

Amnesty International

Annual report extracts 2004-2006

Pakistan

2006

Scores of people suffered arbitrary detention and enforced disappearance. Victims included terror suspects, Baloch and Sindhi nationalists, and journalists. Unlawful killings were carried out with impunity. The blasphemy laws were used to persecute members of religious minorities. "Honour" killings continued to be reported. Tribal and religious councils unlawfully exercised judicial functions and enforced cruel, inhuman and degrading punishments. At least 446 people were sentenced to death. The number of executions reported, 82, including one juvenile, was a steep increase from the previous year.

Background

While the confrontation between the army and nationalist activists intensified in Balochistan province, in the tribal areas the government agreed a peace pact with tribal elders and local Taleban. The September agreement apparently allowed tribal fighters to find shelter and to set up quasi-governmental structures, collect taxes, impose their "penal code" and exercise quasi-judicial functions.

Some people were publicly executed by vigilante groups seeking to impose their own interpretation of Islamic norms. More than 100 people were killed in the tribal areas, apparently for co-operating with the government. Many decapitated bodies were found with notes warning others not to support the government.

The dialogue with India faltered when Indian police accused Pakistan of involvement in bomb blasts in Mumbai, and Pakistan accused India of supporting Baloch nationalists. It resumed towards the end of the year.

Arbitrary detention/enforced disappearances

Scores of people suspected of links to terrorist groups, Baloch or Sindhi activists, and journalists were arbitrarily detained and subjected to enforced disappearance. State agents denied knowledge of whereabouts to relatives and when questioned in court during habeas corpus hearings. Those released reported being tortured and ill-treated.

- Abdur Rahim Muslim Dost, an Afghan settled in Pakistan, and his brother were released in April 2005 from Guantánamo Bay after more than three years' detention. In September, he was arrested again in Peshawar, apparently in connection with a book recording the brothers' experiences. Habeas corpus hearings were repeatedly adjourned. In December state agencies denied holding him. His fate and whereabouts remained unknown at the end of the year.

- Munir Mengal, director of the first independent Baloch-language TV channel, launched in Dubai, was arrested by intelligence agency officials on 4 April at Karachi airport. His fate and whereabouts remained unknown. Relatives were told by immigration officials that he had been taken away by Inter Services Intelligence personnel. Police refused to register a complaint. During hearings of his habeas corpus petition in July, the Sindh High Court was told by the Ministry of Defence that none of its agencies was holding him and that the Ministry had only administrative, not operational, control over these agencies and therefore could not enforce compliance with court orders.

Excessive use of force and unlawful killings

Impunity for unlawful killings of criminal suspects and political opponents of the government contributed to their increase.

- In June, the body of Hayatullah Khan was found shot dead in North Waziristan. He was abducted in December 2005 after disseminating photographic evidence that a drone attack had been carried out by US forces, thereby contradicting official accounts. Officials had told relatives on several occasions that he would soon be released. The reports of two official inquiries were submitted to government but not made public.
- In January between 13 and 18 people were reportedly unlawfully killed by missiles fired from US drones in the tribal areas, and in October at least 82 people died in a similar attack. In both attacks children were reportedly killed. State officials described the victims as "militants" but had made no attempts to arrest them or to stop their activities. In October, officials claimed that Pakistani helicopters alone had carried out the attack, despite eyewitnesses describing bomb explosions 20 minutes before the helicopters arrived. No investigation was carried out.

Failure to protect minorities

At least 44 registered cases of blasphemy were reported during 2006. Blasphemy cases took years to conclude. The accused were rarely released on bail and were often ill-treated in detention.

- Ranjha Masih was acquitted of blasphemy in November by the Lahore High Court for lack of evidence. He was sentenced to life imprisonment in 2003 after being arrested during the funeral in 1998 of a Catholic bishop who committed suicide to protest at the targeting of Christians.

Violence against women

"Honour" killings, domestic violence including maiming and harmful traditional practises continued at a high level. Jirgas, councils of elders, which the Sindh High Court had banned in 2004, continued to "sentence" girls and women to cruel punishments.

