

Abbreviations

ADB	Asian Development Bank	COAS	Chief of Army Staff
AC	Assistant Commissioner	CoP	Constitution of Pakistan
ANP	Awami National Party	CrPC	Criminal Procedure Code
APP	Associated Press of Pakistan	CRC	Convention on the Rights of the Child
ARD	Alliance for the Restoration of Democracy. Formed late in 2000 to include the PML and PPP within a single broad alliance.	DGK	Dera Ghazi Khan, a district in Punjab
ASI	Assistant Sub-Inspector [of Police]	DIG	Deputy Inspector General [of Police]
ASJ	Additional Sessions Judge	DIK	Dera Ismail Khan in NWFP
ASSP	Anjuman Sipah Sahaba, Pakistan	DSJ	District and Sessions Judge
ATA	Anti-Terrorism Act	DSP	Deputy Superintendent of Police
ATC	Anti-Terrorism Court	ECL	Exit Control List
BHC	Balochistan High Court	EIA	Environment Impact Assessment
BHU	Basic Health Unit	EPA	Environment Protection Agency
CDA	Capital Development Authority — Karachi's is KDA, Lahore's LDA, etc.	FATA	Federally-Administered Tribal Areas
CEC	Chief Election Commissioner	FCR	Frontier Crimes Regulations
CEDAW	Convention on Elimination of all forms of Discrimination Against Women	FIA	Federal Investigation Agency
CIA	Criminal Investigation Agency	FIR	First Information Report
CII	Council of Islamic Ideology	GDA	Grand Democratic Alliance, which brought together a number of opposition parties, including PPP. The GDA is now formed by a smaller group that broke away from the alliance in November, days before the ARD was set up.
CJ	Chief Justice	HRCP	Human Rights

Abbreviations

IEE	Commission of Pakistan Initial Environment Examination	NSC	National Security Council
IG	Inspector General [of Police]	NTM	Network Television Marketing
IMF	International Monetary Fund	NWFP	North-West Frontier Province
ISI	Inter-Services Intelligence	PAEC	Pakistan Atomic Energy Commission
IUCN	International Union for the Conservation of Nature	PATA	Provincially Administered Tribal Areas
J	Jamaat-e-Islami	PFUJ	Pakistan Federal Union of Journalists
JUI (F)	Jamiat-e-Ulema-e-Islam (Fazlur Rahman Group)	PHA	Pakistan Housing Authority
LHC	Lahore High Court (SHC is Sindh High Court, PHC Peshawar High Court etc)	PHC	Peshawar High Court
LHV	Lady Health Visitor	PML(N)	Pakistan Muslim League (Nawaz group). PML-QA is Pakistan Muslim League, Quaid-e-Azam.
LITE	Landhi Industrial Trading Estate	PONM	Pakistan Oppressed Nations Movement. The PONM platform brings together the nationalist organisations of the smaller provinces complaining of the predominance of Punjab
MCL	Metropolitan Corporation of Lahore	PPC	Pakistan Penal Code
MNA	Member of the National Assembly	PPP	Pakistan People's Party
MPA	Member of the Provincial Assembly	PS	Police Station
MQM	Muttahida (formerly Mohajir) Qaumi Movement	PTI	Pakistan Tehrik-e-Insaf
MSF	Muslim Students Federation	RHC	Rural Health Centre
NA	National Assembly	SC	Supreme Court
NAB	National Accountability Bureau	SAARC	South Asian Association for Regional Cooperation
NCCWD	National Commission for Child Welfare and Development	SCARP	Salinity Control and Reclamation Project
NEQS	National Environment Quality Standards	SCBA	Supreme Court Bar Association
NGO	Non-government organisation	SHC	Sindh High Court
NIC	National Identity Card	SHO	Station House Officer
NIRC	National Industrial Relations Commission	SI	Sub-Inspector [of Police]
		SITE	Sindh Industrial Trading Estate
		SMP	Sipah Mohammadi, Pakistan

SP	Superintendent of Police	UNESCO	United Nations Educational Scientific and Cultural Organization
SSP	Senior Superintendent of Police	UNHCR	United Nations High Commission for Refugees
STN	Shalimar Television Network	UNICEF	United Nations International Childrens Education Fund
TB	Tuberculosis	WAPDA	Water and Power Development Authority
TJP	Tehrik Jafria, Pakistan	WASA	Water and Sewerage Authority
TNSM	Tehrik Nifaz-e-Shariah Mohammadi	WB	World Bank
UDHR	Universal Declaration of Human Rights	WHO	World Health Organization
UGC	University Grants Commission		
UNDCP	United Nations Drug Control Programme		
UNDP	United Nations Development Programme		

Glossary

- Abadi*: Settlement. Katchi abadi refers to temporary settlement of squatters
- Amir-ul-Momineen*: Literally, the leader of the pious ones. This was the traditional title of the head of the early Islamic state
- Asnad*: Certificates awarded by educational institutions.
- Amir*: Literally, leader. Frequently used to refer to leaders of Muslim groups.
- Assalam-o-Alaikum*: “May peace be upon you.” Muslim greeting
- Atta*: Flour made from ground wheat.
- Azaan*: The Muslim call to prayers
- Azad*: Free
- Baitul Mal*: Originally the state treasury in an Islamic state. In Pakistan the institution has been set up mainly for disbursement of zakat
- Baitul Zikr*: House of prayers and pious exchange. The term Ahmadis now use in place of ‘masjid’ or mosque, which was prohibited to them after they were declared non-Muslim
- Barat*: The procession in which the groom goes to the bride’s house
- Begar*: Forced labour
- Bhatta*: Allowance. Now euphemistically used for amounts regularly extorted from industrialists, traders, professionals and other citizens by petty functionaries, militant groups or criminal gangs
- Bheel*: One of the castes into which pre-independence India’s Hindu society divided its people. Bheel is among the ‘lowest’ and poorest in the hierarchy and mostly comprises farm labourers
- Bidi*: A locally manufactured cigarette made of tobacco wrapped in leaf. Bidi manufacture is a medium-sized cottage industry in the country.
- Bismillah*: “I begin with the name of Allah.” Required expression by Muslims at the start of anything they do.
- Chadar and chardivari*: Literally, sheet of cloth and four walls. Associated with women the phrase signifies that a woman’s place of honour is inside the four walls of home; and, if she must go out, she has to be wrapped from head to foot in a sort of winding sheet
- Chak*: Tiny rural settlement in the Punjab, usually designated just by number and a letter of the alphabet.
- Challan*: The police’s prosecution brief. There are two categories of this: the first is based on a preliminary (first information) report, and the next, which

is more formalised, follows from early investigations

Chapati: Bread made from wheat flour. A staple food item in many parts of Pakistan.

Chaudhri: Now also a common surname in Punjab, in its original sense it describes the head of a village's foremost landed family

Cheera: From the word meaning 'tearing up', it is a common method of third degree torture in which the victim's legs are spread out to the maximum and kept immobilised in that position. The agony quickly makes the man 'admit' in most cases whatever he is asked to confess by the police

Darul Aman: Literally home of safety, it is the name of institutions set up or supported by government for the shelter of women needing temporary sanctuary or protection. Usually the courts send women whose cases are yet to be decided to such shelters

Deeni madrassah or madrassah [Plural in Urdu: Madaris]: Literally, a religious school. At present many of the institutions are run for sectarian and fundamentalist ends. Numbering in thousands these seminaries usually maintain a harsh discipline and aim to raise devout corps of sometimes militant young devotees

Deh: Small village

Dera: Extended residential site of an influential figure in a village or other area

Diyat: The blood money in return for which the next of kin of a murdered man may agree to forgive the killer. It is also monetary compensation for any lesser physical injury caused

Ehtisab: Accountability

Fiqh: Muslim jurisprudence

Gaddi-nashin: Occupier of the usually hereditary seat of custodianship of a shrine

Gherao: A number of persons' laying siege to someone superior to pressure him to listen, and hopefully to yield, to their demands. Literally, to surround

Hadd: Plural hudood: Islamic punishment

Hari: Sindhi peasant, tenant or farm labourer

Hujra: Retiring room of an Imam or any religious person

Iddat: The period a Muslim woman is required to spend in relative seclusion after divorce or death of her husband

Iftar: The fare for breaking fast

Ijtihad: Research and reinterpretation of Islamic intent in relation to specific issues.

Ijtima: Congregation

Imam: Prayer leader

Imambargah: Shias' place of holy congregation

Isha: The Muslim prayer due after nightfall

Jirga: A gathering of elders, which especially in tribal societies settles disputes, decides criminal cases etc

Kalima: Quranic formulation of a basic Islamic tenet

Kammi: Member of the 'lowest' caste assigned menial jobs

Karo kari: A traditional, feudal custom which still continues whereby couples found in, or more often merely suspected of, adulterous relationship are summarily done to death by the family members themselves. The law takes a lenient view of this 'crime of honour', which often leads it to be abused

Katchi abadi: Settlement of homes, many made of unbaked bricks or timber and cloth, which have cropped up across the country.

Khabarnama: Pakistan Television's principal 9 o'clock Urdu language news bulletin

Khan: A term frequently used to refer to an influential feudal in the area. Khan is also a common surname.

Khidmat committees: Service bodies, comprising government nominees, required to check failures of public institutions and officials

Khula: Divorce in which the move for the dissolution of marriage comes from the wife's side. The procedure for this is different from talaq, the divorce pronounced by the husband. It is usually far more difficult for the woman to obtain a divorce in this fashion

Kutchery: Court. The kutchery of recent currency is the former prime minister's weekly audience at his private residence in his hometown, Lahore, for receiving public complaints

Maghreb: Time at sunset. Also the Muslim prayer due then

Malik: A tribal chief. Other variants are Sardar and Khan

Marla: 25 sq yds or 21 sq metres. 20 marlas make a kanal

Meh'r: The money the groom pledges to the bride at the time of the wedding as a token of his earnestness

Mera Ghar: Literally, 'my house'. The name of a housing scheme launched by the government of deposed prime minister Nawaz Sharif.

Moharrir: Police station clerk who records complaints and crime reports.

Mullah: Formerly an appellation for an Islamic scholar, now it often refers pejoratively to a semi-literate fanatical campaigner and pronouncer of the orthodox Islamic view in the community. Closer to its original sense are maulana, moulvi and alim (for religious scholar, plural ulema).

Naib Qasid: Peon

Najis: Something religiously regarded as impure, impermissible.

Nikahkhwan: The officially appointed moulvi, a religious person, who solemnises marriages

Nikahnama: The document making note of a marriage contract with various clauses listed under it to determine the agreement reached at the time of the marriage with respect to dowry, mehr and other matters.

Patharidar: The village feudal who quietly patronises and provides protection

to criminal gangs or individuals while using them to tame his enemies and help in maintenance of his hold over the commonalty and his status among his peers. Some also have a cut in the dacoits' booty

Peshgi: Advance payment against labour

Pir: A religious figure who often, because he is believed to be spiritually close to some venerable saint of the past, acquires a wide following of his own. The devotees of a pir look up to him as a spiritual, and even a physical, healer, guide and source of salvation

Qabza: Forceful seizure and occupation

Qatl: Murder; *Qatl-i-amd*: Premeditated murder

Qazf: False imputation of immorality against a woman

Qazi: A judge of an Islamic court; in Islamic tradition the man entrusted to mete out justice.

Qisas: Punishment identical to the crime: eye for an eye, tooth for a tooth

Ramazan: The Muslim month of fasting

Roti: Bread made from wheat-flour, traditionally accompanying meals.

Swara: Gift of a girl in marriage in settlement of a tribal dispute

Sehri: The meal completed before dawn that marks the start of the Muslim fast during the month of Ramazan.

Shalwar: Loose pants tied at the waist with a cord. Shalwar kameez, a loose trouser worn with a long shirt, or kameez, is a common form of dress for both men and women

Tandoor: Open oven used to bake bread.

Ulema: Persons learned in Islam and Islamic practice

Ushr: Islamic land tithe

Vani: Tradition according to which women are surrendered for compounding a murder case. The same tradition is known as 'swara' in the NWFP.

Wadera: Feudal lord, with all the connotations of (a) his repressive character in relation to the body of peasantry and community who live on and off the lands he owns, and (b) his influence with the local official functionaries and their superiors. Allied and more neutral terms are zamindar, the man who owns large tracts of agricultural land, and jagirdar, the person who has inherited extensive lands gifted to his ancestors by former colonial and other rulers for services rendered

Watta Satta: The kind of parentally arranged marriage in which a brother and sister of one family are married to the siblings of another. Tradition favours this because the landed inheritance of the two brides remains within the two families and also because it is thought to offer a kind of insurance of good treatment of the daughters thus exchanged between the families

Zakat: A tithe Islam imposes on every Muslim as a fixed proportion of his/her income and wealth and meant as a contribution to help the poor and the needy

Zakir: Religious preacher who mostly recounts events of the Islamic past — usually now in Moharram at the annual commemoration of Imam Husain's sacrifice at Karbala

Highlights

■ Laws

- ▶ No serious legislative business was transacted until December 2003, when the parliament ratified the President's election and the Legal Framework Order (LFO) by passing the Constitution (17th Amendment) Bill.
- ▶ The Finance Act (budget statements for the fiscal year 2003-2004) was the only new legislation completed by parliament.
- ▶ The most significant piece of legislation in any province was the Shariat Act, adopted in the Frontier Province.
- ▶ Presidential orders and ordinances continued to be issued.
- ▶ The National Commission on the Status of Women (NCSW) recommended repeal of the Hudood Ordinances of 1979.

■ Judiciary

- ▶ The provision for the extension in judges' tenure, made in the LFO, was withdrawn.
- ▶ Bodies representing lawyers continued a vigorous campaign for the supremacy of the constitution and independence of the judiciary.
- ▶ Delays in appointing judges badly affected the working of the Federal Shariat Court (FSC) and created immense difficulties for litigants.
- ▶ Several cases involving challenges to legislators' degrees remained undecided.
- ▶ The Supreme Court disposed of an appeal in the case of Saima Waheed, and ruled, after an eight year legal battle, that the alleged

absence of her wali's consent did not make the marriage illegal.

- ▶ Dr Ahmad Javed Khwaja, his brother and three younger members of their family, detained in December 2002 on accusations of links with al-Qaeda, were finally released in June 2003, after extended litigation.

- ▶ The jirga system appeared to expand and grow more powerful.

- ▶ An increased number of petitions in the nature of public interest litigation were placed before the superior courts.

- ▶ 18 convicts were executed in 2003 as against 20 in 2002

- ▶ 605 convicts in 383 cases were awarded the death penalty.

- ▶ The death row population jumped to 6,593 at the end of 2003. In the Punjab every third convict was waiting to be hanged.

■ Law and order

- ▶ At least 90 people were killed in incidents of sectarian terrorism.

- ▶ The unauthorised disposal of nuclear secrets created a storm that left the nation traumatised.

- ▶ Three attempts were made to assassinate President Pervez Musharraf.

- ▶ District courts initiated punitive action against infractions by police more frequently than before.

- ▶ 224 people were recovered from illegal detentions.

- ▶ 146 persons were killed in so-called encounters, as compared to 154 in 2002.

- ▶ At least 101 people were killed as a result of tribal feuds.

- ▶ 420 instances of rioting were reported in Karachi during the first eight months of 2003, as opposed to 328 during the corresponding period the previous year.

- ▶ The new police law was only partially implemented.

- ▶ Two police officials (under suspension) were sentenced to death for causing death in custody.

■ Jails and prisoners

- ▶ Over 84,000 men, women and children remained behind bars in 87 prisons across the country. All jails were badly overcrowded.

- ▶ Four civil judges and five inmates lost their lives during a hostage-taking tragedy at Sialkot Jail, one of at least four instances of disturbances at prisons during the year.

- ▶ Torture at jails was endemic and led to a growing number of deaths.

- ▶ Juveniles continued to be held alongside adults. At least two faced

execution.

■ Freedom of Movement

- ▶ There was evidence the Exit Control List was being used once more as a tool of harassment
- ▶ Foreigner nationals were detained on several occasions for entering districts where atomic installations were located
- ▶ Movement to the tribal areas was restricted, especially to areas where military operations against militants were conducted.
- ▶ Clerics were barred from visiting various districts as a means to check sectarian violence, even though laws against the incitement of hatred remained in place.

■ Freedom of thought, conscience and religion

- ▶ Hindus faced violence and acute harassment in various parts of the country.
- ▶ Ahmadis remained on a separate voting list and continued to confront acute legal and social discrimination as well as violent attacks.
- ▶ The misuse of blasphemy laws continued to increase.
- ▶ A growing number of people across the country were denied employment or education on the basis of their belief.

■ Freedom of expression

- ▶ Laws promulgated in 2002, including the Freedom of Information Act, were not enforced, despite pleas by media bodies.
- ▶ Amendments sought in the laws by journalists, editors and newspaper owners were not made.
- ▶ A growing number of journalists faced threats from official and unofficial quarters, At least two writers lost their lives as a direct result of the opinions they expressed.
- ▶ Attempts were made to control information available over the Internet.
- ▶ Cable television operators faced new attempts to restrict their working, while other forms of artistic expression also faced restrictions.
- ▶ Indian cable television channels remained banned.

■ Freedom of assembly

- ▶ Attempts to assemble to draw attention to their concerns once more led to the death of citizens at police hands.
- ▶ Tough bars on assembly by political parties were somewhat relaxed.
- ▶ Police mishandling of rallies repeatedly led to violence against

those staging them.

■ Freedom of association

- ▶ NGOs working for the rights of women in the NWFP faced a growing threat. Several NGOs were forced to wind up activities in northern areas as a result of this threat and the failure by authorities to offer them protection.
- ▶ Activists of NGOs in several cases were illegally detained and subjected to treatment that amounted to torture.
- ▶ Labour and student unions continued to face restrictions.
- ▶ Proposed new laws to regulate NGOs were seen by activists as a potential threat to their autonomy.
- ▶ The lack of transparency in actions taken against groups allegedly engaged in militant activity left many doubts about the measures.

■ Political participation

- ▶ For much of the year, parliament remained paralysed as a result of the continuing controversy over the Legal Framework Order (LFO)
- ▶ The deal struck on the LFO between the government and the MMA left many of its key clauses and the sweeping constitutional changes made under them intact.
- ▶ Wide-ranging powers remained accumulated in the hands of the President, with many steps taken during the year coming as a result of decisions made outside parliament.
- ▶ Leaders and activists linked to the opposition faced acute harassment and arrest.
- ▶ The NAB lost still more credibility, as more evidence emerged to show it was used as a means of political harassment.
- ▶ Confusion over the working of district governments persisted while a confrontation between them and provincial governments was also seen.

■ Women

- ▶ There was no evidence of a decrease in violence against women, with over 600 losing their lives as a result of honour killings.
- ▶ In several high profile cases that came to light over the year, women were brutally murdered or faced a threat to their life as a result of marrying men of their choice.
- ▶ Cases of acid attacks on women and of gang-rape increased.
- ▶ The presence of a larger number of women within assemblies promoted debate on key issues such as domestic abuse, discriminatory laws and crimes against children.
- ▶ Despite a campaign for their repeal led by organisations struggling

for the rights of women and the recommendation of the National Commission on the Status of Women, the Hudood Ordinances and other laws that discriminated against women remained in place.

- ▶ There were indications of a growing awareness of the rights of women as a result of efforts made by activists over several decades.
- ▶ Tradition frequently led to violence against women, while girls and women faced discrimination in education, health and employment.
- ▶ Over 1,500 women remained in jails across the country.

■ Children

- ▶ Over six million children across the country remained outside the classroom. Many were engaged in work, sometimes carried out in extremely hazardous conditions.
- ▶ Over 1,300 cases of the sexual and physical abuse of children were reported between January and September 2003.
- ▶ The kidnapping of children for use as camel jockeys continued to increase.
- ▶ The implementation of the Juvenile Justice System Ordinance 2000 remained poor, with over 3,000 juveniles still held alongside adults.
- ▶ Statistics compiled by international agencies indicated tens of thousands of children in the country suffered stunting due to malnutrition, while most lived in extremely grim socio-economic conditions.

■ Labour

- ▶ Reports by government bodies indicated that poverty had soared steeply in the country, with nearly 40 million people living below the poverty line.
- ▶ Unemployment was officially estimated to have reached 14 percent or more.
- ▶ Downsizing from public sector concerns slowed down, while those rendered jobless over the previous two years in many cases continued to await adequate compensation or alternative jobs.
- ▶ Despite demands by workers, no amendments were made in the IRO 2002 and other laws that prevented them from even drawing attention to their concerns.
- ▶ Thousands across the country continued to work in extremely hazardous conditions.
- ▶ The policy and plan of action to achieve eradication of the bonded labour system remained unimplemented.

■ Education

- ▶ Pakistan fell from 138th to 144th place in the UNDP's ranking of 175 countries on the basis of development, partly as a result of its poor

educational performance.

- ▶ Unofficial figures showed that spending on education remained a mere 7.8 percent of total government expenditure.

- ▶ The literacy rate was officially put at just over 51 percent. Unofficially, some organisations believed functional literacy stood at around 35 percent. The female literacy rate was well below that of men.

- ▶ Educationists found that standards of higher education continued to fall, while cheating remained endemic.

- ▶ A large number of government schools continued to exist only on paper. Many that did exist had no water supply, toilets or other facilities.

- ▶ Problems with the supply of text-books and confusion over changes made in the system, exacerbated the problems faced by children.

- ▶ Madrassahs remained the fastest growing sector within the educational system.

■ Health

- ▶ Expenditure on health, at 0.7 percent of GNP, remained among the lowest in the world.

- ▶ Rates for maternal mortality, infant mortality, malnutrition and death due to preventable diseases remained the highest in the region.

- ▶ Existing services were insufficient to meet the needs of people. Many public-sector hospitals remained poorly managed and unable to cater to the needs of patients who turned to them.

- ▶ Drug prices were among the highest in the region.

- ▶ Medical education continued to suffer as a result of controversy created by official policies, while doctors too continued to face difficulties as a result of steps taken by the government.

■ Housing

- ▶ At least 570,000 housing units needed to be added each year to meet existing needs.

- ▶ The process of eviction from katchi abadis slowed down, but the Lyari Expressway project continued to pose a threat to thousands.

- ▶ The process of awarding ownership rights to katchi abadis residents remained slow.

■ Environment

- ▶ The oil spill off the Karachi coast and the torrential rains in Sindh, which affected over a million people, drew attention to the need for improved disaster preparedness.

- ▶ Environmental degradation continued to cause the national economy a loss of US \$ 1.8 billion annually.

- ▶ Experts warned that resources of potable water in the country

were disappearing rapidly as a result of pollution.

- ▶ Problems created by the failure to safely dispose of solid waste, growing noise pollution and increased air pollution attained more alarming proportions in the absence of long-term planning to tackle the problems.

- ▶ While the failure to implement laws remained a major difficulty, suo motu notice taken by the Supreme Court on environmental degradation came as a positive step and signalled growing attention to the issue from influential quarters too.

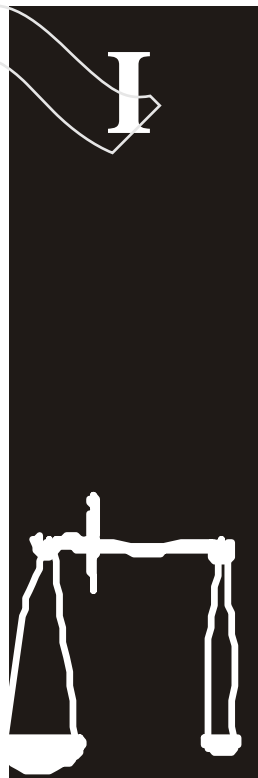
■ Refugees

- ▶ The largest number of refugees in over a decade left Pakistan for Afghanistan during the year, with a number of camps closed down across the country.

- ▶ The government in Afghanistan made several complaints of the harassment of Afghan nationals based in Pakistan.

- ▶ Attention to the needs of non-Afghan refugees remained limited.

- ▶ The issue of persons displaced internally as a result of development projects continued to grow.



Rule of law

Laws and law-making

... fundamental rights, including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to the law and public morality, [shall be guaranteed] ... the independence of the judiciary shall be fully secured.

Constitution of Pakistan

Preamble

To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan.

Article 4

Any law, or any custom or usage having the force of law, insofar as it is inconsistent with the rights conferred by this chapter [on Fundamental Rights] shall, to the extent of such inconsistency, be void.

Article 8(1)

It is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law

Universal Declaration of Human Rights

Preamble

Everyone has the right to take part in the government of his country, directly or indirectly or through freely chosen representatives.

Article 21(1)

Constitution overhauled

While the National Assembly elected in October 2002 started meeting a few weeks later, parliament was fully constituted only at the end of February 2003 when elections to the Senate were completed. From the very start the opposition launched a vigorous campaign to force the government to bring the issues related

to the President's election and the Legal Framework Order before parliament. It was with difficulty that the National Assembly fulfilled the constitutional requirement of meeting for 130 days in a year, with a generous allowance for off-days in between. No serious legislative business could be transacted. Partly this was due to opposition's decision not to allow smooth proceedings. However, the government too did not reveal any agenda for priority legislation. It was only in the last days of the year that parliament was called upon to perform the significant task of ratifying the President's election and the LFO by passing the Constitution (17th Amendment) Bill, which became an Act soon afterwards.

The changes made in the Constitution by the Legal Framework Order, as amended by the 17th amendment, are as follows:

Amendment	Effect
<p>1. Article 17 (As amended by the LFO 2002)</p> <p>(1) In clause (2)</p> <p>(a) after the words "integrity of Pakistan," occurring twice, the words "public order" shall be inserted; and</p> <p>(b) the full stop at the end shall be replaced with a colon and the following proviso shall be added: "provided that no political party shall promote sectarian, ethnic, regional hatred or animosity, or be titled or constituted as a militant group or section", and</p> <p>(2) after clause (3), the following new clause shall be added:</p> <p>"(4) every political party shall, subject to law, hold intra-party elections to elect its office-bearers and party leaders.</p>	<p>1. Freedom of association</p> <p>This Article relates to the fundamental right to freedom of association, amendment to which demands greater deliberation and justification than what ordinary constitutional changes require. Prior to the amendment the federal government was authorised to impose restrictions on a political party only if it had been formed or was operating in a manner prejudicial to the sovereignty or integrity of Pakistan. Now restrictions can also be imposed on the ground of threat to public order. The government has thus acquired greater powers to curb political parties and political activity.</p> <p>(b) The new proviso gives the government sweeping powers to prevent the creation or functioning of not only militant groups but also parties that raise issues of ethnic / regional identity and rights. The phrases used to prescribe grounds of action are vague and liable to broad and subjective interpretation.</p> <p>(2) The new clause raises the holding of intra-party elections, as provided for in the Political Parties Order of 2002, from a legal requirement to the level of a constitutional obligation.</p>

Amendment	Effect
<p>2. Article 41</p> <p>(As amended by the LFO 2002 and further amended vide the 17th amendment)</p> <p>1. For clause (7) the following shall be substituted, namely:</p> <p>“ (7) The Chief Executive of the Islamic Republic of Pakistan</p> <p>(a) shall relinquish the office of Chief Executive on such day as he may determine in accordance with the judgement of the Supreme Court of Pakistan of the 12th May, 2000; and</p> <p>(b) having received the democratic mandate to serve the nation as President of Pakistan for a period of five years shall, on relinquishing the office of the Chief Executive, notwithstanding anything contained in this Article or Article 43 or any other provision of the Constitution or any other law for the time being in force, assume the office of President of Pakistan forthwith and shall hold office for a term of five years under the Constitution, and Article 44 and other provisions of the Constitution shall apply accordingly.”</p> <p>“ Provided that paragraph (d) of clause (I) of Article 63 shall become operative on and from the 31st day of December, 2004.”; and</p> <p>(2) after clause (7) amended as aforesaid, the following new clauses shall be added, namely:-</p> <p>“ (8) Without prejudice to the provisions of clause (7), any member or members of a House of Majlis-e-Shoora (Parliament) or of a Provincial Assembly, individually or jointly, may, not later than thirty days from the commencement of the Constitution (Seventeenth Amendment) Act, 2003, move a resolution for vote of</p>	<p>2. Election of President</p> <p>(1) This Article had only six clauses in the Constitution of 1973 and laid down the eligibility criteria for presidential candidates (that inter alia they should be eligible for election as MNA) and the mode of the President’s election. Clause (7) was added by Gen. Ziaul Haq in 1985 before he lifted the Martial Law to validate his election as President in the referendum of 1984 and to provide for his assumption of office and the beginning of his five-year term at a joint sitting of freshly elected houses of parliament.</p> <p>The LFO 2002 replaced clause (7) with a new text to the effect that Gen. Pervez Musharraf would give up the office of the Chief Executive on a day fixed by himself, that as a result in the referendum of 2002 he would assume the office of President for five years w.e.f. the date he gave up the CE’s office, and that the bar in Article 43 to his holding another office of profit shall not apply.</p> <p>The 17th amendment adds a proviso to the clause to the effect that the provision for disqualification of a member of parliament for holding an office of profit (and also applicable to the President) shall be effective on Dec 31, 2004, before which the President-in-office will have given up the post of chief of the Army Staff.</p> <p>2. The new clauses (8 and 9) provide for endorsement of Gen. Musharraf’s election as President by members of all legislatures and that these clauses are meant for only one occasion. Under these clauses General</p>

confidence for further affirmation of the President in office by majority of the members present and voting, by division or any other method as prescribed in the rules made by the Federal Government under clause (9), of the electoral college consisting of members of both Houses of Majlis-e-Shoora (Parliament) and the Provincial Assemblies, in a special session of each House of Majlis-e-Shoora (Parliament) and of each Provincial Assembly summoned for the purpose, and the vote of confidence having been passed, the President, notwithstanding anything contained in the Constitution or judgment of any court, shall be deemed to be elected to hold office for a term of five years under the Constitution, and the same shall not be called in question in any court or forum on any ground whatsoever.

