



Pakistan: Immediately revoke oppressive Khyber Pakhtunkhwa Actions (In Aid of Civil Power) Ordinance

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The International Commission of Jurists (ICJ) today denounced the promulgation of the Khyber Pakhtunkhwa Actions (In Aid of Civil Power) Ordinance, 2019, by the Governor of the Khyber Pakhtunkhwa province on 5 August 2019.

The ICJ said that implementation of the Ordinance will lead to serious human rights violations and miscarriages of justice, contrary to the purported aims of the measures.

“The Ordinance is yet another example of Pakistan’s resort to ‘exceptional’ measures that are grossly incompatible with human rights protections, ostensibly to combat terrorism and other serious crime,” said Frederick Rawski, ICJ’s Asia Director.

“Pakistan must reject this dangerous, oppressive, and counter productive strategy and instead strengthen its judicial process and law enforcement in line with its domestic law and international human rights law obligations,” he added.

The Ordinance gives sweeping powers to members of the armed forces, including the power to detain people without charge or trial on a number of vaguely defined grounds where it appears that such “internment” would be expedient for peace. Individuals may be detained for an unspecified period without any right to be brought before a court of law or to challenge the lawfulness of detention before a court.

In addition to the vague and overbroad detention provisions, the Ordinance provides that statements or depositions by members of the armed forces shall on their own be sufficient for convicting the detainees if they are tried for any offence.

The Ordinance also provides wide immunity for armed forces for any action done, taken, ordered to be taken, or conferred, assumed or exercised by, before or after the promulgation of the Ordinance.

The Ordinance is incompatible with “fundamental rights” guaranteed by the Constitution of Pakistan, as well as Pakistan’s international legal obligations, including under the International Covenant on Civil and Political Rights (ICCPR), the ICJ said.

Article 9(4) of the ICCPR, for example, guarantees the right of all detainees to take proceedings before a court to challenge the lawfulness of their detention, and to be released if the court finds such detention unlawful.

The President of Pakistan passed similar regulations, namely, the Actions (In Aid of Civil Power) Regulations in 2011, which were applicable in the former Federally Administered Tribal Areas (FATA) and the Provincially Administered Tribal Areas (PATA). The Actions (in Aid of Civil Power) Regulations were extensively used as a legal cover for [arbitrary detention and enforced disappearances](#).

In their review of Pakistan's implementation of the ICCPR and the Convention against Torture (CAT), the UN Human Rights Committee and the UN Committee against Torture in 2017 expressed concern about the Regulations, and recommended that Pakistan "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 is regrettable that not only did Pakistan flout these express recommendations of the UN Committees, but that it extended the scope of the regulations," added Rawski.

"This step also calls into question Pakistan's pledge for election to the UN Human Rights Council in 2017, where Pakistan 'firmly resolved to uphold, promote and safeguard universal human rights and fundamental freedoms for all'," Rawski said.

ICJ urges the Pakistan Government to immediately revoke the Khyber Pakhtunkhwa Actions (In Aid of Civil Power) Ordinance, and to review all national security legislation to ensure it is fully compatible with international human rights law and standards.

Additional Information

The Khyber Pakhtunkhwa Actions (In Aid of Civil Power) Ordinance states in the preamble that it has the objective of countering "grave and unprecedented threat to the territorial integrity of Pakistan." It further provides that upon the request of the Khyber Pakhtunkhwa Government, the Federal Government has directed the armed forces "to act in aid of civil powers" in certain defined areas to counter the threat to "the solidarity and integrity of the Islamic Republic of Pakistan." The Ordinance extends to the "whole of the Province of the Khyber Pakhtunkhwa".

In 2018, Parliament passed the 25th Constitutional Amendment to merge the "tribal areas" with the province of Khyber Pakhtunkhwa. According to media [reports](#), the Ordinance was promulgated when the Peshawar High Court was hearing a petition challenging the constitutionality of laws passed by the Khyber Pakhtunkhwa assembly providing for the continuation of provisions of the Actions

(In Aid of Civil Power) Regulations after the merger.

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