
Human Rights Violations Against Minorities of Pakistan and Enforced Disappearances and Extra- Judicial Killings of Sindhi Activists

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Submitted By

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SUBMISSION TO THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

REGARDING THE UNIVERSAL PERIODIC REVIEW OF PAKISTAN DURING THE 14TH SESSION, 22 OCTOBER-5 NOVEMBER 2012

INTRODUCTION

1. This report is an individual stakeholder submission to the Office of the High Commissioner for Human Rights (“OHCHR”) for consideration in its summary of submissions for Pakistan’s appearance in the fourteenth Universal Period Review.
2. This submission focuses on the increased discrimination against lesser known religious minorities of Pakistan, particularly the Sindhi Hindus. This review will particularly discuss the recent exodus of the Sindhi Hindu population out of Pakistan as a result of increased targeted discrimination including: kidnappings; forced disappearances; extrajudicial killings; forced abductions and conversions of Sindhi Hindu women; bonded labour; and the unequal distribution of resources during flood relief efforts.
3. According to the 1998 Census, there were a recorded 2,443,614 million Hindus living in Pakistan. It is estimated that while Hindus consisted of 15% of Pakistan’s population following partition, today the number has rapidly been decreasing, to what is now just over 2% of Pakistan’s 170 million people.¹ Pakistan’s Hindu Council however, estimates that Hindus consist of 5.5% of Pakistan’s total population, with 4.78% of the Hindus living in Punjab province; 1.61% in Baluchistan province; and 93.33% of Hindus living in Sindh province.²
4. There are approximately 40 castes belonging to the ‘Scheduled Castes’ or Dalit Hindus. While official statistics state that the Scheduled Caste population consists of 0.25% of Pakistan’s population³, unofficial figures range much higher. Representatives of Scheduled Castes claim their number is deliberately underestimated and that the Scheduled Caste population in Pakistan is as high as 2,000,000, and 70 to 80% of Pakistan’s total Hindu population.⁴ Despite a recommendation in the previous review to take measures to prevent discrimination against this group⁵, the situation has not improved in the period under review.

¹Mark Magnier, *Pakistani Hindus’ Ashes Brought to India to be Scattered in Ganges*, LA Times, July 25, 2011, <http://articles.latimes.com/2011/jul/25/world/la-fg-pakistan-hindus-20110725>; Hindu America Foundation, *Hindus in South Asia and the Diaspora, A Survey of Human Rights, 2007*, estimates Hindu population in Pakistan at 1.6% of the total population, available at: <http://www.hafsite.org/pdf/HHR2007.pdf>.

² Pakistan Hindu Council, population statistics, available at: <http://www.pakistanhinducouncil.org/hindupopulation.asp>

³ Population Census Organization, ‘Population by Religion’ available at: <http://www.census.gov.pk/Statistics.php>.

⁴ International Dalit Solidarity Network (“IDSN”), CERD 74th Session, *Suggestions for Inputs to the List of Issues (October, 2008) Submitted by IDSN, Caste- Based Discrimination in Pakistan*, available at: http://www2.ohchr.org/english/bodies/cerd/docs/Pakistan_LoI_CERD74.pdf ; see also ‘Minority Rights: Dalits Want Greater Share In Census Over Upper Caste Hindus’(26 July 2011) available at: <http://tribune.com.pk/story/217136/minority-rights-dalits-want-greater-share-in-census-over-upper-caste-hindus/>.

⁵ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review (Pakistan)* (4 June 2008) A/HCR/8/42, 20, recommendation 31.

DISCRIMINATION PATTERNS

5. Forced Marriages and Forced Conversions of Hindu Girls and Young Women

- (a) Whereas Pakistan has accepted the recommendation to take action against forced marriage in the previous review⁶, there has been an increase, particularly in Sindh, of the abduction and forced conversion to Islam of Hindu girls. Young Hindu girls are being kidnapped, subjected to forced marriages with Muslim boys, and converted to Islam.⁷ The Asian Human Rights Commission documents that 20-25 forced conversions are occurring every month in Sindh, and fears that a situation is being created which may force Hindus to leave Sindh.⁸ In 2011, kidnappings of teenage girls in the Aaklee village, Sindh, prompted approximately 71 Hindu families to relocate to India.⁹ Contributing to the crime of abductions and forced marriages of Hindu women is the fact that there is currently no system to register Hindu marriages under Pakistan law; therefore, married Hindu women are also falling prey to abductions and forced second marriages.¹⁰ On March 14, 2011, Pakistan People's Party lawmaker, Azra Fazal Pechuho addressed the Pakistani Parliament, warning that Hindu girls were being kidnapped and forced to marry Muslims against their will.¹¹ In October of 2010, Pakistani Senate State Committee on Minorities Affairs, "expressed concern over abduction and conversion of Hindu girls in Sindh," and recognized that in some cases, "the conversion of a girl from a minority faith began with her abduction and/or rape [...]."
- (b) It is reported that the police, in many cases, are refusing to register the First Information Reports ('FIR') Complaints, rendering the girls' families with little recourse against the assailants.¹² And in those cases in which FIR Complaints are registered, and which are brought to trial, the girls' relatives are often not allowed inside the courtroom; and are

⁶UN Human Rights Council, *Report of the Working (n 7)*, recommendation 7.

⁷ Asian Human Rights Commission, *Pakistan: 'The Failure of the Judicial System- Another Hindu Girl Was Forcibly Converted to Islam and Her Whereabouts are Unknown'*, (March 7, 2012,) available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-042-2012>), Also mentioned in <http://indiatoday.intoday.in/story/hindus-in-pakistan-victims-of-abduction-forced-conversions-and-oppression/1/138751.html>.

⁸/bid

⁹ World Sindhi Congress *Report on Forced Conversions to United Nations Minority Forum*, November, 2011 (<http://www.worldsindhicongress.org>); also see Middle East Media Research Institute (MEMRI) report,; Gopiniath Kumar, 'Lawmaker Marvi Memon Slams Anti-Hindu Violence in Pakistan' (January 13, 2011) *Pakistan Hindu Post* available at: <http://pakistanhindupost.blogspot.com/2011/01/pakistani-lawmaker-marvi-memon-slams.html>

¹⁰*Id.*, also see, Zahid Gishkori, *Divorce Remains Sticking Point in Hindu Marriage Act*, The Express Tribune, October 12, 2011. (Reporting that while Pakistan has no current system to register marriages for Hindus, a proposed Hindu Marriage Act is being considered in Pakistan's National Assembly.)