Musharraf secured a vote of confidence on Jan 1, 2004.

“(9) Notwithstanding anything contained in the constitution or any other laws for the time being in force, the proceedings for the vote of confidence referred to in clause (8) shall be regulated and conducted by the Chief Election Commissioner in accordance with such procedure and the votes shall be counted in such manner as may be prescribed by the rules framed by the Federal Government.

“Provided that clauses (8) and (9) shall be valid only for the forthcoming vote of confidence for the current term of the President in office.”

3. Article 51

(Amendments vide LFO 2002)

For clause (1) the following shall be substituted:

“(1) There shall be three hundred and forty-two seats of the members in the National Assembly including seats

3. Article 51

The National Assembly

The Article lays down the strength of the National Assembly, fixes the voting age, and prescribes the mode of election. It was amended in 1985 by General Ziaul Haq to raise the National

reserved for women and non-Muslims.

(1A) The seats in the National Assembly referred to in clause (1) except as provided in clause (2A), are allocated to each Province, the Federally Administered Tribal Areas and the Federal Capital as under:

	<i>General Seats</i>	<i>Women</i>	<i>Total</i>
Balochistan	14	3	17
NWFP	35	8	43
Punjab	148	35	183
Sindh	61	14	75
FATA	12	-	12
Federal Capital	2	-	2
Total	272	60	332

(2) in clause (2), in paragraph (b), for the word “twenty-one” the word “eighteen” shall be substituted;

(3) for clause (2A) the following clause shall be substituted, namely:-

“(2A) In addition to the number of seats referred to in clause (1A), there shall be, in the National Assembly, ten seats reserved for non-Muslims”;

(4) for clause (4) the following shall be substituted, namely:-

“(4) For the purpose of election to the National Assembly:-

(a) the constituencies for the general seats shall be single member territorial constituencies and the members to fill such seats shall be elected by direct and free vote in accordance with law;

(b) each Province shall be a single constituency for all seats reserved for women which are allocated to the respective Provinces under clause (1A);

(c) the constituency for all seats reserved for non-Muslims shall be the

Assembly seats from 216 (including 10 for women and six for non-Muslim) to 237 (including 10 for non-Muslims and 20 (till the third general election) for women, to fix the voting age of 21 years, and to introduce separate electorates.

The LFO 2002 raised the number of seats to 342 (including 60 seats for women and 10 seats reserved for non-Muslim), revived joint electorate (except for Ahmadis), reduced the voting age to 18 and provided for the mode of election. The LFO in its first form laid down that a political party securing less than five per cent of the total seats in the National Assembly would not be entitled to any seat reserved for women or non-Muslims. Through an amendment to the LFO this condition was dropped.

The first text of the LFO was silent on independents. An amendment to the LFO enabled political parties to absorb the independents, the biggest gainer obviously being the party that was believed to have been fostered by the establishment.

The 17th amendment was adopted by a parliament elected under the scheme laid down in this Article. Before the LFO was issued this scheme had been presented through the conduct of General Elections Order. Thus opposition members claimed that they had been elected under the election order and not under the LFO. The argument was used to reinforce their stand that the LFO had not become part of the Constitution.

Amendment	Effect
<p>whole country;</p> <p>(d) members to the seats reserved for women which are allocated to a Province under clause (1A) shall be elected in accordance with law through proportional representation system of political parties' lists of candidates on the basis of total number of general seats secured by each political party from the Province concerned in the National Assembly;</p> <p>Provided that for the purpose of this sub-clause the total number of general seats won by a political party shall include the independent returned candidates who may duly join such political party within three days of the publication in the official Gazette of the names of the returned candidates.</p> <p>(e) members to the seats reserved for non-Muslims shall be elected in accordance with law through proportional representation system of political parties' lists of candidates on the basis of total number of general seats won by each political party in the National Assembly.</p> <p>Provided that for the purpose of this sub-clause the total number of general seats won by a political party shall include the independent returned candidates who may duly join such political party within three days of the publication in the official Gazette of the names of the returned candidates.</p> <p>(5) Clauses (4) to (6) shall be omitted.</p>	
<p>4. Article 58</p> <p>(Amendments made by LFO 2002 and the 17th amendment)</p> <p>In clause (2), after paragraph (a), the following new paragraph shall be</p>	<p>4. Dissolution of National Assembly</p> <p>The original Article in the Constitution of 1973 provided for premature dissolution of the National</p>

Amendment	Effect
<p>added, namely:-</p> <p>“(b) a situation has arisen in which the Government of the Federation cannot be carried on in accordance with the provisions of the Constitution and an appeal to the electorate is necessary.”</p> <p>After clause (2), the following new clause shall be added, namely:-</p> <p>“(3) The President in case of dissolution of the National Assembly under paragraph (b) of clause (2) shall, within fifteen days of the dissolution, refer the matter to the Supreme Court and the Supreme Court shall decide the reference within thirty days whose decision shall be final.”</p>	<p>Assembly only on the advice of the Prime Minister.</p> <p>This Article was amended twice by Gen. Ziaul Haq. In the first instance clause (2) was added, w.e.f. March 2, 1985, to the effect that the President could dissolve the National Assembly in his discretion where, in his opinion, an appeal to the electorate had become necessary.</p> <p>Under the 8th amendment (a compromise between Gen. Zia and the National Assembly elected on non-party basis in 1985), clause (2) (a) was added to authorise the President to dissolve the National Assembly if after a no-confidence vote against a Prime Minister having been passed, no one else could demonstrate majority support in a specially summoned session of the National Assembly. Clause 2 was numbered 2(b) and the text was amended to the effect that an appeal to the electorate became necessary only if the government of the federation could not be conducted in accordance with the Constitution.</p> <p>This provision was invoked to dissolve the National Assembly in 1988, 1990, and 1996. It was omitted in 1997 vide the 13th amendment.</p> <p>The LFO 2002 reinserted the sub-clause. The 17th amendment adds a new sub-clause (3) to oblige the President to refer the matter to the Supreme Court within 15 days of the dissolution and the court decision shall be final.</p> <p>[The right to invoke the jurisdiction of the Supreme Court was exercised by the aggrieved party in 1988, 1990, 1993 and 1996. Dissolution was held void twice — in 1988 and 1993 — but relief was offered only once — in 1993.]</p>

Amendment	Effect
<p>5. Article 59</p> <p><i>(Amendments made by LFO 2002)</i></p> <p>(1) For clause (1) the following shall be substituted, namely:-</p> <p>“ (1) The Senate shall consist of one hundred members, of whom, -</p> <p>(a) fourteen shall be elected by the members of each Provincial Assembly.</p> <p>(b) eight shall be elected by direct and free vote from the Federally Administered Tribal Areas, in such manner as the President may, by Order, prescribe;</p> <p>(c) two on general seats, and one woman and one technocrat including <i>aalim</i> shall be elected from the Federal Capital in such manner as the President may by Order prescribe;</p> <p>(d) four women shall be elected by the members of each Provincial Assembly;</p> <p>(e) four technocrats including <i>ulema</i> shall be elected by the members of each Provincial Assembly.”; and</p> <p>(2) In clause (3), -</p> <p>(a) for paragraph (c) the following shall be substituted, namely:-</p> <p>“ (c) of the members referred to in paragraph (c) of the aforesaid clause, -</p> <p>(i) One elected on general seat shall retire after the expiration of the first three years and the other one shall retire after the expiration of the next three years, and</p> <p>(ii) One elected on the seat reserved for technocrats shall retire after first three years and the one elected on the seat reserved for woman shall retire after the expiration of the next three years,” and</p> <p>(b) for paragraph (d) the following</p>	<p>5. The Senate</p> <p>Article 59 of the Constitution of 1973 fixed the Senate strength at 63 — fourteen members from each of the four provinces, five members to represent FATA, and two to be elected from the federal capital - Islamabad.</p> <p>General Zia amended the Article in 1985. The Senate strength was raised to 87. The provincial quota of 14 seats was not changed but seats for FATA were raised to eight and for Islamabad to three. Twenty new seats were created for <i>ulema</i>, technocrats and other professionals, each provincial assembly electing five of them.</p> <p>The LFO 2002 raised the Senate strength to 100. The quota for provinces and FATA was left unchanged, while the seats for <i>ulema</i>, etc, were reduced from 20 to 16 (four from each province). Women were granted 16 seats (four from each province) and the seats for Islamabad were raised to four, including one seat reserved for women and another for a technocrat / <i>alim</i></p>

Amendment	Effect
<p>shall be substituted, namely:-</p> <p>“ (d) of the members referred to in paragraph (d) of the aforesaid clause, two shall retire after the expiration of the next three years; and</p> <p>(e) of the members referred to in paragraph (e) of the aforesaid clause, two shall retire after the expiration of the first three years and two shall retire after the expiration of the next three years;”.</p>	
<p>6. Article 62</p> <p>(Amendment made by LFO 2002)</p> <p>For clause (b) the following shall be substituted, namely:-</p> <p>“ (b) he is, in the case of the National Assembly, not less than twenty-five years of age and is enrolled as a voter in any electoral roll in-</p> <p>(i) any part of Pakistan, for election to a general seat or a seat reserved for non-Muslims; and</p> <p>(ii) any area in a Province from which he (sic) seeks membership for election to a seat reserved for women.”</p>	<p>6. Qualification for membership of Parliament</p> <p>Article 62 lays down the eligibility criteria for members of Parliament.</p> <p>In the original 1973 Constitution the Article had only four clauses. A candidate for election to the National Assembly had to be at least 25 years of age, a citizen of Pakistan and enrolled as a voter anywhere in the country, and was required to possess such other qualifications as were prescribed by an Act of Parliament. For the Senate the age qualification was 30 years and enrolment as voter in the province or FATA from where election was sought was required.</p> <p>Gen. Ziaul Haq added five new eligibility tests. A candidate was required to be of good character, knowledgeable in Islamic teachings, sagacious, righteous, non-profligate and honest and <i>ameen</i>. He must not have been convicted for moral turpitude or for giving false evidence and must not have worked, after the establishment of Pakistan, against the integrity of the country or opposed the ideology of Pakistan. The only change made by the LFO is related to non-Muslim and women candidates.</p>

Amendment	Effect
<p>7. Article 63</p> <p>(Amendments made by LFO 2002)</p> <p>(a) for paragraphs (h). (i) and (j) the following shall be substituted, namely:-</p> <p>“ (h) he has been convicted by a court of competent jurisdiction on a charge of corrupt practice, moral turpitude or misuse of power or authority under any law for the time being in force; or</p> <p>(i) he has been dismissed from the service of Pakistan or service of a corporation or office set up or controlled by the Federal Government, Provincial Government or a Local Government on the grounds of misconduct or moral turpitude; or</p> <p>(ii) he has been removed or compulsorily retired from the service of Pakistan or service of a corporation or office set up or controlled by the Federal Government. Provincial Government or a Local Government on the grounds of misconduct or moral turpitude; or”; and</p> <p>(b) for paragraph (p) the following shall be substituted, namely:-</p> <p>(c) “ (p) he has been convicted and sentenced to imprisonment for having absconded by a competent court under any law for the time being in force; or</p> <p>(q) he has obtained a loan for an amount of two million rupees or more, from any bank, financial institution, cooperative society or cooperative body in his own name or in the name of his spouse or any of his dependents, which remains unpaid for more than one year from the due date, or has got such loan written off; or</p> <p>(r) he or his spouse or any of his</p>	<p>7. Disqualification for membership of Parliament</p> <p>Article 63 lays down the grounds on which a person can be disqualified from being elected as a member of Parliament and from being a member.</p> <p>The original provision in the 1973 Constitution mentioned only five grounds for disqualification: if a person was declared to be of unsound mind by a court; an undischarged insolvent; erosion of citizenship status; holder of an office of profit; and anyone disqualified by an Act of Parliament.</p> <p>Gen. Zia added 12 grounds for disqualification: service in a statutory body or a body controlled by the government; disqualification in Azad Kashmir; opposition to the sovereignty, integrity or security of Pakistan, or morality or public order, or defaming the judiciary or the armed forces; conviction for moral turpitude for a two-years term for five years after release; for five years after dismissal from government service for misconduct; for three years after removal or compulsory retirement from government service; for two years after leaving a job in a statutory body; for five years after being found guilty of a corrupt or illegal practice; for five years after conviction under Political Parties Act; for being a contractor / supplier to government; for holding an office of profit.</p> <p>The LFO 2002 added several provisions: indefinite disqualification for conviction, dismissal / removal from service, absconding, default on loans amounting to Rs 2 million or more, default in payment of utility bills</p>

Amendment	Effect
<p>dependents has defaulted in payment of government dues and utility expenses, including telephone, electricity, gas and water charges, in excess of ten thousand rupees, for over six months, at the time of filing his nomination papers.”</p> <p>(2) for clause (2) the following shall be substituted, namely:-</p> <p>“(2) If any question arises whether a member of Majlis-e-Shoora (Parliament) has become disqualified from being a member, the Speaker or, as the case may be, the Chairman shall within 30 days from raising of such question refer the question to the Chief Election Commissioner.”; and</p> <p>(3) after clause (2) substituted as aforesaid, the following new clause shall be added, namely:-</p> <p>(3) Where a question is referred to the Chief Election Commissioner under clause (2), he shall lay such question before the Election Commission which shall give its decision thereon not later than three months from its receipt by the Chief Election Commissioner.”</p>	<p>exceeding Rs. 10,000 or more for six months.</p>
<p>8. Article 63-A</p> <p><i>(Amended by LFO 2002)</i></p> <p>3A. For Article 63A the following shall be substituted, namely:</p> <p>“63A. Disqualification on grounds of defection, etc.,</p> <p>(1) If a member of a Parliamentary Party composed of a single political party in a House.</p> <p>(a) resigns from membership of his political party or joins another Parliamentary Party; or</p> <p>(b) votes or abstains from voting in the House contrary to any direction</p>	<p><i>Defection clause</i></p> <p>8. Article 63-A (described as the defection clause) was inserted in the Constitution vide the 14th amendment of 1997. The LFO 2002 replaced it.</p>

Amendment	Effect
<p>issued by the Parliamentary Party to which he belongs, in relation to-</p> <p>(i) election of the Prime Minister or the Chief Minister;</p> <p>(ii) a vote of confidence or a vote of no-confidence; or</p> <p>(iii) a Money Bill;</p> <p>he may be declared in writing by the Head of the Parliamentary Party to have defected from the political party, and the Head of the Parliamentary Party may forward a copy of the declaration to the Presiding Officer, and shall similarly forward a copy thereof to the member concerned:</p> <p>Provided that before making the declaration, the Head of the Parliamentary Party shall provide such member with an opportunity to show cause as to why such declaration may not be made against him.</p> <p>(2) A member of a House shall be deemed to be a member of a Parliamentary Party if he, having been elected as a candidate or nominee of a political party which constitutes the Parliamentary Party in the House or, having been elected otherwise than as a candidate or nominee of a political party, has become a member of such Parliamentary Party after such election by means of a declaration in writing.</p> <p>(3) Upon receipt of the declaration under clause (1), the Presiding Officer of the House shall within two days refer the declaration to the Chief Election Commissioner who shall lay the declaration before the Election Commission for its decision thereon confirming the declaration or otherwise within thirty days of its receipt by the Chief Election Commissioner.</p> <p>(4) Where the Election Commission</p>	

Amendment	Effect
<p>confirms the declaration, the member referred to in clause (1) shall cease to be a member of the House and his seat shall become vacant.</p> <p>(5) Any party aggrieved by the decision of the Election Commission may, within thirty days, prefer an appeal to the Supreme Court which shall decide the matter within three months from the date of the filing of the appeal.</p> <p>(6) Nothing contained in this Article shall apply to the Chairman or Speaker of a House</p> <p>(7) For the purpose of this Article:</p> <p>(a) "House" means the National Assembly or the Senate, in relation to the Federation; and a Provincial Assembly in relation to the Province, as the case may be;</p> <p>(b) "presiding Officer: means the Speaker of the National Assembly, the Chairman of the Senate or the Speaker of the Provincial Assembly, as the case may be.</p>	
<p>9. Article 70 <i>(Amendments made by the LFO 2002)</i></p> <p>(1) In clause (2), for the words "considered in a joint sitting" the words and figure "referred to a Mediation Committee constituted under Article 71 for consideration and resolution thereon" shall be substituted; and</p> <p>(2) for clause (3) the following shall be substituted, namely:-</p> <p>(3) Where a Bill is referred to the Mediation Committee under clause (2), the Mediation Committee shall, within ninety days, formulate an agreed Bill which is likely to be passed by both Houses of the Majlis-e-Shoora (Parliament) and place the agreed Bill</p>	<p><i>Mediation Committee</i></p> <p>9. Article 70 laid down that in the event of a serious differences on a bill between the National Assembly and the Senate the matter was to be resolved at a joint sitting of the two houses.</p> <p>The LFO 2002 abolished this principle and created a Mediation Committee to resolve the difference.</p>

Amendment	Effect
<p>separately before each House, and if both the Houses pass the Bill, it shall be presented to the President for assent.”</p>	
<p>10. Article 71 (Added by LFO 2002)</p> <p>After Article 70 amended as aforesaid, the following new Article shall be added, namely:-</p> <p>71. Mediation Committee. – (1) Both Houses of Majlis-e-Shoora (Parliament) shall, within fifteen days from the date of referral of the Bill by the House in which it was originated for consideration and resolution by the Mediation Committee under clause (2) of Article 70, nominate eight members each as members of a Mediation Committee.</p> <p>(2) The House in which the Bill was originated shall nominate a member of the Mediation Committee as Chairman of the Committee and the other House shall nominate a member as the Vice-Chairman thereof.</p> <p>(3) All decisions of the Mediation Committee shall be made by a majority of the total number of members of each House in the Committee.</p> <p>(4) The President may, in consultation with the Speaker of the National Assembly and Chairman of the Senate, make rules for conduct of business of the Mediation Committee.</p>	<p>Mediation process</p> <p>10. Article 71, a new provision, prescribes the composition and procedure of the Mediation Committee.</p>
<p>11. Article 73 (Amendment made in LFO).</p> <p>For clause (1) the following shall be substituted, namely:-</p> <p>“ (1) Notwithstanding anything contained in Article 70, a Money Bill</p>	<p>Money bills</p> <p>11. Article 73 originally laid down that a money bill could originate only in the National Assembly and was not to be referred to the Senate.</p> <p>Under the LFO 2002, a money bill will still originate in the National</p>

Amendment	Effect
<p>shall originate in the National Assembly: Provided that simultaneously when a Money Bill, including the Finance Bill containing the Annual Budget Statement, is presented in the National Assembly, a copy thereof shall be transmitted to the Senate which may, within seven days, make recommendations thereon to the National Assembly.</p> <p>(1A) The National Assembly shall, consider the recommendations of the Senate and after the Bill has been passed by the Assembly with or without incorporating the recommendations of the Senate, it shall be presented to the President for assent.”</p>	<p>Assembly but a copy will simultaneously be sent to the Senate. The Senate is allowed only seven days to make recommendations to the National Assembly which shall consider these recommendations but it is not bound to accept any recommendation.</p>
<p>12. Article 75 <i>(Amendment made by LFO 2002)</i> In clause (2):- (a) the words “in joint sitting” shall be omitted; and (b) for the words and comma “by the votes of the majority of the members of both the Houses present and voting,” the words, figure and comma “in accordance with Article 70,” shall be substituted.</p>	<p><i>No joint sitting on a bill</i></p> <p>12. Article 75 said that if a bill was returned to parliament by the President it would be debated in a joint sitting. The LFO 2002 having abolished the system of joint sittings, provision has been made for the Mediation Committee.</p>
<p>13. Article 101 (1) <i>(Amendment made by LFO 2002).</i> In clause (1), for the words “on the advice of” the words “after consultation with” shall be substituted.</p>	<p><i>Appointment of Governor</i></p> <p>13. Article 101 (1) of the 1973 Constitution originally simply said: “There shall be a Governor for each province, who shall be appointed by the President.” Since all actions of the President were subject to the advice of the Prime Minister, this condition was not explicitly laid down. The provision was amended in 1976 to the effect that after the first general election no person could be Governor of a province where</p>

Amendment	Effect																									
	<p>he permanently resided.</p> <p>Gen. Zia amended this clause twice. In the first case, w.e.f. March 1985, the President was empowered to act "in his discretion." Under the 8th amendment the President was to act "after consultation with the Prime Minister."</p> <p>The 13th amendment made the appointment subject to the 'advice of the Prime Minister.' The LFO has restored the Zia text.</p>																									
<p>14. Article 106 (Amendments made by the LFO 2002)</p> <p>(1) For clause (1) the following shall be substituted:-</p> <p>(2) "(1) Each Provincial Assembly shall consist of general seats and seats reserved for women and non-Muslims as specified herein below:-</p> <table border="1" data-bbox="417 1003 873 1213"> <thead> <tr> <th>Provinces</th> <th>General seats</th> <th>Women</th> <th>Non-Muslims</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Balochistan</td> <td>51</td> <td>11</td> <td>3</td> <td>65</td> </tr> <tr> <td>NWFP</td> <td>99</td> <td>22</td> <td>3</td> <td>124</td> </tr> <tr> <td>Punjab</td> <td>297</td> <td>66</td> <td>8</td> <td>371</td> </tr> <tr> <td>Sindh</td> <td>130</td> <td>29</td> <td>9</td> <td>168</td> </tr> </tbody> </table> <p>(2) in clause (2), in paragraph (b) for the word "twenty-one" the word "eighteen" shall be substituted;</p> <p>(3) for clause (3) the following shall be substituted, namely:-</p> <p>(3) For the purpose of election to a Provincial Assembly:-</p> <p>(a) the constituencies for the general seats shall be single-member territorial constituencies and the members to fill such seats shall be elected by direct and free vote;</p> <p>(b) each Province shall be a single constituency for all seats reserved for women and non-Muslims allocated to</p>	Provinces	General seats	Women	Non-Muslims	Total	Balochistan	51	11	3	65	NWFP	99	22	3	124	Punjab	297	66	8	371	Sindh	130	29	9	168	<p>Provincial Assemblies</p> <p>14. Article 106 lays down the scheme of provincial assemblies.</p> <p>The original Article and an amendment in 1974 fixed the number of seats in provincial assemblies, provided for reserved seats for non-Muslim and for a limited period, for women, changed the voting age from 18 to 21 for the first general election only, and envisaged elections on the basis of joint electorate.</p> <p>General Ziaul Haq introduced separate electorates, fixed voting age at 21, and increased non-Muslims' total representation in the four assemblies from nine to 23.</p> <p>The LFO 2002 increased the seats in each assembly (from 45 in Balochistan to 65; from 87 in NWFP to 124, from 268 in Punjab to 371 and from 117 in Sindh to 168), and raised the number of seats reserved for women and non-Muslims. It also ended the separate electorates (except for Ahmadis) and lowered the voting age to 18.</p> <p>[The clauses deleted related to the mode of election of women and non-Muslims and introduced separate</p>
Provinces	General seats	Women	Non-Muslims	Total																						
Balochistan	51	11	3	65																						
NWFP	99	22	3	124																						
Punjab	297	66	8	371																						
Sindh	130	29	9	168																						

Amendment	Effect
<p>the respective Provinces under clause (1);</p> <p>(c) the members to fill seats reserved for women and non-Muslims allocated to a Province under clause (1) shall be elected in accordance with law through proportional representation system of political parties' lists of candidates on the basis of the total number of general seats secured by each political party in the Provincial Assembly:</p> <p>Provided that for the purpose of this sub-clause the total number of general seats won by a political party shall include the independent returned candidates who may join such political party within three days of the publication in the official Gazette of the names of the returned candidates. and</p> <p>(4) Clauses (4) (5) and (6) shall be omitted.</p>	<p>electorates.]</p>
<p>15. Article 112</p> <p><i>(Amendments made by LFO 2002 and the 17th amendment.)</i></p> <p>(1) In clause (2), after paragraph (2) the following new paragraph shall be added, namely:-</p> <p>(b) a situation has arisen in which the Government of the Province cannot be carried on in accordance with the provisions of the Constitution and an appeal to the electorate is necessary.”</p> <p>2. After clause (2) the following new clause shall be added, namely:-</p> <p>“(3) The Governor in case of dissolution of the Provincial Assembly under paragraph (b) of clause (2) shall within fifteen days of the dissolution refer the matter to the Supreme Court with the previous approval of the</p>	<p><i>Dissolution of Provincial Assembly</i></p> <p>15. Article 112 deals with the dissolution of a provincial assembly. In the original Article there was no provision for Governor's action in his discretion. Gen. Zia amended the provision on the pattern of Article 58(2)b and the Article was further amended under the 8th amendment.</p> <p>The 13th amendment omitted clause 2 (b). The LFO revived it. The 17th amendment has provided for a reference to the Supreme Court.</p>

