



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### List of issues in relation to the initial report of Pakistan\*\*

##### Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Please provide information on the measures taken to ensure the direct application of Covenant provisions at all levels of the domestic legal order: federal and provincial, including in the Federally Administered Tribal Areas. Please clarify whether the Covenant has been invoked before and/or applied by the domestic courts and provide some examples. Please indicate what efforts have been made to bring the provisions of sharia law and its interpretation into line with the Covenant, in particular articles 3, 6, 7, 18 and 19, and to withdraw the State party's reservations to articles 3 and 25 of the Covenant.

2. Please clarify information indicating that the National Commission of Human Rights has been severely limited in its capacity and functioning owing to a lack of adequate funding and of cooperation from the federal and provincial authorities, that it has been restricted from investigating allegations of human rights abuses brought against the intelligence agencies and that it was not consulted in the process of developing a national action plan on human rights or in drafting the State party's report to the Committee, despite its mandate. Please provide information on the new national human rights institute to be established under the 2016 national action plan for human rights, including on its mandate, powers, composition and relationship with the Commission.

##### Non-discrimination and equality between men and women (arts. 2, 3 and 26)

3. Please clarify whether the anti-discrimination provisions of articles 25-27 of the Constitution cover all prohibited grounds of discrimination in line with articles 2 (1), 3 and 26 of the Covenant. Please also indicate what efforts have been made by the State party to adopt comprehensive anti-discrimination legislation that, inter alia, addresses discrimination in the private sphere; prohibits all direct, indirect and multiple forms of discrimination; contains a comprehensive list of prohibited grounds for discrimination, including religion, sexual orientation and gender identity; and provides for effective remedies in judicial and administrative proceedings. Please indicate whether the State party intends to decriminalize same-sex relations between consenting adults.

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\* Reissued for technical reasons on 22 November 2016.

\*\* Adopted by the Committee at its 118th session (17 October-4 November 2016).



**Violence against women and domestic violence (arts. 2, 3, 6, 7, 14 and 26)**

4. Please provide information on the measures taken by the State party at the national level to prevent persistent violence (sexual and otherwise) against women and domestic violence, including marital rape. Please report on the implementation in Punjab of the 2016 law on domestic violence and other relevant legislation at the provincial level. Please report on the role of the Council of Islamic Ideology in determining the Government's position on violence against women, including reports that the Council supported a proposed bill allowing husbands to "lightly beat" their wives. Please provide information on the number of cases of such violence that have been reported and investigated and that have resulted in convictions, as well as information on the sanctions imposed on perpetrators and the remedies provided to victims.

5. Please provide information on the measures taken to eradicate and prevent the practice of "honour killings" of women and girls, as well as other forms of violence committed in the name of "honour". What measures have been taken to ensure that all reported cases of such killings are promptly and thoroughly investigated and that the perpetrators are prosecuted and punished with sanctions commensurate with the gravity of the crime? Please address concerns about the application, under sharia law, of *qisas* (equal retaliation) and *diyat* (financial compensation) for such killings, as a result of which perpetrators can go unpunished, and provide information on such cases. Has an amendment been made to the Anti-Honour Killings Laws (Criminal Laws Amendment) Act, 2014? Please clarify whether *jirgas* (tribal councils) have been banned in the State party and comment on reports that *jirgas* continue to make decisions on honour killings, forced marriage and exchange of women and girls for settling disputes.

**Right to life and security of person (arts. 6, 7 and 9)**

6. Please provide information on the legislative framework related to the voluntary termination of pregnancy and clarify whether abortion is criminalized and, if so, provide information on the punishments that can be imposed on those performing or requesting illegal abortions and the circumstances under which abortion is legal. Please explain what constitutes the "necessary treatment" referred to in section 338 of the Penal Code. Please provide information on the number of abortions performed legally, the number of clandestine abortions, the number of persons sanctioned for performing or requesting an abortion and the punishments imposed on those found guilty. Please provide statistics on maternal mortality as a result of clandestine abortion and on access to contraception and sexual and reproductive health education and services.

