribune reported that border military police personnel gang-raped five young women between the ages of 15 and 21 near Fort Munro in Dera Ghazi Khan, Punjab. The girls, who were visiting Fort Munro, alleged that the police officers took them to a check post for ‘routine checking’ before raping them. A case was registered against five persons the girls identified. Authorities arrested three of the accused and suspended all police personnel who were present in the police station during the incident.” (USDOS, 19 April 2013, section 1c)

The Asian Human Rights Commission (AHRC) observes the following obstacles Pakistani women face in seeking redress for sexual and other forms of violence:

“Investigations on rape and other forms of violence against women are often faulty and intentionally carried out with feebleness. Police are also reluctant to file cases, as often those responsible of the reported crimes are influential people. Therefore, victims are ‘invited’ to withdraw their complaint under the suggestion of settlement offers. Furthermore, many times it is also the case of police officers who accept bribes from the accused parties in order to highly discourage victims to report violence. In doing so, they become themselves big culprits of the offense.” (AHRC, 10 December 2012, p. 82)

“For a woman who has been raped, it is mainly the case of proving her innocence, rather than being listened to and being in the position to discuss the state’s evidence. Laws are made by men, police officers are men, and Courts are mainly made up by men. Many judges tend to adopt sexist behaviors during trials, for instance by requiring the victims to provide the Court intimate details about the way in which the sexual harassment was conducted. Such lack of delicacy and empathy, regarding the violation of women’s rights, leads to double humiliation and disgrace for victims.” (AHRC, 10 December 2012, p. 85)

As regards sexual abuse of children, the HRCP annual report for 2012 cites the following figures supplied by Sahil, a Pakistani NGO working against the issue of child sexual abuse and exploitation:

“During the first six months of 2012, 1,573 incidents of child sexual abuse were recorded, compared to 2,023 cases over the same period the previous year, according to Sahil, an

NGO established in 1989 that works exclusively against child sexual abuse and exploitation. The province-wise division showed that Punjab continued to take the lead in the number of reported child abuse incidents recorded at 1,092, followed by 314 cases reported from Sindh, 62 from KP and 52 from the federal capital Islamabad, 33 from Balochistan, 16 cases were reported from Azad Jammu and Kashmir and 4 from Gilgit. One of the positive observations in the report was the overall increase in the number of cases reported to the police and also more cases of girls being registered with the police as compared to boys. In the preceding year, Sahil had reported a total of 2,942 child sexual abuse cases." (HRCP, March 2013, p. 185)

In its annual report for 2011, the Society for the Protection of the Rights of the Child (SPARC) states that "social and familial constraints impede the arrest and prosecution of child molesters". Further, the report states that "sexual abuse of children by the police has also emerged as a dangerous trend":

"A major reason behind the failure of successive governments to enact a specialized law preventing child molestation is a lack of one definition regarding what constitutes child sexual abuse. Furthermore, social and familial constraints impede the arrest and prosecution of child molesters especially when the victim is sexually abused by a member of his/ her family. In October 2011, a woman from Faisalabad lodged a complaint against her husband for sexually abusing his two daughters (10 and 14 years old). However, the police failed to take action as no credible evidence could be gathered against the alleged molester.

Furthermore, sexual abuse of children by the police has also emerged as a dangerous trend. A 17 year old sex worker from Karachi claimed that he was raped by a policeman when he was 12 years old. This traumatic experience exposed him to a life of abuse and prostitution whereby he became a full sex worker. In this context, a research conducted by the Edhi Foundation reveals that policemen are involved in 60% of sexual abuse cases of street children." (SPARC, July 2012, pp. 185-186)

Honour killings

An older response to information request (RIR) by the Immigration and Refugee Board of Canada (IRB), dated January 2007, provides the following brief description of honour killings in Pakistan based on information from Shirkat Gah – Women's Resource Centre and The Christian Science Monitor:

"Honour killings are known by different names depending on the area in Pakistan in which they are practised (Shirkat Gah 25 Nov. 2001, iii-iv). In Sindh province they are referred to as karo kari (ibid. 25 Nov. 2001, iii), where karo refers to the 'blackened' or dishonoured man and kali to the 'blackened' woman (Christian Science Monitor 20 Jan. 2005); they are called tor tora in the North-West Frontier Province (NWFP) [today's Khyber Pakhtunkhwa], where tor refers to the accused man and tora to the accused woman; kala kali in Punjab province, where kala refers to the accused man and kali refers

to the accused woman; and sinyahkari in Balochistan (Shirkat Gah 25 Nov. 2001, iii-iv).” (IRB, 24 January 2007)

In a 2012 article published by the Asian Human Rights Commission (AHRC), the author, Rabab Fizah, describes the practice of Karo-kari and states that “[i]n many cases ‘honour’ is used as an excuse to perpetrate crimes that stem from inter family, land and personal disputes”:

“Karo-kari is the standard practice in all four provinces of Pakistan. Its rate of occurrence may be higher in the tribal areas of Sindh, but it is almost equally rampant in Balochistan, Punjab, and Khyber Pakhtunkwa province.

Karo kari is defined as an act of murder, in which a woman is killed for her actual or perceived immoral behavior. In Karo Kari if a woman is engaged in some kind of unlawful sexual relationship with a man or if she has refused to submit to an arrange marriage, she is branded as Kari or ‘black female’ and in order to cleanse the honour of the man to whom she ‘belongs’ he received permission to kill her and prove that he has safeguarded his honour by doing so. Whereas the tribal law dictates that the man who is branded karo or ‘black male’ should also be killed but usually that does not happen and the karo has the opportunity to flee, while his family members negotiates with the dishonored family to save his life.

In Jirgas decisions are made by the ‘Sardars’, the tribal council leaders; they are the ones who set up agreements between the victim of the dishonoured family and the perpetrators. Once the decision is made both the parties are bound to accept it. In many cases ‘honour’ is used as an excuse to perpetrate crimes that stem from inter family, land and personal disputes.” (AHRC, 2012)

The Aurat Foundation (AF) notes the following with respect to honour killings in Pakistan:

“The barbaric practice of killing women (and men) on mere suspicion that they have violated family or tribal honour by associating with men, or have married someone the family does not approve of, has persisted to the present times, and is often patronized by influential feudal landowners and politicians. [...]

The data collected for Honour Killings from 2008 to 2011 mentions the districts of Sindh 28 times over the four years, indicating that this form of violence is committed with the greatest frequency in that province. Districts from Khyber Pakhtunkhwa and Balochistan where killing in the name of honour is known to be an accepted tribal practice, are not included in this data, but this does not mean that Honour Killings did not take place in these two provinces. It only means that they were not concentrated in any particular district. In fact, 30 cases were reported from KP and 86 cases from Balochistan in 2011.

Local jirgas and panchayats (illegal local tribal units composed of influential male members from the community who function for the purposes of dispute resolution) continue to play a major role in perpetuating Honour Killing and other customary anti-women practices.” (AF, July 2012b, p. 15)

In its annual report for 2012, the Human Rights Commission of Pakistan (HRCP) states that according to media monitoring results, 913 girls and women, including at least 99 minors, were “killed in the name of honour” in 2012, with the perpetrators usually being close relatives. As further noted by the HRCP, “[j]ustice in these cases often remained elusive because the family of the victim was almost always complicit in the killing, and creating hindrances in the legal procedure”:

“The so-called honour killings remained the most consistent and abhorrent form of violence against women in Pakistan. According to media monitoring by HRCP, as many as 913 girls and women were killed in the name of honour in 2012. These included at least 99 minor girls. The number of victims of these attacks was believed to be higher than the figures suggested because of gaps in reporting. Out of the 913 victims of honour killings, at least 604 were killed after being accused of having illicit relations with men, often without any proof; 191 were killed because they had married according to their own choice and against their families’ wishes. The incidents were not confined to the majority faith. At least seven Hindu and six Christian women also fell victim to the crime. The perpetrators of these crimes were usually close relatives. In 202 cases it was brothers of the victim, in 71 cases the father, in 209 the husband, in 61 in-laws, and in 138 cases other close relatives of the victim. Of the victims, at least 16 were raped and 13 gang-raped before being killed.

Cases from the year under review indicated trends similar to those identified in the past; women of all ages were killed, tortured or publicly humiliated over mere suspicion of illicit relations, at times because they were seen talking to someone outside their family. Justice in these cases often remained elusive because the family of the victim was almost always complicit in the killing, and creating hindrances in the legal procedure. [...]

Those endangered by the accusation of honour crimes rarely received any state security or support, so when couples ran away, they were mostly left homeless and remained on the run. Even shelter homes, where many women declared kari ran to, have had a number of security lapses. [...]

In some scenarios, the victims were also made to suffer in death as in Sindh where there was a separate graveyard, called ‘karanjo qabrustan’ (graveyard for the dishonoured), where victims of honour killing were not given a proper burial, funeral prayers were not offered for them and even visits by families were not permitted.

Witnesses were hard to come by owing to community pressures as giving evidence was interpreted as condoning the ‘dishonourable crime’ of the victim.

Although only in a handful of isolated cases, the year saw some level of action taken as the courts passed, and law enforcement implemented, a few decisions in favour of protecting those accused of honour crimes.” (HRCP, March 2013, pp. 171-172)

The Asian Human Rights Commission (AHRC) states that it is believed that most perpetrators of honour killings (70 percent) in Pakistan go unpunished. According to the AHRC, local and

national media have reported 215 cases of honour killings during the period from 1 January to 20 November 2012:

"It is believed that 70% of people who commit honour killings in Pakistan escape punishment. This remains the case despite the government having accepted a recommendation to 'ensure punishment for perpetrators of all violence against women and also thoroughly investigate and punish members and leaders of illegal jirgas for their calls to violence against women'. The government remains unwilling to challenge fundamentalist Islamic groups and traditional practices. The government rejected key recommendations in the first cycle of the Universal Periodic Review (UPR), concerning the need to repeal the Haddood and Zina Ordinances, to decriminalise adultery, and to prohibit the use of Qisas and Daiyat law in cases of honour killings. The grave problem of honour killings persists in Pakistan, with AHRC continuing to document cases. Local and national media have reported 215 cases of Karo Kari, the honour killing, from January 1st, 2012 to November 20th, 2012. After analyzing data, a research team, of the NGO Foundation for Research & Community Empowerment (FRCE), has come to conclusion that more than 80 percent of karo-kari killings have taken place only in northern areas of Sindh. Kari is a type of premeditated honor killing, which originated in rural and tribal areas of Sindh. The homicidal acts are primarily committed against women, who are thought to have brought dishonor to their family by engaging in illicit pre-marital or extra-marital relations. In order to restore this honor, a male family member must kill the female in question." (AHRC, 10 December 2012, p. 9)

In its Submission to the UN Human Rights Council (HRC) dated May 2008, Human Rights Watch (HRW) provides further details on the Qisas and Diyat law mentioned in the above-quoted AHRC report. As noted by HRW, "provisions of the Qisas and Diyat law which allow the next of kin to 'forgive' the murderer in exchange for monetary compensation remain in force, and continue to be used by offenders to escape punishment in cases of so-called honor killings. Such laws which in effect allow men to pay to kill women act as no deterrent to those who would engage in so-called honor killings". (HRW, 6 May 2008)

For further information on honour killings in Pakistan, please see the following January 2013 query response by the IRB:

- IRB - Immigration and Refugee Board of Canada: Pakistan: Honour killings targeting men and women [PAK104257.E], 15 January 2013 (available at [ecoi.net](http://www.ecoi.net))
http://www.ecoi.net/local_link/237371/346401_en.html

Acid attacks

As noted in a November 2012 article by the British newspaper The Independent, "[a]cid attacks, especially those relating to cases of honour, are commonplace in Pakistan" (Independent, 5 November 2012).

The US Department of State (USDOS) indicates in its April 2013 report (covering events of 2012) that "[d]owry and family-related disputes often resulted in death or disfigurement by burning or acid" (USDOS, 19 April 2013, section 6). A CNN article dated November 2012

states that “[a]cid throwing is frequently used as a weapon in Pakistan to punish women for acts that allegedly bring dishonor to the family, or just to enact revenge” (CNN, 3 November 2012).

In its annual report for 2012, published March 2013, the Human Rights Commission of Pakistan (HRCP) notes with regard to the prevalence of acid attacks in that “[a]ccording to media reports, 83 incidents of acid throwing were reported in 2012” (HRCP, March 2013, p. 68). Under the heading “Domestic violence” the same report states:

“According to media monitoring by HRCP, at least 41 girls and women became victims of acid attack in 2012; 15 women had their limbs amputated, mainly over suspicion of ‘immorality’; heads of as many as 37 women were shaved to humiliate them; and 49 women were set on fire in different incidents across the country. The perpetrators in a majority of these cases were related to the victim.” (HRCP, March 2013, p. 173)

A December 2012 article by the Express Tribune refers to the following information provided by the Acid Survivors Foundation (ASF) Pakistan, a non-profit organisation working towards the eradication of acid violence:

“In 2009, 43 cases were reported to the Acid Survivors Foundation (ASF), Pakistan’s notification unit. Fifty-five cases were reported in 2010, 150 in 2011, and 93 this year. Many victims remain silent. The conviction rate for acid violence remains as low as 6%, according to the ASF.” (Express Tribune, 3 December 2012)

However, a March 2013 article by Agence France-Presse (AFP) quotes Valerie Khan Yusufzai, chairperson of the ASF Pakistan, as saying that the conviction rate for acid attacks rose from an average of six percent before the 2011 enactment of new penalties to 18 percent in 2012 (AFP, 4 March 2013).

Several media sources indicate that in November 2012, parents in Pakistani-administered Kashmir killed their 15-year-old daughter with acid for “looking at boys” (BBC, 1 November 2012; AFP, 6 November 2012; DW, 7 November 2012). In a press release dated October 2012, Human Rights Watch (HRW) reports as follows on an acid attack on three Shia university students in FATA for which the Tehreek-e-Taliban Pakistan claimed responsibility:

“Just three days later, at least three Shia university students – both male and female – were critically hurt when extremists threw acid at their faces while they were on their way home to Parachinar, in FATA, after taking exams in Kohat, KP. According to a local nongovernmental organization, this was the first such ‘acid throwing case’ in FATA. The Tehreek-e-Taliban Pakistan also claimed responsibility for this attack.” (HRW, 19 October 2012)

In a report dated January 2013, the Pakistani women’s organisation Shirkat Gah – Women’s Resource Centre notes with regard to medical assistance available to victims of acid and other burn violence:

“Burn victims face serious problems: there are only three recognized Government Burn Units in civil hospitals and three in military hospitals. Some District hospitals provide burn

treatment, but ill-equipped to handle serious cases, especially those arising from acid violence." (Shirkat Gah, 25 January 2013, p. 12)

Domestic violence

The US Department of State (USDOS) finds in its April 2013 report that domestic violence is a "widespread and serious problem". According to the USDOS, "[h]usbands reportedly beat and occasionally killed their wives. Other forms of domestic violence included torture, physical disfigurement, and shaving the eyebrows and hair off women's heads. In-laws abused and harassed the wives of their sons." (USDOS, 19 April 2013, section 6)

Under the heading "Domestic violence", the HRCP report of March 2013 includes the following information:

"It appeared from all accounts that physical and psychological violence against women in the household remained as deep rooted as ever. Perpetrators of domestic abuse were typically husbands, fathers and brothers and in-laws. Many cases of women being set on fire by the families of their spouses were reported. According to media monitoring by HRCP, at least 41 girls and women became victims of acid attack in 2012; 15 women had their limbs amputated, mainly over suspicion of 'immorality'; heads of as many as 37 women were shaved to humiliate them; and 49 women were set on fire in different incidents across the country. The perpetrators in a majority of these cases were related to the victim. According to Aurat Foundation, incidence of domestic violence in 2012 increased by 7 percent over the previous year. Statistics by the organisation showed 4,585 cases of domestic violence for the period from January to June 2012." (HRCP, March 2013, pp. 173-174)

In its annual report for 2011, the same source notes with regard to the prevalence of domestic violence in Pakistan:

"Incidents of domestic violence seemed to have increased in the Punjab province or perhaps were more adequately reported, while Sindh showed a downward trend and cases in Balochistan remained largely unmonitored and unreported. Parts of Khyber Pakhtunkhwa remained under threat of religious militancy and the state of Afghan refugees, particularly the condition of women, was inadequately monitored." (HRCP, March 2012, pp. 156-157)

"It was reported at a discussion organized by 'Insani Haqooq Ittehad', a conglomerate of civil society organizations based in Islamabad, that more than 80 percent women were subject to physical or psychological domestic violence, which often went unreported since 66 percent women accepted it as their fate, 33 percent merely complained while less than 5 percent took concrete steps against it." (HRCP, March 2012, pp. 166-167)

The Asian Human Rights Commission notes in its report dated December 2012 that "[e]stimates of the percentage of women, who experience domestic violence in Pakistan range from 70 - 90%" (AHRC, 10 December 2012, p. 88).

The above-quoted USDOS report of April 2013 notes with regard to reporting of domestic violence and law enforcement's response to it:

"Police and judges were sometimes reluctant to take action in domestic violence cases, viewing them as family problems. Instead of filing charges, police typically responded by encouraging the parties to reconcile. Authorities usually returned abused women to their abusive family members. Women were reluctant to pursue charges because of the stigma attached to divorce and their economic and psychological dependence on relatives. Relatives were hesitant to report abuse due to fear of dishonoring the family." (USDOS, 19 April 2013, section 6)

For further information on domestic violence in Pakistan, please see the following January 2013 query response by the Immigration and Refugee Board of Canada (IRB):

- IRB - Immigration and Refugee Board of Canada: Pakistan: Domestic violence, including effectiveness of the Protection of Women (Criminal Laws Amendment) Act, 2006; state protection and services available to victims [PAK104261.E], 14 January 2013b (available at [ecoi.net](http://www.ecoi.net))
http://www.ecoi.net/local_link/237379/346413_en.html

Forced marriage

In its annual report for 2012, the Human Rights Commission of Pakistan (HRCP) provides the following overview of underage/forced marriages in Pakistan:

"Women remained unequal partners in the union of marriage as families gave their daughters in exchange, to settle disputes or for other financial, social or cultural reasons. As many forced marriages went unnoticed and unreported, exact figures were not easily available, but reports suggested that in just the month of January about 338 cases of forced marriages took place in 31 districts across Pakistan. The tradition of girls being married before reaching adulthood or even puberty remained an outstanding issue. In one case in 2012, a panchayat [a gathering of elders] married a five-year-old girl to a six-year old boy in Sahiwal, as the girl's brother had eloped with the boy's sister. The father of the girl was given the option to pay the panchayat one million rupees if he refused to give his daughter away. [...] A survey by ActionAid also indicated that 74% girls under 16 were married in Charsadda and Mardan districts of Khyber Pakhtunkhwa in 2012. However, no concrete steps were taken by the government to implement any strategic objectives to combat this concern." (HRCP, March 2013, pp. 174-175)

"No significant change was observed in the social attitudes and official policies towards child marriages. The customs of vani [tradition according to which women are surrendered for compounding a murder case] and swara [gift of a girl in marriage in settlement of a tribal dispute] continued throughout the year and little action was taken against the perpetrators despite the passing of Prevention of Anti-Women Practices (Criminal Law Amendment) Act, 2011 the previous year. The electronic media highlighted around 30 cases of underage forced marriage, out of which five were cases of swara and 12 of vani, the majority of which took place in Sindh and Khyber Pakhtunkhwa. In May 2012, the Law

and Justice Commission of Pakistan took serious note of the practice of giving girls away in marriage to settle disputes on the intervention of a jirga or panchayat." (HRCP, March 2013, p. 192)

A March 2012 article by Deutsche Welle (DW) notes with regard to the customary practice of wani (wani):

"Child marriage, or wani, is being practiced in many parts of Pakistan, particularly in the rural Sindh, the Punjab, and the country's northwestern tribal areas. The feuding tribes or clans exchange blood money or women to settle disputes. [...] According to Pakistani law, marrying off children is a punishable crime. Despite that, the practice is common in Pakistan, and girls as young as seven or eight are the victims of this custom." (DW, 28 March 2012)

In July 2012, the Integrated Regional Information Network (IRIN) reports as follows on the customs of swara and wani:

"Despite the placing on Pakistan's statute books of tougher laws against the practice of 'swara' or the 'giving away' of a woman to a rival party to settle a dispute, the tradition continues. The women's rights advocacy organization Rahnuma, which guides victims, describes 'swara' as a practice 'where a girl is given as an offering to 'settle' a conflict or dispute.' The practice is most common in Khyber Pakhtoonkhwa [Khyber Pakhtunkhwa] Province (KP) and the southern Punjab, where it is known as 'vani', but also takes place in other parts of the country. A 'swara' exchange can be used to settle murder, adultery (a crime under the law), kidnapping or another offence. [...]

