

Submission to the UN Office of the High Commissioner for Human Rights for
the consideration of the 3rd Universal Periodic Review
Of the Islamic Republic of Pakistan during the 28th Session, November 2017

Human Rights Violations in Pakistan



Unrepresented Nations and Peoples Organization

The Unrepresented Nations and Peoples Organization (UNPO) is an international, nonviolent, and democratic membership organisation. Its members are indigenous peoples, minorities, and unrecognised or occupied territories that have joined together to protect and promote their human and cultural rights, to preserve their environments, and to find nonviolent solutions to conflicts which affect them.

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I. Introduction

1. This report, submitted by the Unrepresented Nations and Peoples Organization (UNPO) on the occasion of the 28th session of the Universal Periodic Review, during which the Islamic Republic of Pakistan is under consideration, draws attention to human rights violations that affect particularly the ethnic minorities living in Gilgit-Baltistan, Sindh and Balochistan. The analysis will address violations of constitutional status, core ICCPR rights, specific minority rights, the right to economic development and the impact of counter-terrorism measures on human rights. Finally, it will present a series of recommendations aimed to facilitate constructive discussions during the 28th UPR session in Geneva.

II. Constitutional and Legislative Framework

2. UNPO would like to remind the international community, in reaction to the UNCT's remarks at the 2nd cycle UPR¹, that Gilgit-Baltistan is a disputed territory between India and Pakistan according to UN Security Council Resolution 47 of April 1948² and has been occupied by Pakistan since 1947. As noted by CERD, the legal framework of Pakistan is not applicable in Gilgit-Baltistan,³ specifically access to neither first nor second instance judiciary for human rights violations committed by the Pakistani state is granted by the 2009 Gilgit-Baltistan Empowerment and Self-Governance Order⁴; the indigenous population of Gilgit-Baltistan, therefore, remains without efficient avenues of legal redress for violations of their most basic rights by the Pakistani occupation forces.

III. Implementation of International Human Rights Obligations

• Equality and Non-Discrimination

3. In 2012, Canada and Austria called on Pakistan to do everything possible to prevent underage and forced marriage as well as forced conversion through marriage.⁵ Yet, in 2014, it was estimated that still approximately 1,000 girls per year were forcibly

converted to Islam.⁶ What is more, in 2016, the National Assembly withdrew a bill stipulating the minimum age for marriage to be increased to 18 due to immense pressure from the Council of Islamic Ideology. As a result, to this day, 21% of Pakistani girls marry before they reach majority.⁷ Therefore, this repeated recommendation must be considered as not implemented at all.

4. On the other hand, the Punjab Protection of Women Against Violence Act of 2015⁸ was finally passed by the provincial assembly in February of 2016, launching a “women’s force” to respond to physical, psychological and financial abuse, including the establishment of abuse-relief shelters and a universal toll-free telephone number that would allow women to report crimes more easily. It is, however, still too early to determine whether the bill will effectively implement the Swedish 2nd cycle recommendation⁹.
5. With only 16% of Upper House seats being filled by women in 2016,¹⁰ Pakistan is still far from ensuring equal political participation, as recommended by the UK in 2012.¹¹
6. Shari’a law is still being applied in combination with Pakistan’s civil law, which results, for example, in a continued devaluation of women’s testimony in court and the denial of child custody after divorce. UNPO, therefore, recommends to declare arbitration in Islamic family courts non-binding and fundamentally secondary to dispute settlement in civil law courts, thereby, finally making an effort to implement many countries’ recommendations¹² to bring national legislation in tune with CEDAW obligations.
7. As of 2016, no effort has been made to address repeated recommendations¹³ to introduce mandatory gender sensitivity trainings for police officers. According to HRW¹⁴, police are not equipped with the necessary skills to deal with gender-based crimes.
8. Notwithstanding the establishment of a National Commission on the Status of Women in 2012, support for the elimination of gender inequality remains low. UNPO,

therefore, notes that the recommendation by Germany, Australia and others to adequately fund and empower the Commission¹⁵ has not been implemented.