Amendment	Effect
<p>President and the Supreme Court shall decide the reference within thirty days whose decision shall be final.”</p>	
<p>16. Article 140A <i>(Amendment made by LFO)</i> After Article 140, the following new Article shall be inserted, namely:- 140A. Local government. – Each Province shall by law, establish a local government system and devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments.”;</p>	<p>Local bodies 16. Article 140A. The Constitution of 1973 referred to the State’s obligation to encourage local government and provide for special representation for peasants, workers and women in its elected bodies only in Article 32 (Principles of Policy). The LFO has made the creation of local bodies a constitutional obligation of each province.</p>
<p>17. Article 152 A <i>(Amendments made by LFO and the 17th amendment)</i> The LFO inserted the following Article in Part V, in Chapter 3, before Article 153 namely: 152. National Security Council – (1) There shall be a National Security Council to serve as a forum for consultation on strategic matters pertaining to the sovereignty, integrity and security of the state; and the matters relating to democracy, governance and inter-Provincial harmony. (2) The President shall be the Chairman of the National Security Council and its other members shall be the Prime Minister, the Chairman of the Senate, the Speaker of the National Assembly, the Speaker of the National Assembly, the Leader of the Opposition in the National Assembly, the Chief Ministers of the Provinces, the Chairman Joint Chiefs of Staff Committee, and the Chiefs of Staff of the Pakistan Army, Pakistan Navy and</p>	<p>National Security Council 17. Article 152 A was first inserted in the Constitution by Gen. Zia with effect from March 2, 1985. The NSC was to “make recommendations relating to the issue of a Proclamation of Emergency and any other matter of national importance that may be referred to it by the President in consultation with the Prime Minister. “Under, the 8th amendment compromise, however, the Article was dropped. The LFO 2002 re-introduced the Article and in it the functions of the NSC were enlarged and more specifically defined. The 17th amendment replaces the LFO provision with a new text which envisages the creation of the NSC under an Act of Parliament.</p>

Amendment	Effect
<p>Pakistan Air Force.</p> <p>(3) Meetings of the National Security Council may be convened by the President either in his discretion, or on the advice of the Prime Minister, or when requested by any other of its members, within the time-frame indicated by him.”;</p> <p>The 17th amendment has substituted the provision with the following:</p> <p>“152A. the National Security Council to serve as a forum for consultation on matters pertaining to the sovereignty, integrity, defence and security of the state is constituted under an Act of the Majlis-e-Shoora (Parliament):.</p>	
<p>18. Article 179</p> <p><i>(Amendments made by LFO 2002 and the 17th amendment.)</i></p> <p>The LFO substituted the Article with the following:</p> <p>“A judge of the Supreme Court shall hold office until he attains the age of 68 years, unless he sooner resigns or is removed from office in accordance with the Constitution.”</p> <p>Under the 17th amendment for the words “sixty-eighty years” the words “sixty-five years’ have been substituted.</p>	<p style="text-align: center;"><i>Retiring age for SC judge</i></p> <p>18. In Article 179 the retiring age of a Supreme Court judge had been fixed at 65 years. It was raised to 68 years vide the LFO. The 17th amendment has restored the Article as it stood before 2002.</p>
<p>19. Article 195</p> <p><i>(Amendment made by LFO and the 17th amendment.)</i></p> <p>The LFO substituted the Article with:</p> <p>“A judge of a High Court shall hold office until he attains the age of sixty-five years, unless he sooner resigns or</p>	<p style="text-align: center;"><i>High Court judge</i></p> <p>19. The retiring age of a High Court judge had earlier been 62 years. The LFO raised this age to 65 years. The 17th amendment has revived the pre-2002 Article.</p>

Amendment	Effect
<p>is removed from office in accordance with the Constitution.”</p> <p>Under the 17th amendment for the words “sixty-five years” the words “sixty-two years”, shall be substituted.”</p>	
<p>20. Article 199. (Amendment made by LFO 2002)</p> <p>(1) In clause (4A) for the words and commas “unless the case is finally decided, or the interim order is withdrawn, by the Court earlier” the comma and words “provided that the matter shall be finally decided by the High Court within six months from the date on which the interim order is made” shall be substituted; and</p> <p>(2) clause (4B) shall be omitted.</p>	<p>Stay orders</p> <p>20. Clause (4A) of Article 199 is related to the period of injunctions issued by a High Court in matters connected with state dues. The amendment requires the court to finally decide the matter within six months. This change made clause (4B) redundant and it has therefore been omitted.</p>
<p>21. Article 203 C (Amendment made by LFO 2002)</p> <p>In clause (9),-</p> <p>(a) for the word, “salary”, occurring twice, the word “remuneration” shall be substituted; and</p> <p>(b) for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely;</p> <p>Provided that where a Judge is already drawing a pension for any other post in the service of Pakistan, the amount of such pension shall be deducted from the pension admissible under this clause.”</p>	<p>FSC judges</p> <p>21. Clause (9) of Article 203-C laid down the “salary, allowances and privileges” of the judges of the Federal Shariat Court. Their wage will now be described as “remuneration” and not as “salary”. The proviso declares that no judge shall draw two pensions on retirement.</p> <p>(The wage of other superior court judges continues to be described as “salary.”)</p>
<p>22. Article 209 (Amendment made by LFO 2002)</p> <p>In clause (5),-</p> <p>(i) for the words and comma</p>	<p>Supreme Judicial Council</p> <p>22. Article 209 provides for a Supreme Judicial Council. Earlier only the President could initiate inquiry against a superior court judge. Now this</p>

Amendment	Effect
<p>“received from the Council or from any other source,” the words and comma “from any source, the Council or” shall be substituted; and</p> <p>(ii) after the words “Council to”, the commas and words “or the Council may, on its own motion,” shall be inserted.</p>	<p>can also be done by the Council on its own motion.</p>
<p>23. Article 218 (Amendment made by LFO 2002)</p> <p>(1) For clause (1) the following shall be substituted, namely:-</p> <p>(1) For the purpose of election to both Houses of Majlis-e-Shoora (Parliament), Provincial Assemblies and for election of such other public offices as may be specified by law or until such law is made by the Majlis-e-Shoora (Parliament) by Order of the President, a permanent Election Commission shall be constituted in accordance with this Article.”</p> <p>(2) in clause (2), in paragraph (b),-</p> <p>(i) for the word “two” the word “four” shall be substituted; and</p> <p>(ii) after the words “High Court”, occurring for the first time, the words “from each Province” shall be inserted.</p>	<p style="text-align: center;"><i>The Election Commission</i></p> <p>23. Under this Article an Election Commission had to be appointed for each election to the National or a provincial assembly. Now the parliament is required to make a law for the constitution of a permanent Election Commission. The only condition laid down in the amended Constitution is that the Commission shall comprise four High Court judges, one from each province. They will be appointed by the President after consultation with the Chief Justices of the High Courts.</p>
<p>24. Article 224 (Amendment made by LFO 2002)</p> <p>(a) in clause (1):-</p> <p>(i) for the word “preceding” the word “following” shall be substituted; and</p> <p>(ii) for the full stop at the end a colon shall be substituted and thereafter the following provision shall be added, namely:</p> <p>“Provided that on dissolution of an</p>	<p style="text-align: center;"><i>Elections</i></p> <p>24. Article 224 (1) originally stated that a general election to the National or a Provincial Assembly would be held within 60 days preceding the expiry of an assembly’s term. This implied a curtailment of the assembly’s term. Now an election will be held within 60 days after an assembly has completed its normal term.</p> <p>Under the new clause (6) by-</p>

Amendment	Effect
<p>Assembly on completion of its term, the President, in his discretion, or as the case may be, the Governor, in his discretion but with the previous approval of the 'President, shall appoint a care-taker Cabinet."</p> <p>(b) in clause (4), after the words and comma "Provincial Assembly," the word "general" shall be added, namely:-</p> <p>(c) after clause (5), the following new clauses shall be added, namely:-</p> <p>"(6) When a seat reserved for women or non-Muslims in the National Assembly or a Provincial Assembly falls vacant, for death, resignation or disqualification of a member, it shall be filled by the next person in order of precedence from the party list of the candidates submitted to the Election Commission for the last general election by the political party whose member has vacated such seat.</p> <p>(7) When a care-taker Cabinet is appointed, on dissolution of the National Assembly under Article 58 or a Provincial Assembly under Article 112, or on dissolution of any such Assembly on completion of its term, the Prime Minister or, as the case may be, the Chief Minister of the care-taker Cabinet shall not be eligible to contest the immediately following election of such Assembly."</p>	<p>elections will not be necessary to fill a vacancy in the seats reserved for women and non-Muslims. Instead the seat will be taken by the next person in the order of precedence on the list of the political party concerned.</p> <p>The amendment makes the appointment of a caretaker cabinet mandatory whenever the National or a Provincial Assembly is dissolved. The federal Cabinet shall be appointed by the President in his discretion and the provincial caretaker cabinet will be appointed by the Governor in his discretion but with the previous approval of the President. The heads of caretaker cabinets shall not be eligible to take part in the next immediate election.</p> <p>The amended Article implies that a general election will always be held under a caretaker cabinet of the President's choice.</p>
<p>25. Article 243</p> <p><i>(Amendment made by LFO 2002 and the 17th amendment)</i></p> <p>(1) In clause (2).-</p> <p>(a) In paragraph (a), after the semi-colon at the end, the word "and" shall be added;</p> <p>(a) in paragraph (b), for the word</p>	<p>Service Chiefs</p> <p>25. Article 243 deals with the command of armed forces. In the original Constitution these appointments were to be made by the President in normal course, that is, on the advice of the Prime Minister. Gen. Ziaul Haq amended the provision w.e.f. March 2, 1985, and authorised the President to</p>

Amendment	Effect
<p>and semi-colon “and,” a full stop shall be substituted; and</p> <p>(b) clause (c) shall be omitted; and</p> <p>(2) after clause (2), amended as aforesaid, the following new clause shall be added, namely-</p> <p>(3) the President shall, in consultation with the Prime Minister, appoint</p> <p>(a) the Chairman, Joint Chiefs of Staff committee;</p> <p>(b) the Chief of the Army Staff;</p> <p>(c) the Chief of the Naval Staff;</p> <p>and</p> <p>(d) the Chief of the Air Staff,</p> <p>and shall also determine their salaries and allowances.”</p>	<p>make these appointments in his discretion. The 13th amendment of 1997 (Nawaz Sharif government) omitted the reference to the President’s discretionary power. The LFO 2002 amended the provision to restore the President’s discretionary authority. An amendment under the 17th amendment requires the President to act in consultation with the Prime Minister.</p>
<p>26. Article 260</p> <p><i>(Amendment made by LFO 2002)</i></p> <p>In clause (1), after the expression “clause”, the following new expression shall be inserted, namely:-</p> <p>“consultation” shall, save in respect of appointments of Judges of the Supreme Court and High Courts, mean discussion and deliberation which shall not be binding on the President”</p>	<p><i>‘Consultation’ defined</i></p> <p>26. This Article defines the terms used in the Constitution. The LFO added a new word ‘consultation’ to the list and clarified that ‘consultation’ did not mean advice that could be binding. The President is free to disregard the views of the Prime Minister or anyone else expressed during a consultation. The appointment of superior courts’ judges has been exempted.</p>
<p>27, Article 268</p> <p><i>(Amendments made by (LFO 2002 and the 17th amendment.)</i></p> <p>In Clause (2);-</p> <p>(a) after the word ”amended”, the commas and words “expressly or impliedly,” shall be inserted; and</p> <p>(b) after the words “President”, the words “accorded after consultation with the Prime Minister” shall be added:</p> <p>Provided that the laws mentioned</p>	<p><i>Protected laws</i></p> <p>27. The original Article stated that “the laws specified in the sixth schedule shall not be altered, repealed or amended without the previous sanction of the President”. That the President would act on the advice of the Prime Minister was understood. The LFO amendment made any change in the laws mentioned in the sixth schedule more difficult than before and made it clear that the President would act after consultation</p>

Amendment	Effect
<p>at entries 27 to 30 and entry 35 in the Sixth Schedule shall stand omitted after six years.</p>	<p>with the Prime Minister and not on his advice.</p> <p>The 17th amendment reduces the protection to the four provincial local government ordinances and the Police Order 2002 to six years.</p>
<p>28. Article 270 AA</p> <p><i>(Amendments made by LFO 2002 and the 17th amendment.)</i></p> <p>Validation and affirmation of laws etc. (1) The Proclamation of Emergency of the fourteenth day of October, 1999, all President's Orders, Ordinances, Chief Executive's Orders, including the Provisional Constitution Order No. 1 of 1999, the Oath of Office (Judges) Order, 2000 (No. 1 of 2000), the Referendum Order 2002 (Chief Executive's Order No. 12 of 2002, the amendments made in the Constitution through the Legal Framework Order 2002 (the Chief Executive's Order No. 24 of 2002), the Legal Framework (Amendment) Order, 2002 (the Chief Executive's Order No. 29 of 2002), the Legal Framework (Second Amendment) Order 2002 (the Chief Executive's Order No. 32 of 2002) and all other laws made between the twelfth day of October, one thousand nine hundred and ninety-nine and the date on which this Article comes into force (both days inclusive), having been validly made by competent authority, are hereby further affirmed, adopted and declared notwithstanding any judgment of any court, to have been validly made (by competent authority) and notwithstanding anything contained in the Constitution shall not be called in question in any court on any ground whatsoever.</p> <p>(2) All orders made, proceedings</p>	<p>Identity</p> <p>28. Article 270 AA was added by the LFO 2002 to validate the orders / notifications issued by the Chief Executive during 1999-2002 and the laws made during this period. Under the 17th amendment this Article has been substituted by a new text. In the new version a few expressions have been added to the earlier text.</p> <p>[The additions made by the 17th amendment only reflect the establishment's keenness to secure Parliament's endorsement of the LFO in toto and any other amendments to the Constitution since 1999.]</p>

Amendment	Effect
<p>taken, appointments made, including secondments and deputations, and acts done by any authority, or by any person, which were made, taken or done, or purported to have been made, taken or done, between the twelfth day of October, one thousand nine hundred and ninety-nine and the date on which this Article comes into force (both days inclusive), in exercise of the powers derived from any Proclamation, President's Orders, Ordinances, Chief Executive's Orders, enactments, including amendments in the Constitution, notifications, rules, orders, bye-laws, or in execution of or in compliance with any orders made or sentences passed by any authority in the exercise or purported exercise of powers as aforesaid, shall, notwithstanding any judgment of any court, be deemed to be and always to have been validly made, taken or done and shall not be called in question in any court on any ground whatsoever.</p> <p>(3) All Proclamations, President's Orders, Ordinances, Chief Executive's Orders, laws, regulations, enactments, including amendments in the Constitution, notifications, rules, orders or bye-laws in force immediately before the date on which this Article comes into force shall continue in force until altered, repealed or amended by competent authority.</p> <p>Explanation:- In this clause, "competent authority" means, —</p> <p>(a) in respect of President's Orders, Ordinances, Chief Executive's Orders and enactments including amendments in the Constitution, the appropriate Legislature; and</p> <p>(b) In respect of notifications, rules, orders and bye-laws, the authority</p>	

Amendment	Effect
<p>in which the power to make, alter, repeal or amend the same vests under the law.</p> <p>(4) No suit, prosecution or other legal proceedings shall lie in any court against any authority or any person, for or on account of or in respect of any order, made, proceedings taken or act done whether in the exercise or purported exercise of the powers referred to in clause (2) or in execution of or in compliance with orders made or sentences passed in exercise or purported exercise of such powers.</p> <p>(5) For the purposes of clauses (1), (2) and (4), all orders made, proceedings taken, appointments made, including secondments and deputations, acts done or purporting to be made, taken or done by any authority or person shall be deemed to have been made, taken or done in good faith and for the purpose intended to be served thereby.</p>	
<p>29. Article 270 B</p> <p><i>(Amendment made by LFO 2002)</i></p> <p>In Article 270B, after the figure and comma “1977”, the words commas, the figures, brackets and letters “and the Conduct of General Elections Order, 2002 (Chief Executive’s Order No. 7 of 2002),” shall be inserted.</p>	<p><i>Validation of 2002 polls</i></p> <p>29. Article 270 B was inserted in the Constitution by Gen. Ziaul Haq w.e.f. March 2, 1985, to protect the elections held under his authority. The LFO amendment adds the elections held in 2002 to the protected developments.</p>
<p>30. Article 270 C</p> <p><i>(Amendment made by LFO 2002)</i></p> <p>:270 C. Oath of office of Judges, etc. – Notwithstanding anything contained in the Constitution, all persons appointed as Judges of the Supreme Court, High Courts and Federal Shariat Court who have taken oath under the Oath of Office (Judges) order, 2000 (1 of 2002), or not having</p>	<p><i>Removal of judges</i></p> <p>30. This Article has been added to protect the CE’s order under which the superior courts were reconstituted after the October 1999 military take-over . While both the LFO and the 17th amendment affirmed the validity of all orders issued by the Chief Executive it was deemed necessary to guarantee the Oath of Office (Judges) Order additional</p>

Amendment	Effect
<p>been given or taken oath under that Order have ceased to continue to hold the office of a Judge shall be deemed to have been appointed or ceased to continue to hold such office, as the case may be, under the Constitution and such appointment of cession of office shall have effect accordingly.”</p>	<p>protection by introducing a separate article in the text of the Constitution.</p>
<p>31. The Sixth Schedule <i>(Amendments made by LFO 2002 and the 17th amendment).</i></p> <p>The LFO said after entry 24, the following new entries shall be added, namely-</p> <p>“25. The State Bank of Pakistan Act, 1956 (XXXIII of 1956)</p> <p>26. The National Accountability Bureau Ordinance, 1999 (XVIII of 1999)</p> <p>27. The Balochistan Local Government Ordinance, 2001 (XVIII of 2001)</p> <p>28. The North-West Frontier Province Local Government Ordinance, 2001 (XIV of 2001)</p> <p>29. The Punjab Local Government Ordinance, 2001 (XIII of 2001)</p> <p>30. The Sindh Local Government Ordinance, 2001 (XXVII of 2001)</p> <p>31. The Election Commission Order, 2002 (Chief Executive’s Order No. 1 of 2002).</p> <p>32. The Conduct of General Elections Order, 2002 (Chief Executive’s Order No. 7 of 2002)</p> <p>33. The Political Parties Order, 2002 (Chief Executive’s Order No. 18 of 2002).</p> <p>34. The Qualification to Hold Public Offices Order, 2002 (Chief Executive’s</p>	<p>31. In the Sixth Schedule, 24 laws had been protected. The LFO added 11 more enactments to the list. The 17th amendment limited the protection to the four provincial ordinances on local government and the Police Order to six years. (See Article 268 above.)</p>

Amendment	Effect
<p>Order No. 19 of 2002).</p> <p>35. The Police Order, 2002 (Chief Executive's Order No. 22 of 2002)."</p> <p>The 17th amendment added a proviso to the effect that entries 27 to 30 and 35 shall stand omitted after six years.</p>	
<p>32. The 17th amendment:</p> <p>Statement of objects:</p> <p>The statement of objects and reasons of the 17th amendment said:</p> <p>"This bill seeks to amend Articles 41, 58, 112, 152A, 179, 195, 243, 268 and 270AA of the Constitution..."</p>	<p><i>Objectives</i></p> <p>32. The 17th amendment bill was aimed at amending nine Articles of the Constitution as already amended by the LFO 2002. The objects did not refer to the validation of the LFO as a whole although the 17th amendment sought this purpose too.</p>

♦ The 17th Amendment Bill was drafted jointly by the Government and the MMA in accordance with a 10-point accord between them.

Point 8 of this accord said: "For amendments to the Constitution the method adopted for the 8th amendment to the Constitution will be followed. That is, Parliament shall endorse by 2/3rd majority the agreed constitutional amendments. Amendments relating to points on which there was difference of opinion and on which agreement has been reached will be adopted by 2/3rd majority."

The confusion caused by this text is obvious. The LFO provisions agreed to by the MMA were not presented before parliament. The 17th amendment contains only the LFO provisions revised under the accord.

The accord accepted the LFO as valid constitutional legislation and also put the seal of validity on the procedure adopted for the 8th amendment which had been consistently challenged by many political parties and independent authorities.

Other legislation / proposals

Besides the Constitution Amendment Act, the Finance Act (budget statements for the fiscal year 2003-2004) was the only new legislation done by parliament during the year. A third enactment regularised an ordinance.

The following is the list of Acts adopted, ordinances issued and the bills introduced in parliament during the year.

Acts

I. **The Finance Act;** June 17; containing financial proposals of the federal government for July 1, 2003-June 30, 2004, and including repeal of the Wealth Tax Act of 1963, and amendments to the Central Excise Act of 1944, the Natural

Gas (Development Surcharge) Ordinance of 1967, the Customs Act of 1969, the Companies Ordinance of 1984, the Finance Act of 1989, the Sales Tax Act of 1990, the Finance Act of 1991, the Securities and Exchange Commission of Pakistan Act of 1997, and the Income Tax Ordinance of 2001.

II. Removal from Service (Special Powers) (Amendment) Act; July 16; to amend Ordinance XVII of 2000 and replace Ordinance 1 of 2003; to transfer the powers to remove government servants from the Chief Executive to the Prime Minister.

III. The 17th Constitution (Amendment) Act; December 31; to amend certain provisions of the LFO as per an agreement between the government and MMA.

Ordinances

I. Removal from Service (Special Powers) (Amendment) Ordinance; January 15; to amend Ordinance XVII of 2000, and transfer powers from the Chief Executive to the Prime Minister. (made an Act in July. See above Act II).

II. Removal from Service (Special Powers) (Second Amendment); May 15; Ordinance I of 2003 lapsed and was reissued.

III. Federal Public Service Commission (Amendment) Ordinance; May 28 to amend Ordinance XLV of 1977; to provide for tests and examinations for recruitment to central services for posts in BPS 16 and above.

IV. Contempt of Court Ordinance; July 10; to revise the law.

V. Federal Public Service Commission (Amendment) Ordinance; September; to reissue Ordinance III of 2003.

VI. Contempt of Court Ordinance, Dec 16; to keep Ordinance IV of 2003 alive.

President's Orders:

Three President's Orders (No 1, 2, and 3 of 2003) were issued on December 2 to raise salaries and privileges of superior court judges. All the three orders were enforced retroactively, that is, from July 1, 2003.

Under Order 1 (Salary of Judges of Superior Courts Order, 2003) the monthly salary of the Chief Justice of Pakistan was raised to Rs. 66,000 (from Rs. 55,000 fixed in January 2003), the salary of a SC judge was raised to Rs. 61,000 (from Rs. 51,000 fixed in January 2003), and that of a high court judge was raised to Rs. 58,800 (from Rs 49,000 fixed in January 2003).

Orders No 2 and 3 amended the PO No 2 and 3 of 1997 relating to judges pensions, leave and privileges.

Bills moved in the National Assembly

1. The Finance Bill, introduced on June 7, enacted June 17 (See Act I above)

2. Insurance Ordinance (Amendment) Bill, introduced on August 20;

to amend Ordinance XXXIV of 2000 and insert a new section (4A), to provide for measures for introducing schemes for compulsory insurance against loss or damage to agriculture-related property, including crops.

3. Drugs (Amendment) Bill; introduced August 20; to amend the Drugs Act 1976; to insert sub-section (1a) after 12 (1), to oblige the government to consult stake-holders and take into consideration the economic conditions of the country, especially of the poor, while fixing the prices of drugs.

4. Illegal Dispossession Bill; introduced August 25; to curb property grabbing and provide for punishment.

5. International Students Bill; introduced August 25; to facilitate Pakistani students returning from abroad who wish to join Pakistani educational institutions.

6. Councils for Awareness and Enforcement of Human Rights Bill; introduced Sept 12; to oblige provincial governments to establish a council in each district, headed by the District and Sessions Judge, and a Human Rights Court in each district. The statement of objects says: "Despite Articles 4, 25 and 199 of the Constitution, only the rich are able to protect their rights. It is necessary that all citizens and especially the deprived members of society become conscious of their rights guaranteed by Islam, Constitution and the law and get relief at the door-steps."

7. Public Complaints (Removal of Grievances) Bill; introduced October 10; to provide for mechanism for redress of grievances by department/agency under checking and supervision by courts and the Ombudsman.

8. Gwadar Port Authority (Amendment) Bill; introduced October 20; to amend Ordinance LXXVII of 2002 and give the Ministry of Industries and Production a seat on the board.

9. Fiscal Responsibility and Debt Limitation Bill, introduced October 27; to provide for permanent and consistent policy guidelines to the government and provide for elimination of fiscal deficit and reduction of public debt.

10. Code of Civil Procedure (Amendment) Bill; introduced November; to amend the Act of 1908.

11. Code of Criminal Procedure (Amendment) Bill; introduced on November 10; to amend the Act of 1898 and make the offence of rioting under sections 147 and 148 of the PPC compoundable if committed along with compoundable offences, such as murder and hurt.

12. Code of Criminal Procedure (Second Amendment) Bill; introduced on November 10; to amend Sec 497 of the Act of 1898, to provide for mandatory bail to a woman accused of a non-bailable offence punishable with less than imprisonment for 10 years. The statement of objects says that women accused of non-bailable offences and committed to prison pending trial "often fall prey to sexual harassment and other illegal demands of the unscrupulous elements in jail ... There are many complaints about such happenings in the jails."

13. Adulteration Offences (Special Courts) Bill; introduced on November

10; to provide for the creation of special courts to decide adulteration cases and for enhanced penalties. The statement of objects says: "It is a matter of common knowledge that menace of adulteration is increasing day by day and has become integral part of the food and drug business... the Bill also covers adulteration of pesticides, which is also on the increase."

14. Anti-terrorism (Amendment) Bill; introduced on November 10; to amend Sec 25 of the Act of 1997, and provide for appeal against acquittal by special courts. The statement of objects asserts that a complainant cannot be deprived of the fundamental right to appeal against the orders passed by a special court.

Bills introduced in the Senate

1. Code of Criminal Procedure (Amendment) Bill; introduced on June 17; to amend sections 173, 265 (f), and 382 B and replace sec 431 of the Act of 1898; to provide for expeditious trial, to make reduction of sentence of imprisonment by the period of detention during trial mandatory, and to allow the hearing of appeal even after the death of an accused.

2. Criminal Law (Amendment) Bill; introduced on June 17; to amend the Penal Code of 1860 and the Code of Criminal Procedure of 1898; to deal with 'qabza groups.' The statement of objects says: "The offence of criminal trespass has attained alarming proportion. In urban areas the valuable property like plots and open spaces are being trespassed and forcibly occupied by the Qabza Groups and Gangster by use of force every day." (Unedited text as published in the Gazette.)

3. Parliament and its Members Privileges Bill; introduced on June 17; to meet the constitutional requirement of legislation on the subject and to allow both houses of parliament and their members the privileges enjoyed by the House of Commons and its members as they have "well defined privileges and the provision for the punishment of its contempt." (Text as given in the Gazette.)

Legislation by provinces

Frontier Act:

The Shariat Act

The most significant piece of legislation in any province was the Shariat Act adopted in the Frontier province. It says:

- ◆ The Act will not affect the personal law, religious freedom, custom and ways of life of non-Muslim citizens.
- ◆ The Shariah will be the supreme law throughout the province.
- ◆ While interpreting laws in the light of the Shariah the choice out of more than one interpretations will be the one consistent with the Islamic principles of jurisprudence.
- ◆ Teaching and training in Shariah will be provided.

- ◆ The provincial government will ensure Islamisation of education.
- ◆ Provincial economy will be Islamised.
- ◆ The mass media will promote Islamic values.
- ◆ The life, liberty and property of citizens will be protected.
- ◆ Bribery and corruption will be eradicated.
- ◆ Provision will be made for eradication of social evils.
- ◆ Measures will be taken to eradicate obscenity, vulgarity, etc.
- ◆ A commission will be set up to suggest within a month reform of the judicial system in the province and in PATA.

The Hisba Bill:

The Frontier government also drafted a bill for an accountability regime based on belief. Besides creating an accountability force to deal with public bodies it envisages measures to impose on citizens what is good and to prevent them from doing what is wrong. Gubernatorial objections and a reference to the Council of Islamic Ideology delayed presentation of the bill in the assembly.

Punjab Acts

1. *Punjab Removal from Service (Special Powers) (Amendment) Act*; February 8; to amend the Ordinance of 2000 and transfer the power to remove from service from the Governor to the Chief Minister.