She [activist and documentary film-maker Samar Minallah] also said that tougher laws and arrests made under them had 'led to people disguising the handing over of a woman or girl. The deal is not announced within the community as a 'swara' or 'vani' marriage, though within the families concerned it is known that the woman has been given away as 'swara' and is treated accordingly,' Minallah said.

While 'swara' brides are wed to the men they are given to, these men are usually far older than the 'brides', who are often mere children. The girls are also usually treated extremely badly or 'like slaves', according to Minallah, in the home of their in-laws." (IRIN, 5 July 2012)

The US Department of State (USDOS) notes in its report of April 2013 (covering 2012 events) that "[m]any young girls and women were victims of forced marriages arranged by their families. Although forced marriage is a criminal offense and many cases were filed, prosecution remained a problem." The USDOS further notes that "[t]here were reports of citizens abroad bringing their daughters back to the country, taking away their legal documents, and forcing them into marriage against their will". (USDOS, 19 April 2013, section 6)

In its report dated January 2013, Shirkat Gah – Women's Resource Centre refers to "young age marriage" as a "persistent problem" that affects both minority and majority communities. According to the report, "40% girls are married by age 18 and 13% married by age 15"

(Shirkat Gah, 25 January 2013, p. 17). In the above-quoted July 2012 article, IRIN cites figures from the Family Planning Association of Pakistan indicating that “30 percent of all marriages in the country are child marriages” (IRIN, 5 July 2012).

The January 2013 report by Shirkat Gah – Women’s Resource Centre briefly mentions that “Hindu and Christian women confront increasing discrimination and multiple social problems including [...] forced conversion to Islam and marriages with Muslim men” (Shirkat Gah, 25 January 2013, p. 17). In a summary of 38 stakeholders’ submissions to the Universal Periodic Review, the Office of the High Commissioner for Human Rights (OHCHR) reports:

“CSW [Christian Solidarity Worldwide] stated that abduction, forced marriage and forcible conversion of Christian and Hindu women and girls have increased. BPCA [British Pakistani Christian Association] noted that the kidnapping and rape (sometimes as young as 10) are widespread. Victims are often forced to convert to Islam, and then married to an alleged perpetrator. BPCA referred to a sex - slave trade, facilitated by prejudice, and blamed police for lack of protection and considered the State to be complicit when courts endorse forced marriages and conversions by ordering the victims to be returned to their attacker/‘husband’. Liberation noted the failure to investigate and prosecute the growing number of abductions, forced marriages and forced conversions, as well as the failure to investigate and prosecute the growing number of kidnapping for ransom of Hindus and provided suggestions to rectify this issue.” (HRC, 26 July 2012, p. 6)

5.4.3 Situation of women (access to social services, including access to health care and education)

In its annual report for 2012, the Human Rights Commission of Pakistan (HRCP) provides the following brief overview of maternal health and infant mortality in Pakistan:

“Pakistan lags behind in maternal health and infant mortality as compared to other developing countries and seems unlikely to achieve the relevant Millennium Development Goals (MDGs) by 2015. The infant mortality rate at 63 deaths per 1,000 live births and the under-five year mortality rate at 86.5 per 1,000 children remain serious concerns. The high mortality figures are largely due to poor diet, water-borne diseases and malnutrition. Maternal mortality rate (MMR) at 276 deaths per 100,000 live births is still too high and is unlikely to be reduced to 140 by 2015 as per the MDG. Contraceptive prevalence rate (CPR) is 30 percent which needs to be increased to 55 percent by 2015, while total fertility rate (TFR) is 4.1 live births per woman which needs to be reduced to 2.1. In Balochistan, MMR is 785 per 100,000 live births, CPR is 14 percent, while TFR is 4.1. This appalling situation has as much to do with insufficient allocation and injudicious use of the allocated money as it does with lack of education and awareness among the people.” (HRCP, March 2013, pp. 234-235)

As stated by the same source, “[w]omen in remote parts of the country faced the greatest hurdles to accessing vital healthcare and education services and at times access was virtually impossible. Proactive measures were not taken to enhance the access in such areas during the year.” (HRCP, March 2013, p. 165)

A June 2012 report brought out by the United Nations Children's Fund (UNICEF) in collaboration with the Government of Pakistan (GoP) provides a comprehensive analysis of the situation of women and children in Pakistan. As regards maternal health and inequalities concerning access to skilled delivery care, the report notes:

"The overall Maternal Mortality Ratio (MMR) for Pakistan is 280 deaths per 100,000 live births, according to UNICEF, or 276 per 100,000 according to the 2006-07 DHS [Demographic and Health Survey]. In rural areas the ratio is 319 per 100,000, more than 80 per cent higher than the ratio of 175 per hundred thousand found in urban areas, where a continuum of antenatal care and assisted delivery is more likely to be available. In addition to the rural/urban divide, differences in terms of wealth quintile are quite striking: adjusted probabilities of deliveries by skilled provider are 25 per cent for the poorest quintile and 63 per cent for richest quintile. An estimated 23 per cent of deaths of rural women of reproductive age are due to pregnancy-related and childbirth-related complications, as compared to 14 per cent among urban women. Overall, one in every 89 Pakistani women will die due to causes related to childbirth. This compared to 1 in 8,000 in the developed world. [...] The maternal mortality picture is particularly bleak in Balochistan, where the ratio is 758 deaths per 100,000 live births." (UNICEF/GoP, June 2012, p. 48)

In its CEDAW shadow report dated January 2013, Shirkat Gah – Women's Resource Centre provides the following information with regard to access to reproductive health care services, including post-abortion care:

"Skilled Birth Attendants are unable to provide coverage for all births and as a matter of fact Traditional Birth Attendants (TBAs) assist over 50% of deliveries, while skilled providers assist just 39%. [...]

Rural women have greater difficulty accessing reproductive health services than urban women. An estimated 23% of deaths amongst rural women of reproductive age are due to pregnancy and childbirth-related complications, compared to 14% of urban women.

An estimated 6% of maternal deaths are caused by abortion-related complications, yet Pakistan's 2010 MDG Report has no information on the prevalence of abortion and access to safe abortion services. Restrictive abortion laws prevent women from acknowledging abortions in surveys. The lack of clarity and harsh impact of this law is compounded by the difficulties women face in accessing post-abortion care for often lifethreatening complications after resorting to unsafe abortions. An estimated 197,000 women, more than one-third of women who induce an abortion, are admitted to public health facilities and private teaching hospitals each year for treatment of complications. The Government has recognized the 'high rate of (largely unacknowledged) morbidities associated with illegal abortions,' in its Report but has yet to introduce any national policy or guidelines on post-abortion care.

In 2009 the Ministries of Health and Population Welfare in Pakistan signed the Karachi Declaration, a national strategy for scaling up family planning and maternal, newborn, and child health best practices. Among other priorities, the Declaration resolves to

institutionalize post-abortion care 'in policies, guidelines, protocols and standards for health facilities at national level.' However, the pledge has not been translated into policies or institutional and monetary support to strengthen post-abortion care services." (Shirkat Gah, 25 January 2013, p. 18)

The same source points to statistics from the World Health Organization (WHO) showing that "Pakistan's investment in the health sector is amongst the lowest in the world" and has decreased by 47 percent from 2009-2010 to 2010-2011. Shirkat Gah further reports an "increasing trend towards privatization" which has resulted in the "increased exclusion of marginalized groups from access to a continuum of quality reproductive health care". (Shirkat Gah, 25 January 2013, p. 18)

In its annual report on human rights in 2012, published April 2013, the US Department of State (USDOS) notes regarding health care access barriers for women and girls:

"Young girls and women were especially vulnerable to problems related to sexual and reproductive health and reproductive rights. They often lacked information and means to access care. Spousal opposition also contributed to the challenges women faced in obtaining contraception or delaying pregnancy. Access by women, particularly in rural areas, to health and reproductive rights education remained difficult due to social constraints. For these same reasons data collection was also difficult." (USDOS, 19 April 2013, section 6)

The HRCP states in its annual report for 2008, released April 2009, that "no female doctors were available in FATA hospitals, which was a crucial problem for women in the area as many of them refused or were prevented from seeing a male doctor" (HRCP, 1 April 2009, p. 172).

According to Amnesty International's (AI) annual report covering the events of 2011, "[t]hreats of violence from the Pakistani Taliban imposed severe restrictions on access to health services, education and participation in public life for women and girls" (AI, 24 May 2012). In its annual report on human rights in 2011, the USDOS notes the following with reference to a September 2011 report by the HRCP:

"A September 26 report by the HRCP Khyber Pakhtunkhwa chapter for the year 2009-10 stated that the second most serious impact of militant attacks in tribal areas was on health facilities for women. The report stated that almost 80 hospitals were attacked by the militants and military operations against them, and it noted that of 13 sanctioned posts for gynecologists in tribal areas, 10 were vacant and female health staff were reluctant to perform duty in the region due to growing militancy." (USDOS, 24 May 2012, section 1g)

Regarding the literacy level in Pakistan and disparities in literacy attainment among women in rural and urban areas, the above-quoted June 2012 report by UNICEF and the Government of Pakistan (GoP) gives the following information:

"The total literacy rate in Pakistan is 54 per cent. Among adults (aged 15 years and above), the rate for males is 67 per cent and for females it is 40 per cent. Fewer than half of women in Pakistan are literate. There are huge disparities among the regions: 66 per

cent of males and just under 45 per cent of females aged 15 and above in Punjab are literate, while the rates in FATA are 36 and almost 7 per cent respectively [...]. The repercussions of this for women are dire – more education normally means higher earnings, more mobility, and better health for children. There are also huge differences in literacy between urban and rural areas. Whereas 64 per cent of women in urban areas are literate (compared to 80 per cent of men), in rural areas only 28 per cent are literate (60 per cent).” (UNICEF/GoP, June 2012, p. 35)

In an article dated November 2012, the Express Tribune reports on the 2012 Education for All Global Monitoring Report (EFAGMR) of the United Nations Education, Scientific and Cultural Organisation (UNESCO). The report’s main findings concerning the state of female education in Pakistan are summarised as follows:

“Unesco’s Education for All Global Monitoring Report (EFAGMR) revealed Pakistan is in the bottom 10 countries, according to the proportion of poor girls who have never been in school. According to the report, only six African countries fare worse than Pakistan in this respect. It revealed 62% girls in Pakistan, aged between seven and 15, have never spent time in a classroom. [...] The report showed Pakistan was also in the bottom 10 countries ranked according to the time young women spend in school in their lifetime. It stated girls, between the ages of 17 and 22, on an average spend one year in school in Pakistan.” (Express Tribune, 10 November 2012)

The HRCP, in its annual report for 2012, notes with regard to female education:

“According to a recent UNESCO report, at least 5.1 million Pakistani children were out of school, 63 percent of whom were girls. Under the Millennium Development Goals, Pakistan was supposed to achieve parity in the statistics for education for boys and girls by the year 2015. As things stood, the literacy rate for girls was 42% and for boys 74%. In Punjab, the provincial government vowed to build four new women’s universities in Bahawalpur, Sialkot, Faisalabad and Multan districts to enhance women’s education. In Khyber Pakhtunkhwa, at least 20 girls’ schools were shut down in 2012 in remote locations of Charsadda district due to a shortage of teachers. In a concrete step for girls’ schooling, the Khyber Pakhtunkhwa government allocated 70% of its education budget for female education, which was expected to help rebuild all the girls’ schools that had been destroyed by militants in the province. In Balochistan, where the dropout rate for children in schools was very high, only 23% girls were enrolled in primary schools. Due to a scarcity of girls’ middle and high schools along with problems of transport, many girls were forced to abandon their education.” (HRCP, March 2013, p. 168)

“Disparities in educational opportunities in Pakistan continue to be influenced by multiple factors including wealth, gender, ethnicity and geographic location. Comparisons of education indicators with Pakistan’s neighbours, especially with regard to gender disparities in access to education and outcomes, access to schooling in remote and rural areas, and adequate education infrastructure, were far from flattering. The Taliban were said to have destroyed more than 400 of the 1,576 schools in Swat valley, Khyber Pakhtunkhwa alone. According to Sarhad Rural Support Programme officials, 70 percent of the schools destroyed were meant for girls.

On a positive note, the governments of Punjab and Khyber Pakhtunkhwa announced their support for promotion of female literacy in 2012. Punjab decided to provide a sum of Rs 520 million to upgrade girls' elementary schools across the province up to secondary level, while the Khyber Pakhtunkhwa education minister announced the allocation of 70 percent of the provincial budget in the Annual Development Programme for female education." (HRCP, March 2013, p. 228)

In its April 2013 report, the USDOS states that "[t]he biggest barrier to girls' education was the lack of access". The report continues:

"Public schools, particularly beyond the primary grades, were not available in many rural areas, and those that existed were often too far away for a girl to travel unaccompanied. In addition, despite cultural beliefs that boys and girls should be educated separately after primary school, the government often failed to take measures to provide separate restroom facilities or separate classrooms, and there were more government schools for boys than for girls. The attendance rates for girls in primary, secondary, and postsecondary schools were lower than for boys across the board." (USDOS, 19 April 2013, section 6)

According to the June 2012 report by UNICEF and the Government of Pakistan (GoP), factors contributing to gender disparities in education and literacy include, among others, family and societal attitudes towards girls' education, early marriages and other socio-cultural practices, cost factors, transportation problems, safety concerns, lack of sex-segregated schools, and insufficient recruitment of female teachers (UNICEF/GoP, June 2012, pp. 78-80). For further details, please see:

- UNICEF/GoP – United Nations Children's Fund /Government of Pakistan: Situation Analysis of Children and Women in Pakistan 2012, June 2012, pp. 78-80
http://www.unicef.org/pakistan/National_Report.pdf

5.4.4 Situation of children (child labour, recruitment of children for military means, access to education and health care)

Child labour

In its annual report for 2012, the Human Rights Commission of Pakistan (HRCP) provides the following overview of the child labour situation in Pakistan:

"An official countrywide child labour survey - was not carried out this year, despite commitments in 2011 by the Federal Bureau of Statistics to complete a fresh survey with the support of International Labour Organization in 2012. Pakistan lags behind many other South Asian countries in recording latest child labour figures – Bangladesh conducted the last survey on child labour in 2005-6, Sri Lanka in 2009 and Nepal in 2011, while Pakistan's last survey was conducted in 1996. US Labour Department's 2011 Findings on the Worst Forms of Child Labour, released in September 2012, showed Pakistan as one of the 27 countries (out of a total of 144 countries assessed) that made no advancement in efforts to remove the worst forms of child labour. According to unofficial estimates, almost 10 million children were engaged/involved in child labour in Pakistan. SPARC claimed that

nearly 1.5 million children were engaged in child labour in Khyber Pakhtunkhwa alone. During Pakistan's UPR in 2012, the ILO Committee of Experts raised its concern over the high number of children working under the minimum age and urged the government to step up its efforts in that regard. The deteriorating law and order situation in Balochistan had also given impetus to child labour in the province. At a public seminar, Balochistan Labour Department officials said that they were unable to monitor the child labour situation outside Quetta due to the law and order situation. It was also pointed out that lack of the relevant standing committees in the Balochistan Assembly slowed down the process of enacting legislation prohibiting child bonded labour in the province." (HRCP, March 2013, pp. 186-187)

The US Department of State (USDOS) notes in its annual report on human rights in 2012 that "[d]ue to weak government enforcement of child labor laws, child labor remained pervasive. NGOs and government sources noted that the 2010 and 2011 floods proved devastating for children, with the destruction of schools and dire financial situations compelling families to put children to work. According to the HRCP and SPARC, there were 10 million to 11.5 million child laborers, many of them in agriculture and domestic work." The report further provides the following information regarding child labour practices:

"Approximately 70 percent of nonagricultural child labor took place in small workshops, complicating efforts to enforce child labor laws, since by law inspectors may not inspect facilities employing fewer than 10 persons.

Children were forced to work in the brick-kiln, glass bangle, and carpet-weaving industries, as well as agriculture, as part of fulfilling their families' debt obligation to feudal landowners or brick-kiln owners. UNICEF estimated the number of children working in brick kilns at 250,000. In August researchers estimated that there were approximately two million bonded laborers, many of whom included entire families with children.

Poor rural families sometimes sold their children into domestic servitude or other types of work, or they paid agents to arrange for such work, often believing that their children would work under decent conditions. Some children sent to work for relatives or acquaintances in exchange for education or other opportunities ended up in exploitative conditions or forced labor." (USDOS, 19 April 2013, section 7c)

"Boys and girls also were bought, sold, rented, or kidnapped to work in illegal begging rings, domestic servitude, and agriculture as bonded laborers. Illegal labor agents charged high fees to parents with false promises of decent work for their children and later exploited them by subjecting the children to forced labor in domestic servitude, unskilled labor, small shops, and other sectors. NGOs and police reported markets where girls and women were bought and sold for labor." (USDOS, 19 April 2013, section 7b)

Commenting on the presentation of Pakistan's national report for the Universal Periodic Review (UPR) by then Foreign Minister Hina Rabbani Khar, the Asian Human Rights Commission (AHRC) states:

"Child labour is a very common practice and it is estimated that as many as 20 million children are engaged in manual labour in Pakistan. This is particularly common in the rural areas where children are used as bonded labour to pay off their parents' debts. Also in the rural areas over 70 percent of the children are denied education and health care.

Often the children in the informal sectors such as brick kilns and engineering sectors are not paid money, but their wages given as food, once a day. There are reports that over two million children have gone missing and are feared to have been trafficked. There is also the question of children being used in the sex industry. Neither of these points have been examined by the government or responsibly dealt with in the minister's report." (AHRC, 4 November 2012)

The US Department of Labor's annual report on the worst forms of child labor (covering 2011) provides a concise overview of the issue (USDOL, 26 September 2012, pp. 477-484). On a positive note, the report states:

"The Government of Pakistan continued to administer National Centers for Rehabilitation of Child Labor to remove children ages 5 to 14 from hazardous labor and provide them with education, clothing and a stipend. There are currently 151 centers. Children have been withdrawn through services from the centers from hazardous labor in brick making, carpet weaving, mining, leather tanning, construction, glass bangle manufacturing and agriculture." (USDOL, 26 September 2012, p. 481)

For further information on child labour, please see pages 25-43 of the following report by the Society for the Protection of the Rights of the Child (SPARC):

- SPARC - Society for the Protection of the Rights of the Child: The State of Pakistan's Children 2011, July 2012, pp. 25-43
<http://www.sparcpk.org/SOPC/SOPC%20pdf%20final.pdf>

Recruitment of children for military means

In its April 2012 report to the UN General Assembly (UNGA) on children and armed conflict, the UN Secretary-General notes that "[i]n 2011, 11 incidents were reported of children being used by armed groups to carry out suicide attacks, involving 10 boys, some as young as 13, and one 9-year-old girl". The report cites the following examples:

"In one such incident, on 3 April 2011, one boy was killed and another was arrested in a double suicide attack on a Sufi shrine in Dera Ghazi Khan, southern Punjab, which killed 50 people and injured 120. A 14-year-old survivor reported having been trained for two months in Taliban camps in North Waziristan. In another incident on 19 August 2011, a boy was used in a suicide attack during Friday prayers at a mosque in the Ghundai area of Khyber Agency, killing 48 people and injuring more than 100." (UNGA, 26 April 2012, p. 27)

The Society for the Protection of Children (SPARC) elaborates as follows on child recruitment by militants in Pakistan:

"Children in Pakistan have been deeply afflicted by armed conflicts especially in the war zones of FATA and Khyber Pakhtunkhwa. In this context, children were not only victims of the conflict but were also recruited as child suicide bombers by terrorist groups. In 2011, 250 children died because of armed conflict in different parts of the country. In this regard, majority of the cases were reported from Khyber Pakhtunkhwa (167 cases) where children died as child soldiers or in crossfire between the armed forces and terrorists.