7. Please clarify whether the State party intends to reinstate the moratorium on the death penalty. Despite the State party's justification for lifting the moratorium, only 39 of the 351 executions carried out between December 2014 and January 2016 appear to have been for charges of terrorism. Please comment on this. Please explain how the application of the death penalty to blasphemy and narcotics-related offences is compatible with article 6 (2) of the Covenant and comment on allegations that death sentences have often been handed down in trials not in compliance with international fair trial standards. Please explain why the State party has adopted a policy of denying all pleas for clemency. Please provide information on: (a) the number of death sentences issued by civilian and military courts and the number of executions carried out since the lifting of the moratorium; (b) the nature of the crimes that are punishable by death; (c) the age, ethnic origin, religion and sex of those sentenced to death; (d) the number of appeals made for pardon or the commutation of a sentence and the number of appeals granted; and (e) the number of persons awaiting execution.

8. Please clarify reports that although the Juvenile Justice System Ordinance, 2000, prohibits the imposition of the death penalty for juveniles many juveniles have been

sentenced to death and at least five individuals who were under 18 years old at the time of their alleged offence have been executed. What mechanisms are in place to ensure that proper judicial enquiries are carried out to determine the age of someone alleging to be a juvenile, in particular if he or she has been sentenced to death? Please comment on reports that some individuals with mental disabilities have been sentenced to death, including Khizar Hayat, a diagnosed schizophrenic, and Abdul Basit, a paraplegic, and provide information on the legislative framework prohibiting persons who are mentally disabled from being sentenced to death.

9. Please provide information on the measures taken to address the large number of allegations of enforced disappearance and extrajudicial killings by law enforcement officials, military and security forces and rangers across the country. Please comment on allegations that the practice of enforced disappearance is often used to target political or human rights activists. Please indicate what steps have been taken to implement the December 2013 judgment of the Supreme Court in the case of Mohabat Shah. Please respond to reports that police officers regularly stage armed exchanges to kill individuals already in custody, and provide information on efforts to combat corruption in law enforcement, including in response to reports that law enforcement officials regularly request bribes for registering “first information reports”. Please explain what efforts the State party has made to ensure that families of disappeared persons can file a case with the police without fear of intimidation or reprisal, to promptly and thoroughly investigate all cases of enforced disappearance and extrajudicial killings and to prosecute and punish the perpetrators with sanctions commensurate with the gravity of the crime. Please provide information on the Commission of Inquiry on Enforced Disappearances, including on its mandate, power, composition and financial and human resources, and on the activities it has carried out to date. Please also provide information on the number of cases of enforced disappearance and extrajudicial killings that have been reported and investigated and that have resulted in prosecutions, as well as information on the sentences imposed on perpetrators and the remedies provided to victims.

#### **Counter-terrorism measures (arts. 4, 6, 7, 9, 10 and 14)**

10. Please address concerns about the Protection of Pakistan Act, 2014, and allegations of its misuse by law enforcement officials, in particular regarding the fact that the Act allows for preventive detention for up to 90 days and gives law enforcement officials extensive powers to carry out searches without a warrant, to arrest people without judicial approval for a wide range of vaguely defined offences, to withhold information relating to a detainee, accused person or internee deemed to be an “enemy alien” or “a militant” and to use firearms. What mechanisms are in place to ensure that law enforcement officials do not misuse or abuse their powers under the Act? Please respond to criticism that special courts constituted by the Act for the purpose of conducting speedy trials have not concluded a single trial during the two years since the Act has been in force. Please indicate whether the State party intends to extend the period of validity of the Act and, if so, on what basis. Please comment on the efforts made by the State party to ensure that counter-terrorism activities pursued in its territory by foreign States, including activities making use of lethal force, are conducted in a manner consistent with the obligations under the Covenant.

