

## **Pakistan: election to UN rights body spotlights failings**

The ICJ, Amnesty International and Human Rights Watch are urging Pakistan to take immediate steps towards meeting “the highest standards in the promotion and protection of human rights,” following the country’s election to the Human Rights Council yesterday.

On October 16, the UN General Assembly selected 15 states to serve as members of the UN Human Rights Council from January 2018 to December 2020. From the Asia-Pacific region, Nepal, Qatar, Afghanistan and Pakistan were selected out of five candidates.

To secure the UN Human Rights Council membership, Pakistan pledged its commitment to the promotion and protection of human rights. However, the pledge failed to address directly many of the most serious human rights issues facing Pakistan, including enforced disappearances, the use of the death penalty, blasphemy laws, the country’s use of military courts, women’s rights including the right to education, and threats to the work of human rights defenders, lawyers and journalists.

According to UN General Assembly Resolution 60/251, “members elected to the Council shall uphold the highest standards in the promotion and protection of human rights.” The Resolution also provides that, “when electing members of the Council, Member States shall take into account the contribution of candidates to the promotion and protection of human rights and their voluntary pledges and commitments made thereto.”

Pakistan’s abuses have been highlighted by various national and international human rights organizations, UN treaty-monitoring bodies, and special procedures of the UN Human Rights Council.

Pakistan has affirmed in its election pledge that it is “firmly resolved to uphold, promote and safeguard universal human rights and fundamental freedoms for all.”

Given the pressing human rights issues in the country, the International Commission of Jurists, Amnesty International, and Human Rights Watch urge Pakistan to take the necessary action to fulfill these responsibilities.

### **Background on Human Rights Areas of Concern:**

The International Commission of Jurists, Amnesty International and Human Rights Watch urge Pakistani authorities to act promptly to address the following human rights concerns:

1. Enforced disappearances: Despite hundreds, if not thousands, of cases of enforced disappearance reported from across Pakistan, not a single perpetrator of the crime has been brought to justice. The

UN Working Group on Enforced or Involuntary Disappearances has noted there is “a climate of impunity in Pakistan with regard to enforced disappearances, and the authorities are not sufficiently dedicated to investigate cases of enforced disappearance and hold the perpetrators accountable.”

Pakistan authorities should publicly condemn and call for an end to the practice of enforced disappearances; ratify the International Convention for the Protection of All Persons from Enforced Disappearance; recognize enforced disappearance as a distinct, autonomous offence; recognize the competence of the UN Committee on Enforced Disappearances to receive and consider communications from on behalf of victims or other state parties; and hold perpetrators of enforced disappearance, including military and intelligence personnel, to account, through fair trials before civilian courts.

2. Death Penalty: Pakistan has executed at least 471 people since it lifted an informal moratorium on executions in December 2014. In many cases, there are serious concerns that people executed were denied the right to a fair trial. Courts have also imposed the death penalty, in violation of international law, on people with mental disabilities, individuals who were below 18 years of age when the crime was committed, and those whose convictions were based on “confessions” extracted through torture or other ill-treatment.

Pakistan should restore the moratorium on executions with a view to abolishing the death penalty, in line with repeated UN General Assembly resolutions, and pending the moratorium, ensure the death penalty is not applied in violation of international law.

3. Blasphemy laws: Pakistan’s blasphemy laws are incompatible with the rights to freedom of expression, freedom of religion or belief, and equal treatment before the law. These laws have been disproportionately applied against religious minorities, they are frequently misused, and people accused of blasphemy offences are often denied the guarantees of equality before the law, the presumption of innocence, the right to legal counsel and the right to a fair trial.

Pakistan should repeal or significantly amend its blasphemy laws, in particular sections 295-A, 295-B, 295-C, 298-A, 295-B and 298-C of the Pakistan Penal Code, to bring them in line with international law, including the International Covenant on Civil and Political Rights.

4. Military Courts: Since January 2015, Pakistan’s military courts have convicted at least 305 people, out of which 169 have been sentenced to death. Proceedings before Pakistani military courts fall short of national and international standards on fair trial. Judges are part of the executive branch of the State and continue to be subjected to military command; the right to appeal to civilian courts

is not available; the right to a public hearing is not guaranteed; the right to a duly reasoned, written judgment, including the essential findings, evidence and legal reasoning, is denied; the procedures of military courts, the selection of cases to be referred to them, the location and timing of trial, and details about the alleged offences are kept secret; the right to counsel of choice is denied; and a very high number of convictions are based on “confessions” without adequate safeguards against torture and other ill treatment.