- In Mardan and Swabi districts, 60 girls and women were handed over to their families' opponents to settle conflicts and as compensation for murder in three months in mid-2006. In November, parliament passed an amendment to the Haddood Laws which continued to criminalize heterosexual consensual sex outside marriage, but provided that complaints of sex outside marriage should be investigated by a court to establish admissibility before formal charges are laid. Under the Zina Ordinance, police had frequently arrested couples deemed not lawfully married by their relatives and charged them with fornication. The new law also banned charging a woman with fornication if she had complained of being raped but was unable to prove absence of consent.

A presidential ordinance to allow bail for women undergoing trial for all offences except murder, corruption and terrorism was introduced. Some 1,300 women held on fornication charges were released on bail.

Children's rights

The appeal against the Lahore High Court judgement of December 2004 which declared the Juvenile Justice System Ordinance (JJSO) unconstitutional, remained pending. The temporarily reinstated JJSO continued to be poorly implemented as many areas remained without parole officers and the number of juvenile courts remained insufficient and in some areas there were none. Juveniles continued to be tried with adults.

Death penalty

Some 446 people were sentenced to death, mostly for murder. Eighty-two people were executed, mostly in Punjab province.

- Mutabar Khan, believed to be 16 at the time of an alleged murder in 1996, was executed in Peshawar Central Prison in June 2006. He did not benefit from the Presidential Commutation Order of 2001, which overturned the death sentences of all juveniles then on death row, as he could not prove his age. The family of the murder victim had earlier agreed to pardon him in return for compensation, but later retracted the pardon.
- In November, President Musharraf commuted the death sentence of Mirza Tahir Hussain after his execution date had been postponed several times. He had been sentenced to death

in 1998 for murder and robbery. Different courts had reached divergent judgements in this case, ranging from acquittal to the death penalty.

Earthquake relief

International relief agencies said that many reconstruction programmes faced funding deficits and delays due to administrative difficulties and lack of information about victims' needs. The earthquake in October 2005 killed almost 73,000 people and rendered more than 3.5 million homeless.

2005

Dozens of people were arbitrarily arrested and detained in the context of the "war on terror". Several of them "disappeared" and some were handed over to US custody. "Disappearances" were also reported from Balochistan province. Blasphemy laws continued to be used to persecute members of religious minorities. The state took no action to prevent "honour" crimes or to punish perpetrators. The Juvenile Justice System Ordinance, which provides protection for children within the justice system, was temporarily reinstated. At least 241 people were sentenced to death and 31 were executed.

Background

The government vacillated between seeking to control and appeasing religious groups and parties. In March, it reintroduced a "religious column" in national passports, in breach of earlier promises to minority groups. In July, following bomb attacks in the UK by men of Pakistani origin, at least 900 members of religious groups and religious school students were arrested. Most were released within weeks but some continued to be held under preventive detention legislation. The government announced that all foreign students of religious schools would be expelled and that such schools needed to register. However, after protests by religious groups, these directions were not fully implemented. In July, the Hasba (accountability) Bill was passed in the North West Frontier Province. It provided for an ombudsman empowered to "reform society in accordance with Islam". The Supreme Court, in August, declared sections of the bill unconstitutional. In the tribal areas on the border with Afghanistan, civilians suffered abuses during an ongoing security operation.

A draft bill to establish a national human rights commission was presented in May but was not passed by the end of 2005.

Arbitrary arrests and 'disappearances'

Dozens of suspects, Pakistanis as well as foreign men, women and children, were arbitrarily arrested on suspicion of terrorist activities and of contact with al-Qa'ida. Several "disappeared" in custody and some were handed over to US custody, apparently without legal process.

Abu Faraj Al Libbi, a Libyan national alleged to be the operational commander of al-Qa'ida, was arrested on 2 May in Mardan, near the border with Afghanistan. The Interior Minister stated that he would be tried in an anti-terrorism court for attempting to assassinate the President. He was held incommunicado at an undisclosed location. At the end of May Al Libbi was handed over to US custody, apparently without legal process. By the end of the year, nothing was known of his whereabouts or the whereabouts of more than 12 other suspects arrested in connection with him.

The non-governmental Human Rights Commission of Pakistan investigating the situation in Balochistan province found evidence of arbitrary arrests and detention, extrajudicial executions, torture and "disappearances" committed by security and intelligence agencies. On 9 December, 18 labour union leaders from Balochistan "disappeared" in Karachi where they had gone to negotiate with the management of their company. Their whereabouts remained unknown.