11. Please provide information on the criteria for and the process of selecting cases to be tried by military courts, the proceedings of those courts and the qualifications of its judges. Please explain the legal basis for allowing military courts to sentence civilians, including juveniles, to death and explain how doing so is in conformity with article 14 of the Covenant. Please clarify whether persons tried by military courts are guaranteed the right to a fair trial and comment on reports that the majority of persons held in custody by military authorities are subjected to torture and other ill-treatment. Please clarify whether the judgments of military courts are issued and made public. Please clarify whether the State

party intends to extend the twenty-first amendment to the Constitution and the amendments to the Army Act, 1952, once they expire on 6 January 2017.

**Torture, ill-treatment and deprivation of liberty (arts. 7, 9 and 10)**

12. Please clarify whether torture is explicitly criminalized in the legislation of the State party and provide information on the adoption of the Torture, Custodial Death and Custodial Rape (Prevention and Punishment) Bill, 2015, and on the steps taken to address criticisms that the Bill is not in compliance with international standards, in particular regarding the investigating body. Please justify the compatibility of section 21-H of the Anti-Terrorism Act, 1997, with article 7 of the Covenant.

13. Please provide information on the measures taken to address allegations of widespread torture by law enforcement officials and to put an end to the culture of impunity allegedly protecting State agents charged with torture. Please provide information on the Human Rights Cell of the Supreme Court and other monitoring bodies that are mandated to deal with complaints of torture and ill-treatment, including information on their composition, mandate, powers and human and financial resources. Please also provide information on the number of cases of torture that have been reported and investigated and that have resulted in convictions, on the number of cases dismissed and on the reasons why, as well as on the penalties imposed on perpetrators and the remedies provided to victims of torture.

14. Please provide information on the criteria for placing a person in police custody and the length of such custody. Please also provide information on pretrial detention, including on the length of such detention, the number of persons held in remand and the proportion of the entire prison population that is held in pretrial detention. Please explain how article 10 (4) and (5) of the Constitution and section 6 of the Protection of Pakistan Act, 2014, are compatible with article 9 of the Covenant. Please provide information on the number of persons held in preventive detention and the length of their detention, on the legal provisions that provide for incommunicado detention and on the number of persons held in such detention. Is there a mechanism for compensating the victims of unlawful detention?

15. Please provide information on the measures taken to improve the conditions of detention in prison, including in respect of overcrowding, insufficient essential facilities and limited access to medical care. Please also provide information on the legal framework that governs the use of restraining devices on detainees in prison and/or during transfer. Please explain what complaint procedures are available to detainees. Please provide information on detention in psychiatric hospitals, on measures for protecting detainees in those institutions and on the situation of asylum seekers and irregular migrants in places of detention. Please also provide information on the extent to which national and international organizations have been permitted to independently monitor detention facilities.

**Bonded labour and human trafficking (arts. 2 (2), 8 and 26)**

16. Please comment on reports that, notwithstanding the adoption of the Bonded Labour System (Abolition) Act, 1992, bonded labour persists in the State party, in particular in the brick kiln industry and among Christians and Scheduled Caste Hindus (Dalits). What measures has the State party taken to raise awareness of and implement the Act? Please comment on reports that the 100 million rupees allocated by the State party for the elimination of bonded labour have not been used for that purpose. Please also provide information on the implementation of the Prevention and Control of Human Trafficking Ordinance, 2002.

**Freedom of movement (art. 12)**

17. Please provide information on the number of names that are currently on the Exit Control List and the consequences of being placed on that list. Please also provide information on the number of passports that have been cancelled, impounded or confiscated and explain what “specific circumstances” have led to the cancellations and what procedures are in place to challenge the cancellation, impoundment or confiscation of a passport. Please specify the visa restrictions imposed to limit access to certain areas of the country and the conditions governing the movement of persons within the country, including refugees and asylum seekers.

**Right to a fair trial and the administration of justice (arts. 14 and 18)**

18. Please provide information on the measures taken to ensure that the Constitution and federal laws, as well as the jurisdiction of the highest courts, are applied to the entire territory of the State party, including the Federally Administered Tribal Areas. Please explain how article 8 of the Constitution is applied when there is a conflict between the provisions of the Constitution and Islamic laws, in particular in relation to fundamental rights, and provide examples of such cases. In cases of contradictory rulings or interpretations between the two superior courts, namely the Supreme Court and the Federal Sharia Court, how are they resolved? Please clarify the hierarchy between the High Courts and the Federal Sharia Court in the appellate jurisdiction. Please address concerns that the High Courts are restricted from exercising their jurisdiction under article 199 of the Constitution, in particular in respect of habeas corpus orders, in situations where the armed forces are acting in aid of civil power.

