



International Covenant on Civil and Political Rights

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Human Rights Committee

Report on follow-up to the concluding observations of the Human Rights Committee*

Addendum

Evaluation of the information on follow-up to the concluding observations on Pakistan

<i>Concluding observations (120th session):</i>	CCPR/C/PAK/CO/1 , 25 and 26 July 2017
<i>Follow-up paragraphs:</i>	18, 20 and 34
<i>Follow-up reply:</i>	CCPR/C/PAK/CO/1/Add.1 , 16 May 2019
<i>Committee's evaluation:</i>	Additional information required on paragraphs 18[B][C], 20[C] and 34[C][B]
<i>Information from non-governmental organizations:</i>	Centre for Social Justice, ¹ Justice Project Pakistan ² and International Commission of Jurists ³

Paragraph 18: Death penalty

The State party should reinstate the moratorium and consider abolishing the death penalty and acceding to the second Optional Protocol to the Covenant. If the death penalty is maintained, the State party should, as a matter of priority, take all measures necessary to ensure that:

(a) The death penalty is provided only for the “most serious crimes” involving intentional killing; it is never mandatory; pardon or commutation of the sentence is available in all cases, regardless of the crime committed; and it is never imposed in violation of the Covenant, including in the absence of fair trial procedures, and is not imposed by military courts, in particular against civilians;

(b) No person who was below 18 years of age at the time of the commission of an offence is subjected to the death penalty and those charged with a capital offence have access to an effective and independent age determination process, and are treated as children if doubts remain about their age at the time of the crime;

* Adopted by the Committee at its 127th session (14 October–8 November 2019).

¹ See https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fNGS%2fPAK%2f35871&Lang=en.

² See https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fNGS%2fPAK%2f37168&Lang=en.

³ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fNGS%2fPAK%2f37401&Lang=en.



(c) **No one with serious psychosocial or intellectual disabilities is executed or sentenced to death, including by establishing an independent mechanism to review all cases where there is credible evidence that prisoners who are facing the death penalty have such disabilities and reviewing the mental health of death row inmates;**

(d) **The execution protocol is in line with international human rights standards and executions are carried out in accordance with the established protocol;**

(e) **Pakistani migrant workers sentenced to death overseas are provided with sufficient legal and consular services throughout their legal proceedings.**

Summary of the State party's reply

(a) The State party repeated the information provided in its replies to the list of issues (CCPR/C/PAK/Q/1/Add.1, paras. 21–23) that its policy on the death penalty was in line with its Constitution and national laws and international norms; that the moratorium on the death penalty had been lifted after a national consensus had developed in the wake of a dreadful attack in which more than 150 students and teachers had lost their lives at the hands of terrorists; and that the death penalty could not be imposed on individuals below the age of 18. The State party is examining the existing provisions of its Penal Code and Code of Criminal Procedure to determine whether the scope of the death penalty can be narrowed. The military courts expired in January 2017, but their operation was extended for two years through constitutional amendment and then expired in March 2019. In 869 cases received from the provinces, 59 prisoners had been executed after due process of law had been observed. The State party referred to the power of the President to pardon prisoners on death row;

(b) The death penalty has not been applied to any individual below the age of 18. The Juvenile Justice System Act of 2018 has also been promulgated. A provision in the law allows for self-determination of age, shifting the onus to prove otherwise onto the prosecution;

(c) No information provided;

(d) No information provided;

(e) No information provided.

Information from non-governmental organization

Justice Project Pakistan

(a) The Ministry of the Interior and the Ministry of Human Rights are drafting rules and regulations to reform the mercy petitions procedure;

(b) The Juvenile Justice System Act of 2018 does not accord the benefit of the doubt to the child in case of conflicting or inconclusive evidence. Minor offenders, such as Muhammad Iqbal, remain on death row despite a presidential notification granting him and others remission;

(c) Justice Project Pakistan and the Ministry of Law and Justice are conducting a study on the revision of the prison rules regarding the treatment of prisoners with mental illnesses;

(d) The Ministry of Law and Justice formed a working group, which includes representatives of civil society, to review the Pakistan Prison Rules;

(e) In March 2018, the Government approved prisoner transfer agreements with China and Saudi Arabia. However, this agreement has yet to be approved by the federal Cabinet.