A major cause for concern is the continuous recruitment of children as suicide bombers by the militants. A video released in August by a Jihadi group showed teenage boys engaged in firing drills, a prelude to their recruitment as child militants. Such videos are used as propaganda and recruitment tools as they reinforce the concept of children as soldiers and jihadis." (SPARC, July 2012, p. 197)

In its November 2010 report on the militant umbrella organisation Tehrik-e-Taliban Pakistan (TTP), the Danish Institute for International Studies (DIIS) states that "[t]he Taliban commonly prey on young people in madrassas, mosques or religious gatherings" (DIIS, November 2010, p. 45).

On madrasa education, the US Department of State's (USDOS) annual report on religious freedom in 2011 notes:

"Private schools run by Islamic clerics, or madrassahs, vary greatly in their curriculum and character. They may offer after-school non-degree Islamic religious instruction, a full degree course in Islamic religious studies based on degree parameters set by one of the country's five madrassah boards, a full degree course in regular studies based either on the government's matriculation standards or the British A level curriculum, certificate courses in vocational training, or some combination thereof. Madrassahs may have students on a part-time, full-time day, full boarding basis, or some combination thereof. In some rural communities, madrassahs are the only form of education available.

Madrassahs are prohibited from teaching sectarian or religious hatred or encouraging sectarian or religious violence. However, in recent years a small yet influential number of madrassahs have taught extremist doctrine in support of terrorism in violation of the law. In an attempt to curb the spread of extremism, the 2002 Madrassah Registration Ordinance requires all madrassahs to register with one of the five independent boards (wafaqs) or directly with the government, cease accepting foreign financing, and accept foreign students only with the consent of their governments." (USDOS, 30 July 2012, section 2)

A compilation of reports prepared by the Office of the High Commissioner for Human Rights (OHCHR) and published by the UN Human Rights Council (HRC) in August 2012 includes the following information regarding madrassas and recruitment of child suicide attackers from schools:

"CRC [Committee on the Rights of the Child] regretted that there was still a large number of unregistered madrasas and that the introduction of secular subjects in the curricula has only been partially implemented. Furthermore, it was deeply concerned at reports of

violence, ill-treatment, corporal punishment, sexual abuse and illegal detention within madrasas and of madrasas being used for military training. CRC and the Office of the Special Representative of the Secretary-General for Children and Armed Conflict called on the Government to strengthen its current efforts to address the recruitment of children into armed groups and their use in hostilities. The United Nations Educational, Scientific and Cultural Organization (UNESCO) reported an increase in recruitments of children from schools for training as suicide bombers." (HRC, 13 August 2012, p. 11)

The TTP's motives and methods for recruiting children are addressed in the above-cited DIIS report of November 2010 as follows:

"A 'Talib' in Swat who had joined the extremists when he was thirteen years old describes how the Taliban groom young boys: 'they first call us to the mosque and preach to us. Then they take us to a madrassa and reach [sic] us things from the Quran'. This is followed by months of military training [...]."

In another report, a young militant arrested in a Taliban training camp in Swat's Matta area revealed how sometimes the militants use force to train a youngster; he was allegedly picked up, against his will, by the Taliban at his seminary and trained to fight against the military.

A branch of Baitullah's Taliban, led by Asmatullah Muawiya, allegedly plays a key role in the exploitation of madrassa boys in Swat so as to 'train them for suicide missions [and] supply other anti-Pak militant factions with them.'

Taliban commander Qari Abdullah, who is also known to be responsible for the recruitment of child soldiers, defends training children for suicide missions: 'When you are fighting, then God provides you with the means. Children are tools to achieve God's will. And whatever comes your way, you sacrifice it, so it's fine.'" (DIIS, November 2010, pp. 45-46)

"Children, then, serve as an important pipeline of recruits for the TTP's jihad. This could simply be because children have impressionable minds that are easier to mould, and are also mentally and physically more open to the sense of thrill and adventure that a jihad against 'bad guys' offers. Strategically also, child suicide bombers may find it easier to escape detection and reach their targets." (DIIS, November 2010, p. 48)

According to a Dawn article of May 2009, eleven camps for internally displaced persons (IDPs) were set up at different places in the North-West Frontier Province (today's Khyber Pakhtunkhwa). As the article further states, "[o]ut of 100,000 residents of camps, children comprise 60 per cent of the total IDP population" (Dawn, 2 May 2009). The above-cited DIIS report also refers to IDPs by stating the following:

"Internally Displaced Persons (IDPs) living in refugee camps across Pakistan, who have been adversely affected by the ongoing war between the militants and the military, might also provide another pipeline of recruits for the TTP. It is mostly heavy military action that leads to collateral damage and/or forces locals to move, and it can be speculated that this

segment of the population, which includes angry and resentful individuals who have long harboured a grudge against the Pakistani state and army, is more vulnerable to indoctrination by militant groups. Over 60% of the total IDPs are children, and, in the few interviews held with them, one boy – who watched his cousin’s dead body being eaten by dogs in the aftermath of a missile strike on his madrassa – declared that he wanted to be a ‘Taliban.’” (DIIS, November 2010, p. 48)

On a positive note, the UNGA states that in January 2012, the Khyber Pakhtunkhwa (KP) government announced a child protection policy for FATA to protect tribal children’s rights. In Malakand, the Sabaoon rehabilitation and reintegration programme for child soldiers received 29 new cases in 2011, taking the total number of children in the Sabaoon Centre to 170:

“On 10 January 2012, the Governor of Khyber-Pakhtunkhwa launched a child protection policy in the Federally Administered Tribal Areas, implementing a plan for protective services and child protection units in all Federally Administered Tribal Areas Agencies. The Malakand-based Sabaoon rehabilitation and reintegration programme for children taken into custody by the Pakistan security forces for alleged association with armed groups received 29 new cases in 2011, bringing the total number of children in the Sabaoon Centre to 170; 102 of these children have been reintegrated into their families, including two girls.” (UNGA, 26 April 2012, pp. 27-28)

For further information on forced recruitment by non-state armed groups, including of children, please refer to section 3.1.3 of this compilation.

Access to education and healthcare

According to the Pakistan Economic Survey 2011-2012, released by Pakistan’s Ministry of Finance (MoF) in May 2012, there were 155,495 primary schools (with 440,523 teachers), 41,951 middle schools (with 334,984 teachers) and 25,209 secondary schools (with 452,779 teachers) functional in 2010-2011. Primary, middle and secondary enrolment stood at 19.16 million, 5.64 million and 2.63 million respectively for the same period. (MoF, May 2012, p. 139-140)

In contrast to this, as regards the level of primary enrolment, the United Nations Children’s Fund (UNICEF) states in its undated Overview for Pakistan that “[j]ust over half of the 19 million children of primary school going age are enrolled in primary education. Compared to 58 per cent of boys, there are 48 per cent of girls enrolled in primary school.” (UNICEF, undated)

In its annual report for 2012, the Human Rights Commission of Pakistan (HRCP) cites the following figures relating to primary education in Pakistan:

“According to the National Commission for Human Development, only 12% of the 19 million primary school-age children in Pakistan studied beyond the fifth grade. In essence, 22 out of every 25 primary school-age children were expected to fail or drop out of

school before the fifth grade; only a third of those who carried through successfully completed primary education.” (HRCP, March 2013, p. 224)

The United Nations Educational, Scientific and Cultural Organization (UNESCO) finds in its Education for All (EFA) Global Monitoring Report 2012 that as many as 5.1 million Pakistani children do not go to school, making Pakistan the country with the second largest out-of-school population in the world (UNESCO, 2012, p. 9).

The June 2012 report by UNICEF and the Government of Pakistan (GoP) provides the following brief overview of the schooling landscape in Pakistan:

“Although there are more privately owned middle and high schools, 89 per cent of primary schools are run by the government, accommodating 71 per cent of total primary enrolment. Besides the formal schools, primary education is also imparted through 14,000 home schools, run by the government through the National Education Foundation (NEF) under the Non-Formal Basic Education (NFBE) project. In addition, there are several NGOs offering primary education through their own schools. Over a million students also receive basic education offered by religious schools.” (UNICEF/GoP, June 2012, p. 72)

The above-cited EFA Global Monitoring Report 2012 by UNESCO states that in 2006, the Punjab Education Foundation launched an education voucher scheme with the aim of benefiting children from underprivileged families. However, the scheme is only reaching 80,000 pupils, a small number when compared to the 5.1 million out-of-school children in Pakistan:

“In Pakistan, the Punjab Education Foundation has been implementing a programme since 2006 that provides vouchers to children from disadvantaged backgrounds that allow them to choose from among more than 1,000 low fee private schools (Punjab Education Foundation, 2012a). In a country of 5.1 million out-of-school children, the programme is reaching a small number: 267 schools and 80,000 pupils (Punjab Education Foundation, 2012b). Punjab is also the part of Pakistan where enrolment is already highest; consequently, the voucher programme is not helping extend access to the parts of the country where it is most needed.” (UNESCO, 2012, p. 77)

The US Department of State (USDOS) notes in its annual report on human rights in 2012 that “[t]he constitution mandates that the government provide free and compulsory education to all children between the ages of five and 16”. In practice, however, “government schools often charged parents for the cost of books, uniforms, and other materials”, sometimes prompting parents of lower economic status to send children to madrassas, “where they received free room and board”, or to NGO-operated schools. (USDOS, 19 April 2013, section 6)

In its annual report for 2012, the HRCP provides the following information regarding the status of schooling in Pakistan:

“Seminars and conferences held throughout the year emphasised that the low fiscal allocation for education led to lack of provision of the most basic facilities at schools. A seminar organised by Pakistan Coalition for Education noted that around 10.9 percent of schools in Pakistan lacked proper buildings, 37.7% lacked boundary walls, 33.9% had no

drinking water facility, 36.9% lacked toilets, and 59.6% schools had no electricity. Moreover, 505 schools lacked proper buildings in Punjab, 11,669 in Sindh, 1,113 in Khyber Pakhtunkhwa, 681 in Balochistan, 2,705 in Azad Jammu and Kashmir, 183 in Gilgit-Baltistan, and 908 schools in the Federally Administered Tribal Areas. Experts believed that absence of such facilities contributed to the high dropout rate in the country.

School buildings in Pakistan were frequently employed as polling stations, relief camps in times of natural disasters and even police stations. In FATA, the military was also reported to have used them as camps. In addition to such disruption of education, the government reportedly engaged public school teachers in non-academic activities, robbing them of the time to concentrate on lesson planning and classroom management. Teachers were reportedly also engaged in anti-polio campaigns, sugar distribution monitoring, voters' list compilation and political meetings of top government functionaries.

Reports of occupation of educational premises by government officials also made the news in 2012. In one case before the Supreme Court, the Abbottabad district administration was ordered to ensure that police vacated an illegally occupied girls' school. A girls' hostel of the Rawalpindi Medical College remained illegally occupied by the National Accountability Bureau (NAB) for many years and despite the Prime Minister's intervention it had not been vacated." (HRCP, March 2013, pp. 224-225)

The Society for the Protection of the Rights of the Child (SPARC) notes in its annual report for 2011 that "the war on terrorism has wreaked havoc" on Pakistan's education system. The report details:

„During the year, schools in the conflict affected areas of FATA and Khyber Pakhtunkhwa were subjected to persistent attacks by militant forces. Countless schools were blown up causing extensive damage to educational infrastructure. Furthermore, threats of violence prevented students and teachers from attending schools. As a result, thousands of educational institutions especially girls schools became nonfunctional and dropout rates increased tenfold in regions where literacy levels were already far lower than the national average. Around 600,000 children of Khyber Pakhtunkhwa were reported to have missed one or more years of education due to ongoing militancy.

According to media reports, over the last two years, a total of 710 schools have been destroyed or damaged by the militants in Khyber Pakhtunkhwa. The Malakand Division was the worst hit as a total of 640 schools were destroyed in this region while 70 institutions were destroyed or damaged in various other districts across the province." (SPARC, July 2012, pp. 53-54)

Based on statistics compiled by the independent think tank Pak Institute for Peace Studies (PIPS), the HRCP notes that in 2012, militants attacked 121 educational institutions in FATA and Khyber Pakhtunkhwa (KP). As further stated by the HRCP, "education was also badly affected in Balochistan due to the ongoing conflict":

"According to statistics compiled by Pak Institute for Peace Studies (PIPS), extremist militants in the regions of FATA and Khyber Pakhtunkhwa persisted with their attempts to

sabotage education by blowing up schools. As many as 121 educational institutions were targeted in these attacks in 2012, compared to 142 schools attacked in 2011. Eighty of these attacks in 2012 occurred in Khyber Pakhtunkhwa, against 79 in 2011. In FATA however, the attacks on schools were clearly less than the previous year: 40 in 2012 compared to 56 in 2011. The attacks were reported from 12 districts of Khyber Pakhtunkhwa, including Swabi (18), Charsadda (14), Nowshera (11), Peshawar (13), Mardan (9), Kohat (4) and Hangu (4). Two schools each were attacked in Lakki Marwat and Dera Ismail Khan and one each in Bannu, Swat, and Tank. In FATA, the attacks took place in Mohmand (24), Khyber (9), Bajaur (3), South Waziristan (2), Orakzai (1), North Waziristan (1) and South Waziristan. One school was also attacked in Balochistan, in the district of Awaran. [...]

Education was also badly affected in Balochistan due to the ongoing conflict. An HRCF fact-finding mission was informed by the provincial secretary education that finding teachers to serve in many affected areas was a major problem, leading to disruption of education." (HRCF, March 2013, pp. 222-223)

The same source states that children with no official birth certificate "are likely to be denied access to basic services such as health and education":

"The children who do not have an official birth certificate essentially lack access to a whole range of other rights, including education, healthcare, participation and protection. With no document to prove how old they are – or even who they are – the undocumented children are likely to be denied access to basic services such as health and education. Unregistered children are, almost without exception, the children of the poor and the marginalised and lack of registration at birth compounds their poverty and exacerbates marginalization. [...]

According to available UNICEF statistics, only 27 percent of total births in Pakistan between 2000 and 2009 were registered. As per UNICEF's 2011 State of the World's Children report, the figures for birth registration provincially were: Sindh and Khyber Pakhtunkhwa (20 percent); and Azad Kashmir (24 percent); while Punjab had a higher rate (77 percent) and was closest to universal registration. The situation was the worst in Balochistan and FATA, where only one percent of children were registered at birth. The National Database and Registration Authority Ordinance, 2000, aimed to register all people but the law failed to address the registration of refugee children, abandoned children and children of unidentified parents. In April 2010, an amendment in the ordinance seeking addition of a clause asking for registration of children whose parents were not identified had been proposed. No progress in that respect had been reported since then." (HRCF, March 2013, p. 188-189)

In contrast to this, the USDOS states in its annual report on human rights in 2012 that "[p]ublic services, such as education and health care, were available to children without a birth certificate" (USDOS, 19 April 2013, section 6).

For specific information on access to education for girls, please refer to section 5.4.3 of this compilation.

In an April 2012 article for Dawn newspaper, Hassan Anjum Shahid, President of the Young Physiotherapists Association in Lahore, provides the following information with regard to the situation of child health in Pakistan, including the main reasons for "mounting child mortality":

"The situation of child health in Pakistan is abysmal and serious efforts are needed by the government and civil society to save the lives of thousands of children who die every year from preventable diseases.

Medical reports reveal that one child dies every minute from the expanded programme on immunisation diseases, diarrhoea and acute respiratory tract infection. They also reveal that every year about 400,000 infants die during the first year of their life. Child health in Pakistan is among the most important national issues that needs serious attention. Child mortality in Pakistan is a major cause of concern, with every one among 10 children dying before reaching the age of five and one among 30 just after they are born.

The main reason at the back of mounting child mortality in Pakistan is lack of child healthcare facilities in rural areas, where the majority of the population lives. Low state spending on healthcare, abject poverty, low literacy, lack of skilled birth attendants, widespread communicable diseases, insufficient emergency child health services in government-run district and rural hospitals are amongst other major reasons behind growing diseases in children." (Dawn, 23 April 2012)

The Human Rights Commission of Pakistan (HRCP) notes the following child health problems:

"The Economic Survey of Pakistan 2011-2012 reported that the country lagged behind other South Asian countries in terms of the infant mortality rate, which was 63.26 deaths per 1,000 births, and the under-five year mortality rate at 86.5 per 1,000 live births. There was a marginal decline in both compared to the preceding year but it was still inadequate to meet the Millennium Development Goals. Pakistan Medical Association blames low expenditure on the health sector for the dismal state of health in Pakistan and has recommended that at least six percent of the GDP should be spent on health.

Pakistan continues to be one of the only three countries in the world where polio still exists – the other two being Afghanistan and Nigeria. In 2011, 198 polio cases were reported in 60 districts of Pakistan, while in 2012, 58 cases were reported from 28 districts including Gilgit, its first ever case of polio. The polio vaccination refusals also declined by about 60%, when compared to 2011. According to the Pakistan Polio Eradication Initiative and UNICEF, over 0.5 million children were missed in the October polio campaign, which included 45,000 refusals. Khyber Pakhtunkhwa and FATA remained the most difficult regions for administration of polio vaccine due to presence of Taliban militants who had banned immunization. This was especially the case in South and North Waziristan, where consequently the highest number of polio cases was reported in 2012 - KP (27) and FATA (20). Five female health workers vaccinating children against polio were

also shot dead in Pakistan in a series of attacks blamed on Islamist militants. One victim was a 17-year-old schoolgirl who had volunteered to work as a vaccinator.

Pakistan faced a measles outbreak late in 2012 as a result of which at least 306 children lost their lives. The measles incidence in 2012 witnessed a surge of nearly five times over the previous year when a total of 64 fatalities were reported. The jump was most pronounced in the Sindh province, where measles killed 210 children in 2012 whereas 28 children had died there the previous year. A total of 14,687 measles cases were recorded during 2012 (as against 3,890 in 2011) and 1,879 of these cases were reported from the flood-affected districts. World Health Organization (WHO) confirmed that the drastic rise in different parts of Pakistan resulted from inadequate routine immunizations coverage. As per a survey of Pakistan Social and Living Standards Measurement (2010–2011), Pakistan's routine immunization coverage for measles was nearly 65 percent which fell considerably short of the optimal routine immunization rate of over 80 percent.

According to the UN, up to 10 million children suffer from malnutrition in Pakistan. Nearly 3.5 million children are affected by acute malnutrition, and another 1.4 million by severe acute malnutrition, weakening their immune system and often causing death. A report released by Save the Children on child malnutrition in February 2012 stated that Pakistan, Bangladesh, India, Nigeria and Peru accounted for more than half of the world's malnourished children and in Pakistan it accounted for 35 percent of the deaths among children under the age of five. The report also warned that if concerted action was not taken, Pakistan would have the highest percentage of stunted children population over the next 15 years. Findings of the Community Based Management of Acute Malnutrition project, which was launched by the Sindh Health Department for assessing the food situation in 10 flood-affected districts of Sindh revealed that of the 1,469,415 children screened, 167,350 were found suffering from moderate malnutrition and 71,936 from severe acute malnutrition." (HRCP, March 2013, pp. 179-180)

The US Department of State (USDOS) notes in its annual report on human rights in 2012 that "[a]lthough boys and girls had equal access to government facilities, families were more likely to seek medical assistance for boys" (USDOS, 19 April 2013, section 6).