19. Please provide information on the measures taken to address the following concerns raised regarding the justice system, among others: (a) the lack of transparency in the process of appointing judges and the poor quality of those appointed; (b) the insufficient budget allocated to the judiciary; (c) the shortage of judges and the large number of long-term vacancies, in particular in the lower courts; (d) the existence of corruption in the judiciary; (e) the considerable backlog of cases; (f) the lack of State-funded legal aid programmes; (g) the lack of protection mechanisms for legal professionals, including judges, prosecutors and lawyers, as well as victims and witnesses; and (h) the lack of quality legal education to prepare legal professionals and the dearth of continuous professional training programmes available to them.

**Freedom of religion, conscience and belief (arts. 2 (2), 14, 18, 19 and 26)**

20. Please clarify whether every person in the State party, including Ahmadis, has the right to profess, practise and propagate his or her religion and to exercise his or her rights without interference, as provided for in article 20 of the Constitution. Please explain how religious and Ahmadi-specific laws are compatible with article 18 of the Covenant and with article 20 of the Constitution. Please clarify the main differences in status between Islam, the religion of the State party, and other denominations, particularly with regard to the granting of subsidies and the protection of and access to places of worship. Please provide information on the measures taken by the State party to eliminate discrimination and violence against religious minorities in the State party, including Christians, Hindus, Shia Muslims and Ahmadis, and on the implementation of the judgment of the Supreme Court of Pakistan of 19 June 2014 in that regard. Please also provide information on the measures taken to prevent and prohibit hate speech and hate crimes against religious minorities and on the efforts made to remove religiously biased content from school textbooks and the curriculum. Please respond to concerns about the proliferation in the country of madrasas whose curricula reportedly incite hatred and that have allegedly been used as a platform for military training and recruitment by non-State armed groups.

21. Please clarify concerns about the broad and vague definition of offences against religion provided for in the blasphemy laws and the disproportionate use of those laws against individuals belonging to religious minority groups. Please provide information on the measures taken to tackle the large number of blasphemy cases based on false accusations and the absence of investigations and prosecutions in such cases. Please also provide information on the lack of mechanisms to protect the judges who hear blasphemy cases and those accused of blasphemy from intimidation, threats of murder and murder. Please provide information on the number of blasphemy cases reported, the number of perpetrators convicted and prosecuted, disaggregated by religious affiliation, the number of cases dismissed and the reasons why, and the nature of the crimes for which alleged perpetrators have been prosecuted.

**Privacy and freedom of expression (arts. 17 and 19)**

22. Please describe the domestic legal framework and the oversight mechanisms in place governing mass data collection and other forms of data collection and surveillance by all State agencies, as well as the measures taken to ensure that any surveillance conducted by State agencies or foreign agencies are consistent with article 17 of the Covenant. Please also provide information on the licensing requirements for network providers and explain how those requirements are compatible with article 17 of the Covenant.

23. Please respond to concerns about the Prevention of Electronic Crimes Bill, 2016, which include: (a) the overly broad definitions of terms and offences provided for in the Bill; (b) the extensive powers given to the Pakistan Telecommunications Authority to remove or block access to any information and to issue guidelines to information systems service providers; (c) the broad power given to the Government to legislate regulations and statutory instruments in this area; (d) the broad powers of the authorized officers, which include the power to request the decryption of information; (e) the mandatory mass retention of traffic data by service providers; (f) the imposition of secrecy on service providers; and (g) the sharing of information and cooperation with foreign Governments without judicial authorization and oversight.