¹¹*Hindu Girls Are Forced to Marry Muslims: Zardari's Sister*, Indian Express, March 15, 2012, available at: <http://www.indianexpress.com/news/hindu-girls-are-forced-to-marry-muslims-zardaris-sister/924247/1>

¹²Human Rights Commission of Pakistan (n 18) p 125, (reporting: Investigation, prosecution against agents of violence and intimidation against minority groups was not a priority, charges were "seldom brought against those responsible for violence, intimidation, and discrimination. . . There was growing feeling of lack of effective representation in parliament for non-Muslim citizens...")

unaware of the whereabouts of the girl.¹³ Further, pending the Court's final ruling, girls have been sent to Islamic school centers, or returned to the alleged kidnapper's home, rather than to secular women shelters or to the girls' families.¹⁴ The Human Rights Commission of Pakistan (HRCP) 'Working Group on Communities Vulnerable Because Of Their Beliefs' reports that the courts' practice in such cases has typically been to not decide custody matters in favor of the girl's family, even when the girls are 12 or 13 years old.¹⁵

6. Increase of 'Kidnapping for Ransom' Cases Against Hindus

- (a) Hindu businessmen in Sindh are increasingly subject to extortion or kidnappings for ransom.¹⁶ Additionally, Baluchistan has seen a rise of ransom related kidnappings: 43 Hindus were abducted in Baluchistan province between 2008 and 2011.¹⁷¹⁸ And within the past few months, at least 23 Baluchistan Hindus were kidnapped.¹⁹ According to the Society for the Protection of the Rights of the Child, 23 Hindu children were kidnapped between 2008 and 2010. Police failure to register complaints has left Hindus without protection.²⁰

7. Enforced Disappearances

- (a) Figures on enforced disappearances vary depending on the sources, but it has been estimated that the number of disappearances in the past year is close to 200²¹. Many instances go

¹³Discussions with Samir Kalra, Esq., Director and Senior Fellow for Human Rights, Hindu American Foundation; also see U.S. Congress Representative Brad Sherman letter addressed to Pakistan President Asif Zardari on issue of forced Hindu conversions, March 12, 2012.

¹⁴Discussions with Samir Kalra, Esq., Director and Senior Fellow for Human Rights, Hindu American Foundation.

¹⁵ Human Rights Commission of Pakistan, *State of Human Rights, 2010* [Lahore 2010] p 137.

¹⁶ The U.S. Commission on International Religious Freedom Annual Report, Pakistan 2011(recommending that Pakistan is declared a "country of particular concern" pursuant to the US International Religious Freedom Act for failure to protect religious freedom), p. 114, documenting attacks on Hindus and Sikhs, available at: <http://www.uscifr.gov/images/book%20with%20cover%20for%20web.pdf>

¹⁸Hassan, Nadir, 'Minority rights: For Hindu Community, Asylum May be the Only Option', June 11, 2011, *The Express Tribune*, <http://tribune.com.pk/story/186683/minority-rights-for-hindu-community-asylum-may-be-the-only-option/>

¹⁹'23 Hindus Kidnapped in Pakistani Province', March 3, 2012, *Deccan Herald*, <http://www.deccanherald.com/content/231810/23-hindus-kidnapped-pakistani-province.html>

²⁰ Hindu America Foundation, Summary of Violence/Discrimination Against Hindus in Pakistan, 2012, citing: Asian Centre for Human Rights, "Pakistan: The Land of Religious Apartheid and Jackboot Justice, A Report to the UN Committee Against Racial Discrimination, (August 2007), available at: <http://www.achrweb.org/Review/2007/179-07.htm>.

²¹ 'Sindh Follows Balochistan In Missing Persons: 82 Missing From Balochistan 69 From Sindh In Recent Months' (27 February 2012) available at: <http://iaoj.wordpress.com/2012/02/27/sindh-follows-balochistan-in-missing-persons-82-missing-from-balochistan-69-from-sindh-in-recent-months/> [accessed 7 April 2012]. See also: UN Human Rights Council, *Report of the Working Group on Enforced or Involuntary Disappearances* (6 February 2011) UN Doc A/HRC/19/58 102; Aftab Channa, '54 or 16? How Many Are 'Missing' In Sindh?' (22 February 2012) available at <http://www.pakistantoday.com.pk/2012/02/22/city/karachi/54-or-16-how-many-are-%E2%80%98missing%E2%80%99-in-sindh/> [accessed 6 April 2012].

unreported because of fear for repercussions.²² Cases that do get reported often do not get followed up on, despite repeated complaints by the families, as in the cases of nationalists Muzaffar Bhutto and Babar Jamali.²³ In another example, several students went missing after filing a petition against their university authorities.²⁴ Victims that return report being subjected to torture, including sleep deprivation and beatings.²⁵ There are many reports of torture scars on the bodies of people who have been found dead after a period of enforced disappearance.²⁶

Further details please see Appendix A.

8. Extrajudicial Killings

- (a) Closely related to the problem of enforced disappearances is that of extrajudicial killings. In April 2011, three JSMM activists, Siray Qurban Khuhawar, Rooplo Cholyani, Noorullah Tunio and their driver were killed in a brutal attack in Shanghai district.²⁷ In a fact-finding mission, the Human Rights Commission of Pakistan (HRCP) found that the car of the activists was attacked by more than a dozen armed men²⁸. Despite the urgent call of the HRCP, the case was only half-heartedly investigated, and the perpetrators have not been brought to justice.
- (b) On April 4th, JSQM leader Bashir Khan died of cardiac arrest, not long after a freedom rally in Karachi the previous month had highlighted his increasing popularity. An autopsy allegedly

²² Brian Finucane, 'Enforced Disappearances As A Crime Under International Law: A Neglected Origin In The Laws Of War' 2010, 35 *Yale Journal of International Law* 171, 173; Asian Human Rights Commission, 'Pakistan: The Bodies Of Two More Missing Persons From Sindh Have Been Found' (15 February 2012) available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-024-2012>; [accessed 7 April 2012].

²³ BBC Urdu, *Missing Persons Of Sindh* (21 Februari 2012) available at: <http://www.youtube.com/watch?v=YdDjt3aEJX4&feature=youtu.be> [accessed 17 April 2012]; Dan Burton, letter to Asif Ali Zardari (31 Mayb 2011) available at: <http://mespeaks.wordpress.com/2011/06/30/burton-over-enforced-disappearance-of-sindhi-baloch-nationalists/> [accessed 16 April 2012]; Noam Chomsky, open letter (6 February 2012) available at: http://mespeaks.files.wordpress.com/2012/02/chomskyletter_020612_590-766.jpg [accessed 17 April 2012]; Qazi Asif, 'But Where Is Babar Jamali?' (17 February 2012) *Pakistan Today* available at: <http://www.pakistantoday.com.pk/2012/02/17/city/karachi/but-where-is-babar-jamali/> [accessed 18 April 2012]

²⁴ Asian Human Rights Commission, 'PAKISTAN: Sindh University Authorities Use Law Enforcement Agencies For Disappearances Of Students' (11 October 2011) available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-203-2011> [accessed 18 April 2012].

²⁵ KTN TV, *Sindh & Balochistan Missing Persons & Torcher Cell Program part 2* (8 January 2012) available at: <http://www.youtube.com/watch?v=kprw9ok8YVo> [accessed 17 April 2012]; TV, *Sindh & Balochistan Missing Persons & Torcher Cell Program part 3* (8 January 2012) available at: http://www.youtube.com/watch?v=rbk_GLZnI0s&feature=relmfu [accessed 17 April 2012].

²⁶ Asian Human Rights Commission, 'Pakistan: The Bodies Of Two More Missing Persons From Sindh Have Been Found' (15 Februari 2012) available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-024-2012> [accessed 4 April 2012]. ²⁶ See World Sindhi Congress, 'Forced Disappearances And Killings Of Political Activists And Innocent Ordinary Sindhis' (28 August 2011) available at: http://www.worldsindhicongress.net/index2.php?option=com_content&do_pdf=1&id=342 [accessed 4 April 2012]; Asian Human Rights Commission, 'Pakistan: The Bodies Of Two More Missing Persons From Sindh Have Been Found' (15 Februari 2012) available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-024-2012> [accessed 4 April 2012]; William Nicholas Gomes, 'Pakistan: Ahmadi Leader Tortured To Death In Police Custody' (3 April 2012) available at: <http://spyghana.com/world-news/asia/pakistan-ahmadi-leader-tortured-to-death-in-police-custody/> [accessed 5 April 2012].