Several members of the Balochistan Student Organization (BSO) "disappeared" during 2005. BSO chairman Dr Imdad Baloch was arrested on 25 March along with five others in Karachi.

He and three others were released on bail two months later facing politically motivated criminal charges. He reported that they had been tortured and held blindfolded, in iron shackles and threatened with death if they did not give up politics. The other two remained in custody.

Failure to protect minorities

The state failed to protect members of religious minorities from abuse by private individuals. At least 72 people were charged and arrested under blasphemy laws, including laws that make it a criminal offence for members of the Ahmadiyya community to practise their faith. Among the accused were 39 Muslims, 26 Ahmadis, four Hindus and three Christians. In October, eight Ahmadis were shot dead and 22 injured in their mosque by men shooting from a passing motorbike. Eighteen men arrested shortly afterwards were released without charge.

Mohammad Younus Shaikh was sentenced to life imprisonment in August on charges of blasphemy for writing about religious matters in a book. He was held in solitary confinement in Karachi Central Prison after fellow prisoners threatened him. No action was taken against those threatening violence.

Violence against women

"Honour" killings and mutilations of girls and women, and to a lesser extent of boys and men, continued. Successful prosecutions for "honour" killings were rare. Legal changes introduced in late 2004 failed to curb the authority of the victim's heirs to forgive the perpetrators, allowing them to escape conviction.

In September Amna Abbas had her nose and lips cut off by her brother-in-law near Dera Ghazi Khan, Punjab province, after she filed for divorce. He was reportedly not arrested.

Mukhtaran Mai's attempt to secure justice after being gang-raped on the orders of a council of elders in Meerwala, Punjab province, led to her suffering further threats. In March the Lahore High Court reversed the August 2002 trial court's decision to sentence six men to death. It commuted the death sentence imposed on one to life imprisonment and acquitted and released five. On a request by Mukhtaran Mai, who feared for her life, the Punjab government held the five for three months in preventive detention. In June, a review board ordered their release. The Supreme Court took up the appeal against the acquittals and ordered all the original accused to be held in judicial custody. The appeal was pending at the end of 2005. Mukhtaran Mai, who had been invited to the USA to speak on women's rights, was prevented in June from leaving the country and placed under virtual house arrest.

Women's rights activists were under increased threat. Police tore the clothes and pulled the hair of women activists participating in a mixed gender marathon in Lahore in May. About 40 were detained until evening.

Children's rights

In February, the Supreme Court suspended the Lahore High Court judgment of December 2004 which had revoked the Juvenile Justice System Ordinance, 2000 (JJSO), as unconstitutional. The JJSO provides protection for children in the criminal justice system. This latest decision meant that the JJSO was reinstated, but only temporarily, pending a still awaited decision on the constitutionality of the law by the Supreme Court.

In several cases courts rejected applications for cases to be retried in juvenile courts.

The Lahore High Court in February dismissed a petition that Muhammad Hayat was a juvenile at the time of a murder for which he was sentenced to death in 1995, arguing that he had not raised the point in earlier hearings. His brother asserted that they had been ignorant of legal safeguards for juveniles.

The JJSO, although formally extended to the tribal areas, was not implemented there. In the Federally Administered Tribal Areas, dozens of children, some under the age of five, were imprisoned on three-year sentences under the collective responsibility clause of the Frontier Crimes Regulation for crimes allegedly committed by members of their families.

Death penalty

At least 241 people were sentenced to death. At least 31 people were executed, the majority for murder. Many well-off convicts were able to escape punishment under provisions of the Qisas and Diyat Ordinance that allow heirs of murder victims to accept compensation and pardon the offender. In other cases convicts remained on death row for long periods while seeking pardon from the heirs of victims. In January the Supreme Court ruled that the person convicted of murder could have the sentence reduced only if all the legal heirs agreed to forgive the offender.

Six members of the same family sentenced to death for murder in 1989 had their executions postponed for a third time in August as they negotiated a settlement with the heirs of the victims.

In the tribal areas two men were executed by firing squad immediately after a tribal council – which has no powers to adjudicate criminal cases – convicted them of murder. They had had no legal counsel and no chance to appeal.