Committee's evaluation

[B] (a): The Committee notes the information on reviewing existing legal provisions to determine whether the scope of the death penalty can be narrowed, but requests further information in this respect, including on concrete measures taken or planned to ensure that

the death penalty is applied only for the most serious crimes involving intentional killing. It also notes the information provided on the power of the President to grant pardons to prisoners on death row, but requests information on: (a) the number of death sentences passed in the last two years; (b) the number of pardons granted by the President and commutations of death sentences in the last two years; and (c) whether death sentences can be pardoned and commuted irrespective of the crime committed. Although it notes that the military courts expired in March 2019, the Committee regrets that 59 prisoners were executed on the basis of sentences passed by military courts and requests information on whether military courts have imposed death penalty sentences on civilians.

[C] (b), (c), (d) and (e): The Committee notes the information provided by the State party on the prohibition on imposing the death penalty on persons below the age of 18 and on the promulgation of the Juvenile Justice System Act in 2018, which provides for an age determination process. It requires information on the number of persons currently on death row for crimes committed while they were under the age of 18 years, the number of stays of execution that have been issued for those under 18 years of age who were sentenced to death, whether the Act has been fully applied, that is, whether persons under the age of 18 have been sentenced to death since the passage of the Act, and the measures taken to implement the age determination process in the new Juvenile Justice System Act.

The Committee regrets that no information was provided on measures taken to prevent executions or the imposition of the death sentence on persons with serious intellectual or psychosocial disabilities; on the execution protocol and whether it was in line with international standards; and on Pakistani migrant workers sentenced to death overseas. The Committee reiterates its requests for information and reiterates its recommendation.

Paragraph 20: Enforced disappearance and extrajudicial killings

The State party should criminalize enforced disappearance and put an end to the practice of enforced disappearance and secret detention. It should also review the Actions (in aid of Civil Power) Regulation, 2011 with a view to repealing it or bringing it into conformity with international standards. It should also ensure that all allegations of enforced disappearance and extrajudicial killings are promptly and thoroughly investigated; all perpetrators are prosecuted and punished, with penalties commensurate with the gravity of the crimes; families of disappeared persons and their lawyers and witnesses are protected; and a mechanism is put in place for full and prompt reparation for victims and their families. It should further strengthen the authority and the capacity (financial and personnel) of the Commission of Inquiry on Enforced Disappearances so that the latter can function effectively.

Summary of the State party's reply

The State party repeated the information provided in its replies to the list of issues with respect to the setting up of the Commission of Inquiry on Enforced Disappearances (CCPR/C/PAK/Q/1/Add.1, paras. 27–33). It indicated that up to 31 March 2018, there had been a total of 4,929 cases of enforced disappearance. 3,219 cases had been disposed from 2011 to 2018, and 1,710 cases were under investigation as at February 2018. It stated that the abuse or misuse of force during operations had been made punishable under the Actions (in Aid of Civil Power) Regulation, 2011. Detainees apprehended during operations were kept in declared and notified internment centres. Internees' cases were reviewed regularly by oversight boards. Comprehensive provisions, including on the welfare of detainees, deradicalization, release and disposal of cases, were contained in the law.

Information from non-governmental organization

International Commission of Jurists

Enforced disappearance has not yet been recognized as a separate crime in the State party. It registers enforced disappearances as abductions, kidnappings or wrongful confinement in secret. In August 2019, the Khyber Pakhtunkhwa Actions (in Aid of Civil Power) Ordinance granted sweeping powers to members of the armed forces in the whole of Khyber Pakhtunkhwa province. As at September 2019, not a single perpetrator of

enforced disappearance has been brought to justice. The tenure of the Commission of Inquiry on Enforced Disappearances was extended until September 2020, but the Commission is no longer competent to register first information reports once the victim is found. The Commission's definition of enforced disappearance does not recognize secret detention or undisclosed detention, which excludes cases in which the enforced disappearance is authorized by the State.