²⁷ Asghar Azad, 'Three JSMM Leaders Shot Dead In Shanghai District' (22 April 2011) available at: http://www.dailytimes.com.pk/default.asp?page=2012\02\16\story_16-2-2012_pg7_26 [accessed 4 April 2012].

²⁸ Agencies' Role In JSMM Activists' Murder Must Be Probed: HRCP' (5 May 2011) available at: <http://hrpcbog.wordpress.com/2011/05/05/agencies%E2%80%99-role-in-jsmm-activists%E2%80%99-murder-must-be-probed-hrcp/> [accessed 5 April 2012].

showed signs of poisoning in his blood, and his supporters have demanded further inquiry.²⁹ This and other murders of nationalist leaders clearly show attempts by the authorities to slow down momentum for a nationalist movement by any means.

- (c) The case Sarfaraz Shah, an unarmed teenager who was shot and killed by Rangers personnel, shows the impunity for crimes committed by senior officials.³⁰ Soon after the incident, the Supreme Court of Pakistan started a *suo moto* investigation, ordered the Director General Ejaz Chaudry of the Rangers to be transferred to a different department.³¹ Six of the Rangers involved and one civilian were sentenced to life in prison in front of the Anti-Terrorism Court.³² However, Ejaz Chaudry was restated in his position two months later, and got a promotion shortly afterwards.³³

Further details please see Appendix A.

9. Discrimination Specific to Hindu 'Schedule Caste' Members

- (a) Bonded Labour: An estimated 1.7 million people are enslaved as bonded labourers in Pakistan, as a result of outstanding financial debts.³⁴ A report by Anti-Slavery International reported a prevailing practice of bonded labour, with the majority of the victims belonging to the Scheduled Caste Hindu populations.³⁵ Bonded labour, including bonded labour of children, continues to exist, despite the Government's 2001 extension of the 1992 Bonded Labour System Abolition Act, and recommendations made in the previous review.^{36,37} "As

²⁹ 'Basheer Qureshi Was Poisoned To Death, Claim Sources' (9 April 2012) available at: <http://dawn.com/2012/04/09/basheer-queshi-poisoned-to-death/> [accessed 11 April 2012]; Khalid Hahmani, 'Mysterious Death Of Bashir Khan Qureshi Was Preceded By Deaths Of Several Sindhi Nationalist Leaders' (9 April 2012) available at: <http://iaoj.wordpress.com/2012/04/09/mysterious-death-of-bashir-khan-queshi%E2%80%8F-was-preceded-by-deaths-of-several-sindhi-nationalist-leaders/> [accessed 11 April 2012]; Mohammad Hussain Khan, 'Basheer's Death: Govt Agrees To Send Samples To UK' (22 April 2012) available at: <http://dawn.com/2012/04/22/basheers-death-govt-agrees-to-send-samples-to-uk/> [accessed 11 April 2012].

³⁰ 'Rangers Kill Youth In Karachi' (9 June 2011) available at: <http://www.thenews.com.pk/NewsDetail.aspx?ID=16764> [accessed 5 April 2012]. See 'Unarmed Man Shot At Point Blank Range By Military Police Who Casually Watch As He Bleeds To Death In The Street' (10 June 2011) available at: <http://www.dailymail.co.uk/news/article-2002194/Unarmed-Sarfaraz-Shah-shot-dead-point-blank-Pakistan-military-police.html> [accessed 9 April 2012].

³¹ 'Extra Judicial Killing: DG Rangers, IGP Sindh Removed' (14 June 2011) available at: <http://paktribune.com/news/Extra-Judicial-Killing-DG-Rangers-IGP-Sindh-removed-240347.html> [accessed 6 April 2012].

³² Zeeshan Mujahid, 'Sarfaraz Shah Murder Case, In Swift Trial, Rangers Man Is Sentenced to Death' (12 August 2011) available at: <http://tribune.com.pk/story/229867/court-to-present-verdict-in-sarfaraz-shah-murder-case-today/> [accessed 9 April 2012].

³³ 'Federal Government Restores DG Rangers Sindh' (29 August 2011) available at: <http://tribune.com.pk/story/241433/federal-government-restores-dg-rangers-sindh/> [accessed 9

April 2012]; 'Military Reshuffle: Four Major General Promoted' (5 October 2011) available at: <http://tribune.com.pk/story/267091/military-reshuffle-four-majors-general-promoted/> [accessed 9 April 2012]

³⁴ Bakshi, Roopa, "Bonded Labour," (November 2002), The-South-Asian.com,; "Bonded Labour in Pakistan," Report Prepared for UN Economic and Social Council, (June 23-July 9, 1999), Anti-Slavery International, available at: <http://www.antislavery.org/archive/submission/submission1999-08Pakistan.htm>.

³⁵ Hindu America Foundation, Hindus in South Asia and the Diaspora: A Survey of Human Rights, citing "Chronology of Events Related to Bonded Labour in 2008," Human Rights Commission of Pakistan, available at: http://www.hrcp-web.org/hrcpDetail_cs.cfm?catId=209.

³⁶ UN Human Rights Council, *Report of the Working Group* (n 7) p 20 recommendation 37.

the Asian Human Rights Committee states: “[T]he Hindu community in Sindh province, along the borders of India, is from different scheduled castes like, Bheel, Kohli and others, and their women are subjected to abduction, rape, arbitrary arrest, torture, displacement and killings. Most of the bonded labour in Sindh is from the Hindu community and has been for many centuries.”³⁸ Local government officials have failed to enforce the Bonded Labour Abolition Act and police often fail to register complaints against abusive landowners.³⁹ The bonded labour system is characterized by patterns of abuse, detention, and exploitation.⁴⁰

- (b) Lack of Political Representation: In the allotted seats for the minorities in the Pakistan National Assembly, Senate, and provincial assemblies, not a single Hindu from the Scheduled caste holds a seat. This is largely due to the fact that since 1997, there has been no electoral option for minorities to choose representatives, as political parties select the candidates for minority representation, none of which have been of a Scheduled Caste.⁴¹ Pakistan Government has failed to provide any official data on the representation of the Scheduled Castes in the political arena. In the federal political level, in 61 years, only one Scheduled Caste member has been a minister in the federal government.⁴² The Human Rights Commission of Pakistan reported that in 2010, “there was a growing feeling of lack of effective representation in parliament for non-Muslim citizens even under the joint electorate system, as well as little possibility of holding to account lawmakers nominated to seats reserved for minorities.”⁴³
- (c) Discrimination of Scheduled Caste in Flood Relief Distribution: Between July and September of 2010, unprecedented flooding in Pakistan displaced approximately 7 million people, and destroyed 1.9 million homes.⁴⁴ Sikhs and Hindus were observed as being pushed away from

³⁷ International Dalit Solidarity Network (“IDSN”), CERD 74th Session, *Suggestions for Inputs to the List of Issues (October, 2008) Submitted by IDSN, Caste- Based Discrimination in Pakistan*, available at: http://www2.ohchr.org/english/bodies/cerd/docs/Pakistan_LoI_CERD74.pdf; (reporting that in 2001 Pakistan Government implemented the National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers).