For further information on child health issues in Pakistan, including access to health services for children, please refer to pages 95-116 of the July 2012 report by the Society for the Protection of the Rights of the Child (SPARC) and pages 51-65 of the June 2012 report by UNICEF and the Government of Pakistan (GoP):

- SPARC - Society for the Protection of the Rights of the Child: The State of Pakistan's Children 2011, July 2012, pp. 95-116
<http://www.sparcpk.org/SOPC/SOPC%20pdf%20final.pdf>
- UNICEF/GoP - United Nations Children's Fund /Government of Pakistan: Situation Analysis of Children and Women in Pakistan 2012, June 2012, pp. 51-65
http://www.unicef.org/pakistan/National_Report.pdf

5.5 Sexual Orientation and Gender Identity

5.5.1 Domestic legal framework

The 1973 Constitution of Pakistan does not explicitly address homosexuality (BBC, 4 July 2011; Pink News, 4 July 2011; Al Arabiya, 5 July 2011). However, sources indicate that homosexual practices are “considered to be illegal” (BBC, 4 July 2011) and constitute “a criminal offense” (USDOS, 19 April 2013, section 6). Under Pakistan’s Sharia laws introduced in 1990, “homosexual acts draw punishments of whipping, imprisonment or even death” (BBC, 4 July 2011). Likewise, “Pakistan does not [...] recognize marriage or civil unions by homosexuals” (Al Arabiya, 5 July 2011). As mentioned by the US Department of State (USDOS) in its April 2013 report, “[n]o laws protect against discrimination on the basis of sexual orientation or gender identity” (USDOS, 19 April 2013, section 6).

In a query response dated November 2011, the Immigration and Refugee Board of Canada (IRB) quotes the following statements made by a representative of the Women Employees Welfare Association (WEWA), a Lahore-based organisation working on gender equality and sexual minority rights, with regard to the legal situation of sexual minorities:

“According to the WEWA representative, ‘discrimination’ by the state of Pakistan against sexual minorities is ‘encoded, institutionalized and enforced’ (WEWA 28 Oct. 2011). This is done through ‘discriminatory legal provisions that criminalize homosexuality’ and ‘lack of expressed constitutional provisions on non-discrimination on the basis of sexual orientation’ (ibid.)” (IRB, 30 November 2011)

The USDOS notes in its above-mentioned report of April 2013 that “[c]onsensual same-sex sexual conduct is a criminal offense” while adding that “in practice, the government rarely prosecuted cases”. As further observed by the USDOS, “[g]ay men and lesbians rarely revealed their sexual orientation” (USDOS, 19 April 2013, section 6).

The 2010 edition of the Spartacus International Gay Guide, an international gay travel guidebook, notes with regard to the legal status of homosexuality and the situation of “gay men, transvestites and transsexuals” in Pakistan:

“Homosexuality activity is illegal, punishable according to Islamic Laws which were re-introduced in 1990 and according to paragraph 377 [of Pakistan’s Penal Code of 1860] with life in prison, corporal punishment of 100 lashes or even death by stoning. Despite the strict laws of Islam regarding moral standards, gay men, transvestites and transsexuals live relatively undisturbed from the police. On the other hand they cannot expect much protection from the authorities.” (Spartacus, 2010, p. 670)

The “Sodomy Laws” website, last edited in November 2007, presents the following information on legal provisions concerning homosexual activity in Pakistan, gathered by the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA):

“Islamic law was re-introduced in 1990. ‘Pakistani civil law punishes those who have gay sex with two years to life in prison, while Islamic law, which also can be enforced legally,

calls for up to 100 lashes or death by stoning.' (RW/886) [While it seems unlikely that Section 377 would apply to lesbians, it seems likely that Islamic law would]

'Arrests and trials do not occur ... As elsewhere with unenforced sodomy prescriptions, the existence of the law is a threat - a threat conducive to blackmail. While the law is largely irrelevant to life in Pakistan, those acting in its name are not....Police recurrently take money and/or sex from those they know to be involved in same-sex sex (commercial or not). (Chapter on Pakistan by Stephen O Murray and Badruddin Khan in 'Sociolegal Control of Homosexuality'.)' (Sodomy Laws, 24 November 2007)

In a February 2013 article on homosexuality in Pakistan (published by Viewpoint, an electronic journal dedicated to Pakistan), Pakistan-based human rights activist Waseem Altaf provides the following information:

"[...] various schools in Islam treat homosexuality differently. For instance the Hanafi School does not consider same-sex intercourse to constitute adultery, and therefore leaves punishment up to the judge's discretion. Most early scholars of this school specifically ruled out the death penalty, others allow it for a second offence. Imam Shafi'i considers same-sex intercourse as analogous to other zina; thus, a married person found to have done so is punished as an adulterer by stoning to death, and an unmarried one, as a fornicator, is left to be flogged. The Maliki School says that anyone (married or unmarried) found to have committed same-sex intercourse should be punished as an adulterer. Within the Ja'fari schools, Sayyid al-Khoi says that anyone (married or unmarried) found to have committed same-sex intercourse should be punished as an adulterer." (Viewpoint, 14 February 2013)

In Section 377 of the Penal Code of 1860, homosexuality is not explicitly mentioned (referred to in the above quote from Spartacus International Gay Guide) reads as follows:

"377. Unnatural offences:

Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which shall not be less than two years nor more than ten years, and shall also be liable to fine.

Explanation: Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section." (Penal Code, 6 October 1860, amended as of 2006, Section 377)

The Offence of Zina (Enforcement of Hudood) Ordinance, 1979, criminalizes Zina, which is defined as extra-marital sex. The full text of the law can be accessed at:

- Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (Ordinance No. VII of 1979), 9 February 1979, amended as of 2006 (available at [pakistani.org](http://www.pakistani.org))
http://www.pakistani.org/pakistan/legislation/zia_po_1979/ord7_1979.html

5.5.2 Treatment of (actual and perceived) LGBTQI persons

The US Department of State (USDOS) notes in its report reviewing events of 2012 that “[s]ystematic discrimination against lesbian, gay, bisexual, and transgender persons was widely acknowledged privately, but insufficient data existed for accurate reporting on these forms of discrimination” (USDOS, 19 April 2013, section 6).

The November 2011 query response by the Immigration and Refugee Board of Canada (IRB) refers as follows to the societal treatment of sexual minorities, quoting representatives of the Women Employees Welfare Association (WEWA) and the Neengar Society:

“The WEWA representative said that ‘[s]exual minorities are not socially accepted’ in Pakistan, with the major part of society denying their ‘existence’ (ibid). [...]

A representative of the Neengar Society, a non-profit organization working in Pakistan for the rights of religious and sexual minorities (Neengar Society, 29 Oct. 2011), noted in correspondence with the Research Directorate that Pakistani society has a ‘very diverse attitude towards sexual minorities depending on the type of sexual identity of a person’ (ibid.). In contrast, the WEWA representative stated that Pakistan is a ‘traditional and conservative society’ where ‘sexual minorities, irrespective of sexual identity, are treated adversely[,] ... suffer various forms of discrimination in both public and private spheres [and] ... are victimized by state, society, religious groups and the family’ (WEWA 28 Oct. 2011). [...]

The representative of the Neengar Society noted that, if a person’s ‘non-heterosexual’ orientation is revealed, life can become ‘miserable’, as he or she can become a victim of ‘teasing, bashing, ... beating or threat[s]’ (ibid.).

According to the Neengar Society representative, gay and bisexual men face ‘worse problems’ than lesbians and transgendered people, such as ‘hatred’ and ‘violence’, because, in the Quran, many were ‘destroyed’ for engaging in romantic or sexual relations with other men (ibid.). However, transgendered people are not exempt from negative treatment if they are known to engage in homosexual acts (ibid.).” (IRB, 30 November 2011)

The 2010 edition of the Spartacus International Gay Guide points out that despite Islam’s “strict” morality laws, “gay men, transvestites and transsexuals live relatively undisturbed from the police”, but that, at the same time, they “cannot expect much protection from the authorities”. As the Guide further notes, “[t]he general population and the family does not see homosexuality in a positive light at all, but is generally tolerant enough to accept the situation as long as they are not affected”. Gay movements or gay groups are nonexistent in Pakistan. (Spartacus, 2010, p. 670)

In an article dated February 2012, the Pakistani newspaper Daily Times reports that “[a] group of clerics has launched a campaign against physical relationship between people of the same sex (homosexuality), demanding an end to activities of GLIFAA [Gays and Lesbians in Foreign Affairs Agencies] and GLSEN [Gay, Lesbian and Straight Education Network] – US-based

organisations working for the rights of gays and lesbians – in Lahore, Karachi and Islamabad”. (Daily Times, 13 February 2012)

The US daily newspaper The New York Times (NYT) describes the situation for Pakistani gay people as “complex” and “more akin to ‘don’t ask, don’t tell’ than a state-sponsored witch hunt”. The NYT further details:

“For a long time, the state’s willful blindness has provided space enough for gays and lesbians. They socialize, organize, date and even live together as couples, though discreetly.

One journalist, in his early 40s, has been living as a gay man in Pakistan for almost two decades. ‘It’s very easy being gay here, to be honest,’ he said, though he and several others interviewed did not want their names used for fear of the social and legal repercussions. ‘You can live without being hassled about it,’ he said, ‘as long as you are not wearing a pink tutu and running down the street carrying a rainbow flag.’

The reason is that while the notion of homosexuality may be taboo, homosocial, and even homosexual, behavior is common enough. Pakistani society is sharply segregated on gender lines, with taboos about extramarital sex that make it almost harder to conduct a secret heterosexual romance than a homosexual one. Displays of affection between men in public, like hugging and holding hands, are common. [...]

But all the examples of homosexual relations – in Sufi poetry, Urdu literature or discreet sexual conduct – occur within the private sphere, said Hina Jilani, a human rights lawyer and activist for women’s and minority rights. Homoeroticism can be expressed but not named.” (NYT, 3 November 2012)

Reporting on the situation of transgender, eunuchs and hermaphrodites, “referred to as ‘hijras’”, the USDOS notes:

“Society generally shunned transgender persons, eunuchs, and hermaphrodites, referred to as ‘hijras,’ who often lived together in slum communities and survived by begging and dancing at carnivals and weddings. Some also were involved in prostitution. Hijras often were denied places in schools or admission to hospitals, and landlords often refused to rent or sell property to them. Hijras’ families often denied them their fair share of inherited property.” (USDOS, 19 April 2013, section 6)

The US-funded broadcaster Radio Free Europe/Radio Liberty (RFE/RL), in an article dated November 2011, provides the following information on the situation of hijras in Pakistan:

“Hijras are often referred to as ‘eunuchs’ in Pakistan, despite the fact that many members of the group have not undergone gender-altering surgery, according to supporters. Their numbers include transvestites, transsexuals, hermaphrodites, as well as actual eunuchs. Many transgender men are disowned by their families and are adopted as young boys by so-called Gurus, who act as leaders of the hijra community. The Gurus give them shelter and food in return for their strict loyalty to the community. Most hijras describe themselves as ‘professional wedding dancers’ but supporters say they are often forced to

earn income through begging and prostitution. Often dressed in bright-colored saris – a traditional dress worn by women in the subcontinent – and wearing heavy makeup, they roam the streets asking people for money – making them targets for police harassment, abuse, and even rape.” (RFE/RL, 20 November 2011)

Similarly to the previous two sources, the Women News Network (WNN), a non-profit news and advocacy service, notes that hijras are frequently abandoned by their families and that they have been forced to turn to “begging, prostitution or dancing at weddings or baby showers” to gain a living:

“The word Hijras is a wide all-encompassing Pakistani Urdu language term used for eunuchs (khussras), hermaphrodites, and transsexuals. Today they have come to form a caste of their own in Pakistan. Often disowned by their families at childhood, some Hijras are sold or left to the care of gurus— matriarchs of the Hijra household, who become their only ‘real’ family. Ostracized and condemned by world society, with no means of education or employment, their little options of earning income often leave them to only a few ways they can make a living – by begging, prostitution or dancing at weddings or baby showers.” (WNN, 29 July 2011)

According to WNN, “it is estimated that there are up to 50,000 Hijras currently living in Pakistan”, although these estimates may not be accurate “due to the lack of a reliable consensus and, until recently, the lack of any institutional or public official acknowledgement that the Hijras of Pakistan exist at all” (WNN, 29 July 2011). NPR states that “about 50,000 Pakistanis are classified as hijras” (NPR, 3 September 2012), while RFE/RL indicates that their number is estimated at 500,000 (RFE/RL, 20 November 2011).

In an article dated January 2010, The Guardian notes that “[o]ver the past six months the supreme court has issued a series of ground-breaking judgments in favour of hijras, who have long lived under a cloud of disapprobation and discrimination”. The article details:

“Spurred by the forceful chief justice, Iftikhar Chaudhry, who was restored after countrywide protests last year, normally moribund authorities have been ordered to ensure hijras enjoy the same rights as other Pakistanis, in matters of inheritance, employment and election registration. Police have been warned to cease harassment and intimidation. Pakistan's national database and registration authority, which issues ID cards, has been told to research a third option under the ‘sex’ column.” (Guardian, 29 January 2010)

However, in a May 2010 article reporting on the arrest of a man trying to marry a eunuch, BBC states that “eunuchs in Pakistan are still treated in many cases like second class citizens despite recently been granted equal status” (BBC, 26 May 2010).

The Express Tribune reports in January 2012 that “[a]t least 21 votes were registered and 25 NICs [National Identity Cards] were issued to members of the transgender community in Rawalpindi”. However, in contradiction with the Supreme Court’s instructions and “Nadra’s [National Database and Registration Authority] earlier announcement of providing a ‘third

gender”, transgender individuals will have to describe themselves as “female” on their ID cards. (Express Tribune, 25 January 2012)

The USDOS reports that in November 2011, “the Supreme Court ordered the national Election Commission to reach out to the hijra community and register its members to vote in advance of the March 2012 Senate elections” (USDOS, 19 April 2013, section 6). This Supreme Court ruling is also noted in the above-mentioned article by RFE/RL:

“Pakistan’s Supreme Court issued a ruling on November 14 ordering the country’s election commission to collect data from the transgender community and register them as voters. The move has paved the way for Pakistan’s minority community of transgender men – known in the Urdu language as ‘hijras’ and estimated to number 500,000 – to vote in next year’s general elections and nominate their own candidates for parliament.” (RFE/RL, 20 November 2011)

5.6 Freedom of movement

5.6.1 Domestic legal framework

Article 15 of the 1973 Constitution of Pakistan contains the following provision pertaining to freedom of movement:

“Every citizen shall have the right to remain in, and, subject to any reasonable restriction imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof.” (Constitution of Pakistan, 1973, amended as of 8 February 2013, Article 15)

The US Department of State (USDOS) notes in its report dated April 2013 that “[t]he law provides for freedom of internal movement and for uninhibited foreign travel, emigration, and repatriation”, while “the government limited these rights” (USDOS, 19 April 2013, section 2d).

With regard to foreign travel, the report adds:

“The law prohibits travel to Israel, and the country’s passports include a statement that they are ‘valid for all countries except Israel.’ Government employees and students must obtain ‘no objection certificates’ from the government before traveling abroad. This requirement rarely was enforced for students.

Persons on the Exit Control List were prohibited from foreign travel. Although the list was intended to prevent those with pending criminal cases from traveling abroad, no judicial action was required for the Ministry of Interior to add a name. [...] Those on the list had the right to appeal to the courts for removal of their names.” (USDOS, 19 April 2013, section 2d)

The undated website of Pakistan's Ministry of Interior (Mol), when accessed by the UK Border Agency (UKBA) in February 2012, provided the following information regarding the Exit Control List (ECL)²:

"1. Exit from Pakistan (Control) Ordinance, 1981, empowers the Federal Government to prohibit any person from proceeding abroad. Ordinarily following categories of persons are placed on ECL:

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

- Government employees involved in economic crime where large government funds have been embezzled or institutional frauds committed.

- Hardened criminals involved in acts of terrorism / conspiracy, heinous crimes and threatening national security.

- Key directors of firms having tax default / liabilities of Rs . (rupees) 10 million or more.

- Only 2-3 key directors of firms having more than Rs. 100 million loan default / liabilities.

- Names of persons if recommended by the Registrar, High Courts / Supreme Court of Pakistan and Banking Courts only.

- Drug traffickers...

2. The On - Line System is operational at the Ministry linked with international airports at Karachi, Lahore, Peshawar, Islamabad and Faisalabad.

3. Any person aggrieved by the order of Federal Government regarding placement of his name on ECL, can under the law, file a Review Petition giving justifications for review and also can seek a personal hearing with the competent authority.

4. ECL is reviewed periodically to assess the need for further retention of a person on ECL or otherwise." (Mol, undated)

The full text of the Exit from Pakistan (Control) Ordinance of 1981 is accessible via the following link:

- Exit from Pakistan (Control) Ordinance, 1981 (available at Refworld)
<http://www.unhcr.org/refworld/docid/3ae6b4fc8.html>

5.6.2 Imposition of travel restrictions for certain groups and in certain areas

The US Department of State (USDOS) mentions in its April 2013 report (covering events of 2012) that the Exit Control List (ECL) "sometimes was used to harass human rights activists or leaders of nationalist parties" (USDOS, 19 April 2013, section 2d). Similarly, the Human Rights

² However at the time of writing the present COI compilation, ACCORD could not find this information on the Ministry's website.

Commission of Pakistan (HRCP) notes in its annual report for 2011 that despite new rules for placing names on the ECL, "media reports suggested that the names of some individuals were included because of political vendetta":

"The arbitrary use of the Exit Control List (ECL) to prevent individuals from travelling abroad continued in 2011, despite formulation of rules by the Interior Ministry the previous year that were supposed to regulate the inclusion of a person's name on the ECL. Media reports suggested that the names of some individuals were included because of political vendetta. [...]

Under the rules formulated in 2010, ECL restrictions could only be placed on those involved in massive corruption or misuse of power causing financial loss to the government; or on government employees involved in a financial crime where large government funds were embezzled or institutional frauds committed. Names of hardened criminals involved in acts of terrorism, conspiracy, heinous crimes threatening national security and key directors of firms with tax default or liabilities of Rs 10 million or more could also be placed on the list. However, as in previous years, in 2011 also it was not uncommon for travelers to find out only as they were about to board a flight that they could not do so as their name had been included in the ECL. The ECL was apparently made available only to the airport authorities and was not available even on the website of the Interior Ministry or that of the Federal Investigation Agency (FIA). Little was done to make the ECL accessible to the people or inform the person concerned." (HRCP, March 2012, p. 74)

In its annual report for 2012, the HRCP states that "[a]s in previous years, the arbitrary use of ECL to prevent individuals from leaving the country continued this year" (HRCP, March 2013, p. 94)

In March 2012, the Asian Human Rights Commission (AHRC) reports on the case of a woman who was stopped from travelling abroad and was told that her name has been placed on the ECL because of her husband's activities. As noted by the AHRC, her husband is a proponent of independence for Gilgit-Baltistan and former chairman of Balawaristan National Front (BNF), and is living in Belgium where he was granted asylum in 2007:

"The Asian Human Rights Commission (AHRC) has received information that the wife of a nationalist, who has refugee status in Belgium, was prevented from leaving the country to meet her husband by the Pakistani authorities. The Pakistani authorities at the Islamabad airport told her that her name has been put on the exit control list by the state intelligence agencies because her husband's activities. Her husband was granted refugee status in 2007 in Belgium and after their marriage they have met only two times. The first time was in 2009 when they were married in Nepal and second time in 2010 in Bangkok. Her visa process was pending with the Belgian authorities for three years. She has also filed a constitutional petition before the Peshawar high court, Khyber Pakhtunkhah [Khyber Pakhtunkhwa] Province due to the restriction on her right to travel. [...]

