



FIDH – International Federation for Human Rights

HRCP – Human Rights Commission of Pakistan

Joint submission for the adoption of the List of Issues Prior to Reporting (LoIPR)

PAKISTAN

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ICCPR Article 6 – The death penalty and the right to life

Following the 2014 Peshawar school attack, Pakistan lifted its unofficial moratorium on the death penalty and in the following four years 519 executions were carried out. Since December 2019, there is a *de facto* moratorium on capital punishment. In two other positive developments, Pakistan’s death row population has almost halved over the past 10 years to 3,226 at the end of 2022, with 98 death sentences imposed in 2022.¹ Also, in the second half of 2022, the Senate approved legislation removing the death penalty for crimes falling under sabotage of railways and narcotics, reducing the number of capital crimes to 31 and taking a step towards meeting the “most serious crimes” threshold outlined in the International Covenant on Civil and Political Rights (ICCPR). Nonetheless, the range of capital offences remains very broad, with kidnapping for unnatural lust, perjury, and blasphemy among them.

In February 2021, the Supreme Court issued a landmark judgement, colloquially referred to as the Safia Bano case, which ruled that mentally ill individuals could not be executed and commuted the death sentences of three such prisoners.² However, in many cases, defendants are not subjected to medical examinations, and when they are, their diagnosis and its severity are not taken into consideration at different stages of the trial, as evidenced in the case of one of the defendants in the Safia Bano case. The Supreme Court judgement also ordered the setting up of forensic and training facilities and issued guidelines on how the trial courts should deal with the plea of an accused that was diagnosed with mental illness at the time of commission of offence, prosecution, and trial. Lastly, it ordered an update of the prison rules and relevant legislation to codify these measures. Regrettably, all these measures have not been implemented.

The mercy petition procedure in death penalty cases is severely flawed, with the office of the President routinely issuing blanket rejections of clemency petitions. Attempts to amend this procedure through the Criminal Laws Amendment Bill 2022 were interrupted by the removal of the government. The scope of the Anti-Terrorism Act 1997 also remains broad in scope and definition, allowing for wanton misuse and broad interpretation of what conduct falls under the Act.

¹ Human Rights Commission of Pakistan, *State of human rights in 2022, 2023*; <https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2023-State-of-human-rights-in-2022.pdf>

² Supreme Court of Pakistan, *Civil review petition 420_2016 (para. 66)*, 10 February 2021; https://www.supremecourt.gov.pk/downloads_judgements/c.r.p._420_2016.pdf

Questions

- When does the government intend to establish an official moratorium on the death penalty?
- When does the government intend to enact legislation to further reduce capital offences and make relevant amendments to the Penal Code to ensure that, at the very least, the “most serious crimes” threshold is met for capital offences?
- What action has been taken by the government to introduce necessary legislative and procedural steps to implement the orders issued by the Supreme Court under the Safia Bano judgement?
- When does the government intend to reform the mercy petition procedure with regard to death penalty cases?
- What measures has the government taken to ensure that conditions for death row prisoners, in particular for those who are placed in “death cells,” are in line with Pakistan’s obligations under the ICCPR and other relevant international standards?

ICCPR Articles 9 and 21 – Right to liberty and right to freedom of peaceful assembly

The right to freedom of peaceful assembly, which is enshrined in Article 16 of Pakistan’s Constitution, has been significantly restricted by the authorities, who have often harassed, detained, and imprisoned dissenters and political opponents who participated in peaceful assembly. In many cases, they have forcibly dispersed demonstrations and subjected journalists and other individuals to physical attacks.

The right to freedom of peaceful assembly in Pakistan has been curtailed since the country’s inception, largely through the continuation of colonial laws seeking to prevent or quell protests. The Maintenance of Public Order Ordinance (MPO), originally promulgated in 1960, has been used to curtail the right to freedom of peaceful assembly at various times since the last review by the UN Human Rights Committee (CCPR).

In 2021 and 2022, protesters from the Haq Do Tehreek in Gwadar, Balochistan Province, were dispersed by police with tear gas and batons. The preceding six years saw assemblies immediately followed by the filing of criminal charges against participants across the country. Charges were filed against peaceful demonstrators mostly for political reasons. In 2021-2022, blanket bans on assemblies under Section 144 of the Criminal Procedure Code were frequently imposed by the authorities, citing the “prevailing security situation” to justify restrictions. In certain cases, such bans were issued just ahead of planned protests, suggesting that Section 144 was used specifically to clamp down on assemblies that authorities deemed unfavourable. Groups targeted included health workers, teachers, students, labourers, and political activists.³

The removal of the Pakistan Tehreek-e-Insaf (PTI) government in April 2022, followed by the arrest of former Prime Minister Imran Khan, led to a spate of nationwide protests, with some turning violent. In May 2023, protesters in Islamabad were repressed with disproportionate force by the police, who used tear gas and water cannons. In Lahore, police physically assaulted protesters following the arrest of the former Prime Minister. Protests also saw mob attacks on government and military installations such as Jinnah House in Lahore and the Radio Pakistan building in Peshawar. During that month, over 8,000 arrests were subsequently made on grounds of being involved in or organising the protests.⁴

Arrests made following 9 May 2023 have also seen protracted delays, defendants not being presented before civilian courts or having disappeared, and violations of court orders calling for their release.