2. *Bank of Punjab (First Amendment) Act*; February 8; to amend the Act of 1989 and to substitute 'Government' for 'Governor' in sec 10 (2).

3. *Punjab Office of the Ombudsman (Amendment) Act*; February 8; to amend the Act of 1997 relating to the appointment of the ombudsman and his terms of service.

4. *Punjab Local Government (First Amendment) Act*; Feb 10; to amend the Ordinance of 2001 relating to motions of no-confidence.

5. *Punjab Marriage Functions (Prohibition of Ostentatious Displays and Wasteful Expenses) Act, February 14*; to revive an earlier enactment and provide for one-dish feasts.

6. *The Lahore Arts Council (First Amendment) Act*, March 10.

7. *The Punjab Juvenile Smoking (Amendment) Act*, March 10.

8. *Punjab Agricultural Income Tax (Amendment) Act*; June 9; to amend Act I of 1997 and revise tax liability.

9. *Punjab Medical and Health Institutions Act*; June 9; to provide for the "establishment and efficient management of the medical and health institutions in the province."

10. *Punjab Provincial Assembly (Salaries, Allowances and Privileges of Members) (Amendment Act*; June 25; to amend Act XVI of 1974 and include Speaker, Deputy Speaker and Minister in the definition of 'member'.

Ordinances

1. *Bank of Punjab (First Amendment) Ordinance*; January 6. [Later on

adopted by the Assembly to become Act I of 2003]

II. Punjab Local Government (First Amendment) Ordinance; January 13.
[Became Punjab Act IV of 2003 in February.]

III. The Lahore Arts Council (First Amendment) Ordinance; February 14; to amend Ordinance LXIII of 2002, repeal the Lahore Arts Council (Amendment) Ordinance LXXII of 2002 and replace 'Governor' with 'Chief Minister in sections 2, 8, and 13.

IV. Institute of South Asia, Lahore, Ordinance; April 14; to establish the institute.

Law Commission proposals

Marriage expenses: The Law and Justice Commission finalised a draft bill to restrict expenses on marriages.

Titled 'Marriage Expenses, Dowry and Bridal Gifts (Restriction) Act 2003; the proposed law envisages restrictions on expense on marriage ceremonies and ostentatious displays, limits the value of dowry and bridal gifts and provides for penalties for violations.

It is proposed that the total expenditure on a marriage, excluding the value of dowry and bridal gifts but including the expenditure on mehndi, barat and walima, shall not exceed Rs. 50,000. At marriage functions only soup or hot / cold drinks will be allowed. The value of dowry should not exceed Rs. 50,000. The draft law bars the head of state, ministers, legislators, judges, commissioned officers of the armed forces, Nazims, Naib Nazims and many others from accepting gifts at marriages except from their relations. Employees in grades lower than 17 will be exempted.

Both parties to a marriage will submit expense accounts and lists of dowry / gifts items to the Nikah Registrar who will deposit the same with the Nazim of the union council.

The penalty prescribed for serving meals at marriage functions and violation of prohibition of ostentatious displays is a fine of Rs. 100,000 to Rs. 300,000. Contravention of other provisions is punishable with imprisonment for three months or a fine of upto Rs. 50,000.

Absconders: The Commission decided to propose the addition of a section to the Pakistan Penal Code to deal with cases of absconders from trial. The proposed section (172-A: Punishment for an absconder) says:

“Whoever being accused of an offence under this Code or under any other law for the time being in force, absconds or avoids arrest or evades appearance before any inquiry or trial or court proceeding, or conceals himself, and obstructs the course of justice, and against whom a warrant of arrest has been issued by the court or proclamation has been published, shall be liable to imprisonment for a term not exceeding three years or with fine or with both.”

The Commission also proposed an amendment to section 87 of the Cr PC to

the effect that a proclamation must be published in at least three national newspapers, including one in Urdu and one in a regional language, requiring the absconder to appear in court and face trial.

Second wife's privileges: The Commission approved amendments to the Government Services Medical Attendance Rules to the effect that in case of a second marriage by a government servant, the second wife should also be included in the definition of family and entitled to medical facilities.

- ◆ **Lambardars:** Another proposal approved by the Commission seeks to amend the Land Revenue Rules of 1968 to the effect that Lambardars shall be appointed on merit and the principle of primogeniture shall not be the sole criterion.

- ◆ **Requisition of property:** An amendment was proposed in the W. P. Requisitioning of Immovable Property (Temporary Powers Act, 1956) to ensure that the power to requisition property was exercised in public interest alone and that payment for the property at market rates was promptly made. If compensation was not paid within three months the requisition order would be deemed to have been revoked and the property will be released.

- ◆ **Pledging of labour:** The Commission also recommended enhancement of penalties prescribed in the Children (Pledging of Labour) Act, 1933. It said the penalty on first conviction should be a fine of Rs. 20,000 and for a second conviction it should be imprisonment for 6-months to two years or a fine of Rs. 20,000 or both.

- ◆ **Security Act:** Amendments were suggested to the Security of Pakistan Act, 1952, giving the person aggrieved under Section 11-A, 11-B and 11-C, the right to seek review of action against him. Appeal should lie to the District Judge and a further appeal to the high court, whose decision shall be final.

Women's share in inheritance: The Commission invited proposals from the general public as to how women and children could be guaranteed their lawful share of inheritance. The step was taken after the Commission realised that although the law of inheritance was based on Quranic injunctions and the shares of legal heirs had been clearly defined, women and children were often deprived of their shares under various pretexts. Accordingly, the Commission asked its Secretary to prepare a viable and practical plan of action and design concrete mechanism for full and effective enforcement of the law of inheritance, with special reference to the shares of women and children

Hudood Ordinance and other laws: The Law Commission completed the drafting of a bill to amend Sec 10 (4) of the Zina Ordinance and provide for an alternative (to death) punishment in Zina-bil-jabar cases. It may be recalled that the apex court had expressed dissatisfaction with the law as the benefit of the slightest doubt went to the accused and he had to be acquitted. The court had pleaded for a punishment other than death which could be awarded instead of acquittal.

An amendment to the Penal Code drafted by the Law Commission sought to

ban unauthorised business of prize bonds numbers.

Another amendment suggested by the Law Commission provided for bail to women in non-bailable cases where the prescribed sentence was imprisonment for less than 10 years.

NCSW on Hudood Ordinances

The National Commission on the Status of Women (NCSW) recommended the repeal of Hudood Ordinances of 1979. In the Zina Ordinance it suggested revival of the pre-ordinance provisions of the PPC. If a new law was considered necessary it should be drawn up only after an open and thorough discussion in parliament.

The recommendation was based on the report of an 18-member committee set up by the Commission to examine the Hudood Ordinances. The committee had preferred repeal of the ordinances to amendments in them. The finding was opposed by two committee members only.

Council of Islamic Ideology

Judging by the space in newspapers it commanded year after year the Council of Islamic Ideology was relatively quiet during 2003. However, it did give the opinion that the Qisas and Diyat law had deprived the President of the powers to pardon or remit-sentences in cases involving offences against human body, Article 45 of the Constitution notwithstanding.

Recommendations

1. The validation of the LFO provisions vide the 17th amendment, done indirectly in case of most of the amendments to the Constitution, does not meet the standards of democratic sanction. Nor has it produced a greater consensus in the country on the fundamentals of governance. Continuation of controversies on the basic law will not allow the debate on the legitimacy of the state structure to end, a state situation aspiring to be democratic cannot bear for long. Ways should be found to review all such provisions of the Constitution that are not backed by the will of the people.

2. Pakistan's statute book is now overloaded with legislation done by the executive under military regimes. Legitimacy apart, many pieces of legislation cannot be justified on the touchstone of public good. All these laws need to be brought in harmony with the people's interests and aspirations. An independent commission may be set up to review all such laws.

3. The complaint that many legislative measures bear the stamp of hurried law-making and unsatisfactory drafting has not been removed. Doubts about the state institutions' competence in this field do not bring them credit.

4. The accountability law and the law on terrorism are still not in harmony

with basic human rights and should be reviewed on priority basis.

5. The recommendation of the National Commission on the Status of Women for the repeal of Hudood Ordinances merits early acceptance.

6. Provisions of the Constitution and the laws that encroach upon citizens' fundamental rights or the federal premises of the state or allow discrimination against minorities, women or the poor must be expeditiously revised.

7. The process of reform of laws has improved somewhat but it is still slow and inadequate. Timely attention needs to be paid to flaws in legislation noticed by the superior courts.

Administration of justice

To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan. In particular (a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law, (b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and (c) no person shall be compelled to do that which the law does not require him to do.

Constitution of Pakistan

Article 4(1) and (2)

No person shall be deprived of life or liberty save in accordance with law

Article 9

All citizens are equal before law and are entitled to equal protection of law.

Article 25(1)

There shall be no discrimination on the basis of sex alone.

Article 25(2)

The state shall ensure inexpensive and expeditious justice

Article 37(2)

No property shall be compulsorily acquired or taken possession of save for a public purpose and save by authority of law ...

Article 24(2)

Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Universal Declaration of Human Rights

Preamble

Everyone has the right to recognition everywhere as a person before the law

Article 6

All are equal before the law and are entitled without any discrimination to equal protection of the law.

Article 7

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the Constitution or by law.

Article 8

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him.

Article 10

No one shall be arbitrarily deprived of his property.

Article 17(2)

No one within the jurisdiction of a State Party to the present Optional protocol [on abolition of death penalty] shall be executed.

Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.

Second Optional Protocol to ICCPR

Article 1

Status of the judiciary

The regime's decision of October 2002 whereby the retiring age for judges of superior courts was extended by three years was generally considered, judging by the position taken by lawyers and political parties and comments appearing in the media, violative of the principle of independence of the judiciary. The matter was included in the list of the Legal Framework Order provisions which were opposed by all parties in the opposition, and on which the government chose to negotiate only with the Muttahida Majlis-i-Amal (MMA), the alliance of religious-political parties and factions that had risen to strength in the 2002 general election. The public debate on the point that raged throughout the year did not enhance the judiciary's image in the eyes of the people. Thus, not a single voice was raised in criticism of the provision in the 17th amendment bill under which the extension in the tenure of judges was withdrawn in the last days of 2003.

The judges concerned reacted with grace. As soon as reports of the government-MMA agreement appeared the Chief Justice of the country, who was one of the main beneficiaries of the enhanced retirement age, withdrew from the bench, and the same principle was applied to the other judges affected.

As a result, a new Chief Justice of Pakistan was sworn in. However, the other seats falling vacant in the Supreme Court were not immediately filled. There was considerable speculation, unwelcome to lawyers' organisations, that the establishment was reluctant to follow the settled procedure for elevating high court judges to the apex court or that its strength was going to be reduced.

Lawyers' agitation

The lawyers' community conducted a vigorous agitation throughout the year

for the supremacy of the constitution and independence of the judiciary. The campaign was spearheaded by the Supreme Court Bar Association (SCBA) and it was supported by all the four high court bar associations.

A series of national conventions were organised at the principal seats of high courts but the one scheduled to be held at the Supreme Court in Islamabad was disallowed and the office of the SCBA on the court premises was sealed. Later on the association's provincial offices were also sealed.

The bar associations raised their demands at various forums and also lobbied with political parties.

The authorities retaliated by trying to split the bar associations and met with some success in Lahore where the district bar threw a dinner for Gen. Musharraf and an unsuccessful attempt to dethrone the Lahore High Court Bar president was made. Hopes in certain quarters that the SCBA elections, which were due in October, might result in a softening of the association's attitude, if not in a change of its course, did not materialise. In place of Barrister Hamid Khan, the association elected Advocate Tariq Mahmood, a former Balochistan High Court judge who had resigned from the Election Commission in protest against the holding of the referendum of 2002 and had been squeezed out of the BHC, and the agitation continued as before.

The lawyers' main demands were:

- i) The LFO was an extra-constitutional measure and its provisions could acquire constitutional validity only after their approval by parliament.
- ii) The raising of the retiring age for judges of superior courts was unacceptable because it amounted to bribing the judiciary, particularly since this was done on the eve of the general election.
- iii) The judges needed to take fresh oaths of office.

Before the year ended the lawyers had the satisfaction of winning one point wholly – the decision to extend the judges' tenure was annulled.

Another point was won only partly. The LFO was adopted by parliament but the lawyers were satisfied with neither the manner of presenting the LFO before parliament nor with the outcome of the exercise. As a result they vowed to continue their struggle till a democratic constitution was established.

The third issue – fresh oath by judges – remained in public debate throughout the year. On several occasions the media reported that the government was considering a proposal to ask the judges to take a fresh oath. The Acting Chief Justice of the Lahore High Court confirmed these reports. At one stage several lawyers' organisations expressed the apprehension that under the guise of a new oath the government was planning to ditch some of the judges, as had happened in 1981 and 2000. The status quo survived although the bar associations did not abandon their demand for a fresh oath by judges.

The struggle of the SCBA and the provincial bar associations enjoyed broad support in the civil society which welcomed the outcome as an encouraging

victory against authoritarianism.

Federal Shariat Court

The delay in the appointment of the Federal Shariat Court judges betrayed the Executive's inability to realise that any disruption of the judicial system amounted to a violation of citizens' basic rights.

Three judges of the FSC, including the CJ, retired in January. In the absence of a CJ the court could not function. The senior-most among the three judges left on the bench was named acting CJ. That improved matters. But then another judge retired in February and the court was left with two judges only. As a result no Shariat petition or appeal against trial courts' judgments awarding capital punishment or amputation of limbs could be taken up, as these cases required hearing by three judges. In May the acting CJ was confirmed in his post and some more time was lost before four retired high court judges were appointed to the court and its strength raised to the pre-January level. The court appreciated the problems faced by the litigants and decided not to observe the summer holidays.

Revival of magistracy

The provincial governments confirmed that they were not happy with the disappearance of executive magistrates (through whom they had been interfering with the independence of the judiciary) and that they were not favourably disposed towards the new local government system. They made attempts to secure for executive officers in the local government the powers of magistrates. The high courts initially resisted such moves but eventually agreed. The executive magistrates were given limited powers and a short tenure. Later on, the Punjab and Frontier governments were reported to have decided to approach the federal government for revival of the previous magistracy system.

A judge returns

The public was considerably embarrassed when a judge left his job as federal law secretary to take up his seat (won through election by the UN General Assembly) on the UN International Criminal Tribunal for Rwanda and returned home soon afterwards. Reports in the media alleged that Pakistan had nominated him without making sure of his eligibility and for that reason he was discreetly advised to give up the post. A Law Ministry official was, however, quoted as saying that the judge had decided to return home to take care of his ailing mother. The official was also reported to have denied the view that the Chief Justices of the Supreme Court and the Lahore High Court had not been consulted on the judge's nomination.

Subsequently, the UN Secretary-General nominated a woman judge of the Peshawar High Court on the Rwanda tribunal.

Judges barred: The Supreme Judicial Council (SJC) barred the judges of superior courts from attending or presiding at literary, social, cultural, political or diplomatic functions.

Round the clock relief

The delegation of high courts' powers to hear complaints against illegal

executive acts, including habeas corpus petitions, to district and sessions judges produced happy results at several places, though the change was still in its experimental stage. It was too early to say whether the executive, especially the police, would show the district judges the deference it displayed, on most occasions if not always, to the high courts. Some district judges took to their new responsibilities more enthusiastically than others.

The Peshawar District and Sessions Judge, for instance, issued an announcement in January to the effect that his court would receive complaints of human rights violations round the clock. The announcement recalled the delegation of powers to DSJs to deal with cases of habeas corpus, non-registration of criminal cases, transfer of investigation from one police officer to another, and neglect, failure or excesses committed by police officials in relation to their functions. In view of the above the DSJ informed the public that his office would receive petitions / complaints relating to fundamental rights throughout the day. Such applications / complaints would also be received at odd hours at the DSJ's residence subject to the provision of proper building as residence with accommodation for an office.

Dress change: Following an amendment to the Superior Courts (Court dress) Order of 1980, the superior court judges adopted a new dress code at the beginning of the year.

The new dress for male judges while sitting on the bench is black suit, black tie, white shirt and black gown. The black gown is to be dispensed with while attending a state or a ceremonial function.

The dress for women judges while sitting on the bench is: white dress with winged collar, white shirt, black coat and black gown. The gown is to be dispensed with while attending state or ceremonial functions.

The new dress revives the pattern followed till General Zia prescribed black sherwani and white shalwar for judges.

Challenge to LFO and related matters

The constitutional and legal measures adopted by the military regime were challenged before the superior courts, often doggedly, throughout the year. The main target was the Legal Framework Order of 2002.

A division bench of the Lahore High Court dismissed in April the Pakistan Lawyers' Forum inter-court appeal against the judgment of a single judge in November 2002 under which a petition challenging the Legal Framework Order 2002 (LFO) had been dismissed

The original petition had prayed the court to strike down the LFO on the ground that it was in contradiction with the Supreme Court verdict whereby the 1999 takeover had been validated; that the Musharraf regime having failed to hand over power within three years, all its actions were void and therefore reins of government should be handed over to non-controversial persons; and that Gen. Musharraf had rendered himself liable to trial for treason.

The judge who had disposed of the petition found that no infringement of the

SC judgment had taken place, that the issue of Article 58(2)b had been settled in Achakzai and Zafar Ali Shah cases, and that objections to the creation of a National Security Council were untenable.

The division bench noted that the appellant's counsel had concentrated on the assumption of the office of the President through a referendum and by amending Article 41(7), the insertion of Article 58(2)b in the Constitution, the creation of a NSC, and argued that these violated the grundnorm and the basic features of the Constitution.

The court said in its judgment that a "survey of the judgments of the constitutional courts in Pakistan indicates that generally such matters ultimately have been left to be decided by the political sovereign and the parliament. And rightly so. Parliament continues to be the supreme body. As aptly remarked by US Judge of Court of Appeal Learned Hand, 'those who put their hopes in constitutions, laws or courts were mistaken. Liberty lies in the hearts of men and women and when it died, no constitution, no law and no court could do much to help it.'

"The precedent case law and the afore-referred decision of the august Supreme Court are binding and this court cannot sit to review them as court of appeal ... More so when none of the political parties represented in the Parliament has challenged the Legal Framework Order 2002 in court and are currently engaged in a dialogue for a consensual formula on the issues raised with regard to the Legal Framework Order 2002."

Petition against Musharraf

Another petition filed by the Lawyers' Forum in the LHC prayed for a direction in the nature of mandamus to the federal government that the President be tried and convicted under the High Treason Act 1973 on the ground that his insistence on retaining the office of the COAS along with presidentship amounted to subversion of the Constitution.

The LHC office returned the petition with the objection that the issues raised in the petition had been advanced in an earlier petition which had been dismissed and this decision had been upheld on an inter-court appeal. Besides, the matter was pending in the Supreme Court. Another objection raised by the office of the court was that Article 248 of the Constitution barred any criminal proceedings against the President.

Eventually a division bench heard the petitioner's counsel and dismissed the petition in limine on the following grounds:

- i) The President had acted in accordance with the Supreme Court verdict. As such no provision of the Constitution could be said to have been subverted or abrogated.
- ii) That the President was elected through a referendum which was validated by the SC.
- iii) The court could not examine the vires of any constitutional provision.
- iv) The amendments to the Constitution were incorporated under the authority

of the Supreme Court and thus did not amount to subversion.

v) The holding of certain parts of the Constitution in abeyance was declared by the SC as a transitional phase. This could not be termed as subversion.

vi) On the LFO issue the LHC division bench had observed that it was an instrument for the revival of the Constitution. The amendments made in the Constitution related to elections and other reforms. Those who took part in elections had accepted these changes.

vii) The court had not noted any Article in the Constitution that barred the President from remaining in uniform – as it did not create any hindrance in the smooth functioning of the government or other institutions in accordance with constitutional provisions.

viii) None of the constitutional provisions was affected if the President remained in uniform.

ix) Regarding non-handing over of power to the Prime Minister, no material in support had been put before the court.

Plea against referendum

The Lahore High Court dismissed (December) a petition challenging the referendum of April 30, 2002. The petitioner had prayed for a declaration holding the referendum illegal on grounds of massive rigging as evident from newspaper reports.

The court observed that no complaint of rigging during the referendum had been made to the Chief Election Commissioner. The petitioner did not summon the authors / publishers of the newspaper reports and columns on which the petition was based. The allegations of rigging related to a small number of polling stations. Thus, the material placed on record was insufficient to demonstrate that the referendum was “deceitful, fraudulent and an incredibly horrendous criminal act.”

Against CEC

A petition challenging the appointment of the Chief Election Commissioner was dismissed (December) by the LHC during preliminary hearing. The single-judge bench disposed of the petition on the ground that the court could not interfere with an appointment made in accordance with the Constitution. It added that allegations against the CEC appearing in the Press were not sufficient evidence and ruled as untenable the plea that the CEC had been rewarded for allowing the military regime a tenure of three years.

Plea against generals

The Pakistan Lawyers Forum filed a petition before the LHC seeking the creation of a commission to inquire into charges of illegal acquisitions by army generals who had been in power during 1958-1999. Several senior officers were sought to be prohibited from alienating their assets.

The allegations used as grounds by the petitioner included receipt of kickbacks by two former Air Chiefs on the purchase of planes, purchases of jeeps at a price

higher than the market prices (NAB sources were quoted as saying that somebody had pocketed Rs. 510 million), sale of plots in Bahawalpur and Rahimyar Khan at Rs. 47.50 a kanal as against the market rate of Rs. 15,000 to 20,000 per kanal, and the installation of air-conditioners at the Islamabad Golf Club at a cost of Rs. 3.112 million.

The court office refused to mark the petition for regular hearing on the ground that actions of President General Musharraf and other military officers could not be questioned because of the bar under Article 199 (3) of the Constitution. A single judge who heard the objection petition upheld the point raised by the office. His decision was challenged in a review petition. The petitioner argued that the court had not taken into consideration the Supreme Court judgment in Lt-Col Anwar Aziz's case in which it had been held that the high courts had jurisdiction to hear cases against the armed forces if their actions had been carried out without jurisdiction or with malafide intentions.

The office again declined to mark the petition for regular hearing on the ground that its earlier observation had already been upheld by the court.

The PLF filed its petition again and again it was rejected (October).

Judges' retirement: A petition challenging the extension in the tenure of judges of superior courts was returned by the Supreme Court office with the objection that it did not relate to a matter of public importance with reference to the enforcement of any of the fundamental rights.

Against VIP culture: Another petition by the PLF was dismissed by a full bench of the LHC. The petition sought abolition of the VIP culture that had caused a national crisis as government servants were enjoying infinite benefits and had amassed huge properties and that there were no limits to their powers. The petition was declined by the office and rejected by a single judge. Eventually the full bench disposed it of with the observation that VIP culture could not be abolished by courts. The benefits allowed to officials were subject to rules and regulations that were made by parliament. The court could not look into them.

Election cases

The framework for the 2002 general election and the frequent changes in it gave rise to a number of cases in superior courts. Quite a few of them continued into 2004.

The Supreme Court allowed those who had lost the election to the National Assembly to contest for the Senate and struck down Article 8AA of the Conduct of General Elections Order 2002 as being discriminatory and violative of Article 25 of the Constitution.

The impugned provision had been added 19 days after the general election vide Conduct of General Elections (Eighth Amendment) Order, and it said: "A person shall be disqualified from being elected or chosen as and from being a member of the Senate, if, having been a candidate for elections to the National Assembly or a provincial assembly held under this Order, he has not been elected to such assembly."

The disqualification provision was challenged by former minister Javed Jabbar.

Later on 24 petitioners joined him in seeking the removal of the bar. Pending a decision on these petitions the court allowed 25 petitioners to file papers for Senate seats. They included, besides Mr. Javed Jabbar and Mr. Asad Ayub, Mr. Asfandyar Wali Khan, Mr. Iqbal Zafar Jhagra, Ch. Abdul Ghafoor, Mian Abdul Waheed, and Mushtari Begum.

The petitioners had stated that if the restriction envisaged in the impugned provision had been known to them before they sought election to the National Assembly or a provincial assembly, they might have stayed out of the general election. They also argued that the eighth amendment to the General Elections Order was made after Gen. Musharraf had lost the power to legislate that the Supreme Court had allowed him.

The court in its judgment said: "We hold that Article 8AA is discriminatory in nature and as such violative of Article 25 of the Constitution of the Islamic Republic of Pakistan... We further hold that disqualification attributable to defeat in consequence of the lawful act of contesting election of the National and provincial assemblies should have been provided in the original order itself, so that the affected persons should have an opportunity to avoid such disqualification."

Challenge to degrees

The condition that only graduates were entitled to join the 2002 general election gave rise to extended litigation.

A petition challenging the election of 65 members of the National and provincial assemblies on the ground that their certificates from religious institutions did not qualify them for election was moved in the Supreme Court. The case was not heard till the end of the year. While this petition was pending in the SC, an election tribunal of the Peshawar High Court (Justice Tariq Pervaiz) declared the election of Mufti Ibrar as MNA from Kohat invalid and ordered re-election.

The MNA's election had been challenged by a rival candidate, former minister Iftikhar Husain Gilani of PML (Q), on the ground that the sanad of *Shahadat-i-Alamia fil-Uloom-i-Arbia* was not equivalent to graduation. The tribunal accepted this plea.

The tribunal had invited the Attorney-General and the NWFP Advocate-General for assistance. The Attorney-General declared that the certificates issued by Wafaqi Madaris and Tanzim ul Madaris and relied upon by many parliamentarians were not equivalent to graduation. He said that the National Assembly had passed a resolution in 1973 for recognising the certificates of religious seminaries but that was specifically for teaching purposes and that too only theology. The University Grants Commission had overstepped its authority by holding these certificates equivalent to graduation.

The Advocate-General of Frontier supported the interpretation of the Attorney-General.

A few days later the Chief Election Commissioner issued a notification for by-election. However, the SC stayed the election tribunal's order and ordered the petition to be heard together with the petition challenging the election of 65 legislators in the second week of September. The Chief Election Commissioner

then ordered that the notification of by-election would be held in abeyance.

◆ Earlier, the LHC (single judge) had declared a Punjab MPA's (Tanvir Ashraf Kaira of PPP) election invalid on the ground that the B. A. degree produced by him to qualify for election was bogus. He challenged this order before a full bench of the high court, which upheld the earlier order. The Supreme Court remanded the case back to the LHC full bench and allowed the appellant to take oath as MPA. The LHC then stayed the by-election that had already been notified and admitted Kaira's appeal for regular hearing.

The appellant's counsel took the plea that in the original petition in the case the petitioner had not prayed for the MPA's loss of membership. He had only sought a direction to the authorities to register an FIR against the MPA for allegedly obtaining a fake degree. He further argued that the Punjab University could not hold a degree fake without an inquiry and without summoning the MPA concerned.

Several other cases of challenge to legislators' degrees remained undecided. These included the case of Federal Labour Minister Abdul Sattar Lalika.

Points of law

Compounding of offences

The Supreme Court decided (December) to examine the question whether the courts had power to allow the parties to compound offences if this was not possible under the Qisas law.

Six persons were awarded life imprisonment for kidnapping a man for ransom. The sentence was maintained by the LHC and the case came up before the Supreme Court in appeal by one of the convicts. While the petition was pending before the SC a compromise was claimed to have been reached under which the appellant was said to have been forgiven by the complainant. An inquiry was ordered to determine the genuineness of the compromise. The DSJ concerned submitted that the compromise was genuine and voluntary.

However, it was noticed that offences under Sec 365-A of the PPC (kidnapping for ransom), read with Sec 7(e) of the Anti-Terrorism Act were not compoundable.

The issue framed by the SC was: "Can a court permit the parties to compound the offences which are not compoundable as mentioned in Sec 345 Cr PC (Qisas and Diyat Ordinance), especially when there is a bar under Sec 345 (7) of the Cr PC to entertaining a compromise in the offences not mentioned in Sec 345 Cr PC?"