Committee's evaluation

[C]: The Committee notes the information provided by the State party, but regrets that the measures described were taken before the adoption of the concluding observations. The Committee takes note of the statistics provided by the State party, but regrets the lack of information on concrete measures taken since the adoption of the concluding observations to ensure that all allegations of enforced disappearance and extrajudicial killing are promptly and thoroughly investigated and victims are adequately compensated. The Committee also requires information on: (a) measures taken to criminalize enforced disappearance and to put an end to the practices of enforced disappearance and secret detention; (b) whether the State party intends to repeal the Actions (in Aid of Civil Power) Regulation of 2011 or to bring it into conformity with international standards; (c) measures taken to ensure that all perpetrators are prosecuted and punished with penalties commensurate with the gravity of the crimes; (d) measures taken to ensure that families of disappeared persons and their lawyers and witnesses are protected; (e) measures taken to put in place a mechanism for full and prompt reparation for victims and their families; (f) measures taken since the adoption of the concluding observations to further strengthen the authority and the capacity (financial and personnel) of the Commission of Inquiry on Enforced Disappearances; and (g) cases dealt with by the Commission of Inquiry on Enforced Disappearances.

Paragraph 34: Freedom of religion, conscience and belief

The State party should:

- (a) **Repeal all blasphemy laws or amend them in compliance with the strict requirements of the Covenant, including as set forth in the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression, para. 48;**
- (b) **Ensure that all those who incite or engage in violence against others based on allegations of blasphemy, as well as those who falsely accuse others of blasphemy, are brought to justice and duly punished;**
- (c) **Take all measures necessary to ensure adequate protection of all judges, prosecutors, lawyers and witnesses involved in blasphemy cases;**
- (d) **Ensure that all cases of hate speech and hate crimes are thoroughly and promptly investigated and that perpetrators are prosecuted and, if convicted, punished;**
- (e) **Review school textbooks and curricula with a view to removing all religiously biased content, incorporate human rights education therein and continue to regulate madrasas;**
- (f) **Fully implement the judgment of the Supreme Court of 19 June 2014.**

Summary of the State party's reply

(a) The State party repeated the information provided in its replies to the list of issues (CCPR/C/PAK/Q/1/Add.1, para. 68). Various measures have been adopted through a consultative process to check for misuse of the Blasphemy Law. The overall strategy has been to develop consensus from all stakeholders so that flaws in the process are identified and then stymied, so as to deter such cases from occurring. The Ministry of the Interior has, with the approval of the federal Cabinet, made amendments to the Federal Investigation Agency schedule whereby any complaint under sections 295-A, 295-C, 298 and 298-A of the Penal Code will fall within the purview of the Agency, which will have the power to check for misuse of the blasphemy laws, in parallel with the provincial police departments.

The State party detailed additional safeguards that have been put in place to check for misuse of those laws;

(b) The State party repeated the information that it had provided in its replies to the list of issues (CCPR/C/PAK/Q/1/Add.1, para. 72) on violation of the Blasphemy Law. It also referred to a Supreme Court case of 2002 (PLD 2002 SC 1048), in which the principle of the benefit of the doubt was invoked and was described as the golden rule and a rule of prudence. Statistics on blasphemy cases registered in Punjab, Sindh and Khyber Pakhtunkhwa Provinces during the period 2011–2015 were submitted. It was noted that not a single person had been executed to date as a consequence of allegations of blasphemy. The Supreme Court judgment of 2018 in the Asia Bibi case gives useful insights to further improve the legal and administrative measures relating to the application of the blasphemy laws;

(c) No information provided;

(d) The rights and interests of minorities are protected in Pakistan. Discrimination on the basis of ethnic diversity is not a prevalent phenomenon in Pakistani society. The State party referred to constitutional guarantees to protect the rights of minorities and legislative measures and policies that translate the constitutional principles into State action. It also referred to provisions of the Penal Code on human rights violations against minorities; the Police Order 2002, chapter II, which contains provisions to ensure protection of the rights of vulnerable sectors of society; and provisions on electronic media;

(e) In May 2019, the federal Cabinet approved a uniform curriculum for all educational institutions in the country, which include 30,000 madrasas. In February 2018, human rights and tolerance was approved as a separate subject within the Bachelor of Arts/Bachelor of Science compulsory course on Pakistan Studies/Islamic Studies with effect from the academic year beginning in 2018. A public awareness campaign on human rights education and sensitization was initiated under the Action Plan for Human Rights of 2016, with seminars and advertisements in the print and electronic media. The campaign is targeted at the general public, civil society, researchers, academics, students, government officials and different sectors of society. The Action Plan provided for steps to counter hate speech and extremist material, effective measures against religious persecution, the registration and regulation of madrasas, and banning the glorification of terrorism and terrorist organizations through the print and electronic media. In this regard, 1,373 cases regarding hate speech or the publishing of hate material have been registered;

(f) The Supreme Court of Pakistan, in its landmark judgment of 19 June 2014 resulting from *suo motu* proceedings under article 184 (3) of the Constitution initiated on the basis of a letter received from a non-governmental organization regarding an attack on a church in Peshawar, clarified that desecration of places of worship of minorities is also an offence under that section.