³ Human Rights Commission of Pakistan, *Freedom of peaceful assembly in Pakistan: A legislative review*, 2023; <https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2022-Freedom-of-peaceful-assembly-in-Pakistan.pdf>

⁴ Business Recorder, *14 killed in May 9 mayhem: No casualties among police personnel, LEAs*, 4 June 2023; www.brecorder.com/news/40245832

Following the protests, the National Assembly passed a resolution that called for rioters to be tried in military courts under the Pakistan Army Act 1952. Civilians can be tried in military courts under Section 2(d) of the Pakistan Army Act 1952, in which case fair trial standards are not upheld, in violation of Article 14 of the ICCPR. Military courts in Pakistan are not independent and are designed primarily to maintain discipline within the military. They are run by military personnel (and not judicial officers) who are not educated or trained in the law, trials are held in camera, and reasoned judgments are not given.

Questions

- What steps has the government taken to redefine the term “unlawful assembly” in Section 141 of the Penal Code on more specific and narrow grounds?
- Does the government intend to repeal colonial-era draconian legal provisions, such as the MPO, criminal defamation, and sedition, which are misused to limit freedom of peaceful assembly?
- What measures has the government taken to ensure that restrictions on the right to freedom of peaceful assemblies, including public order, are necessary and proportionate in accordance with Article 21 of the ICCPR?
- Does the government intend to repeal Section 144 of the Penal Code to limit the excessive powers vested in provincial governments regarding bans on assemblies?

ICCPR Article 19 – Right to freedom of expression

The last few years have seen unprecedented restrictions on media, through legislation, coercion, censorship, arrests, and assassinations of journalists. Recent notable arrests included that of Imran Riaz Khan in July 2022 on sedition charges. He was released, re-arrested this year, and remains missing to this day. Attacks and, in some cases, abductions were perpetrated against journalists Absar Alam, Matiullah Jan, Ayaz Amir, Sami Ibrahim, Mohsin Baig, Idris Khattak, and Shahid Aslam. Journalist Arshad Sharif was assassinated in Kenya in October 2022 after fleeing Pakistan in August that year, fearing arrest.

The Pakistan Electronic Media Regulatory Authority (PEMRA) continues to issue directives to news channels to censor content critical of the army and judiciary and other topics deemed sensitive by the state. In October 2022, Steven Butler of the US-based INGO Committee to Protect Journalists was detained by the Federal Investigation Agency and interrogated at the Lahore airport for eight hours.

Following the 9 May 2023 protests [*See above, ICCPR Articles 9 and 21*], internet coverage was suspended across the country, severely impacting businesses, schools, and gig/remote workers.⁵ After the protests, coverage of former Prime Minister Imran Khan was banned across all channels.

The impact of Pakistan’s blasphemy laws on freedom of expression has become increasingly evident as more cases have been filed against members of the Shia Muslim and the Ahmadiyya communities, including in connection with alleged “blasphemous” WhatsApp messages. In some cases, spates of fatal mob violence have followed such allegations. In 2020, the Punjab Assembly also banned certain books citing allegedly blasphemous content and banned about 100 books from private schools.

Questions

- What measures has the government taken to ensure the safety of journalists and media professionals and ensure that the fate and whereabouts of those who disappeared are determined?
- What steps have been taken to ensure the effective implementation of the Protection of Journalists and Media Professionals Act 2021?

⁵ Nation, *Internet suspension causes loss of Rs2.49b to telecom sector in Pakistan*, 12 May 2023; <https://www.nation.com.pk/12-May-2023/internet-suspension-causes-loss-of-rs2-49b-to-telecom-sector-in-pakistan>

- What measures has the government taken to effectively regulate hate speech and ensure that blasphemy allegations are not weaponised?
- Does the government plan to amend laws that are inconsistent with international human rights law and standards, namely: the Anti-Terrorism Act 1997; Section 124-A of the Pakistan Penal Code (“sedition”); and the Official Secrets Act 1923?
- Does the government intend to amend Article 19 of the Constitution of Pakistan to ensure its compliance with Article 19 of the ICCPR?