The case is pending.

What is life-term?

The SC issued notices to the federation and the four provincial governments to help in clarifying the meaning of "imprisonment for life." The court observed that life-term was being construed as imprisonment for 25 years although this practice was not supported by any law. It had been observed that those convicted for murder and sentenced to imprisonment for life were able to come out of jail after only 6/7 years. The provision for 25 years' imprisonment in Sec 57 of the

PPC was not applicable to those sentenced to imprisonment for life, which prima facie implied imprisonment till death. The provisions for remission in prison term did not apply to murder convicts and yet such remissions were being generously granted. As a result, the sentence of life imprisonment had been reduced to a joke.

The court admitted to regular hearing a petition by one Mohammad Laeeq who had said that a person convicted of the murder of a relative of his had been freed after completing the sentence of imprisonment for life in a few years only.

No two sentences for a single offence

The question whether anyone could be punished under two legal provisions for a single offence came up before the Supreme Court in May.

One Khizar Hayat of Multan filed a petition against a decision of the LHC whereby his conviction by a magistrate had been upheld. He had been sentenced to three years' imprisonment and a fine of Rs. 19,000 under Sec 324 PPC for injuring a person, Akram. He had also been awarded one year's imprisonment and a fine of Rs. 85,000 as *diyat* for injuring another person.

The SC admitted the appeal for regular hearing and issued notices to the Attorney-General to help the court in determining whether a single criminal act could be treated as two offences.

Only one sentence

The LHC declared (January) that a person could not be given more than one sentence of imprisonment for life even when convicted for the murder of more than one person. Two convicts, Mohammad Ali and Ghulam Rasool, had been sentenced to three-time life imprisonment each for killing three men. They completed 25 years of imprisonment but the jail authorities said they could not be released before 2052. The court ordered their release.

NAB law assailed

The LHC ruled that the NAB law provision requiring an absconder to serve the sentence awarded in absentia even after his arrest appeared to be absurd and needed to be amended. The point arose in the case of Arif Saigol. He was a co-accused (along with two brothers) in a wilful default reference and was sentenced to three years' imprisonment in absentia (for absconding). Following his arrest he was sent to jail to serve his sentence. The court observed that the three months he had spent in prison constituted a sufficient punishment and he did not have to undergo further imprisonment on this account. It said: "The court feels that once an absconding accused is arrested by the NAB, there is no need for him to serve the sentence awarded to him in absentia and the relevant law requires to be amended to this extent."

Courts and FATA

The Peshawar High Court ruled that Article 247 (7) of the Constitution barred courts from interfering with decisions taken under the Frontier Crimes Regulations and dismissed a convict's writ petition.

Dildar Hussain, who had been in prison for more than 12 years, had been

tried by a jirga for killing a person and injuring another one. He was also accused of sedition. On the recommendation of the jirga the Assistant Political Agent, Upper Kurram, sentenced him to 14 years' imprisonment on each of the three counts and ordered that the terms would run consecutively, that is, he would spend 42 years in prison. Since he was unable to pay the fine amounting to Rs. 600,000 the prison term could be extended by another six years.

He sent an application from the D. I. Khan jail arguing that the sentence awarded to him was in violation of the Criminal Procedure Code which laid down that no sentence for several offences at a single trial could exceed imprisonment for 25 years.

The court treated the application as a writ petition, examined the issue and came to the conclusion that it lacked jurisdiction.

Easements law

The SHC (Justice Mushir Alam) directed the Karachi City Government, the Clifton Cantt Board and advertising companies to ensure that the hoardings or bill-boards proposed to be put up in front of two business centres did not obstruct "their view, vision and elevation."

The court issued this directive on two trade associations' plea for interim orders in their suits against pavement hoardings and observed that just as the right to life embraced the concept of quality of life, the right to property included the right to enjoyment of property. If an object blocked the view or exposure of a commercial establishment from the main road facing it, that would affect its right and business. The changing environment and growing complexities of life necessitated fresh interpretations of rights and obligations. The Easements Act of 1982 only recognised the rights to life and air. The law-makers did not visualise the right to view and sight or the right to enjoyment of property. But such rights too were important. The freedom to advertise one's merchandise did not extend to infringement of another person's rights. Thus, nobody could be allowed to put up or hang a board or neon sign next to the window or door of a person's property. In case of conflict between two private rights, the one that was prior in time was to be preferred.

The court noted that the Cantonment Act did not spell out advertisement rules but the Clifton Cantt Board appeared to have issued an advertisement policy in 1999.

Power to pardon

The Shariat Appellate Bench of the Supreme Court took up (December) the federal government's appeal against a judgment of the Federal Shariat Court (FSC) which had extinguished the powers of the President and the Governors to pardon or relieve a convict or to remit or suspend any sentence passed by a court.

The FSC had struck down the relevant provisions of the Criminal Procedure Code in 1991 in view of the Qisas and Diyat law provisions. However, the court had avoided, on the ground of lack of jurisdiction, touching Article 45 of the Constitution, which empowered the President to grant pardon and remit sentences.

The government in its appeal contended that it was in public interest to allow

the powers of pardon and remission of sentence to the President and the Governors.

Notices were issued to the Attorney-General and all the four Advocates-General.

Over the years quite a few legal authorities had argued that Article 45 of the Constitution had not been affected by the FSC verdict.

Rights of pre-deceased son's children

The LHC (Justice Fakhruddin Feroze) ruled that a person was bound to provide sustenance to the children of his deceased son.

One Abdullah had thrown the widow of his deceased son and their minor children out of his house. They got relief from a court. Abdullah petitioned the LHC against the court order. The LHC dismissed his petition on the basis of his financial means, told him to provide sustenance to the widow, and fixed the share of children in their grandfather's property.

Women and law

While the courts gave quite a few verdicts that suggested a greater respect for the rights of women, and relief was available to them in individual cases, the odds that confronted them in securing their elementary rights did not perceptibly decrease. Women continued to be charged with offences that were recognised as such neither in law nor in the code of human rights and they often required unusual determination to secure justice from the top echelons of the judicial hierarchy. No account was taken of the toll of their health, happiness and material resources these trials took.

Marriage by choice: The Saima case

The Supreme Court finally disposed of the appeal by Hafiz Abdul Waheed Ropri against an LHC verdict and ruled that Saima Waheed's marriage was not illegal on account of the alleged absence of her *wali's* consent. Thus ended one more chapter, hopefully the last, in the Saima case which had started in 1996 and focused world-wide attention on the curtailment of Pakistani women's rights.

Saima Waheed, the educated daughter of Hafiz Abdul Waheed Ropri, a rich industrialist and leader of a religious faction with connections in high places, including the judiciary, secretly married a young teacher, Mohammad Arshad, when she was 22. Pressed by the family to renounce her marriage, she left her parental home to take refuge at Dastak, a half-way home for women in distress, and engaged Asma Jahangir to defend her. This resulted in her father's decision to make Asma Jahangir a respondent in his cases right up to the Supreme Court (alleging that the human rights activist and lawyer had abducted Saima). A series of cases followed – the girl's father and husband both filed habeas corpus petitions and a criminal case was instituted against the husband (Mohammad Arshad). The LHC heard all the petitions together under the case title of Hafiz Abdul Waheed Ropri vs Ms Asma Jahangir and another.

A single judge of the LHC in September 1996 ruled Saima's marriage illegal on the basis of her father's assertion that he, as *wali*, had not consented to the

match. When the case came up before a division bench it recommended hearing by a full bench. A third judge was added to the two comprising the division bench. The full bench gave its judgment in March 1997 and set aside the earlier court order. The court ruled by 2 to 1 that in view of a Federal Shariat Court (FSC) verdict upholding a *sui juris* Muslim woman's right to marry without her guardian's consent, which was binding on high courts, the issue stood settled and it was not necessary to go into matters relating to Islamic values or social morality.

This simple matter concerning a woman's right to marry of her free choice was then debated by some of the country's leading lawyers before the Supreme Court. Former Law Minister Syed Iqbal Haider represented Asma Jahangir and Syed Hamid Ali Shah appeared for Mohammed Arshad. The appellant was represented by Mohammad Akram Sheikh, a former chief of the Supreme Court Bar Association, and Syed Riaz-ul-Hasan Gillani, who was treated as an expert on Islamic laws. The three-member bench was also addressed by Attorney-General Makhdoom Ali Khan.

Ultimately, the Supreme Court accepted the Attorney-General's argument that the judgments of the Shariat Court were binding on the high courts and that the LHC had erred in law while holding that a Muslim woman required the consent of her *wali* to contract a marriage. The court overruled the decision of the LHC single bench and upheld that of the LHC full court.

The relevant judgment of Federal Shariat Court had been given in Nauj Ali vs Syed Safdar Husain Shah wherein the court had held that a Muslim girl on attaining puberty was competent to marry of her own free will.

Case II: The judgment in the Saima case also allowed an appeal against another LHC decision in a similar case.

Mohammad Iqbal and Ms. Shabina Zafar got married of their free will in 1996. Four days after the marriage the bride's father filed a case of adultery under the Hudood Ordinance with the police. The matter was raised before the LHC by both Mohammad Iqbal and Ms Zafar (in separate writ petitions). In both cases the court held that their marriage was not valid as the consent of the girl's guardian had not been obtained. Mohammad Iqbal appealed to the Supreme Court while Ms Zafar declined. She was reported to have refused to recognise him as her husband. Iqbal explained this by alleging that his wife had been abducted by her parents and pressurised into disowning their marriage.

In this case too eminent lawyers were required to debate a settled point of law before three SC judges. The appellant was represented by Asma Jahangir and the court had invited Attorney-General Makhdoom Ali Khan, Punjab Advocate-General Shabbar Raza Rizvi, and Syed Riazul Hasan Gillani to assist it.

The Attorney-General maintained his position that the issue had been settled by the FSC and this argument was adopted by the Punjab Advocate-General too. Mr. Gillani, however, argued that the FSC decision was not correct as the matter fell in the domain of Muslim personal law and was thus outside the FSC's

jurisdiction. If marriages without guardians' consent were allowed this would cause moral anarchy.

While the SC verdict brought visible relief to human rights and women activists, it was impossible to banish the disturbing question from one's mind as to how many women victims of parents' illegal coercion and legal traps could be presumed to possess the resources that became available to Saima Waheed. Even in her case the battle had already taken almost eight years.

Shaista Almani case

The Sindh High Court intervened in the Shaista Almani case involving forced annulment of marriage and the threats to kill her as a *kari*.

Shaista Almani, a college lecturer, and Balakhsher Mahar, chairman of a taluka zakat committees got married of their free will. The match was denounced by the elders of both tribes (Mahars and Almanis). The more powerful (politically also) Mahars had Balakhsher detained privately and forced him



Shaista Almani: Forced annulment of marriages continued.

to end his marriage and abandon Shaista. She was declared a 'kari' by a jirga presided over by her brother-in-law. A habeas corpus petition for her recovery was filed by HRCP, Women Action Forum and Aurat Foundation. For quite some time orders for her production were resisted and when she was eventually produced before the SHC she was found to have developed psychiatric disorders. The court granted her freedom to go wherever she wanted. The provincial government woke up to its duty to protect "daughter of Sindh" but her travail continued into 2004.

No witnesses against a feudal

Bilal Khar, son of former Governor Ghulam Mustafa Khar, who was accused of burning her estranged wife's face with acid, wriggled out of the clutches of law quite easily.

The incident took place in May 2000 and an FIR was duly registered in Karachi. Despite the unusual publicity the case received Bilal Khar was not arrested until November 1, 2002, more than two years after the occurrence. When the trial began prosecution witnesses started turning hostile. In March 2003 the trial court allowed the accused's enlargement on bail. Soon afterwards the case collapsed for want of evidence and Bilal Khar was able to walk around a free

man. The case left scars only on the unfortunate woman's face.

Other cases

The LHC (Justice Asif Saeed Khosa) ruled that filing of cases against a properly married couple, even if they had done so without the approval of parents, amounted to an abuse of law. The police could not refuse to register a case under the Hudood law but once the couple could prove their marriage all proceedings had to end. Shehnaz Bibi and Iqbal Hussain were working together in a factory and they decided to get married. Shehnaz's mother filed a case against Iqbal Hussain on the charges of abduction and *zina*. The court quashed the case.

- ◆ A woman complained to the LHC that the police were harassing her at the instance of her step-father for having entered into a marriage of her choice. The court ordered the SHO concerned not to harass the petitioner and to provide protection to the couple. The petitioner was told to approach the SSP, Lahore, for the registration of a case against the police officers who were harassing her.

- ◆ In another case the LHC ruled that if an adult woman declared her marriage before a qazi (judge), no *nikah-nama* was needed to establish the fact.

- ◆ The parents of Pathani Bibi ended her first marriage and for the second marriage she chose her spouse, Sakhawat Ali, without receiving their consent. For two years they kept her in their custody. Sakhawat Ali approached the LHC for the recovery of his wife from illegal detention. She was recovered from the custody of her father and uncle and allowed to go with her husband. The court rejected her father's plea that she had entered into a marriage while she was already married, and further observed that the police had no right to intervene in cases of marriage by the consent of the spouses.

- ◆ The LHC ruled that if a woman owned her marriage before a court or an investigating officer, a *nikah-nama* did not retain its value. The court declared the marriage between a 20-year-old woman and her spouse legal and quashed the Hudood case registered against them at Pindi Bhattian for being false. Justice Asif Saeed Khosa reiterated his plea that it was the duty of the state to protect marriages of choice and prevent the police from interference in them.

- ◆ The LHC ruled that a woman who had chosen her spouse without parental consent could not be sent to a Dar-ul-Aman against her wishes. S. S. a 3rd year student, married her cousin. Her father filed a case under Hudood and also for her abduction. A magistrate ordered her to be sent to the Daru-ul-Aman despite her protests.

- ◆ In April, the Supreme Court had to intervene in the case of abduction of a young girl to get the wheels of justice moving – more than six months after the occurrence.

Mohammad Mustafa, resident of Sheikhpura, wrote to the Supreme Court that his daughter, Ambreen, had been abducted on September 11, 2002, while she was on her way to college. He identified two persons – Mohammad Saleem alias Babar and Khalil Ahmad – as the culprits. He alleged the police did not arrest the accused. Instead, it protected them.

The Supreme Court directed the Police DIG, Sheikhpura, to make all-out

efforts to recover the girl.

A communication from the DIG to the court lent support to the petitioner's complaint. He said he had suspended a police sub-inspector for declaring one of the accused innocent.

◆ Two female artistes were booked under a criminal charge for outraging public feelings through their dance performances on the stage that were described as vulgar by a district office employee. They approached the LHC for quashment of the FIR registered against them. Their counsel argued that the complainant and the witnesses all belonged to the DCO office. No-one from the audience had appeared as a complainant or a witness. An offence against public feelings could thus not be made out. The court could not appreciate the administration's bid to clip the people's right to entertainment which they already enjoyed on a small scale. The FIR was quashed.

Another jirga victim

Haseena Chachar joined the ranks of little girls who have had to pay a heavy price for being subjected to the jirga code.

The jirga decided that as a punishment to her brother, who was accused in a karo kari case, she would be given in marriage to one Bashir. However, she was to stay with her parents till she attained majority. Bashir was not inclined to respect the latter part of the jirga verdict. He abducted the girl, criminally assaulted her and refused to restore her to her parents.

The Sindh High Court, Sukkur Bench, intervened in the unfortunate girl's behalf. It annulled the forced marriage, restored the girl to her family, and ordered the arrest of Bashir as well as of the man who had presided over the jirga and the maulvi who had solemnised the nikah.

The mother of the girl later on informed journalists that Haseena was facing a threat to her life.

No lighter punishment for killing wife

A woman was killed by her husband, Salam Mohammad. He was tried by an Additional Sessions Judge and sentenced to imprisonment for 10 years. When he appealed against this verdict the LHC observed that he had received a lighter punishment than what was prescribed in law. A person accused of murder could not be given less than 14 years in prison and *Diyat*, the judge said. An explanation was sought from the ADSJ.

Children & law

Juvenile courts' jurisdiction

The Peshawar High Court ruled that after the promulgation of the Juvenile Justice System Ordinance 2000 only a juvenile court could try an under-18 accused.

The decision came in the appeal filed by Ikramullah against the sentence of life imprisonment and a fine of Rs. one million awarded by a special court under

the Control of Narcotic Substances Act. He had been arrested in May 2001 for possessing 12 kilogram of *charas* and 1.2 kilogram of opium and had pleaded guilty before the trial court.

During the hearing of his appeal his counsel argued that he was 15/16 years old at the time of occurrence and thus he could not have been tried by a special narcotics court. The state counsel argued that the Control of Narcotic Substances Act was a special law and those charged under it could only be tried by a narcotics court.

The PHC division bench held that after recording the appellant's age at 15/16 years the trial court had no jurisdiction to try him. The case was remanded to a juvenile court.

No death penalty

The Peshawar High Court (CJ Shakerullah Jan and Justice D. Mohammad) ruled on a convict's appeal that a juvenile offender could not be awarded death penalty under the Qisas and Diyat law.

Jehangir Shah was accused of killing his sister-in-law in Swat in 2000 because he suspected her moral character. The Swat district Qazi sentenced him to death. His counsel took the plea that at the time of occurrence Jehangir Shah was less than 18 years of age and as such he was not liable to Qisas. He could only be made to pay diyat. The boy's school certificate showed March 10, 1984, as his date of birth. Thus, at the time of occurrence he was only 16 years old. The prosecution had not challenged his age at any stage. The state, through the Advocate-General, did not support capital punishment for the boy.

The high court commuted the sentence to payment of diyat (Rs. 300,000) and observed that the time the boy had spent in jail should be treated as his prison term.

Acquitted

The Peshawar High Court acquitted a child offender who had been sentenced to five years' imprisonment and payment of *Diyat* for murder.

Farman Ali was less than 12 years' old on April 24, 2000 when he was accused of killing a boy, Imran Khan. Farman Ali made a confessional statement but claimed that the pistol he was carrying when Imran met him had gone off accidentally resulting in the victim's death. The Swat Zila Qazi (ADSJ) convicted him under Sec 319 of the PPC (unintended murder).

Farman's counsel in the high court argued that a child below 12 and of immature understanding could not be held responsible for any crime. For the same reason his confessional statement could not be relied upon. He also challenged the application of Sec 319 PPC to the case, contending that it was a matter of accidental murder and not unintentional murder.

♦ Ziarat Gul (13) and Wali Khan (5) were accused along with their father, Malang, of smuggling petrol and named in the FIR filed by the customs staff. Apprehending their arrest, Ziarat Gul filed a petition in the PHC. The division bench that heard the petition directed the police not to arrest minor children in

A juvenile accused's trial

Najeebullah was under 18 when he was accused of murder. An anti-terrorist court awarded him death penalty. The LHC rejected his appeal and so did the Supreme Court. A revision petition before the SC also failed. Following the rejection of his mercy petition by the President, black warrants for his execution were issued. His family thereupon sought his execution to be stayed on the ground of compromise with the victim party. Meanwhile, the President promulgated an ordinance which banned the awarding of death sentence to juveniles. A petition seeking benefit of the ordinance was moved in the LHC. The court referred the case to the Punjab Home Department to decide whether the new ordinance was applicable to a convict who was under 18 at the time of the crime but had later on passed this age limit.

The Punjab government set up a committee to examine the matter. At this stage the victim party came to the SC in a petition for contempt on the ground that the court's orders for Najibullah's execution were not being implemented. The court took the view that the committee formed by the Punjab government was not competent to decide the issue which could only be settled by the judiciary. The committee's proceedings were stayed.

cases registered against their parents.

Panel for juvenile offenders: Early in March, the Peshawar District and Sessions Judge expressed concern over lack of progress in cases involving hundreds of juveniles due to the provincial government's failure to name a panel of lawyers who could defend them. He was reported to have sought the help of the Peshawar High Court in getting the government to honour its obligations under the Juvenile Justice System Ordinance.

In 2002 the Chief Justice of the Peshawar High Court had conferred the powers of juvenile courts on all the DSJs, ADSJs and judicial magistrates in the Frontier province in view of the government's failure to set up special juvenile courts as stipulated in the Ordinance.

Most of the juvenile accused were said to be street children and without resources to engage lawyers. In some cases courts had persuaded lawyers appearing before them to extend free legal service to the juveniles.

A few days later, the PHC asked the provincial government to appoint panels of lawyers in all districts to defend juveniles.

Islamic laws

No amputation

The Federal Shariat Court set aside the sentence of amputation of hands and

feet awarded to four convicts and ordered their release as they had already undergone imprisonment for 11 years.

Khalid Mahmood, Azhar Husain, Zafar Hussain and Pervez were arrested in May 1992 for robbing a bank in Lahore. An ADSJ convicted them under a Hudood law in March 2001 and ordered the amputation of each accused's right hand from the wrist and left foot from the ankle.

The FSC came to the conclusion that the evidence produced at the trial was not up to the standards of Tazkiatul Shahood and converted the punishment to one under Tazir. The state did not oppose the setting aside of the sentence of amputation. One of the appellants' counsel had argued that the convicts had been awarded, besides the sentence of amputation, 10 years' imprisonment. They had spent 11 years in jail and if exemptions and remissions were taken into consideration the jail term served by the appellants could exceed 20 years.

Proof of rape

The FSC ruled that the statement of a rape victim, corroborated by a medical examination report, was sufficient evidence for a court to conclude that the offence had been committed and warranted conviction.

Asiya, belonging to Samundri (Faisalabad district) had complained that she had been raped by three persons. The police declared the accused not guilty and they lodged a case against the girl for perjury. The police arrested her and her parents and their trial before an ADSJ's court started. They were, however, allowed bail.

Asiya petitioned the court for quashment of the perjury case. Proceedings on this petition were adjourned sine die while hearing of the perjury case continued for a long time and the court examined a number of witnesses. During these proceedings the lady doctor who had examined Asiya confirmed that she had been raped.

The FSC summoned the record of the case and ordered quashment of the perjury charges against the rape victim. The court observed that the trial court had unnecessarily prolonged the case by summoning and examining witnesses whose testimony was not required. It also passed strictures on the police for failure to investigate the case within the confines of law.

Qazf case: An Additional District and Sessions Judge, Peshawar, sentenced one Dr Nazeer Ahmad to 80 stripes under the Qazf Ordinance of 1979 for levelling false charges against his sister-in-law.

The brother of the convict, Naseer Ahmad, had two wives. The senior wife sued for dissolution of her marriage and produced Dr. Nazeer Ahmad, whose wife was her sister, to give evidence in her support. During the proceedings Dr. Nazeer Ahmed accused his brother's junior wife of adultery. The latter filed a case against him under the Qazf Ordinance and he failed to prove his allegation.

♦ A petition was moved before the Peshawar High Court with a prayer that the Qisas and Diyat law be struck down for being violative of Article 2A and the Shariat. The petitioner took the plea that under the impugned law a poor man

who could not pay *Diyat* was supposed to rot in jail till he died. This was un-Islamic.

Light punishment for killing daughter

Waleed Saeed of Swabi district was awakened one night by his neighbours who alleged that they had found his daughter with a local cleric in an objectionable situation in a mosque room and had locked the door from outside. He went to the place indicated and killed first his daughter and then the cleric. Then he went to the police station and surrendered himself. The trial court awarded him death sentence and also imprisonment for 10 years.

His appeal was heard by a division bench of the Peshawar High Court. The appellant's counsel argued that it was a case of sudden and grave provocation and that under the Qisas and Diyat law nobody could be sentenced to death for killing his child. The court agreed that circumstances of the case demanded leniency and reduced the sentence to seven years' imprisonment.

- ◆ The LHC ruled (January) that under the Sunni law a child born six months after marriage was legitimate and upheld the decision of an additional sessions judge who had reversed the orders of a family court.

Mohammad Aslam had refused to own his seven-month old daughter, expelled his wife and secured a family court order for dissolution of his marriage. An ADSJ set aside the family court order. Deciding an appeal from the verdict of the sessions court, the LHC observed that the mere refusal of a father to own a child born within six months of marriage would not deprive it of legitimacy

Decision on oath

A bailiff of the LHC recovered one Mohammad Riaz from illegal detention at Qila Didar Singh police station near Lahore. The detainee had been found handcuffed and locked up in a room. No case had been registered against him, nor was he wanted by the police in any case. When the matter came up before the LHC the SHO of the police station swore on the Holy Quran that he had nothing to do with Riaz's detention. The court wanted to know about the detainee's being handcuffed. The SHO again put his hand on the Quran and argued that the handcuffs borne by the detainee were without the officially assigned number. The court observed that no further proceeding was required as the matter was now between the SHO and God. The detainee was, however, released.

Cases on religious grounds

Two blasphemy accused, both-Muslim from Punjab, were murdered (Mushtaq Zafar in Lahore and Sanaullah in Kasur) while on bail during the year. They were among the six Muslims, including a woman, against whom fresh cases were instituted under the main blasphemy section, 295-C. One of the accused in this category was identified as Christian by his name although he had embraced Islam shortly before being charged.

Another person who was allowed bail in a 295-C case and survived belonged

to Sindh.

In all, cases for offences relating to religion were registered against 64 people – 30, Muslims, 32 Ahmadis and two Christians.

One of them, Nasim Bibi, who was charged under Sec 295-B (for allegedly desecrating the Holy Quran) died in prison where she had been lodged along with her two minor sons. She had been granted bail but could not be released for failure to arrange surety.

The most fortunate ones in the lot were two persons from Lahore who were taken into custody but released after inquiry. They had only been accused of insulting Allah.

Fifty-five of the 64 accused belonged to Punjab, while Sindh accounted for four and Frontier for five.

All the accused were charged with offences against Islam except for one person from Peshawar who was accused of making derogatory remarks about Christ and Virgin Mary. In addition to 295-A and 298-C he was also booked under 16 MPO.

More acquittals

Thirteen cases against 16 accused tried for offences relating to religion were decided during the year. Eleven of them were Muslim and five Christians. Ten of them – seven Muslims and three Christians – had been charged under the main blasphemy provision. They included a woman. Three of them – all Muslim – were awarded death sentence by the trial courts, while another two – both Muslim – were acquitted by the Lahore High Court which overturned the sentence of death awarded by the trial courts. The only woman accused was acquitted by the trial court.

The trial of Dr. Yunus Sheikh, teacher and homoeopathic practitioner of Islamabad, that received worldwide attention, came to end with his release in November. He was acquitted by the trial court to which the case had been remanded by the LHC. The trial court had earlier sentenced him to death. He spent three years in prison, – 27 months in a death cell.

The three Christians charged under 295-C were sentenced to life imprisonment by the trial courts. Two of them were acquitted by the LHC.

All the accused belonged to the Punjab province.

Fresh cases: Against Muslims

	Name	Place	Date	Charge	Remarks
1.	Prof. Mushtaq Zafar	Lahore, Punjab	Dec. 02	295-C. Use of derogatory language about the Prophet (PBUH)	Interim bail confirmed on Feb. 05. Murdered the same day.
2.	Shamsul Hasan	Tando-Adam,	Mar. 03	295-C, 295-A Claimed to be	Reported to be insane. In prison.