³⁸ Asian Human Rights Commission Statement, “Pakistan: Religious Minority Groups Have Nothing to Celebrate on International Day on Women, March 8, 2010, available at: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-043-2010>).

³⁹ Hindu America Foundation, *Hindus in South Asia and the Diaspora: A Survey of Human Rights, 2007*, available at: <http://www.hafsite.org/pdf/HHR2007.pdf> p 63.

⁴¹ Ayesha Shahid, *Caste Makes them Outcast*, Dawn Pakistan, January 21, 2012, available at: <http://www.dawn.com/2012/01/21/caste-makes-them-outcast.html>; stating that 10 of the 342 National Assembly seats, and 23 of all provincial assembly seats are reserved for non-Muslims; Ramesh Jaipal, Chairman of Scheduled Caste Movement states that a substantial number of Scheduled Caste members want “some sort of electoral option where their representatives are ‘elected’ rather than ‘selected’”.

⁴² International Dalit Solidarity Network (“IDSN”), CERD 74th Session, *Suggestions for Inputs to the List of Issues (October, 2008)*, p. 4, Submitted by IDSN, *Caste- Based Discrimination in Pakistan*, available at: http://www2.ohchr.org/english/bodies/cerd/docs/Pakistan_LoI_CERD74.pdf.

⁴³ Human Rights Commission of Pakistan (n 18)

⁴⁴ Human Rights Commission of Pakistan (n 18)

flood distribution points in Sukkur, following the 2010 floods.⁴⁵ Scheduled Caste members in particular were lacking in basic shelter aid relief.⁴⁶ In the Badin town in Sindh district, where 6000 villages were destroyed, though 20% of the population consists of Scheduled Caste members, none of the almost 300 government camp shelters were allocated for Scheduled Caste.⁴⁷ Without allocated shelters, groups such as Kohli, Meghwars, Jogis and Bheels were denied entrance to camps on the basis of discrimination, and were left to find shelter on the roads.⁴⁸ Scheduled caste members also faced looting, and officials did not acknowledge or account for the religious and caste based discrimination.⁴⁹ This policy is contrary to the government's responsibility to provide disaster relief without discrimination, which has been detailed in the UN Guiding Principles on Internal Displacement.⁵⁰

10. Pakistan's Failure to Protect Hindu Minority Citizens Violates Pakistan's National and International Legal Obligations

- (a) Pakistan's failure to investigate the crimes mentioned above is in violation of Pakistan's constitutional safeguards against all forms of discrimination.⁵¹ Pakistan's failure to investigate and prosecute kidnapping and forced marriages of young girls and women specifically is also in violation of Pakistan's Penal Code and the Universal Declaration of Human Rights.⁵² Additionally, it is in conflict with international documents including the United Nations Convention on Rights of the Child⁵³, and the United Nations Convention on the Elimination of all Forms of Discrimination against Women⁵⁴, both of which have been

⁴⁵See *Ibid.*

⁴⁶Zofeen T. Ebrahim, *Untouched by Aid, Relief*, (report on lack of available shelters for Bheels, Meghwars and Kohlis following flooding in Badin, Sindh) Dawn.com, September 23, 2011, available at: <http://www.dawn.com/2011/09/17/untouched-by-aid-relief.html>.

⁴⁷Zofeen T. Ebrahim, *Flood Relief by Caste, Creed*, Dawn.com, September 23, 2011, available at: <http://www.dawn.com/2011/09/22/flood-relief-by-caste-creed.html>

⁴⁸See *Ibid.* Also see: Maria; *Pakistan's Dalits Denied Flood Aid Because of Caste Discrimination* (reporting that hundreds of thousands of Dalits have been denied shelter and relief items due to discrimination), Minority Voices Newsroom, available at: <http://www.minorityvoices.org/news.php?action=view&id=830>

⁴⁹See *Ibid.*

⁵⁰United Nations [UN] High Commissioner on Refugees, *Guiding Principles on Internal Displacement* (22 July 1998) UN Doc E/CN.4/1998/53/Add.2, pp 4,1.

⁵¹Government of Pakistan, *The Constitution of the Islamic Republic of Pakistan* (as amended 30 April 2010), available at: <http://www.infopak.gov.pk/Constitution30April2010.pdf> arts 9, 15-17, 19, 20, 25 (1) .

⁵²*Pakistan Penal Code, 1860* [Pakistan] Act XLV of 1860 (6 October 1860), available at: <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html#140> s 375, 366-368; Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) UDHR).art 16.

⁵³Convention on the Rights of the Child (adopted 20 November 1989, entry into force 2 September 1990) GA Res 44/25 , arts 3,8,9,16,30.

⁵⁴Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entry into force 3 September 1981) A/Res/34/180 (CEDAW), art 16.

ratified by Pakistan.⁵⁵ The state police failure to register or investigate these acts of violence against Hindu citizens, is in conflict with the International Covenant on Civil and Political Rights (ICCPR), article 26. Pakistan's policy towards Scheduled Caste members is in violation of Pakistan's Constitutional safeguards against all forms of discrimination.⁵⁶ The discrimination against Scheduled Castes also constitutes violations of the Universal Declaration of Human Rights.⁵⁷ Pakistan's failure to end public advocacy of discrimination against Scheduled Caste populations is in violation of Article 20 and 26 of the International Covenant on Civil and Political Rights (ICCPR).⁵⁸

11. Evidence of Religious Based Discrimination Contributing to Hindu Emigration Out of Pakistan

- (a) Increasing discrimination and violence directed towards Pakistani Hindus, including the abductions of young girls, is prompting an observed emigration of Hindus out of Pakistan. In 2010, 500 Hindu families in Baluchistan, because of fear of abduction for ransom or death threats, migrated to India.⁵⁹ It has been estimated that that while 10 Hindu families migrated to India from Sindh every month since 2008, in the past 10 months, 400 families have left to India due to fear of safety.⁶⁰ In 2009, the Times of India reported that official statistics recorded 5,000 Hindus migrating to India from Pakistan in the past 4 years out of fear of safety due to increasing discrimination as well as security concerns from Taliban related extremists, but that actual figures were much higher.⁶¹ Additionally, Pakistan's Hindu Council estimates that at least 1,000 Hindu families are now leaving Pakistan per year.⁶²

⁵⁵CEDAW (n 33) arts 7, 8, 10, 18.

⁵⁶*Pakistan Penal Code* (n 30) s 368, 379, 374.

⁵⁷UDHR (n 31) arts 4, 7, 8, 13, 24.

⁵⁸ICCPR (n 35) art 20 stating that, "any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law,"; Article 26 stating that "the law shall... guarantee all persons equal and effective protection against discrimination..." .

⁵⁹ Human Rights Commission of Pakistan (n 18)

⁶⁰Vimal Bhatia, *Fearing Taliban, Pak Hindus take Thar Express to India*, September 10, 2009; http://articles.timesofindia.indiatimes.com/2009-09-10/india/28087838_1_pak-hindus-indian-citizenship-munabao).

⁶¹*Id.* (Reporting: Official numbers of Pakistani Hindus entering India via the Thar Express Train port: 2006- 392 persons; 2007- 880; 2008- 1,240; 2009- 1000. Actual numbers expected to be much higher based on railway employees' observations.)

⁶²Discussion on behalf of the stakeholders with Pakistan Hindu Council Directors, March, 2012.