Earthquake relief

A massive earthquake hit northern Pakistan in October leaving some 73,000 people dead and two million people in need of relief and rehabilitation. International humanitarian assistance was inadequate, coordination between relief agencies lacking and distribution hampered by difficulties of access. Adequate health care, including trauma counselling, shelter and protection against exploitation including trafficking was lacking, particularly for injured and orphaned children and homeless women.

Arbitrary arrests and detentions in the context of the "war on terror" continued. Several people reportedly "disappeared". In the tribal areas, arbitrary arrests and possible extrajudicial executions were reported during security operations. The government failed to control sectarian violence which cost hundreds of lives. The blasphemy laws continued to be used to prosecute members of minorities. Government initiatives to improve protection of rights of women and juveniles provided only limited relief. Some children continued to be prosecuted as adults. At least 394 people were sentenced to death and 15 were executed.

2004

Background

The political role of the military was consolidated when in April the National Security Council was set up by an act of parliament. Chaired by the President, and with eight government representatives and five representatives of the army, it was given a consultative role in security matters. In November a law was passed allowing General Musharraf to remain president and chief of the army, contrary to his earlier promise that the two roles would be separated.

Relations between Pakistan and India improved during 2004. In June, a moratorium on nuclear tests was agreed and, in September, talks began on several issues including that of Jammu and Kashmir.

Security operations in the tribal areas

Security operations continued throughout 2004 in the tribal areas close to the border with Afghanistan, which are not accessible to journalists and other observers. The operations aimed to remove people suspected of "terrorist" activities seeking shelter with the tribal population.

In March, arbitrary arrests and detentions and possible extrajudicial executions were reported in South Waziristan. Tribal fighters who might have been associated with the Taliban or al-Qa'ida reportedly took hostages and committed unlawful killings.

On 26 March the bodies of eight members of the paramilitary Frontier Corps were found with their hands bound behind their backs, apparently shot at point blank range. Opposition fighters had detained the men four days earlier during an attack on a convoy.

Arbitrary arrests and 'disappearances'

The Anti Terrorism Act (ATA) was amended in October to provide life imprisonment for supporters of "terrorists" and to allow police to seize the passports of "terrorist" suspects. In April, the Supreme Court ruled that those convicted of "terrorism" could not benefit from provisions under the law relating to murder, which allow the heirs of the victims to forgive the offender at any stage, thereby ending criminal proceedings.

Scores of people were arrested during demonstrations or for allegedly belonging to banned organizations. Most were released after several hours but some were held for prolonged periods in arbitrary and incommunicado detention. Some remained "disappeared" for longer periods despite families' efforts to trace them through the courts.

Students Akdas Iqbal and Sujeel Shahid, British and Dutch nationals respectively, were detained by an unknown agency on 14 June in Lahore in a wave of arrests of people suspected of links to "terrorist" organizations. During hearings of habeas corpus petitions filed by their relatives, the authorities denied holding them. Both were released without charge after a month.

Several journalists were held incommunicado for exercising their right to freedom of expression.

Khawar Medhi Rizvi was arrested on 16 December 2003 in Karachi along with two French journalists on their return from Balochistan. In January the French journalists received suspended sentences under the Foreigners Act for travelling to the area without official clearance. However, government authorities repeatedly denied holding Khawar Medhi Rizvi. He was brought before a court in Quetta on 26 January and charged with sedition and criminal conspiracy for allegedly assisting in the preparation of a documentary falsifying events in the region. The trial had not concluded by the end of 2004.

Several people suspected of links to "terrorist" organizations who "disappeared" were non-Pakistanis.

Tanzanian national Ahmed Khalfan Ghailani "disappeared" after being arrested on 25 July in Gujarat, Punjab province, along with several other non-Pakistani nationals, including several women and children. He was alleged to have links to al-Qa'ida. He was not charged or tried and his whereabouts remained unknown at the end of the year.

At least some of those in arbitrary detention were tortured.

Afghan Islamic cleric Mohammad Noor who was arrested in Faisalabad in August for alleged links with "terrorists" died in police custody four days later. An autopsy reportedly found several wounds on his body.

Lack of protection of minorities

At least 25 people were criminally charged with blasphemy and at least six of them remained in detention at the end of 2004. Hostility to anyone charged with blasphemy endangered their lives.