Name	Place	Date	Charge	Remarks
	Sindh		Imam Mehdi. Wrote objectionable letters to religious political parties.	
3. Sanaullah	Kasur, Punjab	Mar. 03	295-C	Released on bail and murdered. Sept. 03
4. Akbar Marwari	Tando-Aclam, Sindh	Nov. 02.	295-C 295-A	Bail granted by SHC
5. Ms. Seema	Shahdara Punjab	July 03	295-C Charge same as in No. 1 above	In prison
6. Nadeem Asghar	D.G. Khan, Punjab	Feb 03	295-C Charge as in No. 1 above	In prison Clerk in Secondary Education Board.
7. Ghulam Mohammad	Hafiz Abad Punjab	Feb. 03	295-B. Accused of burning a copy of the Quran	In prison
8. Abdul Latif	Arifwala, Punjab		205-B. Charge as above	Arrested
9. Tauqeer Abbas	Lahore	Feb. 03	295-B. Accused of desecrating the Quran	Arrested. Reported to be insane
10. Yousuf and Shehzad	Gujranwala Punjab		295-B	Arrested Claim to be insane. (Awarded life-term in Jan 04)
11, Toha and Atta	Chichawatni Punjab	Mar. 03	295-B Accused of desecrating the Quran	Arrested
12. Ashraf	Kharian Punjab	Apr. 03	295-B Charged with burning a copy of the Quran.	Arrested Said to be insane.
13. Ms. Nasim Bibi	Lahore	May 03	295-B	Died in jail

Name	Place	Date	Charge	Remarks
	Punjab		Accused of desecrating the Quran	hospital. Had been allowed bail but could not be released for want of surety. Two minor sons stayed in prison with her.
14. Munir Chawla & Azeem Chawla	Lahore Punjab	Sep.03	295-A Accused of insulting the name of Allah.	Arrested but released after inquiry.
15. Zafar Zakir	Lahore Punjab	Jun. 03	295-A	Arrested
16. Zahid	Sangla Hill, Punjab	July 03	295-B Accused of burning the Quran.	Arrested
17. Hafeez Mushtaq	Faisalabad Punjab	Sep.3	295-B Accused of tearing and burning the Quran.	Arrested
18. Ghulam Sabir	Peshawar Frontier		295-A, 298-16 MPO Derogatory remarks against Christ and Virgin Mary.	
19. Muzaffar Alam & two others	Tando Adam, Sindh	Oct. 3	Accused of selling books in which the date of birth of the Prophet's father was wrong.	Arrested
20. Maqsood Ahmad	Hafazabad, Punjab	Dec 03	295-A Claimed to be a prophet.	Arrested
21. Maqsood	Sialkot Punjab	Dec 03	295-B Burnt a cloth sheet bearing Quranic verses.	Arrested Was a mendicant at a shrine.

Name	Place	Date	Charge	Remarks
22. Abu Bakar	Karachi Sindh	Sep.03	Accused of rape on followers.	Warrants
23. Tahir Mahmud	Faisalabad Punjab	Sep.3	Burnt the Holy book	Arrested claimed be insane.
24. Mumtaz and Ms. Jahanara	Naushera Frontier	Aug. 3	Burnt the Holy book during a domestic dispute.	Arrested Husband & wife.

Cases against Ahmedis

Name	Place	Date	Charge	Remarks
1. Nazir Ahmad	Chenab- nagar, Punjab	Mar. 03	295-B, 298-C Kept a photo- graph of Mirza Ghulam Ahmed.	Arrested
2. Mian Mehmood Ahmed, (Saddar Jamaat Ahmadiya) Nasir Ahmad, Aziz Ahmad and 15 others	Chenab- nagar, Punjab	Mar. 03	298-B, 298-C Accused of burying an Ahmadi in a Muslim graveyard.	Arrested
3. Mubarak Ahmed & Masood Ahmed	Chenab- nagar, Punjab	Mar. 03	298-C, Wrote Kalma on house front.	
4. Daud Ahmed	Chenab- nagar, Punjab	Nov. 03	298-C, 506 PPC Used washroom of a madressa.	LHC granted bail in Jan. 04
5. M. Arif	Chenab- nagar, Punjab	Sep. 03	298-C Accused of preaching.	
6. Tanvir Ahmed & Asif Iqbal	Islam- abad	Sep. 03	298-C, 295-C Wrote a book on Plight of Ahmedis years ago.	
7. Ms. Nasreen Taj, Ehsanullah	Mardan Frontier	Jul. 03	Burnt the Holy book	In Peshawar jail mental hospital.
8. Suleman Ahmed	D.I.Khan Frontier	May 03	298-C Preaching	Arrested
9. Ghulam Ahmed	Rajanpur Punjab	May 03	295-A	
10. Ismail & sons Tayyab and Tahir	R.Y. Khan, Punjab	Dec. 03	298-C	Arrested

Cases decided (Muslims)

Name	Place	Date	Charge	Remarks
1. M. Amin	Mailsi Punjab	1999	295-C Derogatory remarks about the Prophet (PBUH).	Imprisonment for life and a fine of Rs. 25,000
2. Maulvi Tahir Asim	Kunjah Punjab	1999	295-C Derogatory remarks about the mother of the Prophet (PBUH) in a Friday sermon.	Death penalty June
3. Pir Zahurul Haq	Sohawa Punjab	2000	295-C	Acquitted by the LHC (Rawalpindi) April. Had been given death penalty by the trial court in 2001
4. Bashir Ahmad	Bahawal-nagar, Punjab	2001	295-C	Death penalty by trial court. August 2003.
5. Abdul Momin and Sadiq	Multan Punjab	2001	295-B Accused of using papers bearing pictures to bind copies of Holy Quran.	Acquitted by the LHC. April. The trial court had awarded death in 2001.
6. Ms Irshad Bibi	Pasroor Punjab		295-C Accused of making derogatory remarks about the Prophet (PHUH) .	Acquitted by trial court. July
7. Niaz	Bahawal-nagar, Punjab		295-C Charges as above	Awarded death penalty by the trial court.
8. Dr. Yunus	Islamabad	2000	295-C Charges as above	Was awarded death sentence by the trial court. LHC ordered re-hearing. The trial court acquitted him in November.

Cases decided (Christians)

Name	Place	Date	Charge	Remarks
1. Ranjha Masih	Faisal-abad, Punjab	1998	295-C Accused of insulting the name of the Prophet (PBUH)	Imprisonment for life, fine of Rs. 50,000 by the trial court. April.
2. Nazir Masih	Chichawatni, Punjab	1998	298-A Insulted the name of the Prophet (PBUH)	Imprisonment for four years, fine Rs. 30,000. By trial court.
3. Rashid & Salim	Pasroor Punjab	1999	295-C	LHC acquitted them in March. The trial court had awarded life term and fine of . 50,000.
4. Aslam Masih				Acquitted by LHC in June. Trial court had awarded life term.
5. Asif Masih Amjad Masih	Jhang Punjab	1999	295-B	Life Imprisonment.

Fresh cases against Christians

Name	Place	Date	Charge	Remarks
1. Samuel Masih	Lahore	Aug. 30	295 Accused of throwing filth on a mosque wall.	Released after inquiry. Relieved to be insane.
2. Anwar Masih	Lahore	Nov 03	295-C Accused of derogatory remarks about the Prophet (PBUH)	Arrested. Recently converted to Islam from Christianity.

Army and law

Several cases during the year suggested that military officers who had performed special duties during military rule had difficulty in adjusting themselves to revival of the Constitution. A tendency to apply the Army Act to civilians was

also noticed.

The Krishan Sharma case

Krishan Sharma, a human rights activist and defender of minorities' rights, was taken into custody on March 21 and detained at various places. His mother filed a habeas corpus petition in the Sindh High Court alleging that he was being illegally detained by the Rangers, that he had not been charged, and that neither she nor any lawyer had been allowed to see him. In response, the Rangers informed the court (July) that Krishan Sharma was not in their custody. At the same time a communication from the army's Judge Advocate-General (JAG) branch said: "Mr Krishan Sharma has been arrested under Sec 2(i) (d) of the Official Secrets Act, which is subject to the Army Act of 1952."

While the state sought dismissal of the petition as the charges against Krishan Sharma had been disclosed and he was to be tried by a field court martial, the petitioner's counsel argued that being a civilian he could not be tried by a court martial.

The state opposed the petition on the ground that Krishan Sharma had been held for espionage under the Official Secrets Act, read with the Army Act. His trial by a field general court martial was about to begin and he would have full opportunity to defend himself. It was also argued that the jurisdiction of the court to hear cases falling under the Army Act was barred under the Constitution.

The court repelled the argument relating to jurisdiction. It referred to the Supreme Court ruling in Shahida Zafar case to the effect that the provision of a sub-constitutional enactment that barred jurisdiction of courts, however widely worded, could not take away the jurisdiction of superior courts conferred on them by the Constitution, and observed that the rights guaranteed under the Constitution could not be taken away through subordinate legislation. Thus the court had jurisdiction to hear petitions challenging actions under the Army Act. Further, the provisions of the Army Act relied upon by the state were not applicable to Krishan Sharma and he was not subject to the Army Act. Since he was subject to the Official Secrets Act he could be proceeded before a special magistrate and not before a military tribunal.

The detainee's mother again came to the SHC to agitate against Krishan Sharma's continued detention in military custody despite the court's finding that such detention was unlawful. The petition was left over twice – on September 9 and September 23 and was about to be left over on October 1 too when the division bench acceded to the request of the petitioner's counsel for hearing and issued notices to the defence ministry and military authorities.

Sharma was eventually released on November 16, after nearly nine months of detention.

A question of authority

The LHC CJ in January provided relief to a citizen who had been forced to accept a financial liability by an army officer heading an Army Monitoring Team.

The petitioner stated that he had a financial dispute with a person. He was

summoned to the army corps headquarters by a Colonel, who said that he was head of an Army Monitoring Team (AMT), and obliged to sign a stamp paper for a financial liability of Rs. 1.2 million. The summons were served on him by a police SHO. The court was informed by a Deputy Attorney-General that AMTs had been working as Army Complaints Cells since the army take-over in October 1999. However, he could not answer the court query regarding the law under which the AMTs were operating.

The court stayed the execution of the deed under reference and told the petitioner that he did not have to answer the army officer's call. Expressing its concern over the working of AMTs after the end of the army rule the court directed the provincial government to immediately withdraw the police officials that had been deputed to assist the AMTs.

At a subsequent hearing an order of the Punjab government was produced and it said all police officials attached to AMTs had been withdrawn.

- ◆ The Defence Housing Authority sealed a school within its colony. The owner of the school came to the LHC and contended that the school had been open for 14 years, that the matter relating to the allotment of a plot to the school was pending before the LHC and that the court had ordered maintenance of status quo. The court ordered the DHA secretary, a retired Colonel, to appear in the court. On his failure to appear in response to five notices and on allegations that he had assaulted the summons-server, the court ordered the SP of the area to produce him in handcuffs. However, it was said on behalf of the Secretary that he had been admitted to hospital for treatment to a fractured hand.

The LHC order was later on suspended by another division bench headed by the CJ.

Javed Hashmi case

Former federal minister and leader of PML (N) and the alliance for Restoration of Democracy (ARD), Javed Hashmi, MNA, was arrested and accused of defaming the army and causing disaffection against it. His bail applications were stoutly and successfully resisted. Attempts to persuade the NA speaker to order his production failed. Eventually his trial began in a jail.

Khuzdar journalist

Rasheed Azam, a political activist of Khuzdar (Balochistan) who also worked as a reporter for two newspapers, was taken into custody and detained by an army field unit. It was said that he had been arrested for distributing a poster that allegedly cast malicious aspersions on the army and this act was considered seditious. Human rights activists probing the matter found no evidence that the poster in question had been proscribed. Nor were the leaders of the political party that claimed to have published the poster arrested, though a case was subsequently registered against some of them, including a Senator. He was enlarged on bail after three months.

- ◆ Akhtar Baloch, HRCP coordinator of its core groups in the districts of Sindh, was picked up by an army field intelligence unit in Hyderabad after the

commission's annual general meeting in March. He was detained and interrogated for two days at a special interrogation centre before he was brought back to Hyderabad and dropped by the roadside. He was not charged with any offence.

Al-Qaeda link cases

Neither the judiciary nor the executive was wholly at ease while dealing with cases of persons accused of links with Al-Qaeda. The most significant example was that of the case against the Khwaja brothers and three other members of their family.

Dr Ahmad Javed Khwaja and his brother, Ahmad Nadeem Khwaja, were arrested, along with three younger members of their family, Dr. Omar Khwaja, Dr. Khizer Ali and Mohammad Usman Khwaja, from their house near Lahore in December 2002. While the former two were sent for trial by an anti-terrorism court the latter were held under the Security Act. It was said that all of them had helped al-Qaeda in various ways.

Deciding a habeas corpus petition, the LHC ordered the release of the three younger detainees. They were not released and a contempt plea was filed. The government responded by saying that the detainees were being held vide fresh orders under the Maintenance of Public Order Ordinance (MPO). The judge hearing their case sought to be excused. Petitions were also moved against the detainees' maltreatment in prison, their shifting from Kot Lakhpat jail to a sub-jail (interrogation centre) in a village, and denial of access to families.

The State appealed to the Supreme Court against the LHC order of their release but it was rejected. The court repelled the plea that the record of the case had not been produced before the high court as it was of an extremely sensitive nature. The SC observed that the state could not claim privilege in regard to documents about which no notification of their being classified or secret had been issued. Eventually the SC dismissed the state appeal and observed that the laws were silent on the question whether al-Qaeda was a terrorist organisation and constituted a threat to peace at home and abroad.

As regards the senior Khwajas, the orders of the Anti-Terrorism Court (ATC) to produce them were not complied with. The state sought postponement of their trial for three months but this plea was declined. The provincial government ordered their trial in jail. The LHC ruled against this order. Thereupon an order to the same effect was issued by the ATC and the LHC upheld it.

When the trial of the accused started before the ATC the court asked the prosecution to file all the relevant papers. The defence declined to produce any witnesses and relied on case documents. The ATC acquitted the accused.

The Khwaja brothers were not released as they had now been detained under the Security Act. The state also appealed to the LHC against their acquittal by the ATC.

The period of their detention expired on May 31. On the same date the Federal Review Board (FRB) met to consider the state plea for further extension in their detention. The FRB did not receive any record that could justify their detention

and therefore ordered their release.

Even then the detainees were not released for another two days and the Supreme Court was again approached for relief. The court ordered the state to release the Khwaja brothers or produce them before it on the next hearing (June 4). They were released on June 2.

- ◆ The Peshawar High Court dealt with the case of some Arabs who had reportedly been arrested (and possibly handed over to the United States) and denied the due process. Since all the authorities approached denied any knowledge of the detainees the court disposed of the matter as being redundant.

Accountability courts

The NAB (accountability) courts did not, relatively speaking, fare well during 2003. Four factors contributed to this.

First, in the last weeks of the preceding year speculation had started about some ministers against whom cases were pending in NAB courts. The chairman of the National Accountability Bureau took notice of this and told reporters in January that he had conveyed the Bureau's views about the induction of such politicians into cabinets to the President and the Prime Minister. He added that his Bureau's task was limited to investigation and filing of references against those suspected of wrongdoing. Bail was granted by courts and the discretion to release them lay with the government. Such observations only strengthened the doubts about the NAB machinery's capacity to dole out justice even-handedly.

Secondly, a number of judges of NAB courts retired and the appointment of their successors was subject to delay. This invited adverse comments on the system's health.

Thirdly, the release of five NAB convicts – former FIA officials Mohammed Sharif and Mukhtar Ahmad and three political figures from Balochistan – on parole under the Prime Minister's orders caused resentment in public circles and, according to one report, even in the Presidency.

Fourthly, the appellate courts in the superior judiciary noted a flaw in the NAB practice of requiring those sentenced for absconding to complete their sentences even when they had surrendered, and asked for a correction. They also put NAB courts on notice that their inability to complete cases expeditiously would result in the under-trials' being admitted to bail. Several persons facing references were thus bailed out.

Some of the developments in regard to the accountability process were:

- ◆ The LHC appellate bench acquitted former MNA Rana Tanvir Husain. The trial court had sentenced him to imprisonment for five years and a fine of Rs. 6.9 million.
- ◆ The same bench acquitted former minister Riaz Fatyana in the illegal appointments case. However, his trial on another reference continued. Meanwhile he had been elected an MNA.
- ◆ The same bench acquitted former minister Farrukh Javed Ghumman

and annulled the sentence awarded to him by an accountability court.

- ◆ Sardar Mehtab Abbasi, former Chief Minister of Frontier was acquitted by an LHC appellate bench. He had been arrested in 1999 and sentenced to imprisonment for 14 years and a fine of Rs. 20 million by the trial court. He was released on bail (medical grounds) in 2002. Before his acquittal he had been elected as a Senator in March.

- ◆ The PHC appellate bench set aside the conviction of former Senator Javed Abbasi by an accountability court (sentence: jail for five years, Rs. 20 million fine), admitted him to bail and ordered retrial.

- ◆ The same bench acquitted former Frontier minister Habibur Rahman Tanoli and set aside his conviction by the trial court. He was released. (While he was in prison, his daughter had been elected MPA from his constituency.)

- ◆ Ch. Abdul Hameed, former mayor of Sargodha, was acquitted.

- ◆ Anwar Saifullah, former federal minister, was acquitted in three references.

- ◆ The conviction of former Sindh minister Ismail Rahu in one case was set aside.

- ◆ The PHC set aside the conviction of ex-MNA Nasim-ur-Rahman.

- ◆ The LHC suspended former federal minister Azam Hoti's sentence in a second case.

- ◆ Federal minister Aftab Sherpao was acquitted in another case.

Those allowed bail included: Jehangir Badr, former federal minister; former Senator Islamuddin; former MPA Zulfikar Awan; and former Punjab Minister Mushtaq Awan.

Those convicted during the year included: former Balochistan minister Gul Zaman Kanshi; another former minister from Balochistan Bismillah Kakar; former Punjab minister Riaz Chaudhry (in absentia); former MPA and Multan mayor Salahuddin Dogar; two former employees of the Punjab Food Department.

Among those brought into the net were: former MNA Akhtar Ali Vario; former MNA Ghulam Ahmed Ch; and former MPA Hakim Ali.

Meanwhile cases against Federal Minister Faisal Saleh Hayat, former federal ministers Javed Hashmi and Ahmad Mukhtar and former Punjab minister Iqbal Tikka continued to drag on.

Hearing of references against former Prime Minister Benazir Bhutto and her husband, Asif Ali Zardari, also continued.

Considerable stir was caused when official spokesmen announced that a Swiss court had convicted Benazir Bhutto and Asif Zardari, and sentenced them to suspended jail term for 6 months, fined them 50,000 dollars each and ordered confiscation of Benazir Bhutto's accounts. The handing over of a diamond necklace to the Government of Pakistan was also ordered. The People's Party challenged the authenticity of the report. On appeal the police tribunal decision was quashed and the case remanded to the general attorney.

Two NAB officials were arrested for embezzling NAB money to the tune of Rs. 20 million and one of the Bureau's former assistant directors was released

after plea bargain.

In March, NAB announced that it would distribute Rs. 84.8 million among its employees as reward for recovering Rs. 78.48 billion (Rs. 75.9 billion from bank defaulters and Rs. 2.58 billion in plea bargains).

The Jirga world

More power, higher prestige

The jirga system, to all appearances, rose further in power and prestige over large parts of the country during 2003. Political leaders, ministers, parliamentarians, administrators and police officials joined the ruling deities of the feudal order in spurning the judicial system and what were still described as normal laws.

In most cases the jirgas settled matters between the subjects of sardars but sometimes the high and mighty too could seek jirga help. Tribal elders were reported to have restored peace between the Governor and the Chief Minister of the Frontier province when they disagreed as to who had detained the FATA MNAs, and where, on the eve of the Senate election. And when the MMA government of Frontier wished to call an all-parties conference on the NFC award it chose to describe the proposed moot as a jirga.

While human rights activists, especially those fighting for women's entitlements, ran a steady campaign against the jirga system, it found quite a few supporters in the *ashrafia*, some of whom had been educated abroad. For instance, former President Farooq Leghari wanted the jirga / panchayat system to be given legal cover. The Sindh Chief Minister, Sardar Ali Mohammad Mahar made a similar demand. His minister for fisheries and livestock called for legalising the jirga system as it provided speedy and cheap justice and saved the people from suffering a lot in courts. The deputy speaker of the Frontier assembly found the institution of jirga in accordance with Islam. A number of police officers not only expended rhetoric in praise of the jirga but appeared to be ever keen to let the jirga accomplish what they could not or did not want to..

Many decisions of jirgas, some weird and some utterly horrifying, were reported in the media. Most of them left Authority unmoved.

Double murder in Sanghar

One of the most chilling accounts of jirga 'justice' came from Sanghar (Sindh) in October. A Khaskheli jirga ordered the execution of a newly-married couple (a Khaskheli girl and a Solangi man) for having married of their free choice. They were reportedly caught near the office of the District Police Officer. The man was tortured at a landlord's house and the girl at her father's. On her refusal to renounce her marriage, the jirga condemned both husband and wife to death. They were taken to a *sem nullah* and shot dead. The bullets were aimed at their heads where the jirga perhaps thought the cause of mischief lay.

The case was taken note of by the Supreme Court Chief Justice and the District Judge was asked to investigate and report. The DPO told the court that the couple had been shot dead by the girl's uncle and denied that a jirga had

decreed their execution. Three persons had been arrested. However, the girl's father, a bank official, had been released when his brother admitted to have acted as the executioner. The police officer claimed that the 19-year-old girl had already been married within her clan and she got married to a man who had a wife and two daughters. The District Judge did not accept this story. He relied on the record at the college where the girl had been studying and which showed her as unmarried and living with her father.

The SC called for a comprehensive report within a month as the I-G, Police, had constituted a high-powered investigating team. A report in the last week of December said that the case was before a court, five men were in jail, the task of investigation and reinvestigation had been entrusted to one police team after another and they could not find people to tell the truth. (The Supreme Court took up the case again in January 2004 and expressed doubts about the police stories.) [*See also Chapter on Women!*]

- ◆ Earlier, a jirga had declared a Khairpur councillor liable to execution for refusing to live with her husband. By the end of the year two more couples in Sindh had come under jirga edicts.

Extended powers

In a departure from tradition the jirgas not only settled murder and land disputes but extended their writ to various areas, including taxation.

- ◆ The Shias and Sunnis of Shahdadkot in Larkana district (Sindh) were reported to have resolved their dispute at a jirga. The jirga was attended by an MNA and leaders of the two sects while a former Senator acted as the arbitrator. The Sunnis were fined Rs 1,750,000. payable in three instalments. The parties agreed to withdraw cases against each other. The sectarian dispute had arisen in April 1999 when three men died in exchange of firing between the two groups.

- ◆ When an attempt to arrest four persons suspected of taking part in a bank robbery in Punjab was made, a Loralai jirga refused to hand them over to the police. The Tehsil Nazim told them the jirga would soon resolve the matter.

- ◆ A high-powered jirga in Sukkur, backed by a federal minister and influential officials, was reported to have ended the long-running feud between the Mahar and Jatoti tribes. The Jatois were fined Rs. 8.3 million and the Mahars Rs. 3.3 million. The conflict had taken the lives of 27 Mahars and 11 Jatois. Each victim's family was to get Rs. 300,000 and that of the first Mahar victim Rs. 500,000. Anyone reviving the clash was to be fined Rs. 500,000. (These were the standard penalties awarded by jirgas.)

- ◆ The Ghotki (Sindh) police was reported to have arrested two landlords who had refused to obey the verdict of the jirga in an intra-tribe dispute.

- ◆ A jirga was convened in Larkana to hear a complaint that men belonging to a Channa faction had intruded in a rival group's house and tried to molest a woman. It was reported that the jirga ordered two couples from each side to annul their marriages and the orders were carried out.

- ◆ An Afridi-Mohmand dispute over the killing of a member of the latter

tribe was settled by a jirga that ordered the killer to compensate the victim's family.

- ◆ Some people were going home in village Lashari, near Kandhkot (Jacobabad district), when they were fired upon from a police checkpost. A man, Nihal Lashari, was killed. A jirga held police constable Pir Bakhsh responsible and ordered him to pay the victim's family Rs. 250,000. According to a newspaper report, the jirga was attended by the Lashari elite and senior police officers. It was also decided to appoint a relative of the deceased on the police force. It was not clear as to how a jirga could become appointing authority in police.

- ◆ A Jamrud tribal jirga ordered the demolition of the house of a proclaimed offender and seizure of his property. The issue was the kidnapping of a small son of an official.

- ◆ Newspapers reported (Marci) that a 50-year-old woman, Sakina Mai, was gangraped under orders of an elders' assembly in a Muaffargarh village in a case similar to that of Mai Mukhtaran in 2002. The victim's son was alleged to have molested a young woman and the latter's five brothers gangraped her when she arrived at the assembly to answer the charge against her son.

- ◆ The Bugtis and the Jakhranis of a village near Jacobabad accepted jirga decision on their dispute. The Bugtis were to pay Rs. 300,000 for killing a Jakhrani.

- ◆ A woman in Mailsi left her husband and went to her parents' home and refused to change her decision. The husband forcibly took her to his village, referred the matter to a local panchayat which obliged by declaring her a sinner. As punishment her head was shaved and she was put in chains. The police rescued her.

- ◆ The Toba Tek Singh (Punjab) police registered a case against a lambardar and members of the village panchayat for forcing a man and a woman, who had been accused of illicit relations, to have sex at the headman's house as punishment. Later on the police said the lambardar and the victims of his sadist streak had disappeared.

- ◆ A six-year-old boy, belonging to an influential family, was kidnapped from Dera Ghazi Khan and taken to Miranshah in the tribal area. An amount of 10 million was demanded as ransom. The Punjab police got on the track of the kidnappers and arrested six of them. Its efforts to apprehend four suspects from Miranshah failed. These four persons, including the family's housemaid, were tried under the FCR by a jirga headed by the Political Assistant. They were sentenced to 40 years' imprisonment and a fine of half a million rupees each and despatched to a settled area, D. I. Khan, to serve their sentence.

- ◆ A former federal defence minister acted as the arbitrator in a jirga in Larkana which reportedly resolved a dispute between two groups of the Mirbahar tribe. The 7-year-old feud had claimed the lives of 11 persons from each side. Three men were brought from the Larkana prison to take part in the jirga which was attended, among others, by two MPAs.

- ◆ About 50 houses and shops were set on fire in Bajaur under jirga orders

by way of punishment to five men who had killed seven tribesmen.

- ◆ An Orakzai Agency jirga imposed a complete ban on NGOs throughout the agency and prescribed a fine of Rs. one million for any violation of its orders. The jirga resolved that the NGOs funded by foreign and non-Muslim governments were working against the local people's religion and cultural norms. It said it would not be responsible if any woman working for an NGO was kidnapped. Such women could come to harm, the jirga added. *[See also Chapter on Freedom of Association]*

- ◆ The dispute between the Jagirani and Narejos was reported to have been settled at a jirga at Pir Jo Goth (Khairpur). The former were fined Rs. 1.5 million for killing five Narejos and the latter Rs. 3.3 million for killing 11 Jagirani. The conflict had started when the Jagirani detained two Narejo women. For this the Narejos were to receive Rs. 300,000. The DPO looked after the security arrangements and traffic to and from the jirga venue was regulated by the police.

- ◆ Three men in Nowshera district abducted a teenaged daughter of a poor man and raped her for 20 days. They then sold her for about Rs. 80,000 in Lawrencepur where she was recovered by the police. A local jirga fined the culprits Rs. 110,000 each and, under swara, ordered that two girls from the family of the accused be married in the family of the victim. The number of victims was tripled.

- ◆ Three men belonging to the Frontier Constabulary were kidnapped from Zhob area (Balochistan) by tribesmen (Sulemankhel) and taken to Afghanistan to be held there. Three jirgas failed to resolve the matter. However, the fourth one succeeded in getting the detainees recovered.

- ◆ A jirga at Kandhkot, Jacobabad district, in Sindh presided over by Sardar Sunder Khan Sundrani offered Rs. 1.65 million as compensation for the killing of a journalist, Shahid Soomro, by a scion of the Bijarani Sardar.