10. Recommendations

(a) Recommendations Regarding Kidnapping and Forced Conversions of Hindu Girls and Young Women:

- The police must be instructed to lodge FIR complaints in all cases of alleged abduction of Hindu girls and women.
- Judicial safeguards must be built in to any hearings that adjudicate kidnapping and conversion cases.
- The alleged victim's age must be accounted for in whether or not she can give legal consent to the marriage and conversion.
- In alleged abduction and forced marriage cases, third parties are to be prevented from interference in a case through the use of intimidation or threats towards the victim or her family.
- Victims to be given a place in safeguarded women's shelter up to the time of her final hearing.
- The victim's family should be given access to court proceedings.
- The victim's family shall be given police protection if needed.
- Police must be given special training on working with female kidnapping victims.
- State to keep record of number cases which are being reported to the police versus number of cases being lodged, and record of cases being prosecuted and punishments rendered by the courts, to discourage further kidnapping schemes.
- Pending Court's final judgment in forced kidnapping and conversion cases, the State is to Implement Temporary Safe Home/Women Shelter guidelines for victim placement.⁶³ The shelter's staff should include religious minorities; and victims should have access to community social workers, and psychological counselors.⁶⁴ Furthermore, human rights or social workers should have access to visit the victim, and the opportunity to report on the victim's conditions.⁶⁵ The shelter or safe house must also be kept free from undue influence, threats, or intimidation. The girls' parents/family should be given the

⁶³ See Pakistan Christian Post, *Enforcedly Converted Hindu Women Under Life Threat in Shelters*, March 28, 2012 (Dr. Nazir Bhatti,, President of Pakistan Christian Congress (PCC), states that it is common knowledge that the women shelters known as Darul-Amans, are run by provincial governments, have Muslim employees, and have a reputation of running 'forced prostitution rings,' and are therefore, not in fact providing a safe temporary shelter for female kidnapping victims. Also reporting that victims of forced conversions are kept silent with death threats on the grounds of 'apostasy', which decrees death to those who leave the religion after conversion), *available at*: <http://www.pakistanchristianpost.com/viewnews.php?newsid=1799>.

⁶⁴ Discussions with Samir Kalra, Esq., Director and Senior Fellow for Human Rights, Hindu American Foundation regarding recommendations for combating forced conversion practices, and temporary safe homes for alleged victims.

⁶⁵ Ibid.

opportunity to visit their daughters, while they reside in the safe homes, if so requested by the victims.⁶⁶

(b) Recommendations Regarding Kidnappings for Ransom Cases of Hindus:

- Police to be instructed to lodge FIR complaints in cases of alleged kidnappings for ransom.
- Judicial safeguards to be built in to all hearings that adjudicate kidnapping cases,
- State to keep record of number cases which are being reported versus number of FIR complaints actually being lodged by police as well as record of cases being prosecuted and punishments rendered by the courts.

(c) Recommendations Regarding Enforced Disappearances and Extrajudicial Killings

- Fulfill the accepted UPR first cycle recommendation to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, and enact national legislation to support the implementation of the obligations
- Investigate all cases of enforced disappearance that are currently pending. Publicly establish the fate of each victim, and ensure that perpetrators are identified and undergo prosecution and punishment for their crimes.
- Make available a public, continuously updated record of all detentions and arrests, including all people currently in detention.
- Revise laws that give a broad mandate to the police forces to arrest and detain suspects without clearly defined charges, including the Anti-Terrorism Act of 1997.
- Encourage and enable national courts to uphold the right to habeas corpus.

(d) Recommendations Regarding Disparate Treatment of Scheduled Caste Populations:

- State to investigate reported bonded labour cases, and to prosecute and fine landlords who utilize bonded labor.
- State government to make visible efforts of paying any outstanding debts owed to landlords in order to secure the release of any bonded laborers, and provide safe accommodation and economic support to the released laborers.⁶⁷

⁶⁶ Discussions with Samir Kalra, Esq., Director and Senior Fellow for Human Rights, Hindu American Foundation regarding recommendations for combating forced conversion practices, and temporary safe homes for alleged victims. *Also see*, Jibran Khan, *Hindu Girl Tells Supreme Court She Will Rather Die Than Convert to Islam*, Asia News, March 28, 2012 (reporting that alleged kidnapping and forced marriage victim, Rinkle Kumari, states that's that she would rather be killed than to return to the Darul-Aman [Koranic school], where she was placed by the Supreme Court as a temporary 'safe house,' pending the final ruling in her case), available at: <http://www.asianews.it/news-en/Hindu-girl-tells-Supreme-Court-she-would-rather-die-than-convert-to-Islam-24358.html>.

⁶⁷ Discussions with Samir Kalra, Esq., Director and Senior Fellow for Human Rights, Hindu American Foundation regarding recommendations for combating bonded labour.

- Creation of an independent secular body that serves as a shelter/rehabilitation center for bonded laborers.
 - State to provide free public service announcements and education to scheduled caste populations regarding the illegality of bonded labour and freedoms afforded to each citizen.
 - State to allocate percentage of flood rehabilitation resources for scheduled caste populations who are otherwise being denied access.
 - State to publicize in flood ravaged areas that the denial of flood resources to Scheduled Caste members is punishable under the law.
 - State to enact quota for representation of Scheduled Caste in national and provincial government.
 - State to ensure that members of the religious minorities, including Scheduled Caste members, have access to representatives of the National Committee of Minorities.
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Appendix

A. INTRODUCTION

Sindh and human rights in Pakistan

1. Sindh is a province of southeastern Pakistan with a population of approximately 35 million people. The territory practiced territorial autonomy under British rule, and has historically been recognized as a separate political entity. Since it joined Pakistan during the Pakistani-Indian separation, Sindh has experienced a loss of provincial autonomy, and the distinct culture and language of the Sindh have been endangered. Activists who struggle for more autonomy have been hindered by Pakistani authorities.

Overview report

2. This submission focused on the problems of enforced disappearances, torture and extra-judicial killings in Sindh. Using a number of cases, this report will show that the impunity of Pakistan government officials in the region leads to a situation where international human rights law is routinely violated, leading to an unacceptable situation for the people of Sindh.

B. ENFORCED DISAPPEARANCES

3. The crime of enforced disappearance is defined as ‘the arrest, detention or abduction of persons by, or with the authorizations, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give them information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.’⁶⁸ The crime is unique in that not only the damage to the disappeared is considered punishable, but also that to his loved ones who are left behind in uncertainty.⁶⁹ Because of the total power of the government over the victims of enforced disappearances, because there is no accountability over prisoners who do not exist in the official records, it has been called ‘the highest stage of political repression’.⁷⁰

⁶⁸ Statute of the International Criminal Court (7 July 1998) 2178 UNTS 90 (Rome Statute) art 7(2)(i); UN General Assembly (GA), International Convention for the Protection of All Persons from Enforced Disappearance (adopted 20 December 2006, entry into force 23 December 2010) art 2.

⁶⁹ Brian Finucane, ‘Enforced Disappearances As A Crime Under International Law: A Neglected Origin In The Laws Of War’ 2010, 35 *Yale Journal of International Law* 171, 173.

⁷⁰ Archdiocese of Sao Paulo, Joan Dassin ed, James Wright trans, *Torture in Brazil: A Shocking Report On The Pervasive Use Of Torture By Brazilian Military Governments, 1964-1979* (University of Texas Press 1998).