Her husband Mr. Abdul Hamid Khan has been detained in Pakistan and tortured for running a movement for the independence of Gilgit and Batistan [sic] along with some

other northern parts of the country which are at the border of China. He was also the Chairman of Balawaristan National Front (BNF) which is a popular movement in that area. He had to leave the country after he was tortured in the illegal detention centre of Pakistan's intelligence agencies, the Inter Service Intelligence (ISI)." (AHRC, 5 March 2012)

In its above-mentioned annual report for 2012, the HRCP notes that it has been decided by the government to make it compulsory for pilgrims going to Iran via Balochistan to obtain no-objection certificates (NOCs) from the authorities:

"After attacks on Shia pilgrims travelling through Balochistan in 2011, it was made mandatory for the pilgrims to obtain a no-objection certificate from the authorities before starting off for their journey to Iran via Balochistan. The movement of pilgrims through Balochistan remained subject to government approval throughout 2012. But even travel in convoys with official escorts through the year only afforded partial security. The buses carrying the Shias to Iran for pilgrimage were still targeted throughout 2012 as were the Hazaras in the province in general." (HRCP, March 2013, p. 93)

The same source states that free movement of 929 clerics was restricted during the Shia mourning month of Moharram in a bid to prevent sectarian violence:

"In Moharram, the Punjab government barred 929 clerics from entering Punjab whereas 439 clerics were banned from making speeches. These bans were imposed ostensibly to prevent provocative speeches during the month of Moharram. Out of around 35 districts in Punjab, 19 were declared sensitive and 118,308 police officials were deployed throughout the province to provide security to Moharram processions. Similar bans were also imposed in Sindh in order to avoid any law and order situation and terrorist attacks as the Shia community took out processions throughout the country. As in previous years, rather than discouraging inflammatory speeches and incitement of violence, the authorities confined their actions to banning entry of the troublemakers to districts classified as sensitive for a few weeks in the year." (HRCP, March 2013, pp. 92-93)

In its April 2013 report, the USDOS notes that "[t]he government's restrictions on access to certain areas of FATA, KP and Balochistan, often due to security concerns, hindered the ability of humanitarian assistance providers to deliver aid to vulnerable populations" (USDOS, 19 April 2013, section 2d).

On its International Travel website, the USDOS states with regard to travel restrictions within Pakistan for foreign nationals:

"Access to many areas of Pakistan, including the FATA along the Afghan border, is restricted by local government authorities for non-Pakistanis. Travel to any restricted region requires official permission by the Government of Pakistan. Failure to obtain permission in advance can result in arrest and detention by Pakistani authorities." (USDOS, 31 August 2012)

The UN Office for the Coordination of Humanitarian Affairs (UNOCHA) similarly notes that a no-objection certificate (NOC), "also known as 'security clearance'", is required for foreign

nationals to travel to “certain parts of Pakistan”. As noted by UNOCHA, “[o]fficially, NOCs are required for travel in all ‘prohibited’ areas (which are defined in the ‘List of open and prohibited areas’ issued by the Ministry of Foreign Affairs)”, while “the actual application of this policy varies greatly across the different provinces and districts”. (UNOCHA, undated)

The list of open and prohibited areas is accessible via the following link:

- MoFA - Ministry of Foreign Affairs: No. P (2)-NOC / Visits / 2011, 6 January 2011 (available at pakresponse.info)
<http://pakresponse.info/Portals/0/Policy/List%20of%20Updated%20Open%20and%20Prohibited%20Areas%20in%20Pakistan%20-%20%20%206%20January%202011.pdf>

For information on other factors that limit the freedom of movement (delays in issuance of passports; ban on bike-riding; fuel shortage; bonded labour; ethnic and political violence in Karachi), please see pages 94-98 of the already cited HRCP report of March 2013:

- HRCP - Human Rights Commission of Pakistan: State of Human Rights in 2012, March 2013
<http://hrcp-web.org/hrcpweb/wp-content/pdf/AR2012.pdf>

5.6.3 Treatment of persons returning from abroad

A response to information request (RIR) by the Immigration and Refugee Board of Canada (IRB), dated December 2008, provides information on the treatment of failed refugee claimants in Pakistan, quoting media articles from 2002, 2004 and 2005, and 2005 correspondence from the Human Rights Commission of Pakistan (HRCP):

“United Press International (UPI) reported that in August 2002, Nasir Ali Mubarak, a Pakistani man detained on immigration charges in the United States, who was married to an American woman and who was deported to Pakistan, was ‘detained for many days at an unknown location’ (20 Nov. 2002). In April 2004, UPI reported that in addition to the 1,682 Pakistanis who had by that time been deported from the United States to Pakistan, another 65 Pakistanis were scheduled to be deported that month ‘mainly for immigration violations’ (13 Apr. 2004). The article noted that ‘detainees have been arrested upon arrival by Pakistani immigration officials’ (UPI 13 Apr. 2004). However, according to 24 May 2005 correspondence from the Human Rights Commission of Pakistan (HRCP), ‘[f]ailed Pakistani refugee claimants are not usually detained.’ In January 2005, Agence France-Presse (AFP) reported that ‘[a] high-profile asylum-seeking family who were deported from Australia after a five-year battle arrived safely in Pakistan but have since disappeared’ (4 Jan. 2005).” (IRB, 2 December 2008)

An earlier RIR by the IRB, dated June 2003, includes information on whether failed refugee claimants are interviewed and detained by the Federal Investigation Agency (FIA) upon their return to Pakistan, and whether returning nationals face punitive measures. Based on correspondence with a London-based barrister and advocate of the Supreme Court and High Courts of Pakistan, the RIR notes:

“According to the barrister, FIA [Federal Investigation Agency] ‘does not interview all nationals returning to Pakistan. It detains and interviews those persons who are alleged to

have violated any law in respect of travel/visit to a foreign country, e.g. traveled on fake travel documents or entered a country without [a] valid visa, etc.' (Barrister at Law 12 June 2003)." (IRB, 26 June 2003)

The RIR further quotes information provided by the UN High Commissioner for Refugees (UNHCR) office in Islamabad in correspondence with the IRB:

"FIA only interviews those nationals who are wanted by the government or involved in any criminal, unlawful or anti-state activities. It depends upon the nature of the offence and whether the person concerned had departed due to fear of arrest for preventing any legal action lodged against him for commission of any culpable offence like murder, treason, drug trafficking, loan default or to be a proclaimed offender, etc. Then, a person is normally arrested and handed over to [the] Federal Investigation Agency (FIA) to be dealt [with] according to [the] law for [the] respective offence. In case[s] [where] a person was just an illegal migrant, etc. and has [a] return visa/ticket or [is] not found guilty of being involved in any kind of anti- government activities, political activities, or any crime[,] he/she is released after a formal investigation and there is no serious consequences for him (UN 11 June 2003)." (IRB, 26 June 2003)

The HRCP, also in correspondence with the IRB, provides the following observations:

"The HRCP indicated that the FIA 'are given a list of deported persons and may interview those they believe [to] have any involvement in criminal activity in the country' (2 June 2003). The HRCP went on to state that 'Pakistanis entering another country illegally may be detained on their return, but are generally released within a few days' (ibid.)." (IRB, 26 June 2003)

A Pakistan-based political and defence consultant and former Professor of Political Science at Punjab University in Lahore provides to the IRB the following information regarding the Federal Investigation Agency (FIA):

"Pakistanis returning from abroad are not interviewed by the FIA. You pass through passport control and customs and then leave. However, if a person is deported by a foreign country for any reason (overstay, passport and visa fraud, involvement in a crime in the host country) and formally handed over to Pakistani authorities, the FIA/relevant authorities would undertake an inquiry. If found to have forged [a] passport/visa or [committed] any other illegal activity, he/she can be charged and presented to a court of law. All deportations are inquired into (19 June 2003).

If a person returns to Pakistan quietly after having failed to get a refugee status elsewhere, he/she faces no problem in returning to Pakistan. However, if a failed applicant for refugee status is handed over by the country concerned to Pakistani authorities, Pakistani FIA/relevant authorities would question such a person (19 June 2003).

... when a Pakistani national is deported by a foreign government and handed over to Pakistani authorities, the first thing the Pakistani authorities check is if he/she travelled on [a] forged passport and fake visa. If that is the case, they do two things. First, they would like to know where and how did that person get the forged passport or visa. They would

like to know about the travel agent or any other person who facilitated his/her departure. Second, the authorities can file a criminal case in a lower court for having forged travel documents. Sometimes newspaper[s] publish news that a person has been sentenced to imprisonment for a couple of months for travel document fraud. ...

If a person is deported by a foreign government but not formally handed over to Pakistani authorities, they would hardly know about the case and the person can quietly return to Pakistan (23 June 2003)." (IRB, 26 June 2003)

The political and defence consultant further states:

"If a person returns to Pakistan quietly after being denied refugee status, nothing is expected to happen. If such a person is deported and handed over to Pakistani authorities, the person will face preliminary inquiry to determine if he has violated Pakistani laws. If a person's refugee status case gets a lot of media publicity, the government will inquire into it. However, there is no law that can be invoked against a person for applying for refugee status elsewhere.

A Pakistani denied refugee status can get into trouble on return if there are criminal cases registered against him/her in Pakistan. The FIA/Police can arrest such a person on arrival at the port of entry (if they get prior information of his return) or later on as they come to know of his/her return (19 June 2003)." (IRB, 26 June 2003)

5.6.4 Internal displacement (IDPs)

The Human Rights Commission of Pakistan (HRCP) report of March 2013 (covering 2012 events) notes with regard to the internal displacement situation in Pakistan:

"This year again the number of internally displaced persons remained well over one million. While the majority were conflict displaced from Federally Administered Tribal Areas (FATA), a severe drought also forced around half a million people from their homes in Sindh. Some displacement was also reported from the province due to flooding for a third consecutive year." (HRCP, March 2013, p. 274)

"Armed conflict remained the biggest driver of internal displacement in Pakistan during the year under review. The issue of internal displacement in Pakistan belonged almost exclusively to Federally Administered Tribal Area (FATA) in 2012, whether it was about residents being displaced inside FATA or being forced to flee the conflict-hit tribal region altogether. Conflict in FATA continued to uproot more people even as IDPs returned to other tribal districts. Khyber Agency was the latest flashpoint. In the majority of the FATA agencies the resident were in one stage of displacement or another." (HRCP, March 2013, p. 279)

In its report of April 2013 (covering events of 2012), the US Department of State (USDOS) mentions that "[t]he government does not have laws to protect IDPs but implemented policies to assist them, meeting the UN Guiding Principles on Internal Displacement". As regards the registration of internally displaced women, the report notes:

"Registration of women continued to be a problem. In more conservative regions of the country, particularly rural areas, authorities did not uphold or enforce a woman's right to be registered." (USDOS, 19 April 2013, section 2d)

The UN Office of Humanitarian Affairs (UNOCHA) notes in a June 2013 situation report on displacement from the Federally Administered Tribal Areas (FATA):

"Humanitarian partners have registered 51,582 of the 60,000 people estimated to have been displaced from central Kurram Agency, Federally Administered Tribal Areas (FATA), since mid-May due to ongoing security operations against non-state armed actors.

All the registered internally displaced people (IDPs) are receiving basic assistance comprising food, relief items and critical life-saving services, although security concerns and funding constraints are affecting humanitarian partners' response to the IDPs' needs. Forty-five per cent of the IDPs from Kurram Agency are females and 87 per cent of the displaced families are living in off-camp locations.

Due to security and movement restrictions to the affected areas, OCHA conducted an 'observations exercise' with its partners to determine the priority humanitarian needs of the IDPs from Kurram Agency. Food, shelter, safe drinking water and health-care support are the critical needs according to key informants. Additional needs and concerns include security, money, livelihoods and education. Humanitarian partners will conduct a detailed assessment of the needs in Kurram Agency in the coming days, subject to the security situation.

Meanwhile, 79,839 people displaced from the Tirah Valley in Khyber Agency, FATA, in March and April continue to receive relief assistance as part of the overall response to the complex emergency in north-west Pakistan. More than 1 million people are now displaced in Khyber Pakhtunkhwa (KP) and FATA due to insecurity dating back to 2008 and require continued humanitarian assistance." (UNOCHA, 6 June 2013, p. 1)

"Key informants in 15 locations in Kurram Agency have reported that many of the displaced people were forced to flee without notice and as a result were unable to move with personal belongings or family assets. The majority of the affected people have moved to areas in lower Kurram, especially Saada and Durrani, where they are living either with relatives, in rented accommodation, or in tents/open air locations. [...]

Humanitarian partners continue to provide life-saving assistance to 79,839 people displaced from the Tirah Valley in Khyber Agency in March and April. Ninety per cent of the IDPs are living with host communities, while 10 per cent are living in Jalozai, New Durrani and Togh Sarai camps. Nearly 90 per cent of the displaced people from the Tirah Valley surveyed in April identified food, shelter and livelihoods support as their top priorities, with assessment data and observation reports also indicating significant protection needs." (UNOCHA, 6 June 2013, p. 2)

In its Humanitarian Bulletin on Pakistan dated 30 May 2013, the UNOCHA specifies that the Tirah Valley displacements were triggered by clashes between rival armed groups and Pakistan's security operations against armed non-state actors:

"The recent displacements from central Kurram Agency compound an already alarming humanitarian situation, and add to the displacement of 17,140 families (79,839 people) in March and April 2013 from the Tirah Valley in Khyber Agency, FATA, as of 7 May. The Tirah Valley displacements were triggered by an escalation of hostilities between rival armed groups and the Government's security operations against armed non-state actors." (UNOCHA, 30 May 2013, p. 1)

In a briefing note issued on 5 April 2013, the Global Protection Cluster provides the following information with regard to the clashes in the Tirah Valley and subsequent internal displacements:

"In the context of an upsurge of violence since January 2013 in the Tirah Valley, a new wave of fresh displacement from the Bagh Maidan area in the Tirah Valley (Khyber Agency) initiated in mid-March 2013. The displacement was the direct result of heavy clashes between the Lashkar el-Islam backed TTP and the pro-government Insar el-Islam. The hostilities caused a sudden displacement of the population along various routes and directions: to the West towards Kurram Agency, to the North towards other tehsils of the Khyber Agency (Jamrod), to Peshawar / Nowshera, including Jalozai Camp, and South and South-West through Orakzai and towards Hangu and Kohat." (Global Protection Cluster, 5 April 2013, p. 1)

Other Protection Cluster briefing notes and useful information on internal displacement in northwest Pakistan can be found on the following website:

- Humanitarian Response Pakistan: Complex emergency in Khyber Pakhtunkhwa & F.A.T.A: Clusters: Protection, undated (a)
<http://complex.pakresponse.info/Clusters/Protection.aspx>

In a June 2013 report, the Internal Displacement Monitoring Centre (IDMC) provides a concise overview of the internal displacement situation in northwest Pakistan based on other sources. The report can be accessed via the following link:

- IDMC - Internal Displacement Monitoring Centre (formerly Global IDP Project): North-West Pakistan; Massive new displacement and falling returns require rights-based response, 12 June 2013
[http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/5CD59AE0A97C3676C1257B880038E607/\\$file/pakistan-overview-12jun2013.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/5CD59AE0A97C3676C1257B880038E607/$file/pakistan-overview-12jun2013.pdf)

The UNOCHA reports in March 2013 that the vast majority of the internally displaced persons (IDPs) (90 percent) live with host communities, while only 10 percent of the IDPs are in camps (Jalozai, Togh Sarai and New Durrani):

"In north-western Pakistan, 757,996 people remain displaced across Khyber Pakhtunkhwa (KP) and Federally Administered Tribal Areas (FATA) as a result of ongoing security

operations and sectarian violence. Ten per cent of the internally displaced people (IDPs) are in three camps (Jalozai, Togh Sarai and New Durrani) and 90% live in host communities. The FATA Disaster Management Authority (FDMA) estimates that over 585,000 displaced people (over 97,600 families) could return to six FATA agencies during 2013. Of these, 90% of the families (over 88,000 families) are estimated to return to Khyber, Orakzai and South Waziristan Agencies." (UNOCHA, March 2013, p. 1)

In an article dated March 2013, the Integrated Regional Information Network (IRIN) provides the following information regarding the "three established IDP camps" in Pakistan:

"Over 75,000 people live in three established IDP camps (such as Jalozai, a half-hour drive from Peshawar) which house families in tents or makeshift structures, and provide food aid, medical facilities and drinking water. They also serve as a central registration point for families arriving from areas hit by conflict or natural disaster." (IRIN, 1 March 2013)

A February 2013 article published by the same source reports that in January 2013, the World Food Programme (WFP) cut food rations, sparking protests among IDPs:

"In January, the World Food Programme (WFP) cut the ration size of its food basket for about one million internally displaced persons (IDPs) and 700,000 people affected by floods because of a funding shortfall. It is now giving each family 40kg of wheat flour per month, instead of 80kg. Other commodities are not affected by the cuts. To continue distributing full rations for the rest of the year, it needs an additional US\$103 million. In the towns of D.I. Khan and Tank, where most IDPs from South Waziristan are based, there have been angry protests over the ration cuts. Some of these protests, by Mehsud tribesmen, are continuing, according to the South Waziristan coordinator for the Federally Administered Tribal Areas (FATA) Disaster Management Authority, Syed Umar." (IRIN, 14 February 2013)

Agence France-Presse (AFP) news agency notes in October 2012 that according to latest figures from Pakistan's National Disaster Management Authority (NDMA), "[m]onsoon floods have killed 455 people over the past five weeks and affected more than five million". As further reported by AFP, "most of those hit by the latest floods were in Sindh province":

"Monsoon floods have killed 455 people over the past five weeks and affected more than five million, according to the latest figures from the government's disaster relief agency. Pakistan suffered devastating floods in the past two years, including the worst in its history in 2010 when catastrophic inundations across the country killed almost 1,800 people and affected 21 million. As in the previous two years, most of those hit by the latest floods were in Sindh province, where the National Disaster Management Authority (NDMA) said more than three million have been affected, with 890,000 in Punjab and nearly a million in Baluchistan. More than 260,000 people around the country have sought shelter in relief camps since early September, though this figure is down from the 290,000 reported by NDMA two and a half weeks ago." (AFP, 17 October 2012)

In February 2013, the UNOCHA states that as of December 2012, more than 43,000 people were still displaced in flood-affected districts:

“As of December, more than 43,000 people were still displaced in seven of the flood-affected districts while 1.1 million people were living in temporary shelters in their villages, as they were unable to reoccupy their houses due to damages, according to an assessment by the Temporary Settlement Support Unit of the Shelter Cluster in the seven districts. According to the findings, 66 per cent of the assessed flood-affected families reported a deterioration of their economic conditions, only 50 per cent of displaced families had access to clean drinking water, and 91 per cent of the assessed communities (displaced and returnees) reported shortages of medicines.” (UNOCHA, 28 February 2013, p. 3)

In its Humanitarian Bulletin on Pakistan dated 4 April 2013, the UNOCHA informs that the six-month Monsoon Humanitarian Operational Plan (MHOP) outlining the response to the needs of flood-affected people in Balochistan, Punjab and Sindh ended on 31 March 2013 and that “critical gaps” for humanitarian aid remain, “because humanitarian partners received only 32 per cent of the \$169 million requested under the MHOP”:

“The six-month Monsoon Humanitarian Operational Plan (MHOP) outlining the relief response in the areas hardest hit by the 2012 floods in Balochistan, Punjab and Sindh provinces ended on 31 March. Many projects have ended, but some shelter, health, nutrition, food security and WASH [Water, Sanitation and Hygiene] activities are ongoing. Although humanitarian partners have assisted more than 1.7 million people in response to the 2012 floods, critical gaps remain, because humanitarian partners received only 32 per cent of the \$169 million requested under the MHOP. Gaps include water, sanitation and hygiene services for more than 400,000 people and provision of basic health services for at least 1 million people.” (UNOCHA, 4 April 2013, pp. 2-3)

Useful information on the humanitarian response to the 2012 Pakistan floods as well as on remaining gaps for humanitarian aid can be found on the following website:

- Humanitarian Response Pakistan: Monsoon Updated 2012: Cluster: Protection, undated (b) <http://pakresponse.info/MonsoonUpdates2012/Clusters/Protection.aspx>

For further information on internal displacement caused by non-state armed groups and the armed forces, please refer to sections 3.1.4 and 4.2.4 of this compilation.