- ◆ The Mastakhel sub-tribe held a jirga at Jamrud, Khyber Agency, to protest against a fine imposed by the political administration and demand the release of its elders that had been taken into custody.

- ◆ A jirga of Wazir Ahmadazi at Wana, South Waziristan, decided to boycott the political agent and his deputy until its demands were met.

- ◆ In a Sheikhpura village, not far from the seat of the provincial government, a woman complained of rape. The customary method of ascertaining facts was ordered by the community jirga. The complainant and the accused were told to take seven steps with each holding a hot iron rod in her/his hands. The woman suffered no hurt while the man got his hands burnt. Found guilty, he was buried in the ground upto his waist and beaten with a shoe and fined Rs. 1,000. Eventually the jirga chief accepted his apology and pardoned him. The matter was duly reported in the Press.

- ◆ Malik Daud, an elder of the Malik Dinkhel tribe in the Khyber Agency (near Peshawar), had his house demolished by his tribesmen and a fine of Rs. 1.5 million strapped on him. He had ruled against his tribe at a jirga held to settle its dispute with the Qambarkhel over the ownership of a hillock. The five-year old

feud had claimed 25 lives.

- ◆ A jirga in Jacobabad district reported to have resolved a 22-year-old feud between the Bhangwar and Nindwani tribes. The former were fined Rs. one million and the latter Rs. 625,000, in accordance with the count of heads lost by the parties. The jirga committee included an MNA, an MPA, a Nazim and tribal sardars.

- ◆ The Bhuttos and the Mithanis of Larkana held a jirga at the Circuit House and resolved to end their feud by imposing fines on both sides – the Bhuttos were to pay Rs. 85,000 and the Mithanis Rs. 370,000.

- ◆ The tribal law was seen in operation in Lahore and that too in its industrial area. A man, Gul Khan, accused his nephew, Hudaiba Khan, of theft, and chopped off his hand. The young man had insisted he was innocent but believed it was his duty to submit to the tribal code. He refused to report to the police. The police did come to know of the incident and its immediate reaction was to stand by the law. No follow-up was reported.

- ◆ And in Gujranwala, a millowner complained of theft in his factory to the local panchayat. The panchayat tortured the suspect named by the complainant till he died. His dead body was thrown outside his house.

Little sinners

A man in a Khairpur village tried to kill his five-year-old niece and a six-year-old boy after declaring that they had had illicit relations. The DPO ordered the holding of a jirga under the presidentship of a political leader. The jirga found the children innocent and imposed a fine on their tormentor. When he refused to accept the jirga verdict the DPO decided it was time to proceed against him under the law and arrest him.

Some fair coins

- ◆ Human rights activists had reason to welcome a declaration by the Swabi (Frontier) district council members that swara custom (under which women are given away to rival groups to compose murder disputes) was inhuman and unjust. The Councillors called for abolition of the practice. They also asked the local jirgas not to rely on the *swara* custom.

- ◆ A jirga in Mansehra district (Frontier) decided to impose a fine of half a million rupees on anyone in its jurisdiction who was found involved in the cultivation of poppy or in illegal trade in raw opium. Some tribal elders also decided to destroy poppy cultivated on 440 acres.

- ◆ The Kakar tribe jirga in Quetta, presided over by former Governor Nawab Ayaz Jogezaï, called upon the Balochistan Assembly to ban interest-bearing loans and told debtors not to pay interest on their borrowings. It also decided to ensure the restoration of property to owners that had been handed over to creditors.

Attacks on judges / violence around courts

Three civil judges were killed along with five prisoners in a shootout in the Sialkot district jail (July). The judges had accompanied the District and Sessions

Judge and eight other civil judges on an inspection of the jail. All of them were made hostages by a group of prisoners. Casualties occurred when the police exchanged fire with the prisoners in a bid to free the hostages. [See also *Chapter on Law and Order*].

- ◆ Five persons were injured when a gunman opened fire on their rival party outside the court of an ADSJ at Islamabad.

- ◆ A prosecution witness was beaten up and severely injured on the premises of District Courts, Gujranwala, when he refused to accept the lawyer's advice against appearance in the court.

- ◆ Advocate Ashraf Ali was shot dead in a Karachi court by two gunmen (April). Both of them were apprehended.

- ◆ A man who was proceeding towards a court in Kharian was shot dead by two armed men riding a motorbike (October).

- ◆ Lawyers and the police clashed at Lahore's sessions court when the former's car came in collision with an Elite force vehicle. The DSJ ordered registration of a case against five police officials.

- ◆ Five persons were shot dead and six others seriously wounded near the city courts, Lahore.

- ◆ Three persons were killed and another two wounded when two rival parties clashed on the premises of the district courts in Jhang (July). The two groups had arrived at the court to attend the hearing of a murder case.

- ◆ Umar Khalid, facing trial for murder, was shot at and wounded by a relative of the complainant, in the court of an ADSJ in Lahore.

- ◆ An under-trial detainee was killed outside the court of a judicial magistrate in Quetta (August). As the accused reached the court two armed men shot him dead. One of the assailants was caught.

- ◆ A clash between the LHC employees and some lawyers took place on the court premises. Four lawyers were restrained for a short while and the clerks decided to boycott their offices. The issue was resolved by the CJ.

- ◆ Four persons including three belonging to a single family (a man, his son and a grandson) were shot dead outside the court of an ADSJ in Osta Mohammad, in Balochistan. The victims were approaching the court in a vehicle when they were fired upon by two men on a motor-bike.

- ◆ An ADSJ and a civil judge at Kharian came to blows when the latter refused to obey the former's request and eventually turned him out of the court. Both of them were transferred out of Kharian by the CJ LHC.

- ◆ Mohammad Khan, who was facing trial for murder, was killed inside the district courts, Peshawar. He had come to appear in the court of a judicial magistrate and was waiting in the office of the public prosecutor when two persons opened fire at him. Both the assailants were caught. One of them was identified as the brother of the man Mohammad Khan had killed.

- ◆ Two brothers were injured (September) when eight people opened fire

on them on the premises of the district courts, Sahiwal.

Action against lawyers

- ◆ The NWFP Bar Council suspended the licence of a Kohat lawyer for five years and fined him Rs. 30,000 on his mother's complaint. He had represented his mother in a civil suit which was decreed in her favour. Subsequently, he filed an appeal against this decision and challenged the decree as being fictitious and forged.

- ◆ The Punjab Bar Council cancelled (March) the licences of two advocates – one belonging to Sahiwal and the other from Gujrat. The former was found to have relied on a forged law degree and the latter had been accused of professional misconduct.

Contempt cases

The LHC CJ sentenced senior advocate Rasheed Murtaza Qureshi to six months in prison for contempt. He had launched a long tirade against the judiciary on learning that a decision had gone against him in his absence. The advocate was taken into custody and led to a room on LHC premises. Soon afterwards the CJ suspended his order on a request by the Bar leaders who pleaded for leniency on the ground that the lawyer was old (over 70) and unwell. After his release the advocate also apologised to the court.

- ◆ Advocate Abdul Wahid was sentenced to imprisonment for contempt by a judge of the LHC. He remained in court custody for a few hours before the court was persuaded by a lawyers' deputation to withdraw its order.

- ◆ Intervention by fellow lawyers, however, did not help Advocate M. D. Tahir who was convicted for contempt by the LHC CJ and sentenced to six months' imprisonment. He got relief from the Supreme Court.

Bonded labour

A number of bonded labour cases came up before the Lahore High Court and it granted relief. The district judges in Punjab also ordered the release of bonded workers in many cases. In Sindh, however, cases of bonded labour registered little progress. However, a score of bonded haris won freedom courtesy the administration, and about 2,000 of them broke out of bondage on their own.

- ◆ The LHC ordered (March) the release of seven bonded labourers who were being illegally detained by a Malikwal brick-kiln owner. Action was taken on a habeas corpus petition and the workers recovered through a bailiff. The petitioners had complained that their employer had not paid them wages for 13 months and that they had been beaten up and kept in chains. While ordering their release the court directed them to approach the proper forum for the recovery of their dues and action against kiln owner's illegal acts.

- ◆ Sixty-three bonded workers, including 28 women, were ordered to be released by the LHC (March). They had been working for four years on a brick-kiln in Bano Kot Pulli in Gujranwala district. In their habeas corpus petition they

Police Power

The Peshawar District and Sessions Judge ordered the release of three bonded labourers – a woman and her two children – who were being kept in illegal confinement at a brick-kiln. The brick-kiln owner said he had advanced Rs. 70,000 to a labourer, Abdul Wahab. Alleging that the amount had not been paid back, he admitted to having detained the labourer's wife and children in his custody.

A few days later, Abdul Wahab was summoned by the Mathani police station officials who ordered him to pay back the amount he was alleged to have borrowed from the brick-kiln owner. Abdul Wahab denied having taken any loan and disclosed that the brick-kiln owner had used his influence to get his nephew, Haroon, arrested by the Nasirbagh police.

had said that they had not been paid wages for 16 months and that they were kept tied up with ropes and chains. They were recovered by a court bailiff with the help of the police. The court observed that both Islam and the law of the land prohibited forced labour and the practice must be stopped by implementing the Bonded Labour Abolition Act. The petitioners were advised to seek redress of their other grievances through proper channel.

- ◆ Another 12 bonded workers were ordered to be released (March) by the LHC. Following the filing of a habeas corpus petition a court bailiff had recovered them. They had been working at a brick kiln at Manawan, near Lahore, and had complained that they had not been paid wages for 15 months. They also alleged that they had been subjected to violence and kept in chains.

- ◆ The LHC ordered the release of 19 bonded labourers who had been working at a brick-kiln in Lalyani, near Lahore. They said they had not been paid wages for 31 months and had been subjected to violence and illegal restraints.

- ◆ The LHC ordered the release of 15 illegally detained workers (April). They had been working at a brick-kiln in Barki, near Lahore and were recovered by a bailiff. A habeas corpus petition seeking their release had alleged that they had been working for the brick-kiln owner for years and had not been paid wages for 13 months.

- ◆ Another 35 workers were recovered by an LHC bailiff from illegal detention at a brick-kiln in Manga Mandi, near Lahore. A habeas corpus petition had been filed by Ms Ferzana Bibi who alleged that she had been repeatedly raped by the kiln-owner, and as a result she had become pregnant. The workers were said to have been detained for two and a half years.

- ◆ Eight bonded workers were recovered from a brick-kiln in Kassowal, Hafizabad district by a bailiff appointed by the LHC. The court freed them.

- ◆ The LHC freed (October) 16 bonded workers who had been illegally detained at a brick-kiln in Okara with the observation that bonded labour had

been prohibited by Islam. The victims belonged to a nomad tribe and had been recovered by a court bailiff.

- ◆ Another batch of 18 bonded workers was freed by the LHC (November). They were being detained at a brick-kiln in Manga, near Lahore, and had been recovered by a court bailiff. The petitioner who moved the habeas corpus petition for their release had alleged that they had been kept in chains for two years.

- ◆ Twenty-three bonded workers, including nine minor children, were recovered by a court bailiff from the custody of a brick-kiln owner in a Gujranwala village (December). They had been detained for six months.

- ◆ The LHC freed 18 brick-kiln workers who had been detained illegally in Changa Manga (near Lahore) for over eight months. They had been recovered by a court bailiff. The court was informed that the bonded workers were denied wages and armed guards were used to restrain them.

- ◆ The LHC ordered the release of five members of a family, including three children aged two, four and six years, who had been illegally detained by a landlord in a Kasur village. A court bailiff had recovered them after breaking into the room where they were detained.

- ◆ Seven bonded workers were freed by the LHC on a habeas corpus petition. They had been recovered by a bailiff from a brick kiln in Sarai Alamgir, near Jhelum. They said that they had not been paid wages for 12 months.

- ◆ The LHC released 12 workers who were being detained against their wishes at a brick-kiln in Manawan, Sheikhpura district. They had been recovered by a court bailiff. The habeas corpus petition seeking their release had stated that they had been working at the kiln for two years but were denied wages. They were also subjected to violence and kept in chains.

- ◆ Thirty-one workers, including 12 minor children, who were being unlawfully detained at a brick-kiln in Gujranwala, were freed by the LHC in July. They had been recovered by a court bailiff. The petition for their release had said that they had been working at the brick-kiln for a long time, had not been paid wages for 19 months and had been assaulted and kept in chains.

- ◆ The Sessions Judge, Lahore, freed five workers (one of them a woman) who had been kept as bonded labour at a brick-kiln near Jallo More, Lahore. They had been recovered by a bailiff.

- ◆ The District and Sessions Judge, Sialkot, sent a bailiff (June) to recover the workers illegally detained at a brick-kiln in village Jharian. The bailiff found 25 such workers (including some women). The workers had complained that they were locked up every evening after rendering forced labour. Another bailiff sent by the judge recovered a bonded worker from a brick-kiln in village Dogal.

- ◆ The LHC ordered the release of 18 workers who been illegally detained at a brick-kiln in Malakwal. It was said in a habeas corpus petition that the workers had not been paid for 15 months and were subjected to torture.

- ◆ Nine members of a nomad family were recovered from illegal detention at a landlord's barn in a village near Hafizabad. The LHC ordered their release with the observation that Islam did not permit forced labour and keeping workers

in chains. The woman who had filed the habeas corpus petition was advised to approach the district SSP for registration of a case against the culprit. [See also *Chapter on Labour*]

Public interest litigation

The superior courts received a large number of petitions in the nature of public interest litigation. Most of them did not bear fruit. But they did reveal the petitioners' (mostly lawyers) responses to issues that were agitating the public mind.

- ◆ The LHC dismissed Advocate M.D. Tahir's petition challenging the banning of telecasts by Indian channels on the ground that it was a policy matter and the courts could not intervene.

- ◆ Advocate M. D. Tahir sought the intervention of the LHC in the matter of sale of kidneys by the poor. He said 300 poor people in Kot Momin, Bhalwal Tehsil, had sold their kidneys to pay off their debts. This practice needed to be checked and the debtors offered relief. The SP Sargodha confirmed the sale of kidneys but expressed his inability to intervene as the offence was committed in Rawalpindi, that is, outside his district. The court asked the provincial police chief to report.

- ◆ A Karachi lawyer moved a petition in the Sindh High Court praying for a declaration that Pakistan was a non-theocratic state. He argued that any act of the President or the Prime Minister to make Pakistan a theocracy at the instigation of MMA leaders would be without lawful authority.

- ◆ A petition was filed (August) in the LHC for the recovery of the cost incurred on National Assembly sessions since November 2002 from Gen. Pervez Musharraf as no legislation had been done because of the wrangle over the LFO. The court was also requested to direct Gen. Musharraf to disclose the benefits of holding the two offices of the President and the COAS.

- ◆ Advocate M. D. Tahir had filed a petition in the LHC in 1999 praying for recovering through the army the dues of investors from Taj Company and other defunct finance companies. In September 2003 he sought the court's permission to withdraw his petition on the ground that he had lost hopes of redress as the army was no longer capable of fighting corruption.

Miscellany

Libel not terrorism

An anti-terrorism court in Lahore ruled (April) that publication of a report against any individual could not be considered an act of terrorism and dismissed former ISI chief General Javed Nasir's complaint against the Chief Editor and reporter of a national daily. The court came to this conclusion after it had kept the case on its cause list for two years, and the respondents had suffered a great deal.

Honour killing victims

The LHC ruled that the heirs of a person killed for honour were not entitled

to any compensation. One Akbar Ali was tried for killing Tauqir and awarded 10 years' imprisonment and a fine of Rs 10,000. The convict appealed against the sentence and the LHC reduced the prison term by four years and cancelled the fine. The court further observed that in such cases (of 'honour killing') the sentence could be reduced even if the accused did not confess to his guilt.

Compensation after 22 years

The Sindh High Court in February awarded compensation to the owner of a motorcycle that had been misappropriated by the police. The case had begun in 1981.

The motorcycle had been seized from the brother of the owner when he was arrested for violating a martial law regulation and it was deposited in the *malkhana* as case property. The advocate who had been arrested while using the motorcycle was later on deported to Syria under the deal over the hijacking of a plane to Kabul. On his return in 1988 he was rearrested but eventually the case against him was dropped.

When the owner of the motorcycle sought recovery of his property he discovered that it had been transferred to a stranger on forged documents. Raising the issue in the high court, his counsel took the plea that Article 4 of the constitution entitled the petitioner to be treated in accordance with law, that Article 24 protected property rights, and that the court had the authority to award compensation since the motorcycle could not be recovered.

Upholding the petitioner's claim, the court observed: "Such compensations is payable by way of public duty of the state and its functionaries, independently of a private right that a citizen may have to claim damages through ordinary proceedings."

The compensation (Rs. 7,500) was to be paid by the Sindh government and it could recover the amount from the officials that had a share in the fraudulent disposal of the motorcycle.

Hakim Said case: Former Governor Hakim Saeed's assassination was considered a political crime of the first order. It provoked Nawaz Sharif to scuttle his alliance with MQM. Nine accused were awarded death penalty by the trial court. The Sindh High Court acquitted them and they were freed. The Supreme Court, on appeal, ordered their arrest. However, only three of them were apprehended. They were enlarged on bail. The state (Advocate-General) did not oppose the bail plea.

Partridge case

The police at Piplan Mianwali raided a woman's house to look for drugs and took away a black partridge that she claimed belonged to a rare species. (She also alleged that the police took away Rs. 14,000 in cash.) A Mianwali court allowed her bail and directed the police to return the black partridge. She did receive a partridge but it was an ordinary bird. She approached the Lahore High Court and

then the prized pet was restored to her.

Bear's right upheld

The owner of a bear came to the LHC to agitate against the Punjab Wildlife Department's action in taking the animal out of his custody and depositing it at the zoo. He said his security of life had been threatened as the bear was the only source of his livelihood. The court dismissed the plea on the ground that animals also had rights and that it was illegal and unethical to imprison other souls.

Capital punishment

Execution

According to the record at HRCP, 18 convicts were executed in 2003 as against 20 in 2002, forty in 2001, and 45 in 2000.

One of them was hanged in Balochistan, two in the Frontier province and the rest (15) in Punjab.

They had spent up to 12 years in death cells. The oldest of them was Qadeer Khan (80) who was hanged in the Peshawar Central Jail. He had killed a man during a quarrel over pigeon-fight in 1988 and had been sentenced to death in 1991. His hanging was strongly deprecated by HRCP.

All of the condemned ones had been tried for murder – three by anti-terrorism courts and the rest by courts of sessions.

605 join the death row

The data compiled at HRCP shows that 605 convicts in 383 cases were awarded the death penalty during 2003 (as compared to 657 in 408 cases in 2002 and 591 in 377 cases in 2001).

The convicts included four women, one of them a Nigerian national.

The cases of less than 10% (54) convicts were heard by anti-terrorist courts, 23 received death sentence from anti-narcotics courts and 528 from courts of sessions.

The breakdown of offences by the convicts is:

Murder: 534 [Punjab (including Islamabad) 456, Sindh 35, Frontier 21, Balochistan 22]

Kidnapping for ransom: 23 [Punjab 13, Sindh 10]

Murder after abduction: 12 [Punjab 9, Sindh 1, Balochistan 2]

Murder after rape : 3 [Punjab 1, Balochistan 2]

Drug trafficking: 23 [All from Punjab]

Murder committed on suspicion of illicit relations: 7 [all from Punjab]

Gangrape: 2 [both from Punjab]

Notable cases: Those condemned to death included eight prominent members of an outlawed militant organisation (Lashkar-i-Jhangvi) – for sectarian killings; three members of another organisation (Harkat-ul-Mujahideen) — for killing French engineers; two militants for attack on the US consulate in Karachi; and

three MQM activists – for murdering a former Sindh minister.

Honour killing not accepted

In quite a few trials for murder the courts declined to be influenced by the plea of killing for honour. For example:

- ◆ The Public Relations Officer of the Board of Intermediate and Secondary Education, Rawalpindi, killed his wife and took the plea that she was unfaithful to him. He claimed to have seen her in an ‘objectionable’ act with someone. His daughters deposed against him and he was awarded death.
- ◆ An Additional Sessions Judge at Faisalabad sentenced one Kamal Shah and his son, Shakir Shah, to death. Kamal Shah’s daughter, Zubeda, had left her parental home to marry the man of her choice, Munawwar. They had a son, Haider. Kamal Shah and Shakir Shah visited Munawwar’s house, ostensibly on a friendly visit, and killed Zubeda, Munawwar, their child Haider, and Munawwar’s father.
- ◆ An Additional Sessions Judge at Gujranwala sentenced Mohammad Javed to death. He had killed his sister (SB) and Shahid Ali and alleged that his family honour had been compromised by their relationship. His parents were available to pardon him for killing his sister but he was held to account for the man’s murder.
- ◆ One M. Arshad had killed two persons (brothers) and justified his action by alleging that the deceased had molested his sister. He was tried by an Islamabad Additional Sessions Judge and given the death penalty.
- ◆ The DSJ, Sargodha, sentenced one Mumtaz to death. The accused had killed his wife and cited her alleged infidelity as the cause.
- ◆ A sessions court in Mianwali awarded death sentence to Mohammad Arif and Mohammad Warris for murdering their cousins, Abdur Rahman and Ali, who were suspected of illicit relations with their nieces.

Waiting to be hanged

The death row population in Pakistan jumped from 5,758 in September 2002 to 6,593 at the end of 2003, an increase of 835. They included 30 women.

Punjab accounted for the largest contingent of condemned prisoners – 6,093, including 27 women. Sindh had 252 (one woman) on the death row, frontier 106 (two women), and Balochistan 142 (no woman).

The condemned prisoners were around 10 per cent of the total in Sindh and Balochistan and about three percent in Frontier. In Punjab, out of the 17,178 convicted prisoners 6,093 – more than 35 per cent of the total – were in death cells. Roughly every third convict in Punjab was waiting to be hanged.

Inhuman punishment

An anti-terrorism court in Rawalpindi ordered the chopping off of a hand and a foot of an accused who, as an under trial prisoner, had escaped, along with four others, by throwing powdered chillies into the eyes of policemen holding them. He had also snatched a rifle from a policeman. The court also sentenced

him to imprisonment for 12 years and a fine of Rs. 10,000.

Tit for tat at jirga: A man chopped off the nose and ears of his son and then slaughtered him in Orakzai Agency (April) in compliance with jirga orders. Failure to carry out these orders would have resulted in demolition of his house, forfeiture of property and expulsion from the agency. The unfortunate victim was accused of meeting out to a friend what the jirga prescribed for him as punishment.

Recommendations

1. *While the decision to withdraw the increase in superior court judges' tenure has been welcomed in all quarters it is necessary to draw up fair guidelines for democratic policies for determination of judges' terms and conditions of service.*

2. *The tendency on the part of the Executive to apply subjective considerations in the selection and promotion of judges of superior courts undermines the judiciary's independence. Greater adherence to the universally recognised principles of the judiciary's independence must be demonstrated.*

3. *The changes in the judicial system brought about by the separation of the judiciary from the executive, the Juvenile Justice System Ordinance, the establishment of a new local government system, and the delegation of some of the high court powers to the courts of sessions need to be reviewed in the light of experience. A commission of experts employed on whole-time basis may be set up for this purpose.*

4. *All parallel systems of justice, especially religious, anti-terrorist and accountability courts, must be abolished.*

5. *No judicial reform proposal should be implemented without ascertaining the views of the people, especially the judiciary and the bar, and a thorough debate in the legislature.*

6. *The judicial system cannot contribute to the elimination of discrimination against the disadvantaged unless enforcement of the key international human rights instruments, especially CEDAW, CRC and ILO Conventions, is facilitated through appropriate legislation. The deficiency needs to be removed on priority basis.*

7. *The further evidence of the growth of the jirga system and other informal forums of resolving disputes confirms a dangerous erosion of public faith in the judiciary. These forums also reduce society's potential to grow out of archaic and oppressive social structures. Steps must urgently be taken to reinforce the principles of institutionalised dispensation of justice.*

8. *The FCR should be completely withdrawn.*

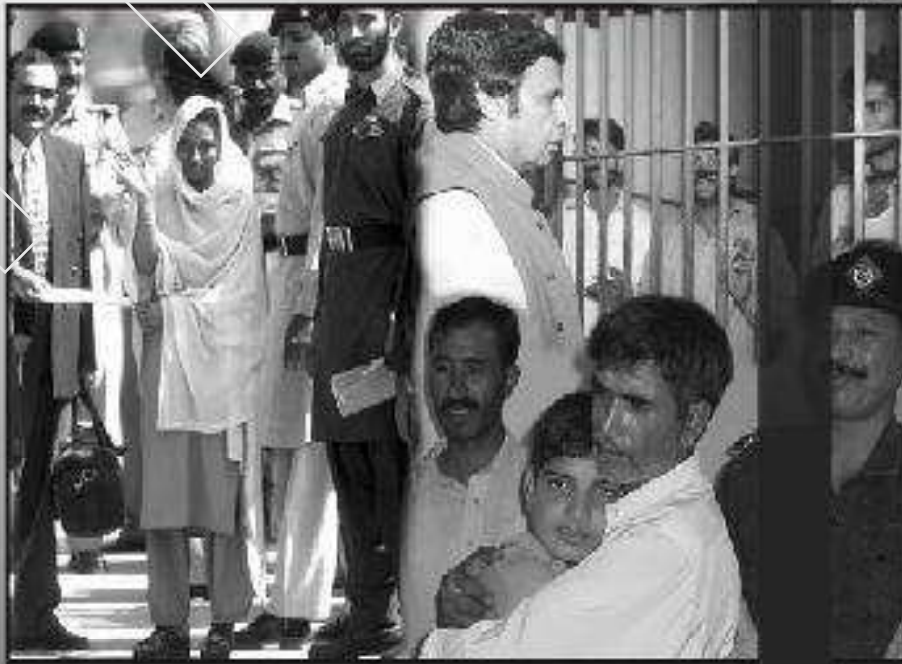
9. *All delays that add to the misery of convicts and under-trials – in hearings, announcement of judgment, production of detainees in courts, and issuance of bail warrants – need to be eliminated.*

10. *The accelerated increase in the death row population offers sufficient evidence to prove the failure of the theory that enhanced penalties deter serious crime. The need for a review of the entire death penalty regime is manifest. Abolition of the death penalty should now figure high on the national agenda.*

REPORT

State of Human Rights in 2003

II



Enforcement of law

Law and order

No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall be denied the right to consult and be defended by a legal practitioner of his choice.

Every person who is arrested and detained in custody shall be produced before a magistrate within a period of twenty-four hours of such arrest...

Constitution of Pakistan

Article 10(1) and (2)

The dignity of man and, subject to law, the privacy of home, shall be inviolable.

No person shall be subjected to torture for the purpose of extracting evidence.

Article 14(1) and (2)

Everyone has the right to life, liberty and security of person.

Universal Declaration of Human Rights

Article 3

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 5

Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

Article 11 (1)

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour or reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 12

Serious threats to security

Some of the biggest violations of the right to security were reported in 2003. These included: unauthorised disposal of nuclear secrets for money, three attempts on the life of President General Musharraf, and the slaying of over 50 innocent men in a single suicide bombing attack on a mosque. In a society faced with such high level criminal acts routine crime perhaps paled into insignificance.

Reports started appearing in the last quarter of the year indicating that security

arrangements for the nuclear assets had not been as foolproof as claimed. Then began what was described as de-briefing of some persons working for the Khan Research Laboratory, the principal centre responsible for developing nuclear weapons. A couple of them were obviously detained though detention was stoutly denied. The process of de-briefing continued into the new year. Those questioned included the KRL's chief, Dr. Abdul Qadeer Khan, widely acclaimed as the father of Pakistan's atomic bomb and credited in influential circles with having saved the country from aggression, and two former chiefs of the army.