Samuel Masih, a 27-year-old Christian, was arrested in August 2003 and charged with having thrown litter on the ground near a mosque in Lahore. This was deemed an offence under section 295 of the Pakistan Penal Code, which provides up to two years' imprisonment for defiling a place of worship. Samuel Masih was held in a Lahore prison but transferred to hospital in May, suffering from tuberculosis. He died after his police guard attacked him in the hospital. The police officer stated that he had done his "religious duty"; he was charged with murder.

The government did not take adequate measures to prevent attacks on religious congregations. In the month of October alone, some 80 people died in sectarian violence. There were frequent reprisal attacks. Following a bomb attack on a Shi'a gathering in Sialkot on 1 October which killed some 30 people, a bomb was thrown at a Sunni mosque in Multan which killed some 41 people. Scores of people were arrested after sectarian attacks but most were released due to lack of evidence.

Violence against women

Violence against women in the community, including crimes of "honour", continued to be reported. The Human Rights Commission of Pakistan reported that in 2003 more than 600 women had been killed for alleged breaches of "honour". Many cases went unreported and victims included very young girls.

In June a tribal council directed that seven-year-old Mouti be killed for an alleged illicit relation with an eight-year old boy. Her father refused to accept the verdict and approached the local district administrator who provided protection. Legal provisions allowing those who commit "honour" killings to seek forgiveness from heirs of the victim continued to prevent criminal prosecution.

In June, Shamim Badshah forgave her husband for murdering their daughter Fozia, whom he had killed on suspicion of maintaining an illicit relationship. A court in Lahore where the murder case was being heard ordered his release.

Although women's groups demanded that the waiving of criminal prosecution for crimes of "honour" by the victims' heirs be banned in order to deter potential perpetrators, this provision remained unchanged. In October the National Assembly passed draft legislation making the handing over of a woman as compensation for murder a criminal offence punishable by up to three years' imprisonment. Under another amendment, criminal charges under the laws on blasphemy and Zina (unlawful sex) are to be investigated only by higher ranking police officers. However, the amendments had not been signed into law by the end of the year.

Despite the Sindh High Court's ruling in April that trials by jirgas (tribal councils) were unlawful, the provincial government was reported to be preparing legislation to legalize this private justice system. Trials by jirga continued to be reported and no steps were known to have been taken against those participating in them.

Violence against children

Implementation of the Juvenile Justice System Ordinance (JJSO) of 2000 was inadequate, so that juveniles continued to be held and tried along with adults. In April, the relevant minister said that plans had been made to ensure implementation.

The ban on imposing the death penalty on juveniles contained in the JJSO was sometimes ignored. Problems in determining the age of some juveniles also meant that some juveniles under sentence of death did not benefit from a commutation order issued in 2001.

In February, 17-year-old Shahzad Hameed was sentenced to death for murder in Sheikhpura, Punjab province.

Saifullah Khan was 16 when he allegedly murdered another boy in April 2001 in Chardassa. He was sentenced to death in 2002. On appeal, the Peshawar High Court in October 2004 set aside the conviction and directed that he should be tried under the JJSO.

In October, the JJSO was extended to the Provincially Administered Tribal Areas. It still did not apply in the Federally Administered Tribal Areas (FATA) which are governed by the Frontier Crimes Regulation (FCR) of 1901. Under the FCR, family members of a person suspected of a crime can be punished instead of or along with that person. At least 70 children, including some 16 under the age of 10, were believed to be held under the FCR.

In December, the JJSO was revoked by the Lahore High Court which considered the law "unconstitutional" and "impractical". Juvenile courts set up under the JJSO were to be abolished and cases pending before it transferred to the regular courts. As a result juveniles could once again be sentenced to death.

Death penalty

At least 394 people were sentenced to death. At least 15 executions were reported. In November Asif Mahmood, who had spent 15 years on death row for a murder committed in 1989, was found innocent and released. His appeal had been pending for 13 years.

In June, the death sentence of Rehmat Shah Afridi, chief editor of the Frontier Post, who was sentenced to death in July 2001 for alleged trafficking in hashish, was commuted to life imprisonment. The High Court said that the death penalty was a disproportionate punishment for trafficking in hashish. It considered Rehmat Shah Afridi to be a prisoner of conscience who was tried and convicted solely for his journalistic work.