24. Please indicate whether the State party intends to decriminalize defamation. Please provide examples of cases in which the Defamation Ordinance, 2002, has been applied and information on the number of cases brought before a court under the Ordinance and on convictions. Please comment on reports that the Pakistan Electronic Media Regulatory Authority exercises excessive control over the content of media outlets by threatening to cancel broadcasting licences and issuing fines (see, for example, the recent case in June 2016 involving the cancellation of two television programmes on private channels, allegedly for their content, which related to the oppression of Ahmadis, and the complete ban on Indian programming in October 2016). Please indicate the supervisory mechanisms of the Authority. Please also provide information on the measures taken by the State party to address the repeated reports of the abduction, killing and intimidation of journalists, human rights defenders and lawyers, allegedly by State entities, especially the military intelligence services. Please indicate the number of cases investigated and the number of perpetrators prosecuted and the penalties imposed.

**Right to freedom of assembly and association (arts. 20 and 21)**

25. Please specify any conditions that need to be met for an assembly to be authorized and provide information on limitations on the right to freedom of assembly and association. Please provide information on how many protests have been forbidden by a magistrate and on the procedures for appealing a magistrate's decisions. Please specify who are the citizens referred to in paragraph 172 of the State party's report (CCPR/C/PAK/1) as being "in the service of Pakistan" and comment on whether a person in such service has the right

to be a member of a political party. Please indicate the number of political parties that have been found by the Supreme Court to operate in “a manner prejudicial to the sovereignty or integrity of Pakistan” and what penalties have been imposed on members of prohibited organizations. Please provide information on the process for the registration of trade unions and international non-governmental organizations in the State party.

**Right to marriage and family (arts. 2 (2), 3, 23 and 26)**

26. Please provide information on any steps taken by the State party to harmonize its legislation concerning the minimum legal age of marriage of both boys and girls with international standards, at the federal, provincial and territorial levels, as well as between secular and sharia law. Please comment on the ongoing practices of *ghag*, forced marriage and child marriage, in particular among women and girls belonging to religious and ethnic minorities, despite the existence of a legislative framework that prohibits those practices. What additional measures, other than legislative ones, has the State party taken to eradicate those practices and to address the large number of suicides committed or attempted by victims of such practices? Please clarify whether all women are protected under the law, in relation to marriage, divorce and custody, regardless of their religious or ethnic background.

**Protection of children (arts. 2 (2), 3, 24 and 26)**

27. Please provide information on the measures taken to register all children born in the State party, including ethnic and religious minority children, refugee and asylum-seeking children and gypsy children. Please provide information on the measures taken to curb the very high number of children involved in child labour, including in hazardous and slavery-like conditions, in domestic servitude and prostitution and on labour inspections on child labour. Please explain what mechanisms are in place to protect children in street situations.

**Refugees (arts. 2 (2), 3, 24 and 26)**

28. Please provide information on the adoption of a draft national refugee law and a comprehensive policy on the voluntary repatriation and management of Afghan nationals. Please explain what steps have been taken by the State party to conduct a comprehensive registration of undocumented Afghan refugees and to improve the living conditions of refugees living in camps and in informal urban settlements. What measures has the State party taken to mitigate the enhanced hostility towards Afghan refugees living in the country and to protect their rights, in particular after the attack on the army public school in Peshawar in December 2014?

**Right to take part in public affairs (art. 25)**

29. Please describe any factors impeding citizens of the State party from exercising their right to vote, including illiteracy, language barriers, poverty or obstacles to freedom of movement. Please explain the rationale behind requiring Ahmadi candidates who identify as Muslims to register as minority candidates. Please provide information on the procedures for electing officials to fill the seats reserved for minorities in the National Assembly. Please also provide information on the implementation of the quota system for women and minorities in the political domain and on the number of women and minorities represented at the federal, provincial and territorial levels.

**Dissemination of information relating to the Covenant**

30. Please indicate what measures have been taken to disseminate information on the Covenant and its Optional Protocols, the initial report of the State party and its forthcoming examination by the Committee. Please provide detailed information on the involvement of

representatives of ethnic and minority groups, civil society and non-governmental organizations in the preparation of the report.

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