5.7 Trafficking of persons

In its annual report for 2011, dated March 2012, the Human Rights Commission of Pakistan (HRCP) gives the following brief overview regarding human trafficking in Pakistan:

“Pakistan is a country of origin, transit and destination for human trafficking. There is also believed to be considerable internal trafficking. In December, the interior minister said that Pakistan’s name had been removed from an international watch list in connection with human trafficking because of efforts of the Federal Investigation Agency (FIA) towards curbing the trafficking. He made the statement only 10 days after HRCP had called upon the government to probe how at least 170 Pakistanis from Balochistan ended up on a

vessel of human traffickers that sank off the coast of Indonesia. At least 55 young men from Balochistan's Hazara community perished in the accident. Human trafficking was also reported to be big business in some districts of Punjab from where a large number of residents had gone abroad. The change in the financial situation lured others to follow suit at any cost, even by relying on human traffickers." (HRCP, March 2012, p. 57)

In its June 2012 report on human trafficking (covering events from March 2011 to February 2012), the US Department of State (USDOS) provides the following information:

"Pakistan is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. NGOs, international organizations, and the media describe an increase in trafficking during the past year, due to flooding and the country's deteriorating security situation. The country's largest human trafficking problem is bonded labor, in which traffickers or recruiters exploit an initial debt assumed by a worker as part of the terms of employment. Bonded labor is concentrated in the Sindh and Punjab provinces in agriculture and brick-making, and to a lesser extent in the mining, carpet-making, glass bangle, and fishing industries. Bonded labor also exists in the fisheries, mining, and agricultural sectors of Balochistan and Khyber Pakhtunkhwa provinces. Estimates of bonded labor victims, including men, women, and children, vary widely. The Asian Development Bank estimates that 1.8 million people – one percent of Pakistan's population – are bonded laborers, though many NGOs place the estimate much higher. In extreme scenarios, such as when bonded laborers attempt to seek legal redress, landowners have kidnapped them and their family members, holding laborers and their families in private jails. Boys and girls are also bought, sold, rented, or kidnapped to work in organized forced begging rings, domestic servitude, and prostitution. NGOs report increased public visibility and awareness of the issue of violence in child domestic servitude, including sexual abuse, torture, and death. Illegal labor agents charge high fees to parents with false promises of decent work for their children, who are later exploited and subjected to forced labor in domestic servitude, unskilled labor, small shops, and other sectors. Children and adults with disabilities are forced to beg in Iran. Girls and women are also sold into forced marriages; in some cases their new 'husbands' move them across Pakistan's land borders and force them into prostitution in Iran or Afghanistan. Non-state militant groups kidnap children or coerce parents with fraudulent promises or threats into giving away children as young as nine to spy, fight, or die as suicide bombers in Pakistan and Afghanistan. The militants often sexually and physically abuse the children and use psychological coercion to convince the children that the acts the children commit are justified.

[...] There are reports of child sex trafficking between Iran and Pakistan. Pakistan is a destination for men, women, and children from Afghanistan, Iran, and, to a lesser extent, Bangladesh, who are subjected to forced labor and prostitution. Religious minorities, often in the lowest socio-economic stratum, and Afghan refugees are particularly vulnerable to human trafficking." (USDOS, 19 June 2012)

In an opinion piece for the Pakistani newspaper Dawn, Saba Karim Khan, an anthropologist from the University of Oxford, provides the following observations with regard to human

trafficking in Pakistan, stating that "official authorities and legislation/courts are often negligent if not complicit" in that issue:

"In Pakistan this issue is multi-dimensional (consisting of both bonded labour and sex trafficking) and stems from the fact that Pakistan is an origin, transit and destination country. The source countries from where Pakistan receives trafficked individuals include but are not limited to Bangladesh, Afghanistan, India, Nepal, Myanmar and Central Asia. Women being trafficked from the Middle East and Bangladesh transit through Pakistan before reaching their final destinations. Women and children are also trafficked from Pakistan to Saudi Arabia, India and sometimes onwards to Eastern Europe as well. Additionally, young boys have been trafficked from Pakistan to the United Arab Emirates to work as camel jockeys. Children as young as four and five have been uprooted from their families and sent to nurture the camels and participate in the races, often leading to serious injuries and death. [...]

There is no single group to be blamed for human trafficking; however in Pakistan's particular case one major factor exacerbating trafficking is that the official authorities and legislation/courts are often negligent if not complicit in cases of human trafficking. As a consequence, trafficking agents are not deterred by fear of accountability. Moreover, at present the structure of Pakistani society is such that it reinforces the hegemonic patriarchal system, within which women and children have limited operational capacity." (Dawn, 4 January 2013)

The Integrated Regional Information Network (IRIN) writes in an article dated March 2012 that according to activists, human trafficking cases in Sindh province have considerably increased since the start of 2012:

"Pakistan's Sindh Province has recorded a sharp increase in reported cases of human trafficking since the beginning of the year, and the trend could continue unless the authorities take action to contain it, say activists. Some 190 cases have been reported in the province in the first two months of 2012, according to Zia Ahmed Awan, chairperson of Madadgaar Helpline, an NGO helping women and child victims of abuse and trafficking. In 2011, the NGO recorded 288 cases. Families receive a payment for allowing their children to be trafficked: Traffickers pick up women and children from villages with the promise of getting them jobs in cities. However, once a certain amount has been paid to the family, the traffickers exploit the woman or child, often treating them as little more than slaves. 'Most of the victims are from Bangladesh and Afghanistan, where poverty and strife have made it difficult for people to meet their basic needs,' Awan said. [...] After the floods in 2010 and 2011, poverty increased in Sindh and many families dependent on farming had no other option but to send their children to bigger cities, say aid workers." (IRIN, 21 March 2012)

Quoting police and NGO statements, the same source notes in an article dated March 2011 that people with disabilities, including children, are trafficked from Sindh province to Iran for forced begging:

"Hundreds of people with disabilities are being trafficked to neighbouring countries to beg there, according to the police. Many come from the southern province of Sindh, and are destined for Iran. In the past few months, said Khadim Hussain Rind, a district police officer in the Khairpur District of Sindh, 200-300 disabled persons have been 'transported to Iran for beggary'. The numbers could be higher but some cases are not reported to police.

'The gang of traffickers is spread all over the province,' said Salam Dharejo, child labour manager with the NGO Society for the Protection of the Rights of the Child. Trafficking, he added, was a growing problem in both Khairpur and Shikarpur districts. A recent survey by the NGO found that some poor parents were being paid a lump sum of Rs 10,000-20,000 (US\$117-235), and offered a share in proceeds from begging, in exchange for allowing their disabled children to be taken to Iran. In Iran, the disabled Pakistanis, both children and adults, are taken to beg outside shrines or mosques." (IRIN, 14 March 2011)

A December 2012 article by the Express Tribune quotes a social activist as saying that "[w]omen from Pakistan's Bengali, Burmese and Seraiki communities were most vulnerable to traffickers". As maintained by the activist, "[n]ot only are these communities extremely poor but also the Bengalis and Burmese women don't have NICs [National Identity Cards]", making it "easy to smuggle them within the country". (Express Tribune, 8 December 2012b)

The same source notes that there are no laws in Pakistan that specifically address internal human trafficking, meaning that "authorities, such as the Federal Investigation Authority (FIA), cannot investigate or prosecute culprits":

"Zainab is among hundreds of women who have been kidnapped from one part of the country and forced into prostitution in another. Since the state does not recognise internal trafficking – the smuggling of people from one city to another within the country, for use as bonded labourers and sex workers – women like her find it hard to get justice or find happiness, if they are lucky enough to escape. [...] The absence of laws pertaining to internal trafficking means authorities, such as the Federal Investigation Agency (FIA), cannot investigate or prosecute culprits. Khan [from the Human Rights Commission of Pakistan (HRCP)] says the victim's family is usually only able to register a kidnapping case in such instances. Under the Prevention and Control of Human Trafficking Ordinance 2002, FIA only deals with human trafficking into and out of the country." (Express Tribune, 8 December 2012b)

As regards the prosecution of human trafficking offences, the above-mentioned June 2012 report by the USDOS states:

"The Government of Pakistan made limited progress in responding to human trafficking offenses through law enforcement means over the last year. Due to severe floods in 2010 and 2011, government officials focused their attention primarily on disaster relief and recovery; as a result, the government's ability to prosecute trafficking crimes and provide data continued to be hampered. Several sections in the Pakistan Penal Code criminalize some forms of human trafficking, such as slavery, selling a child for prostitution, and unlawful compulsory labor, prescribing punishments for these offenses that range from fines to life imprisonment. The Bonded Labor System (Abolition) Act (BLSA) prohibits

bonded labor, with prescribed penalties ranging from two to five years' imprisonment, a fine, or both. Pakistani officials have yet to secure a conviction under this law. Under the devolution process that started in 2010, federal laws apply to provinces until corresponding provincial laws are enacted. The Punjab provincial government enacted the Punjab Bonded Labor System (Abolition) (Amendment) Act in February 2012, but did not make any substantive improvement to the federal-level BLSA. Pakistan prohibits transnational trafficking in persons, as well as some non-trafficking offenses – such as people smuggling and fraudulent adoption – through the Prevention and Control of Human Trafficking Ordinance, 2002 (PACHTO), which prescribes penalties of seven to 14 years' imprisonment. [...]

The government did not report any trafficking convictions under the penal code. The government prosecuted at least 55 traffickers in 2011 compared with at least 68 traffickers in 2010 under the penal code: one for sex trafficking and 19 for labor trafficking, and 35 that were undifferentiated between sex and labor trafficking. Government officials sometimes conflated human smuggling and human trafficking, and the FIA's anti-trafficking units dealt with undocumented migration and smuggling, in addition to human trafficking. During 2011, the government reported that it convicted trafficking offenders under PACHTO. However, since PACHTO also prohibits non-trafficking offenses, and since some government officials conflate trafficking and smuggling, the actual number of convicted trafficking offenders is unknown." (USDOS, 19 June 2012)

The same source notes with regard to assistance and protection offered to victims of human trafficking:

"The Government of Pakistan made little progress in the protection of victims of human trafficking during the reporting period. Pakistani authorities continued to lack adequate procedures and resources for proactively identifying victims of trafficking among vulnerable persons with whom they come in contact, especially child laborers, women in prostitution, and agricultural and brick kiln workers. However, the FIA identified and referred some transnational victims to protective services. There were no credible data on the number of victims identified by the government. NGOs reported that trafficking victims were sometimes detained, fined, or jailed as a result of crimes committed in the course of their trafficking. Some victims were also detained in jails due to a shortage of appropriate shelters. Various government-run shelters are available to female trafficking victims, but there is no information as to how many such trafficking victims were assisted in shelters in 2011; furthermore, there were reports of abuse and lack of freedom of movement in the shelters. In partnership with NGOs, the government continued to provide some services to rehabilitate child laborers, some of whom may be victims of forced labor. The FIA reported that in partnership with NGOs, it provided some medical support, transportation, shelter, and limited legal services to victims of trafficking. There was no information as to how many trafficking victims received this support.

The government did not provide information on whether it made progress in implementing its 2001 National Plan of Action for Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers. Under the government's devolution process, which started in 2010, all

civil labor issues became the sole responsibility of the provinces, necessitating provincial-level action plans against bonded labor. There was no information on whether the Sindh provincial government continued to implement its project providing protection for freed bonded laborers, as noted in the 2011 TIP Report. There was no information on whether the government encouraged victims of trafficking to participate in investigations against their traffickers. The government did not report providing foreign victims with legal alternatives to their removal to countries where they may face hardship or retribution.” (USDOS, 19 June 2012)

Regarding the prevention of human trafficking, the USDOS states:

“The Pakistani government made limited progress in its efforts to prevent human trafficking. FIA officials participated in NGO-supported anti-trafficking public awareness campaigns, and distributed NGO-published awareness materials. FIA officials also gave speeches at universities and did radio and television interviews. Many of the district vigilance committees to curb bonded labor, mandated by law, are either inactive or ineffectual. As a measure to establish the identity of local populations, the National Database and Registration Authority continued to register women in rural areas and internally-displaced people. In 2011, various governmental academies reportedly provided training for all Pakistani UN Peacekeeping Mission forces, including in combating human trafficking, prior to their deployment abroad for international peacekeeping missions. The government took measures to reduce the demand for commercial sex acts by prosecuting some clients of prostitution. Pakistan is not a party to the 2000 UN TIP Protocol.” (USDOS, 19 June 2012)

For more information on internal trafficking of women and girls in Pakistan, see the following December 2012 report by freelance consultants Maliha Hussein and Shazreh Hussain for the Gender Equity Program (GEP) of Aurat Foundation:

- Hussein, Maliha /Hussain, Shazreh: Internal Trafficking of Women and Girls in Pakistan; A Research Study, December 2012
<http://www.af.org.pk/gep/Research%20Studies%20%28Gender%20Based%20Violence%29/study%20on%20trafficking%20final.pdf>

6 Rule of law/administration of justice

6.1 Overview of issues surrounding the administration of justice in the Pakistani court system

6.1.1 *Judicial independence*

As noted in the US Department of State (USDOS) annual report on human rights in 2012, “[t]he law provides for an independent judiciary, but the judiciary often was subject to external influences, such as fear of reprisal in terrorism cases” (USDOS, 19 April 2013, section 1e). An April 2012 report by the International Commission of Jurists (ICJ), based on findings during a mission to Pakistan conducted in September 2011, notes the following constitutional provisions for the independence of the judiciary:

“The Constitution protects the independence of the judiciary. Art. 68, for example, provides that no discussion shall take place in Parliament with respect to the conduct of any judge of the Supreme Court or of a High Court concerning his judicial activities. This must apply a fortiori to the Courts themselves, as collective bodies.” (ICJ, 2 April 2012, p. 11)

The USDOS report notes that “[i]n nonpolitical cases [...] the high courts and the Supreme Court” were considered to be “credible” by media and the public, while “[m]any lower courts remained corrupt, inefficient, and subject to pressure from prominent wealthy, religious, and political figures”. The report further notes that “government’s control over the court system” was increased by the “politicized nature of judicial promotions”. (USDOS, 19 April 2013, section 1e)

The April 2012 ICJ report states that “[b]y and large it can be said that the judiciary is independent of the executive and the legislature”, but points out several challenges:

It is noted that there are “certain difficulties connected with the general problems” in the country, in particular the abuse of position by justice sector personnel (including advocates) and “violent currents of religious militancy” undermining the rule of law (ICJ, 2 April 2012, p. 21).

As regards influence exerted on the judiciary by non-state actors, the report states:

“Non-state actors, such as business enterprises, armed groups and individuals may also try to exercise influence over the judiciary, thus posing a threat to its independence. A recent example is the case of Judge Pervez Ali Shah. He had sentenced to death Malik Mumtaz Hussein Qadri who had murdered Punjab Governor Salman Tasseer. The defendant believed that the Governor of the province was undermining the blasphemy law. Menaced by threats of death, Judge Shah had to flee to Saudi Arabia with his family. This is a symptom of an unfortunate circumstance. In the face of criminal threats and intimidation, the State seems incapable of securing the life and safety of some of its citizens, including judges.” (ICJ, 2 April 2012, p. 13)

With respect to the nomination of judges, the report states that “[t]here are strong political tensions which lead to the result that not always the candidate best qualified is promoted” and that “[t]he proceedings are not fully transparent” (ICJ, 2 April 2012, p. 22). As regards corruption in the judiciary, the report states that while the ICJ mission was informed that the government “had substantially raised the salaries of first instance judges”, they were also told that this measure “had not so far shown a beneficial effect in the fight against corruption” (ICJ, 2 April 2012, p. 14).

One of the “more controversial issues in the administration of justice in Pakistan”, covered in detail in the ICJ report, is that of cases taken away from lower courts by the Supreme Court in suo motu proceedings (i.e. on its own initiative) as provided in Article 184 (3) of the Constitution. As the report remarks, “a considerable number” of such cases “has accumulated” in recent years (ICJ, 2 April 2012, p. 15). The legal conditions for these proceedings are summarised as follows:

“There are two conditions that must be met in order to trigger an exercise of the Supreme Court’s suo motu jurisdiction under Art 184(3). First, the issue must involve one of ‘public importance’. Second, it must in some way have an impact on the enforcement of ‘fundamental rights’ notably those contained in Chapter 1 part II of the Constitution. Both these conditions are an essential requirement before the Court is entitled to determine matters in the exercise of its suo motu powers.” (ICJ, 2 April 2012, p. 16)

The ICJ report notes that “[t]here seems to be an element of arbitrariness in the decision to apply” suo motu proceedings, and that the ICJ “came to the view that they are used rather excessively” (ICJ, 2 April 2012, p. 22).

The effects of suo motu proceedings on district and high courts, as well as on the procedural rights of individuals, are evaluated as follows:

“On the one hand it was pointed out that the intervention of the Supreme Court has or is at least meant to have a pedagogical and preventive effect. It alerts the first instance court or the High Court, and also the investigating and prosecuting authorities, to cases raising issues of fundamental rights of individuals and teaches them how to deal with them. This is definitely very encouraging. On the other hand, it will also have a certain effect of frustrating lower courts, because the Supreme Court does the work it ought to have done itself. Finally, in some cases [...] the Supreme Court gives precise directions as to how lower courts ought to do their work and this interferes with the latter’s independence. [...]

As the examples show, some of the suo motu cases involve individuals who were personally victimized [...]. These persons will normally be served in an excellent and privileged way. Yet, while they may originally have had the possibility to pursue their interests through three instances, they find themselves now reduced to only one instance. While this may work for their benefit, ultimately it also bypasses the ordinary course of justice.” (ICJ, 2 April 2012, pp. 20-21)

The Human Rights Commission of Pakistan (HRCP) states in its annual report of March 2013 (covering events of 2012):

"As the legislature and the executive progressively suffered a loss of credibility the third organ of the state, the judiciary, assumed the role of the supreme, and often the sole, defender of the constitution and public interest. Instances of misgovernance, favouritism, abuse of authority, corruption and, above all, the poor reputation of the custodians of power enabled the Supreme Court to extend the limits of judicial activism. [...]

Judicial activism played no small a role in motivating people from diverse walks of life to treat the Supreme Court as the port of first call. [...] The Supreme Court human rights cell was kept busy by a large number of citizens seeking redress for a variety of grievances." (HRCP, March 2013, pp. 20-21)

The same HRCP report adds that the Supreme Court "succeeded in establishing complete control over appointment of judges of superior courts" (HRCP, March 2013, p. 21).

The Freedom House annual report on political rights and civil liberties in 2011 notes that "[o]bservers voiced concern that the judiciary was becoming increasingly close to the army, supporting its agenda while trying to undermine the executive" (Freedom House, May 2012a).

A July 2012 Human Rights Watch (HRW) report notes:

"Despite the adoption of the National Judicial Policy in 2009, access to justice remains very poor across Pakistan. Lower courts remain rife with corruption and are abysmally incompetent. Case backlogs remain huge at all levels." (HRW, 5 July 2012)

The Freedom House report states with respect to lower courts:

"Lower courts remain plagued by corruption, intimidation, and a backlog of more than a million cases that results in lengthy pretrial detention. The 2009 National Judicial Policy aimed to tackle all three problems, and appears to have had some positive effects, with backlogs dramatically reduced in certain provinces." (Freedom House, May 2012a)

An October 2012 article in the PakTribune newspaper quotes Chief Justice Iftikhar Muhammad Chaudhry as saying that corruption in lower judiciary undermined the image of the institution and hampered the administration of justice (PakTribune, 5 October 2012).