ICCPR Article 22 – Right to freedom of association

Although the right to freedom of association is guaranteed by Article 17 of the Constitution of Pakistan, it is subject to “reasonable restrictions imposed by law” in the interest of the “sovereignty or integrity of Pakistan, public order or morality.”⁶ While unionisation presents no such threats, membership rates in Pakistan remain remarkably low: a meagre 2.3% of the country’s workforce (including the informal and formal sector) is unionised, with the figure at 15.5% in the formal sector.⁷ Most recently, in 2023, union leaders deplored that only 9 million out of Pakistan’s 60 million informal workers worked under labour protection laws and the practical implementation and enforcement of labour laws in the informal sector continues to be a serious challenge.⁸

Instances of anti-union practices, obstacles to union registration, and limitations on collective bargaining rights have been consistently reported. These trends have been most consistent among home-based and textile workers, with workers in the retail sector also facing such impediments.⁹ There have also been credible reports of factory owners resorting to threats, harassment, underpayment of wages, intimidation, setting up of fake or “yellow” unions, and dismissal of workers who attempt to form to unions.¹⁰

As a result of these oppressive measures, employers are under little to no obligation to ensure that labour standards are respected or upheld. Pakistan has failed to adopt a national home-based workers policy, even though its provinces have passed legislation in this regard. Pakistan has also failed to ratify ILO Conventions 177 and 189. Formalisation of the informal economy, digitalisation, and strengthening of wage payment mechanisms remain insufficient. Despite the ratification of ILO Convention 29 on forced labour, amendments to bonded labour legislation and relevant Penal Code sections remain outdated and lack effective implementation. Moreover, the Industrial Relations Act 2012 and provincial labour laws fail to meet the standards stipulated in the ILO conventions ratified by Pakistan, including Conventions 87 and 98 on freedom to unionise and bargain collectively.

Separately, guidelines issued by the Ministry of Interior in 2013 and 2015, dealing with local civil society organisations (CSOs) receiving foreign contributions and the registration of international non-government organisations (INGOs) have been used as a tool to impose needless restrictions and hinder their operations. During the period since the last review of Pakistan by the CCPR, the Ministry of Interior arbitrarily ordered 18 INGOs to leave the country¹¹ and rejected the registration of 42 local NGOs,¹²

⁶ The Constitution of the Islamic Republic of Pakistan, Article 17 (as amended up to date).

⁷ ILO, *A profile of trade unionism and industrial relations in Pakistan*, 2018; https://www.ilo.org/wcmsp5/groups/public/---asia/--ro-bangkok/---iloislamabad/documents/publication/wcms_626921.pdf

⁸ Human Rights Commission of Pakistan, *State of human rights in 2022*, 2023; <https://hrqp-web.org/hrqpweb/wp-content/uploads/2020/09/2023-State-of-human-rights-in-2022.pdf>

⁹ Human Rights Watch, *No room to bargain: Unfair and abusive labour practices in Pakistan*, 2023; www.hrw.org/report/2019/01/23/no-room-bargain/unfair-and-abusive-labor-practices-pakistan

¹⁰ *Ibid.*

¹¹ Dawn, *Govt under international pressure after asking 18 INGOs to wind up operations in Pakistan*, 9 October 2018; <https://www.dawn.com/news/143789319>

while registering frivolous claims of embezzlement against one prominent local NGO.¹³ The adoption of additional legislation regarding “charities” has also been used to curtail freedom of association beyond what is permissible in the Constitution and international law.¹⁴

Student unions remain banned throughout the country, except for Sindh Province, which lifted the ban in 2022 following a concerted campaign by student leaders.¹⁵ The suppression of students’ voices has been directly linked to a lack of representation and development of leadership, increasing the potential for radicalisation and lowering political participation.

Questions

- What steps have been taken to encourage union membership and increase the ease of worker registration?
- When do the provincial governments plan to amend their respective Industrial Relations Acts, expanding the categories of workers who are allowed to unionise?
- What steps have been taken against employers who have actively engaged in union busting, harassment, and other violations of labour protection laws?
- What measures have been taken to create an enabling environment for CSOs and INGOs, and to repeal cumbersome regulations?
- When will provincial legislation be enacted and implemented to restore student unions in the country?

¹² Express Tribune, *Govt refuses to register 42 NGOs*, 16 February 2019; <https://tribune.com.pk/story/1911633/govtrefuses-register-42-ngos>

¹³ SOCH Fact Check, *Interior Ministry complaint alleging Nighat Dad’s misuse of Digital Rights Foundation funds is misleading*, 7 January 2021; <https://www.sochfactcheck.com/interior-ministry-complaint-alleging-nighat-dads-misuse-of-digital-rights-foundation-funds-is-misleading/>

¹⁴ This legislation includes: the Punjab Charities Act 2018; the Sindh Charities Registration and Regulation Act 2019; the Khyber Pakhtunkhwa Charities Act 2019; and the Balochistan Charities (Registration, Regulation and Facilitation) Act 2019.

¹⁵ Sindh becomes the first province in Pakistan to end ban on student unions.