Information from non-governmental organization

Centre for Social Justice

(a) Measures to prevent the misuse and abuse of the blasphemy laws are being considered. However no concrete measures have been introduced, nor has the effectiveness of the measures under consideration been assessed in concrete terms. The safeguards introduced to prevent abusive use of the blasphemy laws are insufficient. The Superintendent of Police seldom carries out investigations in practice;

(b) In February 2017, Parliament passed an amendment that increased the punishment for levelling false charges from six months to five to seven years. The amendment proved ineffective and failed to address the abusive use of the blasphemy laws, as has been seen in several cases since the new law came into force;

(c) At least 75 persons have been extrajudicially killed in connection with alleged blasphemy, up until 2017, with impunity. Others have been detained and often held in solitary confinement;

(d) The implementation process of actions specifically dealing with hatred and religious persecution has been relatively poor and requires improvement. Government action under the Sound System (Regulation) Act enforced in provinces and federal territories in 2015 has lost impetus;

(e) The federal Government and the government of Punjab passed laws that made teaching of the Qur'an compulsory for students from class 1 to class 12 in public schools, at the primary and secondary levels. However, students from religious minorities have been given the possibility of studying their religion instead. The State party has pledged to regulate religious seminaries. However, there has been weak progress, particularly in the implementation of the National Action Plan;

(f) There has been very little progress in the implementation of the Supreme Court judgment of 19 June 2014. The most important measures ordered by the Court have not been implemented by the federal Government and the provincial governments, namely the establishment of a national council for minorities.

Committee's evaluation

[C] (a), (b), (c), (d) and (f): The Committee notes the measures taken to identify the flaws and misuse of the blasphemy laws, but requires information on when and to what degree stakeholders were consulted, and on the conclusions reached through the consultation process. The Committee also requires information on concrete measures taken to repeal all blasphemy laws or to amend them in compliance with the strict requirements of the Covenant since the adoption of the Committee's concluding observations.

The Committee notes the information provided by the State party, but regrets the lack of information on measures taken since the adoption of the Committee's concluding observations. In this respect, the Committee requires information on the implementation of the legislative amendment of 2017 that increased the punishment from six months to five to seven years for levelling false charges. It also requires information on measures taken to ensure that all those who incite or engage in violence against others on the basis of allegations of blasphemy, as well as those who falsely accuse others of blasphemy, are brought to justice and duly punished.

The Committee notes with concern that 75 persons have reportedly been killed with impunity following allegations of blasphemy, and requires information in this respect. The Committee regrets that no information was provided on measures taken to ensure adequate protection of judges, prosecutors, lawyers and witnesses involved in blasphemy cases. The Committee reiterates its requests for information and reiterates its recommendation.

The Committee notes the information provided by the State party, but regrets the lack of information on measures taken since the adoption of the concluding observations. The Committee requires information on measures taken to ensure that cases of hate speech and hate crimes are thoroughly and promptly investigated and that perpetrators are prosecuted and, if convicted, punished. The Committee requires information on the number of investigations, prosecutions and convictions and on the sentences imposed on perpetrators, over the last three years.

The Committee regrets the lack of specific information on the implementation of the Supreme Court judgment of 19 June 2014. The Committee reiterates its request for information and reiterates its recommendation.

[B] (e): The Committee welcomes the adoption of a uniform curriculum for all educational institutions, including 30,000 madrasas, and the inclusion of human rights and tolerance as a separate subject in the compulsory course on Pakistan Studies/Islamic Studies with effect from the academic year beginning in 2018. The Committee requires information on measures taken to review school textbooks with a view to removing all religiously biased content, and on whether the current uniform curriculum is applied in all madrasas.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.