• **Right to Life, Liberty and Security of the Person**

9. Despite several state recommendations¹⁶, Pakistan has not yet ratified the International Convention for the Protection of All Persons from Enforced Disappearance.
10. The fact that at least 936 dead bodies bearing heavy marks of torture have been recovered since 2011 in Balochistan alone,¹⁷ while Pakistani security forces have, since 2012, also intensified this abominable practice in Sindh, demonstrates that no progress has been made from HRW's and AI's 2012 UPR submission¹⁸ detailing the security forces' so-called 'kill and dump' operations. Balochi and Sindhi human rights activists continue to be particularly targeted.
11. The Pakistani Commission of Inquiry on Enforced Disappearances, which was established in 2010 and had located 982 missing persons by 2016, has failed, so far, to solve 1,273 cases of enforced disappearances.¹⁹ The UN Working Group on Enforced Disappearances²⁰ concluded after their visit to Pakistan in 2013 that the problem of enforced disappearances not only exists but that, according to some of their sources, more than 14,000 persons remained disappeared. Thus, UNPO's and others' 2012 recommendation²¹, calling for the return of disappeared persons and the prosecution of perpetrators, has not been implemented.
12. UNPO regrets the Pakistani Government's decision to lift the moratorium on the death penalty in December 2014, which also contravenes repeated recommendations by many states²². Persons belonging to religious or ethnic minorities, again, are bearing the brunt of the deterioration in Pakistan's respect for human dignity. For one, the death penalty is frequently imposed in cases of alleged violations of the country's highly dubious blasphemy laws; in 2016, at least 19 persons were awaiting execution for alleged violations of said provisions.²³ What is more, the mainly Shiite indigenous

populations of Gilgit-Baltistan are additionally suffering from the lack of a right to appeal against any sentence handed down by the unconstitutional courts in the occupied territory. As a result, as of 2016, twelve personsⁱ belonging to the region's autochthonous people are suffering on death row in Pakistani-run jails in Gilgit-Baltistan.²⁴

- **Administration of Justice and the Rule of Law**

13. Inadequate regulations in Pakistan's Criminal Procedure Code (CPC), such as Section 173 CPC²⁵, which precludes superior police officials from ordering the filing of First Information Reports on criminal complaints, reinforce impunity of perpetrators of enforced disappearances, by forcing victims' families to take the cumbersome route through the court system to avail themselves of a second instance. Hence, Pakistan has not implemented numerous state recommendations²⁶ directed at improving access to redress against rights violations and criminal acts committed against them.
14. Sections 54 and 151 CPC give police the authority to arrest without a warrant persons suspected of having committed a criminal offence and persons "designing" to commit a "cognisable" offence. Pakistan did, therefore, not comply with UNPO's 2012 recommendation to revise legislation allowing police to detain individuals without clearly defined charges.²⁷
15. The 2004 Criminal Law (Amendment) Act²⁸ that specifically criminalised honour killings in Pakistan's Penal Code, according to CERD, which also stresses the particular vulnerability of minority women to the crime, has been "not dissuasive",²⁹ as an estimated 1,000 honour killings have been taking place in Pakistan each year.³⁰ While such legislation does not appear to have a deterring effect, perpetrators have been known to be arrested, however, followed by chilling debates in the general public

ⁱ These persons include: Mr Saeed Aalam at Chilas District Jail, Mr Shafaat Ali, Mr Qasim Shah, Mr Aashiq Hussain Changezi, Mr Munawar Abbas, Mr Mohammad Afzal Shigri and Mr Nadim Abbas at Gilgit Jail and Jutail Sub-Jail, Mr Shaikl Shigri, Mr Mohammad Ali, Mr Arif Hussain and Mr Ahmed Shigri at Skardu Jail.

about whether such actions would be justified, leaving Sweden's first cycle recommendation³¹ partially implemented.