4. Enforced disappearance is a crime under international law. Not long ago, the crime was specifically addressed in the 'International Convention for the Protection of All Persons from Enforced Disappearances', where it was determined that no one should be subjected to enforced disappearance, and that no exceptional circumstance such as a public emergency could be invoked to justify the crime.⁷¹ In the previous UPR, Pakistan announced that it was close to acceding to this convention, after being questioned about its track record on this crime by several countries.⁷² However, as of yet, this had not happened. Since it is a multi-faceted crime, the crime of enforced disappearance can also be addressed through various other regulations. The rights that are damaged in a case of enforced disappearance are the right to liberty and security of the person, the right to recognition as a person before the law, and often also the right not to be subjected to torture and other degrading treatment and the right to life.⁷³ Pakistan is bound to these rules through the recent ratification of the International Covenant on Civil and Political Rights⁷⁴ and the Torture Convention⁷⁵. Enforced disappearance also exists as also a crime under international humanitarian law, and it is explicitly mentioned in the Rome Statute^{76,77}.

5. Pakistan is also bound to rules against enforced disappearances under national law. Whereas it is not a specific crime in national law, its components are made illegal in laws on kidnappings, abductions, unlawful detention, and wrongful restraint and confinement.⁷⁸

6. Official numbers on the occurrence of enforced disappearances vary depending on the source. The latest report of the UN Working Group on Enforced Disappearances came to a total of 107 outstanding cases in the country.⁷⁹ Sources inside the federal government put the number of cases in Balochistan at 54, whereas the Sindh Home department claims only 16 people are missing.⁸⁰ The National Crisis Management Cell of the Interior Ministry later put the number of people who have gone missing in the last 3 years at 69, whereas a source in the

⁷¹ UN General Assembly (GA), *International Convention for the Protection of All Persons from Enforced Disappearance* (20 December 2006) GA Res 61/177, art 1.

⁷² UN Human Rights Council, Report of the Working Group on the Universal Periodic Review (Pakistan) (4 June 2008) A/HCR/8/42, para 30, 83, 104.; UN Human Rights Council, Summary Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15 (c) of the Annex to Human Rights Council Resolution 5/1 (3 April 2008) A.HRC/WG.6/PAK/3, paras 4, 12, 19.

⁷³ *Declaration on the Protection of all Persons from Enforced Disappearance* (18 December 1992) UNGA Res 47/133 1(2); ; see also United Nations Commission on Human Rights, *Civil And Political Rights, Including Questions Of: Disappearances And Summary Executions* (8 January 2002) E/CN.4/2002/71.

⁷⁴ *International Convention on Civil and Political Rights* (ICCPR) (16 December 1966; entry into force 23 March 1976; Pakistan ratification 2010) GA Res 39/46, see art 2, 6, 7, 9, 14, 16, 24.

⁷⁵ *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* [Torture Convention] (10 December 1984; entry into force 26 June 1987; Pakistan ratification 2010) GA Res 39/46.

⁷⁶ International Committee of the Red Cross, *Customary International Humanitarian Law*, available at: http://www.icrc.org/customary-ihl/eng/docs/v1_cha_chapter32_rule98 [last accessed 2 April 2012] chapter 32, rule 38.

⁷⁷ Rome Statute (n 2) art 7(2)(i).

⁷⁸ *Pakistan: Code of Criminal Procedure as Amended By Act 2 Of 1997* available at:

< <http://www.oecd.org/dataoecd/53/15/39849781.pdf?contentId=39849782> > [accessed 7 April 2012] Chapters V-VIII, XIII, XIV, XIX; *Pakistan Penal Code, 1860* [Pakistan] Act XLV of 1860 (6 October 1860), available at:

< <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html#140> s 375, 366-368 > Chapter XVI.

⁷⁹ UN Human Rights Council, *Report of the Working Group on Enforced or Involuntary Disappearances* (6 February 2011) UN Doc A/HRC/19/58 102.

⁸⁰ Aftab Channa, '54 or 16? How Many Are 'Missing' In Sindh?' (22 February 2012) available at <http://www.pakistantoday.com.pk/2012/02/22/city/karachi/54-or-16-how-many-are-%E2%80%98missing%E2%80%99-in-sindh/> [accessed 6 April 2012].

Sindh High Courts claims that the real number is closer to 200.⁸¹ It should be noted that these numbers are unreliable, since due to the nature of the crime, many instances go unreported because of fear for repercussions for the victims or those who report their disappearance.⁸²

7. In many cases, attempts by family members to report a disappearance are hindered by the authorities. One example is the case of Muzaffar Bhutto, whose kidnapping was witnessed by his wife and brother, but whose case was rejected by Hyderabad Court.⁸³ This case attracted international media attention, including support by scholar Noam Chomsky and American congressman Dan Burton, but Bhutto's whereabouts are still unknown.⁸⁴

8. In the case of the disappearance of young democratic nationalist Babar Jamali, the authorities also refused to act despite repeated attempts to get information by relatives. Jamali's parents were present when he was taken away by alleged police officers. They have since attempted to lodge a First Information Report (FIR) about his missing son, but they were rejected at various police stations. A petition filed by the Sindh High Court led to a summons for the local police chief, but to no avail. The whereabouts of Babar Jamali are still unknown.⁸⁵

9. Not only those who protest against the government are targeted for enforced disappearance. There are several cases of university authorities alleged to use the police and security agencies to cover up malpractices at their institution. Azal Ali Panhwar submitted a petition regarding complaints about Sindh University to the provincial High Court, and was subsequently taken from a crowded market place by a large party of police and plain clothed people. When his relatives contacted the authorities, the District Police Officer told them that he was taken in for an investigation and that he would soon be released. However, his whereabouts are still unknown. Three other students are said to be missing in a case related to the petition.⁸⁶

10. While in custody after an enforced disappearance, victims are often subjected to torture. Akash Mallah, deputy head of an ethnic Sindh party, was kept in confinement for 17 months, during which he was frequently blindfolded, during transportation, interrogations and even during toilet breaks. During the interrogations, he was

⁸¹ 'Sindh Follows Balochistan In Missing Persons: 82 Missing From Balochistan 69 From Sindh In Recent Months' (27 February 2012) available at: <http://iaoj.wordpress.com/2012/02/27/sindh-follows-balochistan-in-missing-persons-82-missing-from-balochistan-69-from-sindh-in-recent-months/> [accessed 7 April 2012].

⁸² Brian Finucane, 'Enforced Disappearances As A Crime Under International Law: A Neglected Origin In The Laws Of War' 2010, 35 *Yale Journal of International Law* 171, 173 ; Asian Human Rights Commission, 'Pakistan: The Bodies Of Two More Missing Persons From Sindh Have Been Found' (15 February 2012) available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-024-2012>; [accessed 7 April 2012].

⁸³ BBC Urdu, *MissingPersons Of Sindh* (21 Februari 2012) available at: <http://www.youtube.com/watch?v=YdDjt3aEJX4&feature=youtu.be> [accessed 17 April 2012].

⁸⁴ Dan Burton, letter to Asif Ali Zardari (31 Mayb 2011) available at: <http://mespeaks.wordpress.com/2011/06/30/burton-over-enforced-disappearance-of-sindhi-baloch-nationalists/> [accessed 16 April 2012]; Noam Chomsky, open letter (6 February 2012) available at: http://mespeaks.files.wordpress.com/2012/02/chomskyletter_020612_590-766.jpg [accessed 17 April 2012];

⁸⁵ Qazi Asif, 'But Where Is Babar Jamali?' (17 February 2012) *Pakistan Today* available at: <http://www.pakistantoday.com.pk/2012/02/17/city/karachi/but-where-is-babar-jamali/> [accessed 18 April 2012].