The USDOS annual report on human rights in 2012 states:

"There were extensive case backlogs in the lower and superior courts, as well as other problems that undermined the right to effective remedy and the right to a fair and public hearing. According to Chief Justice Chaudhry, more than 1.6 million cases were pending in the district and the superior courts as of August. Delays in justice in civil and criminal cases were due to antiquated procedural rules, weak case management systems, costly litigation, and weak legal education. [...] Unfilled judgeships and inefficient court procedures continued to result in severe backlogs at both the trial and appellate levels." (USDOS, 19 April 2013, section 1e)

In her May 2012 preliminary observations on a mission to Pakistan, published by the UN Office of the High Commissioner for Human Rights (OHCHR), the UN Special Rapporteur on the Independence of Judges and Lawyers Gabriela Knaul states:

"In order to deliver justice and uphold the rule of law, the judiciary must be properly equipped and adequately financed. Regrettably, according to the information I have received, the percentage of the budget allocated to the judiciary is minimal and far below that of other institutions of the State. With less than 1 per cent of the total federal budget attributed to the judiciary, improvements will be slow and conditions of work of the judiciary will remain unsatisfactory. The same issue applies at provincial level, even more so, since it has been reported to me on several occasions that the district level judiciary is the one which suffers the most from lack of financial support. [...]

In order to ensure the independence of judges, their appointments should follow objective criteria clearly defined and set up in the rules and procedure of appointment. Such objective criteria should exist at all levels of the judicial system and should not be subjected to the vested interests of political and other actors.

Furthermore, it was brought to my attention that there exists a considerable back-log of cases at all levels, but especially in the lower courts. The number of cases per judge reported to me is alarmingly high and contribute to the further delay of the delivery of justice. I believe that the insufficient number of judges at lower court level has a significant impact on the confidence of the public in the functioning of the judiciary. [...]

In addition to the lack of judges in the lower courts, it seems that the situation is somewhat similar in High Courts. [...]

I am worried by the number and nature of reported cases of serious threats and attacks of judges. [...]

I would like to commend the use of inherent powers of the Supreme Court in recent cases related to gross human rights violations, for instance in the case of enforced disappearance referred to as 'missing persons' in Balochistan. [...] However, I am concerned by the lack of clear criteria guiding the use of suo moto, which can undermine its own nature and may jeopardize other pending cases from being timely considered by the Supreme Court.

I would like to address now the particularly difficult situation in which the prosecutorial services are, and particularly the ones at the district courts level. [...] Different sources have informed me about the poor quality of these services, which results in an extremely low conviction rate. Issues related to the procedures for providing evidence, especially in criminal cases, also contribute to poor conviction rates, thereby raising a feeling of impunity among the general public. [...]

I am aware of the difficulties faced by prosecution services due to the poor quality of investigations carried out by police services. [...]

Guaranteeing security for lawyers is also of utmost importance. Threats, attacks, kidnappings and killings of lawyers should not be tolerated. It was brought to my attention that some lawyers refuse to take up cases which are deemed sensitive as regards religion, customs or tradition out of fear of reprisals against themselves or their families." (OHCHR, 29 May 2012)

6.1.2 Torture and ill-treatment of criminal suspects

The US Department of State (USDOS) annual report on human rights in 2012 provides the following information:

"SHARP [Society for Human Rights and Prisoners' Aid] reported that police tortured persons in more than 9,300 cases, compared with 8,000 cases in 2011. SHARP and other human rights organizations reported that methods of torture included beating with batons and whips, burning with cigarettes, whipping the soles of feet, prolonged isolation, electric shock, denial of food or sleep, hanging upside down, and forced spreading of the legs with bar fetters. Torture occasionally resulted in death or serious injury. Observers noted the underreporting of torture throughout the country.

There were reports that police personnel employed cruel and degrading treatment and punishment. [...]

There were reports that police and security forces raped women." (USDOS, 19 April 2013, section 1c)

The UK Foreign and Commonwealth Office (FCO) annual report for the year 2012, published in April 2013, notes that „[r]eports of mistreatment of those in police custody continue to surface" and that there is "little evidence of the authorities taking these allegations seriously" (FCO, April 2013).

The March 2013 annual report of the Human Rights Commission of Pakistan (HRCP), covering events of 2012, states that "[t]orture in police custody also continued as a norm" during the reporting period. The HRCP notes that "one juvenile was reported to have been killed in police custody in Jhang district of Punjab in August 2012" (HRCP, March 2013, p. 187). In May 2012, Muzaffar Bhutto, Secretary General of Jiye Sindh Muttahida Mahaz party, who had gone missing in February 2011, was found shot dead near Hyderabad, with his body bearing torture marks. The same report notes that in January 2012, a man detained for suspected involvement in an attack on the military headquarters was found dead in Peshawar. Three other persons detained on the same charges had previously turned up dead (HRCP, March 2013, pp. 326-327).

For further information on torture and other ill-treatment by security forces (including police), please refer to section 4.2.4 of this compilation.

6.1.3 Impunity for extrajudicial killings, disappearances, and other human rights violations by state actors

The April 2013 UK Foreign and Commonwealth Office (FCO) annual report notes that “corruption and low standards of integrity plague law enforcement throughout the country and impact on almost all human rights issues as offenders are often able to act with impunity” (FCO, April 2013).

As noted by the US Department of State (USDOS) with respect to reported cases of rape committed by police and security forces, “[t]he government rarely took action against those responsible” (USDOS, 19 April 2013, section 1c).

Referring to observations made by the Asian Human Rights Commission (AHRC), the USDOS notes with regard to torture:

“According to the AHRC, the absence of proper complaint centers and a particular section in the criminal code to define and prohibit torture contributed to the spread of such practices. The AHRC stated that there had been no serious effort by the government to make torture a crime and added that the state provided impunity to the perpetrators, who were mostly either police officers or members of the armed forces.” (USDOS, 19 April 2013, section 1c)

The December 2012 Asian Human Rights Commission (AHRC) annual report states:

“Widespread corruption, religious extremism, armed conflict, terrorism and counter-terrorism, allied with weak institutions, and impunity for perpetrators, engender grave abuses, such as torture, forced disappearances, extra-judicial killings, and discrimination and violence against religious minorities and women. [...]”

Despite having accepted recommendations to ratify the International Convention on the Protection of All Persons from Enforced Disappearance (CPED), the government of Pakistan has refused to follow through. Numerous disappearances continue to be reported. Fundamental rights enshrined in these instruments, including the protection from torture, from forced disappearance, and from extra-judicial killing, continue to be violated, widely and with impunity.

Violations remain widespread due to the failings of, and lack of reforms to, the country’s institutional framework, in particular, key institutions of the rule of law – the police, the prosecution, and the judiciary. This is compounded by persisting impunity enjoyed by Pakistan’s military and intelligence agencies. The lack of effective investigations by the police and the lack of effective prosecutions, even in the rare cases where alleged perpetrators are brought to court, mean that violations continue to go unpunished. Where those responsible are state agents and members of powerful groups, this is even more marked. The Government of Pakistan has thus failed to implement the recommendations made to ensure fair trials, punish cases of abuse by the security forces, and ensure that victims have access to protection and redress.

Widespread, endemic, corruption has a direct impact on these institutions' protection of rights, engendering both abuse and impunity. It leads to violations such as torture being committed by the police in regular criminal investigations, and critically undermines the country's justice delivery mechanisms. The involvement of the military in land-grabbing and illegal exploitation of natural resources is also a source of grave violations and internal conflict, as seen in Balochistan." (AHRC, 10 December 2012, pp. 1-2)

The US Department of State (USDOS) annual report on human rights in 2012 makes the following observations:

"The law prohibits arbitrary arrest and detention, but authorities did not always comply. This problem was compounded by widespread corruption. [...]

Some members of police committed human rights abuses or were responsive to political interests. [...]

Frequent failure to punish abuses contributed to a climate of impunity. Police and prison officials frequently used the threat of abuse to extort money from prisoners and their families. The inspectors general, district police officers, district nazims (chief elected officials of local governments), provincial interior or chief ministers, the federal interior minister, the prime minister, or courts can order internal investigations into abuses and order administrative sanctions. Executive branch and police officials can recommend, and the courts can order, criminal prosecution. These mechanisms were used occasionally.

The court system remained the only means available to investigate abuses by security forces." (USDOS, 19 April 2013, section 1d)

With respect to judicial remedies for human rights violations, the USDOS states:

"Persons may petition the courts to seek redress for various human rights violations, and courts often took such actions. Individuals may seek redress in civil courts against government officials, including on grounds of denial of human rights in civil courts. Observers reported that civil courts seldom, if ever, issued official judgments in such cases, and most cases were settled out of court. Although there were no official procedures for administrative redress, informal reparations were common." (USDOS, 19 April 2013, section 1e)

The Freedom House annual report on political rights and civil liberties in 2011 states:

"Progress on creating an official human rights body empowered to investigate cases and redress grievances has been slow, and while a number of cases are investigated and some prosecutions do occur, impunity for human rights abuses remains the norm." (Freedom House, May 2012a)

Several sources address the issue of accountability of state actors in cases of enforced disappearance:

The Human Rights Watch (HRW) annual report for 2012 states that “[w]hile the Supreme Court was active in raising the issue of government abuses in Balochistan, no high-level military officials were held accountable for them” (HRW, 31 January 2013).

A March 2013 statement by Amnesty International (AI) notes that “despite repeated promises [...] Pakistan has made little progress in determining the fate of thousands of people subjected to enforced disappearance” (AI, 18 March 2013).

In its February 2013 report on a mission to Pakistan (published by the UN Human Rights Council, HRC) the UN Working Group on Enforced or Involuntary Disappearances notes:

“There are five High Courts in Pakistan, one for each Province and one for the Islamabad Capital Territory, serving as appellate courts on most civil and criminal matters, with the exception of some crimes under sharia law. [...] They may also rule on habeas corpus appeals and generally enforce fundamental rights. No such order may, however, be made by or in relation to a person who is a member of the armed forces of Pakistan (article 199(3) of the Constitution). A special military court system is in charge of dealing with cases relating to or implicating members of the armed forces, thus shielding them against any order or, more generally, any prosecution directed against them before civil courts. This is a matter of concern for the Working Group. Furthermore, article 245(3) excludes the jurisdiction of the High Courts under article 199 ‘in relation to any area in which the Armed Forces of Pakistan are, for the time being, acting in aid of civil power in pursuance of Article 245’. It is also of great concern that, according to this provision, as applied by specific regulations (para. 28), the High Courts are thus incapable of directing orders to the armed forces, in particular habeas corpus orders, in situations where the armed forces are acting in aid of civil power. [...]

The jurisdiction of the superior courts does not extend to the Federally Administered Tribal Areas (FATA), thus denying citizen’s access in the enforcement of fundamental rights guaranteed in the Constitution and by international standards. This is clearly an important impediment to the realization of human rights in these areas. In particular, it prevents the courts from playing the fundamental role that they have played elsewhere in preventing enforced disappearances or helping to locate those who have been abducted.” (HRC, 26 February 2013, p. 8)

The same report further describes the judiciary’s role in dealing with cases of forced disappearance:

“In 2007, the Supreme Court considered a number of petitions submitted by individuals or non-governmental organizations. This was followed by provincial high courts, which also began to take up cases under their jurisdiction to protect human rights. [...]

Efforts made by the courts have proved to be efficient in a number of cases, where the persons have been effectively traced and found, and finally returned to their families. In the large majority of cases, however, the investigations initiated under the orders of the courts have been inconclusive. [...]

Although the courts are generally praised for their efforts, complaints were reported to the Working Group that, in some instances, the courts have avoided using compelling methods to ensure the presence and cooperation of law enforcement and intelligence agencies whose agents have been accused of having perpetrated an enforced disappearance." (HRC, 26 February 2013, pp. 12-14)

In its December 2012 report on human rights abuses in the Tribal Areas, Amnesty International (AI) states:

"State and non-state perpetrators of human rights violations and abuses continue to act with total impunity in the Tribal Areas. As far as Amnesty International is aware, no serving or retired member of Pakistan's Armed Forces, law enforcement authorities, or intelligence services has been prosecuted for their alleged involvement in unlawful detentions, torture and other ill-treatment, or the unlawful killing of detainees in the Tribal Areas, including all the cases documented in this report. [...]

A key driver of impunity for state and non-state perpetrators is the constitutional exclusion of the courts from ruling on fundamental rights issues in FATA. [...]

Despite several legal and practical barriers, relatives have brought cases before Pakistan's courts challenging the lawfulness of detentions by the Armed Forces and the AACPR regime by invoking constitutional rights protections." (AI, 13 December 2012, pp. 9-10)

The report notes that while in some high profile cases, "the authorities have even conceded that they had acted unlawfully [...] acknowledgements of unlawful detentions by the State and warnings by the courts that state agents will be arrested and prosecuted have failed to translate into justice for victims of violations in detention" and that "few, if any, non-state perpetrators of abuses have been brought to justice in fair trials" (AI, 13 December 2012, pp. 9-10).

The February 2013 report by the UN Working Group on Enforced or Involuntary Disappearances notes:

"According to various sources, criminals, terrorists and militants from armed groups enjoyed great impunity because, even when investigations were initiated against them, they managed to evade prosecution by using threats against the police, judges and witnesses. [...]

The Working Group was informed by Government officials that families of disappeared persons were not keen to file complaints against named perpetrators and that, in the absence of any complaint, no prosecution could be initiated. [...]

It was also reported to the Working Group that some victims and witnesses received serious threats when reporting their cases to the police, the courts or the Commission of Inquiry." (HRC, 26 February 2013, pp. 12-15)

6.14 Revival of the use of the death penalty

The UK Foreign and Commonwealth Office (FCO) annual report of April 2013 (covering the year 2012) states:

"The year saw the first execution in Pakistan since a de facto moratorium was put in place by President Zardari in 2008. Muhammed Hussain, a soldier who murdered his commanding officer, was hanged in November following conviction by a military court in 2009. The Pakistani government has said this was a military case and does not breach the moratorium." (FCO, April 2013)

The Amnesty International (AI) annual report on the use of the death penalty and executions in 2012, published April 2013, provides the following information:

"Pakistan carried out its first execution since 2008 on 15 November, when the military authorities executed soldier Muhammed Hussain for the killing of a superior officer and two others. Government officials told Amnesty International that the execution was a military case and ran counter to existing policy of the government of Pakistan.

More than 8,300 people were on death row at the end of the year, and 242 new death sentences were imposed. [...]

The authorities scheduled the execution of Pakistan national Behram Khan for 30 June in Karachi. He had been sentenced to death by an Anti-Terrorism Court on 23 June 2003 for the murder of lawyer Mohammad Ashraf. The execution was postponed.

Reports indicated that five prisoners in Mach Jail, Balochistan, were on death row for crimes committed while they were juveniles. In July, the government began consultations on a draft parliamentary bill to commute all death sentences to life imprisonment.

At its UPR on 30 October, Pakistan agreed to provide an answer before the 22nd session of the UN Human Rights Council in March 2013 to recommendations to repeal all provisions providing for mandatory death sentences with a view to abolishing them; declare an official moratorium on the death penalty; and abolish it from national legislation." (AI, April 2013, pp. 23-24)

The issue of death penalty is addressed by the Human Rights Commission of Pakistan (HRCP) in its annual report for 2012 as follows:

"Almost four years to the day since Pakistan last executed a death row prisoner, a prisoner was hanged in a prison in Mianwali district of Punjab in mid-November. The man hanged, Muhammad Hussain Haral, was a former soldier and had been convicted in February 2009 by a military court for the 2008 murder of another soldier. The last execution in Pakistan in late 2008 had also been carried out on a conviction by a military court.

The hanging took the civil society quite by surprise because up until that time although dates were set for execution of several death penalty convicts but the punishment was always put off. In fact, in May HRCP had called upon the president to stay the execution of

a prisoner in Karachi after learning that he would be hanged on May 23. The execution had been stayed. According to media report the Mianwali jail authorities had expected to receive stay orders from the president's office, as had happened many times when executions had been scheduled, but none came.

The hanging in November raised concerns at several levels. It was not known if the hanging had been on account of an oversight or the fact that this execution was based on a conviction by a military court had anything to do with that.

Another worry was that despite several reminders the government had not kept the promise it had made in 2008 to convert almost all death sentences into life imprisonment.

It seemed in the following weeks that the execution was a one-off and the informal moratorium remained in effect. However, since that had not been made formal concerns grew that with the government due to complete its five-year tenure in March 2013, a change of government could potentially have serious consequences on state policy on executions. A reversal of policy could have the most immediate consequences for death row prisoners charged with offences other than murder. That was because in murder cases, the authorities in Pakistan frequently extended the execution date to allow time for the convict to reach a settlement with the family of the deceased. No such delaying factors were available to people given capital punishment on other charges once all judicial challenges to their conviction were exhausted. They were at the most immediate risk of being hanged if executions resumed.

In November, the president's spokesman had stated that the government was considering converting death sentence into life imprisonment and was taking appropriate legislative measures for the purpose. He said the prime minister had constituted a committee comprising minister for interior, minister for law, attorney general and representatives of provincial governments to make recommendations. If any progress was made in that respect it was not made public.

In September, the president ordered that execution of seven death row prisoners in Rawalpindi's Adiyala jail should be deferred for three months. The seven prisoners had requested a presidential pardon. Two months earlier, the Sindh law minister had stated no convict of death sentence would be hanged so long as the PPP government was in office.

The courts continued to award death sentences for various offences throughout 2012. As many as 242 persons were reported to have been sentenced to death on various charges during the year. [...]

At the end of 2012, as many as 7,119 persons convicted of death penalty offences were in prisons across Pakistan." (HRC, March 2013, pp. 80-82)

6.1.5 Due process (including arrest and detention procedures)

The US Department of State (USDOS) annual report on human rights in 2012 notes with regard to judicial procedures and remedies:

"The civil, criminal, and family court systems provide for public trial, presumption of innocence, cross-examination by an attorney, and appeal of sentences. There are no trials by jury. Although defendants have the right to be present and consult with an attorney, courts appointed attorneys for indigents only in capital cases. Defendants bear the cost of legal representation in lower courts, but a lawyer can be provided at public expense in appellate courts. Defendants can confront or question witnesses brought by the prosecution and present witnesses and evidence on their behalf. Defendants and attorneys have legal access to government-held evidence relevant to their cases. Due to the limited number of judges, a heavy backlog of cases, lengthy court procedures, frequent adjournment, and political pressure, cases routinely lasted for years, and defendants had to make frequent court appearances." (USDOS, 19 April 2013, section 1e)

With respect to judicial procedures involving juvenile prisoners, the USDOS quotes the non-governmental Society for the Protection of the Rights of the Child (SPARC) as saying that juvenile prisoners were subject to a slow process due to a lack of special juvenile courts or judges and that a fair and just juvenile justice system did not exist in the country (USDOS, 19 April 2013, section 1e).

The Human Rights Commission of Pakistan (HRCP) reports in March 2013:

"Another year went by without the establishment of a single juvenile court or regular provision of free legal assistance to juveniles involved in criminal litigation despite express provisions to the effect in the Juvenile Justice System Ordinance (JJSO) 2000." (HRCP, March 2013, p. 187)

Procedures regarding the anti-terrorism courts are described by the USDOS as follows:

"The Anti-Terrorism Act allows the government to use special streamlined courts to try persons charged with violent crimes, terrorist activities, acts or speech designed to foment religious hatred, and crimes against the state. After arrest, suspects must be brought before the antiterrorism courts within seven working days, but the courts are free to extend the period. Human rights activists criticized the expedited parallel system, charging it was more vulnerable to political manipulation." (USDOS, 19 April 2013, section 1e)

Arrest and detention procedures and practices are detailed by the USDOS as follows:

"A First Information Report (FIR) is the legal basis for any arrest. Police ability to initiate an FIR is limited; however, for certain crimes the police may initiate an FIR. Often a different party must file the FIR, depending on the type of crime, irrespective of whether there is reasonable proof of a crime. An FIR allows police to detain a suspect for 24 hours, after which a magistrate can order detention for an additional 14 days if police show that the detention is material to the investigation. Some authorities did not observe these limits on detention. There were reports that authorities filed FIRs without supporting evidence to

harass or intimidate detainees or did not file them when adequate evidence was provided unless the complainant paid a bribe. [...]