16. In Gilgit-Baltistan, the majority of human rights activists charged with sedition or terrorism for participating in peaceful demonstrations are being tried in front of military anti-terrorism courts outside the scope of the Constitution, which is not applicable in the region, due to the fact that Gilgit-Baltistan is not a part of Pakistan. Gilgit-Baltistan's Chief Court as well as its Appellate Court, also established by Pakistan outside its Constitution, do not allow for Constitutional matters to be adjudicated by the courts. Judges are, furthermore, appointed by the Ministry of Gilgit-Baltistan and Kashmir Affairs in Islamabad exclusively based on their political and religious affiliations.³² In contravention to state recommendations and stakeholder submissions, there is no independent judiciary³³ in Gilgit-Baltistan, and military courts³⁴ convict local human rights defenders³⁵ in non-transparent and unfree trials for trumped up anti-terrorism or sedition charges.

- **Freedom of Religion**

17. Blasphemy laws, which are according to repeated state submissions and recommendations in violation of the ICCPR,³⁶ continue to be used to settle personal disputes,³⁷ especially endangering the predominantly Shia indigenous population of Gilgit-Baltistan. Those laws, which provide only vague definitions of offences and require no evidence other than the accusation of one person, are regularly misused by extremists to target minorities.³⁸ Recommendations to repeal or bring blasphemy laws in line with the ICCPR³⁹ have, therefore, not been implemented.

18. Art. 20 of the Pakistani Constitution provides a worrying description of the individual's right to freely practice a religion, starting with the restrictions that may be imposed on the right, such as the blasphemy laws, instead of with the right itself. This approach must be considered particularly alarming as it "[protects] beliefs over individuals"⁴⁰. Pakistan, therewith, violates basic principles of international human rights protection and has made no effort whatsoever to comply with numerous state

recommendations.⁴¹ Except for Sindh, where in February 2016 the provincial assembly passed a law that finally recognises Hindu marriages, all other provinces do not give legal effect to marriages according to Hindu tradition.

- **Minorities and Indigenous People**

19. Pakistan still does not recognise non-religious minorities, such as the Sindhi, Balochi or the indigenous predominantly Shia peoples of Gilgit-Baltistan, as pointed out by CERD's second cycle submission⁴².

20. In February 2012, sectarian violence resurged in Gilgit-Baltistan, triggered by a quick succession of well-organized killings targeting Shia travellers on the three routes that connect Gilgit-Baltistan with Islamabad, killing more than sixty indigenous people. This incident shows that Pakistan has not implemented measures to prevent violence against minorities, as recommended by Canada⁴³.

- **Right to Development and Environmental Issues**

21. Besides the severe environmental impact on the fragile environment of Gilgit-Baltistan, the construction of the Diamer-Bhasha megadam, due to which the Sost dry port – a major employer in the region – is being moved away from the occupied territory, increases the unequal access to economic development in the region. The China-Pakistan Economic Corridor (CPEC), further, is being violently implemented against the express will of the local indigenous population.

22. While Sindh can be considered as the powerhouse of CPEC, with ten out of eighteen coal power projects located in the province, the collateral air pollution and the government's secrecy have been strongly criticised by experts;⁴⁴ not only have Sindhi stakeholders not been involved at any stage of the project, nor has the government revealed the financial and implementation details to the parliament. The plight of the Baloch people, in turn, is due to land grabs and enforced displacement of local communities to make way for military camps or CPEC-related projects.

23. These findings substantiate CERD's concerns voiced in their second cycle submission⁴⁵.

- **Human Rights and Counter Terrorism**

24. Further enabled by the Anti-Terrorism Act⁴⁶ (ATA) and a military judiciary, Gilgit-Baltistan's population is stripped of its communicative freedoms; the case of Baba Jan, a progressive youth leader and regional politician of Gilgit-Baltistan, who in 2014 was sentenced to life imprisonment by an Anti-Terrorism Court along with eleven other human rights defenders,⁴⁷ illustrates the Pakistani Government's non-implementation of state recommendations⁴⁸ to adhere to international law when applying the country's anti-terrorism laws.