⁸⁶ Asian Human Rights Commission, 'PAKISTAN: Sindh University Authorities Use Law Enforcement Agencies For Disappearances Of Students' (11 October 2011) available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-203-2011> [accessed 18 April 2012].

deprived of sleep, hung from a ceiling and beaten with a stick.⁸⁷ Nationalists Nawaz Khan Zaur and Asif Baladi also testified to severe torture of themselves and fellow inmates.⁸⁸ There are also reports of torture scars on the bodies of people who have been found dead after a period of enforced disappearance.⁸⁹

C. EXTRAJUDICIAL KILLINGS

11. Related to enforced disappearances in its use for political repression is the crime of extra-judicial killing. In the previous UPR, several countries and NGOs called on Pakistan to take steps to investigate extra-judicial killings.⁹⁰ Extra-judicial killings have been described as '[...] killings committed outside the judicial process by, or with the consent of, public officials [...]'⁹¹ and include arbitrary executions, extra legal executions, and summary executions.⁹² Pakistan is obliged to refrain from extra-judicial executions through its obligations under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.⁹³

12. Extra-judicial killings often come after prolonged enforced disappearance, which increases the fears of those who are left behind. In February 2012, Khadim Lolahi and Qurban Jatoi were found dead after they had been missing for six months, their bodies marked with torture and bullet wounds.⁹⁴ Several other examples show that these findings have become a common occurrence in Pakistan.⁹⁵

13. In April 2011, three JSMM activists, Siray Qurban Khuhawar, Rooplo Cholanyi, Noorullah Tunio and their driver were killed in a brutal attack in Shanghai district.⁹⁶ In a fact-finding mission, the Human Rights Commission of Pakistan (HRCP) found that the car of the activists was attacked by more than a dozen armed men, some in security agency's uniforms, after which the car was set on fire. The police failed to help Noorullah Tunio, who had

⁸⁷ KTN TV, *Sindh & Balochistan Missing Persons & Torcher Cell Program part 2* (8 January 2012) available at: <http://www.youtube.com/watch?v=kprw9ok8YVo> [accessed 17 April 2012].

⁸⁸ KTN TV, *Sindh & Balochistan Missing Persons & Torcher Cell Program part 3* (8 January 2012) available at: http://www.youtube.com/watch?v=rbk_GLZnI0s&feature=relmfu [accessed 17 April 2012].

⁸⁹ Asian Human Rights Commission, 'Pakistan: The Bodies Of Two More Missing Persons From Sindh Have Been Found' (15 Februari 2012) available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-024-2012> [accessed 4 April 2012].

⁹⁰ UN Human Rights Council, Report of the Working Group on the Universal Periodic Review (Pakistan) (4 June 2008) A/HRC/8/42, para 30; UN Human Rights Council, Summary Prepared by the Office of the High Commissioner for Human Rights, In Accordance With Paragraph 15(C) Of The Annex To Human Rights Council Resolution 5/1:Pakistan (3 April 2008) A/HRC/WG.6/2/PAK/3 para 10.

⁹¹ Nigel Rodley, *The Treatment Of Prisoners Under International Law* [2nd ed, Oxford 1999] p 182.

⁹² See Special Rapporteur on extrajudicial, summary or arbitrary executions, *Report - Summary or Arbitrary Executions* (1983) UN Doc. E/EC.4/1983/16 para 66.

⁹³ Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) UDHR) arts 2, 3; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) arts 2, 6, 14, 16, 26; see UNGA, *Summary of Arbitrary Executions* (18 December 1990) A/Res/45/162; Un Commission on Human Rights, *Extrajudicial, Summary or Arbitrary Executions* (5 March 1992) E/CN.4/RES/1999/72.

⁹⁴ Asian Human Rights Commission, 'Pakistan: The Bodies Of Two More Missing Persons From Sindh Have Been Found' (15 Februari 2012) available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-024-2012> [accessed 4 April 2012].

⁹⁵ See World Sindhi Congress, 'Forced Disappearances And Killings Of Political Activists And Innocent Ordinary Sindhis' (28 August 2011) available at: http://www.worldsindhicongress.net/index2.php?option=com_content&do_pdf=1&id=342 [accessed 4 April 2012]; Asian Human Rights Commission, 'Pakistan: The Bodies Of Two More Missing Persons From Sindh Have Been Found' (15 Februari 2012) available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-024-2012> [accessed 4 April 2012]; William Nicholas Gomes, 'Pakistan: Ahmadi Leader Tortured To Death In Police Custody' (3 April 2012) available at: <http://spyghana.com/world-news/asia/pakistan-ahmadi-leader-tortured-to-death-in-police-custody/> [accessed 5 April 2012].

⁹⁶ Asghar Azad, 'Three JSMM Leaders Shot Dead In Shanghai District' (22 April 2011) available at: http://www.dailytimes.com.pk/default.asp?page=2012\02\16\story_16-2-2012_pg7_26 [accessed 4 April 2012].

initially survived the attack, and he later died in hospital.⁹⁷ Despite the urgent call of the HRCP, the case was only half-heartedly investigated, and the perpetrators have not been brought to justice.

14. Another case is that of Sarfaraz Shah, an unarmed teenager who was shot and killed by Rangers personnel.⁹⁸ The incident was videotaped, and the case immediately attracted media attention around the world.⁹⁹ Soon after the incident, the Sindh Chief minister convinced the local police to register a case against the alleged perpetrators. In response, the president ordered a full inquiry into the case.³⁴ The Supreme Court of Pakistan started a suo moto investigation, ordered the Director General Ejaz Chaudry of the Rangers to be transferred to a different department.¹⁰⁰ Six of the Rangers involved and one civilians were sentenced to life in prison in front of the Anti-Terrorism Court.¹⁰¹ However, Ejaz Chaudry was restated in his position two months later, and got a promotion shortly afterwards.¹⁰²

D. GENERAL OBSERVATIONS

15. Apparent in the examples of enforced disappearances and extra-judicial killings discussed above is the culture of impunity surrounding intelligence service employees in Pakistan. Many of the crimes were committed in broad daylight, by uniformed security personnel, or by men arriving in police vehicles. In the case of the disappearance of Mir Alam Marri, the victim was taken in a police car, but the area police said it has no knowledge of the event.¹⁰³ Arshad Ali Rindh and his family were harassed by some 25 men in plainclothes who arrived in police vehicles, and he was kept in the police station overnight, because he had refused to give a police official certain privileges.¹⁰⁴ In the above-mentioned case of Babar Jamali, the victim was taken by officers in a white police van, while he was waiting in a long queue of vehicles for a gas station, in a location with plenty of

⁹⁷ Agencies' Role In JSMM Activists' Murder Must Be Probed: HRCP' (5 May 2011) available at: <http://hrcpblog.wordpress.com/2011/05/05/agencies%E2%80%99-role-in-jsmm-activists%E2%80%99-murder-must-be-probed-hrcp/> [accessed 5 April 2012].

⁹⁸ 'Rangers Kill Youth In Karachi' (9 June 2011) available at: <http://www.thenews.com.pk/NewsDetail.aspx?ID=16764> [accessed 5 April 2012].