Arbitrary Arrest: There were reports that some police detained individuals arbitrarily without charge or on false charges to extort bribes for their release. There were reports that some police also detained relatives of wanted individuals to compel suspects to surrender [...].

Pretrial Detention: Police routinely did not seek a magistrate's approval for investigative detention and often held detainees without charge until a court challenged the detention. When requested, magistrates approved investigative detention without requiring further justification. In cases of insufficient evidence, police and magistrates sometimes colluded to issue new FIRs, thereby extending detention beyond the 14-day period.

The district coordination officer may recommend preventive detention for as long as 90 days to the provincial home department and, with the approval of the Home Department, can extend it for an additional 90 days. The law stipulates that detainees must be brought to trial within 30 days of their arrest.

Judges sometimes denied bail at the request of police or the community or upon payment of bribes. In some cases trials did not start until six months after the FIR, and at times individuals remained in pretrial detention for periods longer than the maximum sentence for the crime with which they were charged. SHARP [Society for Human Rights and Prisoners' Aid] estimated that approximately 75 percent of the prison population was awaiting trial. The high number of inmates awaiting trial remained a large burden on the country's jails. In some cases detainees were informed promptly of charges brought against them.

NGOs reported that bail sometimes was denied in blasphemy cases under the premise that, because defendants faced the death penalty, they were likely to flee.

Special rules apply to cases brought to court by the National Accountability Bureau (NAB), which under the law established courts for corruption cases. Suspects may be detained for 15 days without charge (renewable with judicial concurrence) and, prior to being charged, may be deprived of access to counsel. During the year the NAB rarely exercised this power. All offenses under the NAB are nonbailable, and only the NAB chairman has the power to decide whether to release detainees

Antiterrorism courts had the discretion to deny bail for some charges if the court had reasonable grounds to believe the accused was guilty." (USDOS, 19 April 2013, section 1d)

An October 2011 International Crisis Group (ICG) report states:

"Under Article 10(2) of the constitution, a person in custody must be brought before a magistrate within 24 hours of arrest. The magistrate can then extend the duration of detention if there are sufficient grounds for the case. The law prohibits the police from detaining a person for longer than fourteen days, after which the individual must be sent

to a prison that will be responsible for ensuring the prisoner's presence in court. A trial, however, can commence only after a case brief (challan), has been prepared, a process that can take up to two years. Police negligence and incompetence can even result in challans not being issued at all. [...] Even when a case begins, the police, responsible for transporting and guarding prisoners, more often than not fail to bring them to court on trial dates. While prisons officials frequently complain of a lack of cooperation on the part of the police, the latter maintain that their already scarce resources can seldom be spared for prison-related duties. However, corruption is also responsible for such delays, with prison staff (or police) seeking bribes from prisoners to ensure access to a judge, adding to already prohibitive costs of litigation, while those without means are often denied their day in court." (ICG, 12 October 2011, p. 11)

According to the ICG, "[j]uvenile prisoners fall under the ambit of the Juvenile Justice System Ordinance (JJSO), 2000, and subordinate rules that apply to all four provinces but not to FATA or KPK's PATA" (ICG, 12 October 2011, p. 17). In contrast, Dawn newspaper reports in October 2012 that the JJSO was "extended to Pata by the governor with prior approval of the president on Oct 20, 2004; and later on, the president extended the law to Fata through a notification on Nov 6, 2004". However, Dawn also notes that "[n]ot a single step has so far been taken by the government for implementing the law in the Fata" (Dawn, 1 October 2012).

Detention procedures and practices regarding juvenile prisoners are described by the ICG as follows:

"The JJSO extends juvenile justice safeguards to all those accused or sentenced before the age of eighteen; under earlier provincial laws, the age limit had been sixteen. [...] The law also contains important provisions regarding bail for juveniles and their pre-trial detention. Children arrested for a non-bailable offence must be produced before the juvenile court within 24 hours of arrest. A child arrested for a bailable offence should be released on bail, with or without surety, unless there are 'reasonable grounds' for believing that a release would 'bring him into association with any criminal or expose the child to any danger'. Under such circumstances, the court must place the child in the custody of a probation officer or a suitable person or institution but explicitly not in a police station or prison. [...]

The JJSO limits the length of time a child may be detained before the trial's completion, depending on the gravity of the charges. A detained child must be released on bail for offences punishable by death if the trial is not completed within one year; for offences punishable by life imprisonment if the trial is not completed within six months; and for any other offence, if the trial is not completed within four months. Notwithstanding these provisions, however, bail can be refused if the accused is over fifteen and commits an offence which is 'serious, heinous, gruesome, brutal, sensational in character or shocking to public morality', or has been previously convicted for an offence punishable by death or life imprisonment. [...] The legal complexities of a warped legal system also undercut the JJSO's legal protections. For instance, the Hudood Ordinances override both the Pakistan Penal Code and the JJSO, including provisions relating to minimum age requirements. [...] Children are also regularly tried under the Anti-Terrorism Act of 1997 in Anti-Terrorism

Courts (ATCs), despite the JJSO's requirement that the trials of juveniles should be conducted by specially constituted juvenile courts. While the JJSO abolished the death sentence for those under eighteen, the ATA mandates death or life imprisonment, irrespective of age and gender. [...] As of December 2010, some 40 juveniles were in KPK's prisons charged under the ATA, and more than 200 juveniles were detained in newly declared sub-jails in Fiazaghat, Pahtam and Malakand." (ICG, 12 October 2011, pp. 17-19)

With respect to the current Frontier Crimes Regulations (FCR) in FATA and the Provincially Administered Tribal Areas (PATA), the same report states:

"Under the FCR in FATA, each tribal agency is administered by a political agent, who has legal authority to detain individuals preventively and require 'bonds' to prevent undesired activity. In August 2011 the FCR was amended to exempt women over age 65 and children below age 16 from collective punishment. Collective punishment is applied incrementally, starting with the first immediate male family members, followed by the subtribe, and continuing outward. Although this reduces its scope, the FCR assigns collective punishment without regard to individual rights. Human rights NGOs expressed concern about the concept of collective responsibility, as authorities used it as a pretext to detain members of fugitives' tribes, demolish their homes, confiscate or destroy their property, or lay siege to a fugitive's village pending his surrender or punishment by his own tribe in accordance with local tradition. Under the amended FCR, indefinite detention is not allowed, and appeals can be made before the FCR tribunal. If wrongfully punished, prisoners have the right to compensation. Cases must be decided within a specified period of time, and arrested persons can be released on bail. Prisoners must be brought before FCR authorities within 24 hours of detention, curtailing the arbitrary right of political agents to arrest and hold persons for up to three years. The accused have the right of appeal via a two-tiered system, which starts with an appellate authority composed of an FCR commissioner and an additional judicial commissioner.

Under the FCR in FATA and the Provincially Administered Tribal Areas (PATA), security forces may restrict the activities of terrorism suspects, seize their assets for up to 48 hours, and detain them for as long as one year without charges. Human rights and international organizations reported that an unknown number of individuals allegedly affiliated with terrorist organizations were held indefinitely in preventive detention, tortured, and abused. In many cases these prisoners were held incommunicado and were not allowed prompt access to a lawyer of their choice; family members often were not allowed prompt access to detainees." (USDOS, 19 April 2013, section 1d)

As reported by the US Department of State (USDOS) in April 2013, "extensive case backlogs in the lower and superior courts [...] as well as other problems [...] undermined the right to effective remedy and the right to a fair and public hearing" (USDOS, 19 April 2013, section 1e).

Internment camps for suspected militants

As reported by the USDOS, the Actions in Aid of Civil Power Regulation (AACPR) 2011 “empowers the KP governor in the FATA, and the KP government in the PATA, to direct the armed forces to intern suspected terrorists” (USDOS, 19 April 2013, section 1d).

The February 2013 report by the UN Working Group on Enforced or Involuntary Disappearances specifies that the AACPR empowers “the Governor of the Province to issue an order of internment on the basis of a mere security threat”. The report states that “[o]nly after 120 days does the ‘interning Authority’ have the obligation to notify the internment to an oversight board comprising two civilians and two members of the military (sect. 14, para. 1)”, which “is then to periodically review the conditions of internment centres and recommend suitable action for the consideration of the provincial Government (sect. 14, para. 2)”. The working group report notes that “[t]he board is also in charge of protecting the human rights of internees” (HRC, 26 February 2013, pp. 7-8).

For further information on the AACPR, please see section 2.2.2 of this compilation.

The Human Rights Commission of Pakistan (HRCP) notes that according to information received by the Peshawar High Court (PHC) from Khyber-Pakhtunkhwa officials in May 2012, 1,930 previously missing persons were identified. 895 of them had been moved to internment centres (HRCP, March 2013, p. 36). The HRCP report continues:

“By the beginning of November the court appeared to be losing patience with the various agencies. It directed that all security agencies and the Chief Secretary should meet to prepare a final list of ‘missing persons’ by December 04. The list was presented on December 18. The court was told 45 ‘missing persons’ had been released, 261 detainees were described as hard-core militants and shifted to internment centres. Some were to be shifted to a de-radicalisation centre.” (HRCP, March 2013, pp. 35-36)

The same source further reports on the following case:

“The Supreme Court remained seized of the plight of the Adiala group detainees who had been taken into custody by a military intelligence agency after they had been acquitted by an anti-terrorism court and a high court had struck down Punjab government’s order for their detention. No substantial relief to them was possible. [...]

On January 30 the court was informed by the counsel for ISI [Inter-Services Intelligence] and MI [Military Intelligence] that out of the seven surviving detainees four had been admitted to the Lady Reading Hospital in Peshawar, while the other three were being held at an internment centre at Parachinar, established under the Action in Aid of the Civil Power Regulation. The latter were in the custody of the provincial government (KPK).

The court ordered the counsel to present all the seven surviving detainees on February 9. [...]

The detainees were not produced on the appointed date. On February 10th the court directed the agencies to produce the seven men by February 13. This time the court order was complied with and the seven detainees – Mazharul- Haq, Shafiq-ur-Rehman, Mohammad Shafiq, Dr-Niaz Ahmed, Abdul Majid, Gulroze, and Abdul Basit were brought to the court.

All the seven men looked frail and weak, and were unable to speak or walk. Those present in the court room could hardly bear the sight of the disease-racked skeletons.” (HRCP, March 2013, p. 38)

The BBC reports in a January 2013 article:

“Pakistan has for the first time admitted that it is holding about 700 suspected militants without trial. Attorney General Irfan Qadir said the prisoners were in internment centres in the tribal belt near the Afghan border. He said a ‘war-like situation’ existed in the area and they would remain in custody while operations continued. [...] It is unclear how long the hundreds of militant suspects Mr Qadir referred to have been held and he gave no time frame for their release. He added only that the authorities would decide if they could be put on trial.” (BBC, 24 January 2013)

6.1.6 Prison conditions

Freedom House states in its annual report on political rights and civil liberties in 2011 that “[c]onditions in the overcrowded prisons are extremely poor” and that “the majority of inmates are awaiting trial” as a result of case backlogs. The report adds that “feudal landlords, tribal groups, and some militant groups operate private jails where detainees are regularly maltreated”. (Freedom House, May 2012a)

The US Department of State (USDOS) notes in its annual report on human rights in 2012:

“Conditions in prisons and detention centers were harsh and life threatening. Problems such as overcrowding and inadequate medical care were widespread. [...]

Prison conditions often were extremely poor and failed to meet international standards. Police sometimes tortured and mistreated those in custody and, at times, killed prisoners inside police facilities. Overcrowding was common, except for the cells of wealthy or influential prisoners. Provincial governments were the primary managers of prisons and detention centers. Human rights groups that surveyed prison conditions found sexual abuse, torture, and prolonged detention prevalent. The groups said that prisons could not be described as correctional institutions because the conditions in many of the prisons were so inhumane that criminals often left more hardened than before their incarcerations.

Inadequate food and medical care in prisons led to chronic health problems and malnutrition for those unable to supplement their diets with help from family or friends. In many facilities provisions for sanitation, ventilation, lighting, and access to potable water were inadequate.

Most prison facilities were of antiquated construction, without the capacity to control indoor temperatures. A system existed for basic and emergency medical care, but it did not always function effectively. Prisoners sometimes had to pay bribes, and bureaucratic procedures slowed access to medical care. Foreign prisoners often remained in prison long after completion of their sentences because they were unable to pay for deportation to their home countries.

There were reports of prison riots during the year. Grievances that provoked the riots included overcrowding, deprivation of legal rights, slow disposition of cases, behavior of the jail administration, and lack of facilities. On July 14, Dawn reported that one prisoner was killed and many others injured after violence broke out in Hyderabad Central Jail. The trouble began after prisoners took hostage 15 jail police personnel in their barracks. At least six officers received minor injuries when police tried to rescue jail staffers held hostage by prisoners. [...]

SHARP [Society for Human Rights and Prisoners' Aid] estimated that during the year the nationwide prison population was an estimated 97,850 while the capacity of prisons was about 36,000. [...]

Police often did not segregate detainees from convicted criminals. Prisoners with mental illness usually lacked adequate care and were not separated from the general prison population.

Prison officials often kept juvenile offenders in the same facilities as adults, but in separate barracks. Nevertheless, at some point during their imprisonment, children were mixed with the general prison population. Often children were subjected to abuse, rape, and violence from other prisoners and prison staff.

According to the Society for the Protection of the Rights of the Child (SPARC), the bulk of juvenile prisoners were kept in Punjab's 29 prisons. [...] In the country's four provinces combined, there were 1,267 juvenile prisoners in the trial process and 165 convicted juveniles. SPARC stated that juvenile prisoners were among the worst off in the country. The jail conditions in which they were held were extremely poor. Many spent longer periods behind bars because they were unable to afford bail. [...]

Juveniles accused of terrorism or narcotics offenses were not protected under the Juvenile Justice System Ordinance. SPARC reported that children as young as age 12 were arrested under the Antiterrorism Act for terrorism. Children convicted under the act could be sentenced to death, although there were no cases in which a child was executed under the act.

Women were held in separate spaces from men in some, but not all, prisons. There were many reports of violence against women and rape in the prisons. [...]

According to SHARP, the government did little to improve conditions in detention facilities and failed to monitor existing conditions. As a result the situation appeared to deteriorate." (USDOS, 19 April 2013, section 1c)

The March 2013 annual report by the Human Rights Commission of Pakistan (HRCP) provides the following information:

"Pakistan's prisons continued to be characterised by overcrowding, a very high proportion of detainees being held in captivity often even before their trial had commenced, and reports of corruption to secure even basic needs. The common complaints remained the behaviour of prison staff, quality of food and water given to detainees, sanitation and lack of access to adequate healthcare. Besides detention in cramped conditions, family visits remained an ordeal. Little attention was paid to arranging recreational and positive activities for the detainees. The long-promised conjugal visits for the prisoners did not materialise. [...]

There were a total of 75,444 detainees in Pakistan's prisons altogether against the authorized capacity of 44,578. [...]

In 2012 also, the detainees' access to doctors and medicines remained difficult. Most prisons lacked qualified doctors and usually medical assistants attended to the detainees' health needs. [...]

The problems for juvenile prisoners were among the greatest for any group of detainees across the country. There were a total of 1,289 juvenile prisoners in jails across the country. The overwhelming majority of them was under trial. [...]

A number of prison riots and clashes between detainees were reported from prisons during the year. The rioting occurred often when the prisoners' demands for basic needs, such as healthcare and decent food, were ignored. [...]

According to media monitoring by HRCP, 59 detainees died in the custody of prison authorities in 2012, another 81 were injured and 10 incidents of alleged torture of detainees were reported. [...]

In Pakistan, not all those in the custody of government authorities were kept in official prisons." (HRCP, March 2013, pp. 71-78)

An October 2011 report by the International Crisis Group (ICG) on the country's prison system makes the following observations:

"All four provinces have significantly more prisoners than their sanctioned capacity. [...] Prisons are grossly understaffed and are poorly equipped. [...]

Living conditions for prisoners are abysmal, with inadequate funding resulting in prisons often lacking health care facilities and sufficient medical personnel. [...] The overcrowded facilities make it difficult to isolate hardened criminals, including militants, from remand prisoners (known as under-trial prisoners in Pakistan), minor and first-time offenders and juveniles." (ICG, 12 October 2011, p. 1)

"The conditions of Pakistan's prisons should be examined in the context of a criminal justice system that protects the powerful, victimises politically and economically

marginalised citizens and has a declining writ over large parts of the country. The Pakistan Penal Code (PPC), Evidence Act and Criminal Procedure Code (CrPC) form the foundation of that system. All three codes are outdated. There are also numerous special laws such as the Anti-Terrorism Act (ATA), 1997 and the National Accountability Ordinance, 1999.

Moreover, parallel legal systems prevail in large parts of the country.” (ICG, 12 October 2011, p. 2)

The ICG report further notes:

“Most under-trial prisoners, lacking money and/or political connections, can remain in prison on remand for months, even years, while hardcore criminals, including terrorists, continue to evade justice because of faulty prosecutions. Judges, fearful of the consequences of conviction, rely on legal flaws to free such offenders.” (ICG, 12 October 2011, p. 11)

“The prison population is composed of those convicted of crimes or on remand for criminal charges, as well as civil prisoners and any person ‘ordered to be detained in prison without trial under any law relating to the detention of such person’. Convicted prisoners are classified into ‘casuals’ (first offenders) and ‘habituals’ (repeat offenders), and further classified into juveniles (under the age of eighteen), adolescents (over eighteen and under 21), and adults (over 21). The rules also distinguish between those undergoing rigorous imprisonment (hard labour) and those undergoing simple imprisonment. Remand prisoners are classified into those facing the district and sessions court and those committed to other courts. Women prisoners are similarly classified.

Rule 231 of the Jail Manual establishes the standards for the separation of prisoners:

- i) In a prison containing men as well as women prisoners, the women shall be imprisoned in a separate prison, or separate part of the same prison in such manner as to prevent their seeing, conversing or holding any communication with the male prisoners.
- ii) Juveniles shall be kept separate from all other prisoners.
- iii) Remand prisoners shall be kept separate from convicted prisoners.
- iv) Civil prisoners shall be kept separate from criminal prisoners.
- v) Political prisoners shall be kept separate from all other prisoners.

More specifically, under Rule 232:

Remand prisoners who have been committed to sessions courts shall be kept separate from remand prisoners who have not, and those who have been previously convicted shall be kept separate from those who have not.

- i) Casual convicted prisoners shall be kept separate from habitual convicted prisoners.

ii) Simple imprisonment prisoners shall be kept separate from rigorous imprisonment prisoners.

iii) Convicted prisoners who are under sixteen shall be kept separate from convicted prisoners who are over this age.

iv) Every habitual criminal shall, as far as possible, be confined in a special prison in which only habitual criminals are kept. The inspector general may, however, sanction the transfer to such special prison of any prisoner not being a habitual prisoner whom, for reasons to be recorded, the superintendent of the prison believes to be of so vicious and depraved a character as to make his association with other casual prisoners undesirable. Prisoners so transferred shall not otherwise be subjected to the special rules affecting the habitual criminals.

v) Political prisoners may be kept separate from each other if deemed necessary. Yet, given the massive overcrowding, segregating prisoners of different categories as mandated by law, is virtually impossible." (ICG, 12 October 2011, p. 13)

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