IV. Recommendations

Given the above-mentioned human rights situation in Pakistan, UNPO urges the Government of Pakistan to consider the following recommendations:

1. To fulfil the accepted UPR first cycle recommendation to ratify the International Convention for the Protection of All Persons from Enforced Disappearance; to specifically criminalize enforced disappearances in the penal code and to reinforce the capacities of the country's Inquiry Commission on Enforced Disappearances to ensure perpetrators are identified and prosecuted.
2. To revise laws that give a broad mandate to police forces to arrest and detain suspects without clearly defined charges, including the Anti-Terrorism Act of 1997
3. To ensure the exercise of all human rights to religious minorities with no discrimination, in compliance with the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
4. To refrain from the use of the oppressive measures leading to human rights violations against the people of Gilgit-Baltistan and to release all political prisoners, including

more than 100 peaceful protesters arrested and charged [November 2016] for terrorism for demanding religious freedom for Shias

5. To respect the right to life of every citizen and ensure that due process is followed in any legal measure restricting this right⁴⁹

¹ A/HRC/WG.6/14/PAK/2, 2nd cycle, para 6, United Nations Country Team (UNCT).

² UN Security Council Resolution 47 of 21 April 1948, S/726.

³ A/HRC/WG.6/14/PAK/2, 2nd cycle, para 6; CERD/C/PAK/CO/20, para 9.

⁴ Government of Pakistan Ministry of Kashmir Affairs and Northern Areas, Order of 9 September 2009. Available at: <http://gbla.gog.pk/frontend/web/page/governance-order> [last accessed: 16 February 2017].

⁵ A/HRC/22/12, 2nd cycle, paras 122.102-103, Canada, Austria [repeated]; A/HRC/22/12, 2nd cycle, para 122.103 Austria.

⁶ See, USCIRF. 2016. "2016 Annual Report", p 115.

⁷ HRW. 2017. "World Report 2017: Events of 2016", p 472.

⁸ See, Center for Strategic and Contemporary Research (2016). The Punjab Women Protection Law 2016: Research Brief. Available at: <http://cscr.pk/pdf/rb/PPWVA2016.pdf> [last accessed: 20 February 2017].

⁹ A/HRC/22/12, 2nd cycle, para 122.21, Sweden.

¹⁰ World Economic Forum. 2016. "Global Gender Gap Index 2016". Available at: <http://reports.weforum.org/global-gender-gap-report-2016/rankings/> [last accessed: 20 February 2017].

¹¹ A/HRC/22/12, 2nd cycle, para 122.14, UK.

¹² A/HRC/8/42, 1st cycle, paras 25, 30c, 69, 106.4, Slovenia, UK et al.

¹³ A/HRC/8/42, 1st cycle, paras 62c, 106.8, Czech Republic; A/HRC/22/12, 2nd cycle, para 122.97, Slovakia [repeated].

¹⁴ See, HRW. 2016. "This Crooked System: Police Abuse and Reform in Pakistan". Available at: <https://www.hrw.org/report/2016/09/25/crooked-system/police-abuse-and-reform-pakistan> [last accessed: 21 February 2017], p 96.

¹⁵ A/HRC/22/12, 2nd cycle, paras 122.51-53, Germany, Australia et al.

¹⁶ A/HRC/22/12, 2nd cycle, paras 122.1, 122.6, Spain, Uruguay [repeated]; A/HRC/22/12, 2nd cycle, paras 122.20, 122.114-115 France, Germany et al.

¹⁷ BBC. 28 December 2016. "Balochistan war: Pakistan accused over 1,000 dumped bodies". Available at: <http://www.bbc.com/news/world-asia-38454483> [last accessed: 20 February 2017].

¹⁸ A/HRC/WG.6/14/PAK/3, 2nd cycle, paras 23, 25 HRW, AI.

¹⁹ EU High Representative for Foreign Affairs and Security Policy. 28 January 2016. "GSP+ Covering the Period 2014 – 2015", p 192.

²⁰ Human Rights Council. 2013. "Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Pakistan". Available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-45-Add-2_en.pdf [last accessed: 21 January 2017].

²¹ A/HRC/WG.6/14/PAK/3, 2nd cycle, para 24, UNPO, HRW et al.

²² A/HRC/22/12, 2nd cycle, paras 122.19, 122.98, Italy, Namibia et al. [repeated].

²³ HRW. 2017. "World Report 2017: Events of 2016". Available at: https://www.hrw.org/sites/default/files/world_report_download/wr2017-web.pdf [last accessed: 22 February 2017], p 470.