⁹⁹ See 'Unarmed Man Shot At Point Blank Range By Military Police Who Casually Watch As He Bleeds To Death In The Street' (10 June 2011) available at: <http://www.dailymail.co.uk/news/article-2002194/Unarmed-Sarfaraz-Shah-shot-dead-point-blank-Pakistan-military-police.html> [accessed 9 April 2012].

¹⁰⁰ 'Extra Judicial Killing: DG Rangers, IGP Sindh Removed' (14 June 2011) available at: <http://paktribune.com/news/Extra-Judicial-Killing-DG-Rangers-IGP-Sindh-removed-240347.html> [accessed 6 April 2012].

¹⁰¹ Zeeshan Mujahid, 'Sarfaraz Shah Murder Case, In Swift Trial, Rangers Man Is Sentenced to Death' (12 August 2011) available at: <http://tribune.com.pk/story/229867/court-to-present-verdict-in-sarfaraz-shah-murder-case-today/> [accessed 9 April 2012].

¹⁰² 'Federal Government Restores DG Rangers Sindh' (29 August 2011) available at: <http://tribune.com.pk/story/241433/federal-government-restores-dg-rangers-sindh/> [accessed 9

April 2012]; 'Military Reshuffle: Four Major General Promoted' (5 October 2011) available at: <http://tribune.com.pk/story/267091/military-reshuffle-four-majors-general-promoted/> [accessed 9 April 2012]

¹⁰³ 'Sindhi Nationalist Goes Missing' (8 March 2012) available at: <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/national/08-Mar-2012/sindhi-nationalist-goes-missing> [accessed 9 April 2012].

¹⁰⁴ Wasim Iqbal, 'Targeted Killings In Sindh, Balochistan: NA Body Summons All Agencies On 29th' (4 Februari 2012) available at: <http://www.brecorder.com/top-news/1-front-top-news/44708-targeted-killings-in-sindh-balochistan-na-body-summons-all-agencies-on-29th.html> [accessed 9 April 2012].

witnesses.¹⁰⁵ None of the cases reviewed in this submission have led to criminal persecution of the officials involved.

16. Government action on the human rights violations has been lacking. In 2009, the Sindh local government set up a task force to trace missing persons, and gave information on the whereabouts of three missing persons. However the number of missing persons has increased steadily since, and it is unclear what further actions the task force has taken. In a number of cases, the heads of the Sindh Rangers, police and security agencies were informed about the situation by the Supreme Court of the Sindh High court, but this has rarely lead to an acknowledgement of the location of the missing person. The Anti-Terrorism Act, introduced in 1997, has been criticized for undermining the constitutional protections against unlawful detention in the previous UPR and by various actors since.¹⁰⁶ On the judicial side, provincial high courts as well as the Supreme Court have failed to take effective measures. The provincial courts, for example, have been unwilling to uphold the right to habeas corpus, the right to be brought before a court and challenge the legality of one's detention.¹⁰⁷ The Supreme Court has repeatedly spoken out against enforced disappearances, but seems to be focusing more on retrieving the disappeared than bringing those responsible to justice, effectively contributing to a sense of impunity for security agencies.¹⁰⁸

17. The victims of enforced disappearances and extra-judicial killings in Sindh are mostly political activists. Two groups can be distinguished: those who belong to Islamic organizations and are targeted under the pretext of the 'war on terror', and those who are secular nationalist leaders.¹⁰⁹ One organization which has been especially targeted is the Jeay Sindh Muttahida Mahaz (JSMM), which is fighting for the independence of Sindh.¹¹⁰ However, as we have seen above, other institutions also use the police and other agencies to silence opposing voices.

¹⁰⁵ Qazi Asif, 'But Where Is Babar Jamali?' (17 February 2012) *Pakistan Today* available at: <http://www.pakistantoday.com.pk/2012/02/17/city/karachi/but-where-is-babar-jamali/> [accessed 18 April 2012].

¹⁰⁶ Amnesty International, *Pakistan: Legalizing the Impermissible; the New Anti-Terrorism Law* (October 1997) available at: < <http://www.amnesty.org/en/library/asset/ASA33/034/1997/en/d5abe31b-e99a-11dd-b3a1-f9ff1fdfb4a5/asa330341997en.pdf> > [last accessed 5 March 2012]; UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review (Pakistan)* (4 June 2008) A/HRC/8/42, para 71; UN Human Rights Council, *Summary Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15 (c) of the Annex to Human Rights Council Resolution 5/1* (3 April 2008) A.HRC/WG.6/PAK/3, para 37; Human Rights Watch, 'We Can Torture, Kill, Or Keep You For Years'; *Enforced Disappearance By Pakistan Security Forces In Balochistan* (July 2011) available at: <<http://www.hrw.org/sites/default/files/reports/pakistan0711Webinside.pdf>> [last accessed 5 March 2011] 22.

¹⁰⁷ Amnesty International, *Denying the Undeniable: Enforced Disappearances in Pakistan* (23 July 2008) available at: <<http://www.amnesty.org/en/library/asset/ASA33/018/2008/en/0de43038-57dd-11dd-be62-3f7ba2157024/asa330182008eng.pdf>> [accessed 32-33]. See also Human Rights Watch, *We Can Torture, Kill, or Keep You For Years* (28 July 2011) available at <<http://www.hrw.org/sites/default/files/reports/pakistan0711Webinside.pdf>> [last accessed 7 March 2011] n 183.

¹⁰⁸ Amnesty International, *Denying the Undeniable: Enforced Disappearances in Pakistan* (23 July 2008) available at: <<http://www.amnesty.org/en/library/asset/ASA33/018/2008/en/0de43038-57dd-11dd-be62-3f7ba2157024/asa330182008eng.pdf>> [accessed 32-33]. See also Human Rights Watch, *We Can Torture, Kill, or Keep You For Years* (28 July 2011) available at <<http://www.hrw.org/sites/default/files/reports/pakistan0711Webinside.pdf>> [last accessed 7 March 2011] n 183.

¹⁰⁹ BBC Urdu, *Missing Persons Of Sindh* (21 Februari 2012) available at: <http://www.youtube.com/watch?v=YdDjt3aEJX4&feature=youtu.be> [accessed 17 April 2012].

¹¹⁰ See World Sindhi Congress, 'Forced Disappearances And Killings Of Political Activists And Innocent Ordinary Sindhis' (28 August 2011) available at: http://www.worldsindhicongress.net/index2.php?option=com_content&do_pdf=1&id=342 [accessed 4 April 2012]; Aian Human Rights Commission, 'Pakistan: The Bodies Of Two More Missing Persons From Sindh Have Been Found' (15 Februari 2012) available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-024-2012> [accessed 4 April 2012].

RECOMMENDATIONS

- Fulfill the accepted UPR first cycle recommendation to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, and enact national legislation to support the implementation of the obligations
- Investigate all cases of enforced disappearance that are currently pending. Publicly establish the fate of each victim, and ensure that perpetrators are identified and undergo prosecution and punishment for their crimes.
- Make available a public, continuously updated record of all detentions and arrests, including all people currently in detention.
- Revise laws that give a broad mandate to the police forces to arrest and detain suspects without clearly defined charges, including the Anti-Terrorism Act of 1997.
- Encourage and enable national courts to uphold the right to habeas corpus.