Pakistan should repeal or amend relevant laws in order to ensure that only civilian courts may try civilians, including for terrorism-related offences, and to ensure that military courts only have jurisdiction over military personnel for military offences.

5. National Human Rights Institution: Pakistan has committed to provide the National Commission of Human Rights (NCHR) adequate human and financial resources. However, the NCHR does not have the required independence to fulfill its mandate effectively and impartially. We also note that the NCHR has a limited mandate to investigate human rights violations allegedly committed by military forces, and it does not have jurisdiction over intelligence agencies.

Pakistan should extend the jurisdiction of the NCHR to cover military and intelligence agencies and ensure its autonomy and independence in accordance with the Paris Principles on national human rights institutions.

6. Human Rights Defenders: Authorities in Pakistan have increased restrictions on human rights defenders and attempted to stop the operation of certain NGOs for reasons such as “presenting a very bleak picture of human rights” to the UN. In some cases, state agents have perpetrated human rights violations against human rights defenders: activists exercising their right to freedom of expression and peaceful assembly have been subjected to unjustified or excessive force by the police and even prosecuted under Pakistan’s anti-terrorism laws; and many have been attacked, killed or forcibly disappeared. The onerous and opaque procedures of the International non-governmental organizations (INGO) policy, coupled with the vague, arbitrary, and at times unlawful reasons for refusing or canceling INGO registrations, have also resulted in severe restrictions on the rights to freedom of association for people working for INGOs.

In accordance with international standards including the ICCPR and the UN Declaration on Human Rights Defenders, Pakistan should guarantee, and ensure that human rights defenders are able in practice to exercise, the rights of freedom of peaceful assembly and of association; the right to express opinion, whether or not critical, of the state, its agencies and other matters of public interest; and the right to unhindered access to other human rights organisations and institutions — domestic, regional or global.

7. Cooperation with Special Procedures: Since 2012, Pakistan has accepted country visit requests by the UN Special Rapporteur on the independence of judges and lawyers and the UN Working Group on Enforced or Involuntary Disappearances. Requests for visits from a number of other special procedures, however, remain pending, including: the Special Rapporteur on extrajudicial executions (pending since 2000); the Special Rapporteur on the situation of human rights defenders (pending since 2003); the Special Rapporteur on the promotion and protection of human rights while countering terrorism (pending since 2006); the Special Rapporteur on freedom of religion or belief (pending since 2006); and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (pending since 2010); among others.

Pakistan should extend a standing invitation to UN Special Procedures, should respond favorably to all outstanding requests, and should facilitate the visits in an expeditious manner.

8. Refugees: In 2016, more than 380,000 registered Afghan refugees were returned to Afghanistan with the assistance of the UN High Commissioner for Refugees (UNHCR). Exit interviews conducted by UNHCR give rise to concern that these returns were not voluntary and therefore were contrary to the principle of *non-refoulement*, in what amounts to one of the largest unlawful mass forced return of refugees in recent times. Of those repatriated, 24 percent said they feared arrest and/or deportation and had therefore decided to leave. Those left behind face an uncertain future, including because of the heightened risk of harassment and intimidation by the Pakistani authorities.

These returns have taken place at a time when Afghanistan has been enduring the highest recorded levels of civilian casualties. According to the United Nations Assistance Mission in Afghanistan (UNAMA), 11,418 people were either killed or injured last year. In the first six months of 2017, according to UNAMA, there have been 5,243 civilian casualties. No part of Afghanistan can be considered safe, putting returnees at a real risk of serious human rights abuses.

Pakistani authorities should immediately halt all returns to Afghanistan and ensure that Afghan refugees can continue to seek and enjoy protection in Pakistan. Pakistani law enforcement agencies should end their campaign of harassment and intimidation of all registered and non-registered Afghan refugees. Pakistan should also ratify the 1951 Convention relating to the Status of Refugees and its 1967 Optional Protocol while abandoning policies that deny refugees protection in line with international standards.