²⁴ Gilgit-Baltistan Democratic Alliance. 2016. "Human Rights Violations in Pakistan Occupied Gilgit Baltistan", p 12.

²⁵ The Code of Criminal Procedure. 1898, as amended by Act II of 1997.

²⁶ A/HRC/8/42, 1st cycle, paras 23a, 106.17, Canada; A/HRC/8/42, 1st cycle, paras 68, 106.18, Sweden; A/HRC/22/12, 2nd cycle, paras 122.118-119, Norway, Austria [repeated].

²⁷ A/HRC/WG.6/14/PAK/3, 2nd cycle, para 82, UNPO.

²⁸ Criminal Law (Amendment) Act, 2004: An Act further to amend the Pakistan Penal Code, 1860, and the Code of Criminal Procedure, 1898. Promulgated on 11 January 2005. Act No I of 2005. Gazette of Pakistan 2005, Extraordinary, Part II, pp 1-6.

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- ²⁹ CERD. 3 October 2016. “Concluding observations on the combined twenty-first to twenty-third periodic reports of Pakistan”, para 25.
- ³⁰ HRW. 2017. “World Report 2017: Events of 2016”, p 472.
- ³¹ A/HRC/8/42, 1st cycle, paras 68, 106.7. Sweden.
- ³² See, GBDA. 2016. “Human Rights Violations in Pakistan Occupied Gilgit Baltistan”, p 3.
- ³³ See, A/HRC/8/42, 1st cycle, paras 74, 106.14, Romania.
- ³⁴ See, A/HRC/WG.6/2/PAK/3, 1st cycle, para 22, ACHR, HRW.
- ³⁵ See, A/HRC/8/42, 1st cycle, paras 61, 106.16, The Netherlands; A/HRC/22/12, 2nd cycle, paras 122.56, 122.110, 122.117, Denmark, Spain et al. [repeated].
- ³⁶ A/HRC/22/12, 2nd cycle, para 122.33, Belgium, Holy See [repeated].
- ³⁷ US Department of State. 2015. “Pakistan 2015 International Religious Freedom Report”, p 10.
- ³⁸ A/HRC/8/42, 1st cycle, para 28, Holy See.
- ³⁹ A/HRC/22/12, 2nd cycle, paras 122.28, 122.31.-32. Austria, Netherlands et al.
- ⁴⁰ US Commission on International Religious Freedom (USCIRF). 2016. “2016 Annual Report”. Available at: <http://www.uscirf.gov/sites/default/files/USCIRF%202016%20Annual%20Report.pdf> [last accessed: 22 February 2017], p 114.
- ⁴¹ A/HRC/8/42, 1st cycle, paras 23c and g, 106.1, 106.21, Canada; A/HRC/22/12, 2nd cycle, paras 122.28, 122.31.-32, Austria, Netherlands et al.
- ⁴² A/HRC/WG.6/14/PAK/2, 2nd cycle, para 69, CERD; CERD/C/PAK/CO/20, para 18.
- ⁴³ A/HRC/22/12, 2nd cycle, para 122.156, Canada.
- ⁴⁴ See, UNPO. 10 November 2016. “European Parliament Conference Discusses Environmental Degradation and Human Rights Violations in Pakistan-occupied Gilgit-Baltistan”. Available at: <http://unpo.org/article/19630> [last accessed: 22 February 2017].
- ⁴⁵ A/HRC/WG.6/14/PAK/2, 2nd cycle, para 79, CERD; CERD/C/PAK/CO/20, para 20.
- ⁴⁶ The Anti-Terrorism Act, 1997. Promulgated on 20 August 1997. Act No XXVII of 1997.
- ⁴⁷ Gilgit-Baltistan Democratic Alliance. 2016. “Human Rights Violations in Pakistan Occupied Gilgit Baltistan”, p 9.
- ⁴⁸ A/HRC/8/42, 1st cycle, paras 64, 71, 106.22, Ireland and Brazil; A/HRC/8/42, 1st cycle, paras 33, 106.25, Mexico.
- ⁴⁹ Human Rights Council Thirty-first session Agenda item; Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status A/HRC/31/NGO/126 2016