The denouement, perhaps a part of it, in this sensational episode, came in the early weeks of 2004. Dr. Abdul Qadeer Khan appeared on TV to read out a statement in which he confessed to wrongdoing that was not fully explained and absolved the government of any involvement. President General Musharraf took personal charge of the case, announced pardon for Dr Abdul Qadeer (on the Cabinet's recommendation), lamented that some privileged Pakistanis had strayed into the international under-world, and assured the people that the country's nuclear assets were now in completely dependable hands.

The whole nation was traumatized not only by what it had been told but also by the manner of damage control. Apprehensions of what was to follow persisted till the time of writing. No satisfactory answers were available to serious questions about what was treated as privileged crime and whether all those responsible for landing the state into a difficulty of unfathomable magnitude had been netted. Many were intrigued by the absence of any reference to the wealth (undisclosed but believed to be huge) amassed by the wrongdoers and this in a country where scores were suffering in the clutches of the accountability process for what appeared in comparison to have been petty pilferage. The threat from possible proliferation and the rule of impunity caused serious anxiety. Worst of all, the society as a whole seemed to have been infected by a security virus to the extent that it lost the capacity for honest moral judgment.

Attacks on head of state

The first of the three plans to attack the head of the state was nipped in the bud. A terrorist outfit was identified for having planned an attempt on General Musharraf's life during his visit to Karachi. Those responsible were said to have been apprehended. The other two incidents were far more serious. Both occurred on the route followed for decades by the army chief for the drive from Islamabad to his residence at the Army House in Rawalpindi.

On December 14 a road bridge in Chaklala area blew up seconds after the President's car had crossed it. There was no doubt about the target, nor about the level of skills the planting of explosives under the bridge indicated. No harm to life took place.

Within a fortnight came the second attempt, and the most serious of all. Two suicide bombers drove their cars, full of explosives, into the Presidential motorcade. Sixteen people, including five security personnel, were blown to pieces. Speculation about those behind the act was superseded by agonising questions about their motives and strength and the consequences for the state structure and the people if the plan had succeeded. Unsettling thoughts about the stability of the superstructure continued into the new year.

One of the worst incidents of sectarian terrorism took place in Quetta in the

first week of July. A large number of people had gathered inside an Imambargah-mosque for Friday prayers. A suicide bomber huried grenades at the assembly. The death toll varied from 44 to 54 and many more were injured.

Sectarian terrorism

Apart from the massacre at the Quetta Imambargah-mosque mentioned above, in which over 50 people were killed, at least another 40 were killed in incidents that could be classified as sectarian terrorism.

A wagon carrying police trainees to their institution in Quetta was ambushed and 13 young men were killed. Nine people were killed in an attack on a Malir Imambargah in Karachi. In another incident in Karachi, six people were killed, four of them employees of SUPARCO and one a soldier. They were going in a van to join Friday prayers.

The other victims included a prayer leader in Gujrat, a keeper of an Imambargah in Lahore, an Ahl-i-Sunnat leader, a Quran teacher, a doctor, and a retired police officer --all in Karachi.

Several violent clashes between Sunnis and Ahl-i-Hadith, each side claiming to be purer Muslims than the other, were reported. In one of these, in New Karachi, a 13-year old boy lost his life.

Other religiously-motivated killings: Two men facing trial for blasphemy were killed – Prof. Mushtaq Ahmad in Lahore and Maulvi Sanaullah in Kasur (both were on bail). A senior advocate, Iqbal Ahmad, who was the district Ahmedi chief of Rajanpur was shot dead. Father George Ibrahim was shot dead in Okara. And a patron of Zikris was gunned down in Karachi.

A civil judge in Jhang was shot dead while he was travelling in his car. The assailants had been enraged by his remark that they considered derogatory to Hazrat Sultan Bahu at whose shrine the judge had supervised a ceremony. The three belonged to different parts of the province – one to Faisalabad, another to Gujranwala and the third to Vehari. They had come together in an organisation called Tanzeem-ul-Arifeen.

Abuse of belief: During the first half of the year some zealots went round imposing their version of morality on innocent citizens.

- ◆ In Gujranwala an attack on a circus was led by a member of the National Assembly. The tent was set on fire and furniture smashed. The spectators and entertainers both had to run for their lives. A case was reported to have been registered but apparently not pursued.

- ◆ 24 members of a religious party's youth force were booked in Multan for disfiguring hoardings bearing women's faces or figures. Similar incidents were reported from Peshawar and Lahore.

- ◆ Noted Pushto singer Gulzar Alam was the target of over-excited vigilantes, some in police uniform, in Peshawar. On one occasion his performance at a wedding ceremony inside a hotel was disrupted by policemen and in another case he was harassed at his house.

- ◆ On several occasions male students at the Punjab University campus were thrashed by some self-appointed enforcers of morality. They were supposed

to have sinned by talking to female students.

Other acts of terrorism

A number of other acts of terrorism were reported, mostly in the category of target-killing. Most of these appeared to have been politically motivated, such as the ongoing feud between the two MQM factions in Karachi which took a fairly heavy toll, while some could possibly be considered belief-related crimes.

The most notable of such incidents was the killing of MNA and Sipah-i-Sahaba (outlawed) chief Azam Tariq, along with his four companions in the overly policed federal capital. Another was the attack on the police picket at the US consulate in Karachi (three killed).

The killing of three civil judges and five prisoners in the Sialkot district jail could be described as terrorism by the trigger-happy police. The district judge and several civil judges were taken hostage by the prisoners. Before efforts at a peaceful settlement were exhausted the police resorted to firing.

Another significant incident of terrorism reported from Balochistan was the killing of a former DIG and two other policemen in an ambush near Sibi. *A victim of dacoity in Lahore put up a banner to save the dacoit the trouble of a fruitless visit. The protest in the message was probably not noticed.*

Besides, the gas pipelines regularly came under attack, rockets continued to fall over Kohju in Balochistan and at some places in FATA, and the Bugti-Mazari feud continued along the Punjab-Balochistan border and in Sindh too. (Finally, the federal government realised it was time to ask the Punjab government to declare D. G. Khan and Rajanpur as police areas, that is, to end their tribal status.)

Crime status quo

The crime situation in the country remained largely unchanged. The figures of crime were higher in certain categories and lower in some others. However, it could be said that the level of threat to life and liberty the ordinary citizen felt in the preceding years showed some decline though it did not disappear altogether.

Official sources disclosed the following crime statistics for the first ten months of the year (2002 figures in brackets):

	Punjab	Sindh	Frontier	Balochistan	Islamabad
All cases	209,054	36,874	74,281	4,949	2,325
Murder	4,165 (4,132)	1,840 (1,661)	1,871 (1,908)	177 (171)	67 (58)
Attempt to murder	5,123 (4,621)	1,573 (1,631)	2,076 (2,089)	198 (215)	97 (59)
Rape	1,633 (1,351)	219 (195)	131 (152)	60 (37)	NA —
Kidnapping	5,382 (4,621)	992 (881)	N.A.	49 (59)	11 (26)
Kidnapping for ransom	75 (61)	63 (85)	2 (3)	3 (6)	NA —
Rioting	125 (126)	—	27 (14)	207 (184)	2 (7)

Even these figures gave rise to some awkward questions. For instance, Punjab's share of recorded crime came to 70 per cent of the national total, much higher than its share of the population. The Frontier province reported twice as many cases as Sindh which had a larger population than it. For the people outside the police at least the rape figure (2,043) was still on the high side.

At the end of the year the provincial / district / city police chiefs issued statistics and appeared satisfied with their performance.

No report of their media briefings included any reference to theft of nuclear secrets or attempts on the life of the President or even the Quetta carnage. Bonded labour was not in their categories of crime (although use of bonded labour is a cognisable crime and its incidence was testified by court decisions). Nor would the police volunteer information about torture in custody, illegal detentions, and the number of abductees who regained freedom after paying ransom or the amount paid by them. Yet, even their accounts of success in maintaining law and order could give an idea of the enormous magnitude of crime.

For instance, the Punjab police account opened with an assertion that 1,008 criminal gangs had been busted in 2003 as against 516 in the preceding year (5,000 arrested against 3,147 in 2002). Whether this showed increased efficiency in breaking up gangs or a proliferation in their number, in either case the conclusion could not be sanguine.

Likewise, the Punjab police claimed to have arrested 36,000 proclaimed offenders. To ordinary citizens such a population of proclaimed outlaws may appear too high to be comfortable with. The Frontier account shed some light on the matter. It said 8,034 proclaimed offenders had been arrested during the year but 7,507 new names had been added to the roster.

References were also made to recovery of illicit arms. Punjab claimed to have dealt with 42,000 cases, arrested 41,900 people and the bag included 12 hand grenades, 400 klashnikovs, 4,000 rifles, 7,000 guns, 24,000 pistols, and 4,200 carbines. Even this haul can give an idea of the arms glut.

The number of crimes registered by the police, and they still do not compile a complete record of violations of law and order and their classification of offences is quite flawed, is not the only measure to judge the law and order situation. The nature of crimes and the motives of their perpetrators also matter.

Import of goods on the strength of credit card slips stolen from a hotel was described as the first cyber crime detected in the country. Two persons were arrested and goods worth Rs. 300,000 recovered. They were sent up to a special banking court for trial.

Crime in Karachi

Karachi retained its status as the main killing field in the country. Statistics compiled by the local HRCP office showed the following pattern:

Killed by sniper-fire	=	110
Killed by dacoits	=	88
Dead bodies found	=	95

MQM casualties (both factions)	=	49
Sectarian killings	=	22
Suicides (women)	=	138
Suicides (men)	=	62
Deaths by burning	=	51
LEA personnel killed	=	25

Southern Punjab pattern

As in the previous year, the HRCF Multan Task Force compiled disaggregated data on crime in the southern Punjab districts (former Multan, D. G. Khan and Bahawalpur divisions). [Figures for 2002 are in brackets.]

Women killed in family disputes 111 (100)

Honour killings 153 (123) [Women – 99 (89), Men – 54 (34)]

Rape and molestation of women 533 (440)

Women abducted 621 (563)

Children kidnapped 173 (92) [Boys 103, girls 70] [Boys 60, girls 32]

Murder children 63 (31) [Boys 39, girls 24] [Boys 19, girls 12]

Sexual abuse 189 (142)
(children) [Boys 128, girls 61] [Boys 76, girls 66]

Killed after abuse 12 (2)

Victims of acid throwing 70 (58) [Men 26, women 30, children 14]
[Men 17, women 31, children 10]

Suicides 136 (153) [Men 85, women 51] [Men 99, women 54]

Pattern in Sindh

The data on selected crimes involving women in Sindh, collected from newspaper reports by the HRCF Special Task Force at Hyderabad, showed the following pattern:

Honour killings:

Karo kari: Incidents 347; Number killed – 398

(Women killed 243), (Men 148), (Minors 7)

Rape

Incidents 288; Number of victims – 312

(gangrape incidents – 90, rape – 163)

Women victims – 105; Men – 24, Minors – 79, attempt to rape – 104

Suicides

Women: Incidents 499, deaths – 257; failed bids – 261

Men: Incidents 1,010; deaths – 595; failed — 452

Suspected terrorists

The campaign against those suspected of any association with Al-Qaeda or Taliban, Pakistanis as well as aliens and all treated as criminals, continued throughout 2003. The peak was reached in the last quarter of the year when the army launched an operation in Waziristan. Five suspects and two soldiers were killed.

The biggest catch was Khalid Mohammad, described as a top Al-Qaeda planner, whose arrest was hailed as a “fantastic” achievement by the US President. He was promptly handed over to the United States.

The scores of suspects taken into custody were found in all parts of the country – Jahanian (near Multan), Faisalabad, Rawalpindi, Wana, Swat, Gujrat, Quetta, Peshawar and Lahore. The largest concentration was, however, found in Karachi. The aliens included Arabs (the term used for Egyptians, Yemenis, Algerians et al), Malaysians, Indonesians, Afghans and an Australian.

Crimes against women

The pattern of crimes against women, as revealed in media reports and the data collected by NGOs including HRCP, was as follows:

- ◆ Sale: Two incidents of sale of women led to sensational court cases.
- ◆ Swara / vani: Three cases of giving away of girls in settlement of murder cases were reported.
- ◆ Murder: HRCP record shows that 424 women (60 minor girls) were murdered in Punjab alone during the first eight months of the year.
- ◆ Honour killing / karo-kari: The data available at HRCP showed that the practices of killing for honour and karo-kari claimed 570 lives in Sindh and Punjab – 398 in Sindh (243 women, 148 men, and 7 minors) and 172 in Punjab (143 women, 13 men, and 16 minors).
- ◆ Rape: Police accounts admitted over 2,000 cases of rape.
- ◆ Stripping: At least 40 women were reported to have been stripped and paraded naked.
- ◆ Burning by acid: 70 cases were reported in Punjab alone.
- ◆ Harassment: Most of the cases of harassment at workplace went unreported. A study on 200 working women in Karachi revealed 93 p.c. of them had faced harassment in some form.
- ◆ Overall violence: Till August, 4,723 cases of violence against women had been reported. *[See also the Chapter on women].*

Crimes against children

Crimes against children were generally covered in aggregate figures of victims. Some significant findings included:

- ◆ Murder: 623 children were reported murdered.
- ◆ Abduction: 111 children were reported abducted till the end of August. 18 were killed after abduction.
- ◆ Sexual abuse: Over 800 cases of sexual abuse were reported; 208 of

them during the first eight months; the victims included 114 girls and 94 boys. *[See also the Chapter on children]*

Human trafficking

Several thousand Pakistanis were deported from Sri Lanka, UAE, Oman and Saudi Arabia during the year, and Sri Lanka threatened to end the visa-on-arrival facility to Pakistan passport-holders. The deportees fell into two categories – those who had gone abroad on valid documents and had overstayed the period allowed and those who had travelled on forged papers. This awakened the authorities to the existence of organised groups engaged in trafficking of humans. Several gangs were uncovered.

Kidnapping

A correct estimate of incidents of kidnapping, for ransom or otherwise, has never been possible as a number of people prefer to negotiate their release without informing the police or the media. Significantly, the criminals in Punjab showed a greater propensity than their counterparts in other provinces for killing their victims and for targetting children. HRCP noted 165 incidents (263 people). Some of the glaring instances:

- ◆ One Yusuf Ali and his son, Ismail Yusuf, were kidnapped in Peshawar (Ring Road). Yusuf was freed, apparently to arrange for ransom for his son.
- ◆ A Chakwal civil judge-cum-judicial magistrate was kidnapped on the motorway in January. He was able to gain freedom after four hours only.
- ◆ Two abductees were released in the Sui area in January. They had been abducted in October 2002. They were said to have paid Rs. 200,000 as ransom money.
- ◆ A Lahore trader, Azeem Ahmad (30), had been kidnapped on December 3, 2002. His dead body was found in the first week of January. No bargain with the culprits was apparently possible. Their demand was Rs. six million.
- ◆ A young student, Zeeshan Zafar, was kidnapped in Gujranwala and five million rupees were demanded as ransom. He was soon recovered.
- ◆ A six-year old child, Bahauddin, was kidnapped and Rs. one million was demanded in ransom. No deal was possible. The victim's dead body was recovered from a canal.
- ◆ DSP Rana Tahir of Rojhan was kidnapped by tribals along with four other policemen. For some mysterious reason he was released soon afterwards. He had to walk for 11 hours before reaching his headquarters.
- ◆ Rano Kohli, who was abducted in Hyderabad, was found too poor to meet any of the kidnapers' demands. He was tortured and cast away.
- ◆ Wasim (18) of Naikpura, Sialkot, was killed four days after being kidnapped. The ransom demand was said to be Rs. 1.8 million.
- ◆ Rana Arshad, a former LHC judge, and his son, Bilal, were held by their kidnapers for four hours.
- ◆ A Lahore Township trader, Zafar Rashid, alleged he had been kidnapped by an official agency. He was asked to pay Rs. 40,000 but he paid only Rs. 20,000 and was free.
- ◆ The Gujranwala police recovered three children – Maria (8), Shahryar

(6) and Waqar (4). They had been kidnapped from Karachi by an uncle.

- ◆ A four-year-old boy, Tauqeer, was killed by his kidnappers when their demand for Rs. 2.5 million as ransom could not be met.
- ◆ Abdul Sattar, head of a contractors' association was kidnapped from Badaber (Frontier). He was believed to have won freedom after paying Rs. 3.2 million as ransom money.
- ◆ Abbas Barkat Ali, a retired bank officer, was kidnapped from Ferozabad area in Karachi. His dead body was recovered. Ransom demand was Rs. three million.
- ◆ Greater was the ransom demand (Rs. four million) for the release of a medical practitioner, Dr Binyamin, who was kidnapped in Mansehra.
- ◆ Three PTCL employees were kidnapped from Khairpur area in May.
- ◆ Four employees of the Irrigation department, including an engineer, were kidnapped in Sukkur. They were lucky to be released after three days.
- ◆ A student, Hasnain, was kidnapped after sexual abuse in Gujranwala. He was recovered soon afterwards.
- ◆ A travel agency owner in Lahore, Mohammad Wasif, was murdered a few hours after being kidnapped.
- ◆ In Sukkur, three persons were released when their kidnappers lost out in an encounter with the police.
- ◆ A well-publicised criminal outfit, called the Bosan Gang, kidnapped five shopkeepers in Jampur area. Four of them offered no prospect of gain and were released. For releasing the fifth one, one million rupees were demanded.
- ◆ The wife and two children of a police inspector were reportedly kidnapped in Lahore.
- ◆ An employee of the Shell company who was kidnapped in April could win freedom only after more than three months.
- ◆ A Gujranwala trader, Mohammad Ilyas, was killed by his kidnappers in July. Another abductee was killed in August.
- ◆ Three children were kidnapped in Islamabad in September. Ransom demand was Rs. five million.
- ◆ Two abductees, Naveed and Shahid, were killed in Lahore in September.
- ◆ A Faisalabad trader, Saqib, was killed by his kidnappers.

Tribal feuds

Despite the claims that a good number of tribal feuds had been resolved by jirgas presided over by high dignitaries, clashes between tribes and intra-tribe factions took a heavy toll of life during the year. According to the record at HRCP 101 people were killed.

The most serious incident was described in the media as the Kashmore massacre in which 15 people were killed and eight were taken hostage. Of the 32 incidents, five were reported from Balochistan, two from Frontier and the rest

(25) from Sindh. The largest number of clashes took place in Sukkur district with Jacobabad a close second.

Blasts

Blasts and explosions of different nature continued with unsettling regularity. HRCP recorded 45 incidents that claimed an equal number of lives.

The most serious incident took place at the Sialkot dry port where 18 people were killed when crates full of explosive devices, presumably imported for entertainment, exploded in February.

The casualties in such incidents included many children: a 9th class student was killed when a toy bomb exploded in Kohat, two children in Mohmand Agency (they were playing with a shell), a 9-year-old boy in Okara (he was one of four children who went to play where the military defused shells), and one in Raiwind (toy bomb). One child in Fort Abbas had his hands blown off.

Three explosions took place in passenger buses (two in Hyderabad and one in Karachi). Nobody was killed though a score of people were hurt.

The explosions occurred across the country and the places not mentioned above included: Sibi, Rajanpur, Quetta, Gujranwala, Rawalpindi, Peshawar, Miranshah, North Waziristan, Jhang, D. I. Khan, Rojhan Jamali, Swabi, Jacobabad, Kohlu, and Parachinar.

Landmines: Landmines, too, claimed at least 30 lives according to press reports. Incidents were reported from Cholistan, Sialkot, Jacobabad, Bajaur, Shakargarh, Quetta, Rajanpur, Loralai, Khairpur, Sukkur, and Kashmore. The largest number of incidents occurred in the Sialkot-Shakargarh-Narowal sector. Those killed included farmers, Rangers and a member of a UAE sheikh's retinue.

Gruesome crime

- ◆ In a family dispute a man strangled his brother, his wife and daughters (aged 4 and five)

- ◆ A village girl, Khadija, in Bahawalnagar area married a young man of her choice, Afzal, in July 2001. Her father got an abduction case registered against Afzal, his brother Akmal and father Idrees. The case was being heard by the ADSJ, Arifwala. In March 2003, the respondents were going in a bus to attend the court. They were dragged out of the vehicle at Kabula on the GT Road by about a dozen armed men. The assailants chopped off the noses, lips and genitals of Afzal while Akmal and Idrees had their noses and lips chopped off. The story was told by the DIG Police, Bahawalpur Range.

- ◆ A woman in Toba Tek Singh was continuously tormented by her in-laws and so was her sister who had come to live with her. They decided they had had enough and killed five members of the hated family.

Two eyes for one: Two groups in a Kabirwala village near Multan who have been feuding over a piece of land only attack the rivals' eyes. They have had three rounds already. The sequence began when 'B' group gouged out the eyes of a man belonging to the 'A' group. The A group retaliated after some time by depriving two men of B group of their eyes. In May 2003, B group gouged out

the eyes of three brothers from the 'A' group.

Acid on all of you: A landlord in village Mubarakpur (Bahawalpur) had a quarrel with his brother. He walked over to the latter's house and poured acid on him and members of his family -- man, wife, four daughters (5, 8, 15 and six months) and two sons (7 and 10). Some of the victims received serious burns.

Carnage in Lahore: Eight persons were butchered (October) in the house of a former film artist, Nagina. Besides her the victims included her sister, a daughter, two grandsons, a driver, a maid and a film director.

Highway crime

Reports of highway crime in the newspapers as well as from other sources remained sketchy. It was difficult to get authentic estimates of number of incidents, the nature of offences and the amount of loss. Some of the incidents noted during the year were:

- ◆ Two cases of robbery on trains were reported – one on the Okara Express and the other on Tezgam (near Rohri).
- ◆ Bus and wagon passengers were looted near Khanqah Dogran (Sheikhupura), on Gujrat-Sargodha road, Sahiwal-Lahore road, Chakwal-Khushab road, near Multan on the National Highway, at Rohri, Nowshehra, near Hangu, on Lahore-Faisalabad road, at Naushehro Feroz, in Lakki Marwat and on the Islamabad-Sargodha section of the motorway. In the Hangu incident three persons were killed and one was killed at Naushehro Feroz.

Conduct of law-enforcing agencies

Considerable confusion was noticed in the working of law-enforcing agencies because of non-enforcement of the new police law. Originally it was scheduled to be implemented by September 30. The date was extended to the last day of the year and eventually to May 2004. The reasons for this delay were said to include the reservations of the provincial governments on some of the provisions of the law, objections raised by members of the district management group in bureaucracy, and lack of understanding between the elected local government authorities and the police functionaries at the district level. Much of this was not unexpected as the new police law was issued as an executive order in 2002 and was not backed by consensus among the stake-holders.

For instance, the enhancement of police powers in the new law and the elimination of the protection against police excesses offered by district magistrates had often been justified by referring to the watchdog functions of public safety commissions. The proposed National Public Safety Commission did not materialise and one heard of the formation of only one provincial commission, of its creation only (in the Frontier province). That province was also reported to have established such commissions in all its districts. An indication of progress in this area came only in the last month of the year when a coordinating committee of district commissions held a convention and all the 70 commissions represented there threatened to resign if the police law was not implemented by the 31st of December.

Also not fully implemented was the proposal to create an Independent

Prosecution Service (IPS) in each province. There was an extended wrangle within provincial governments as to which department was to control the IPS. The first decision in this regard, that the IPS was to be allotted to the Home Departments, caused much bewilderment in informed circles as this seemed to negate the idea of freeing the prosecution branch of police control, although with the elevation of provincial police chiefs as secretaries to provincial governments their ability to treat home secretaries on equal terms was manifest. Eventually the decision was altered and the IPS was to be nursed by Law Departments.

Confusion was also noticed in areas in which the police law was implemented, such as the bifurcation of the police force into operation and investigation wings. The investigation cells were not supposed to operate from police stations occupied by the operation wing. But the division of police stations was not possible everywhere and at many places both wings functioned at the traditional police stations and more or less in the traditional manner. Complaints continued to be received that one wing's personnel were assuming the functions of the other wing. Another complaint was that the officials responsible only for registering cases were mindlessly adding to the task of the investigation branch.

The one provision of the new law that appeared to have been largely implemented was the power of district courts of sessions to initiate punitive action against infractions by the police. They intervened in many cases of extra-legal killing, illegal detention and other forms of wrong-doing (non-registration of cases, departure from the due process for monetary or other considerations, arbitrary application of the Penal Code provisions, etc.) The provincial police chiefs also raised the frequency of their warnings to their forces against deviations from the law. They also showed somewhat greater interest in ordering inquiries into incidents of police excesses reported in the media or by the aggrieved parties.

Illegal detention

The recovery of no less than 224 people from illegal detention – 147 in Punjab and 77 in Sindh – was reported in newspapers. They included six women. The largest number of recoveries in any district was in Lahore (46) while the largest number of illegal detainees found at one police centre was 17 in Khairpur.

In four cases the detainees were recovered from private torture cells operated by the police.

In one case, 15 detainees were found at a police centre in Kangangpur, Kasur district, by an ADIG who had been directed by the Punjab police chief to visit the place on receiving a complaint. Since there was no case on record against them, they were all released. In another case it was the Sindh Adviser (de facto Home Minister) who found 12 persons illegally detained at a lock-up in Thatta district.

Intervention by the high courts of Lahore and Sindh was reported only in seven cases, when the detainees were held by extraordinarily stubborn officials. In all other cases action was taken by the newly empowered District and Sessions Judges. Almost in all cases they exercised the powers granted under the Police

Order to proceed against the police officers found to be abusing their authority.

Police win: The Sindh Ombudsman was, however, less successful in monitoring deviations from the law at police centres. He constituted a committee to visit police centres to check whether any person was being detained illegally or whether the citizens had any other complaints. The provincial police chief was greatly annoyed and appealed to the Governor on the ground that a monitoring / supervisory body had been named in the new police law and therefore the Ombudsman's interference was unjustified. The Governor stayed the operation of the Ombudsman's order. The latter, however, issued a new order and claimed that it validly held the field. No report of action under it was received.

Extra-legal killings

Encounter killings

According to the data available at HRCP there was a slight decline in the number of so-called encounters – 146 (as against 154 in 2002) in which 195 people excluding policemen were killed. The largest number of incidents was reported from Punjab including Islamabad (113 encounters, 82 killed), followed by Sindh (46 incidents, 40 killed), Frontier (33 encounters, 22 killed), and Balochistan (three incidents, two killed). City-wise, Karachi led the field with 31 encounters and 24 killed, followed by Lahore (14 incidents, 13 killed). One reason for high figures of encounters in the two largest cities of the country, the population factor apart, could be better media coverage than in the countryside. Almost invariably, the police claimed to have opened fire in self-defence. A sample:

- ◆ Noor Khan (from Peshawar) was killed in Gulshan-i-Iqbal, Karachi, when police opened fire at him and his companion (who escaped). They were seen following a woman as she came out of a money-changer's shop. The police said the suspects started firing first.

- ◆ Saud alias Sooda, described as a proclaimed offender, was killed in a village in Gujrat district. The police said information had been received that the wanted man was in a house in the village. When a police party approached the house it came under fire and three policemen were hurt. Reinforcement was ordered and the locality was besieged. Exchange of fire for two hours resulted in Saud's death while his companions escaped.

- ◆ A man was killed in Lahore. Police noticed four suspects on Birdwood Road. The latter started firing and an ASI was hurt. In the exchange of firing that ensued, one suspect was killed while the other three escaped. No explanation was available as to what they had been suspected of.

- ◆ Rashid, described as a PO, was killed in Shakargarh. An ASI was reported to have noticed two suspects who started firing. The police returned fire. The other suspect was arrested.

- ◆ Mehdi, described as a PO, was killed in Sarai Alamgir. He was suspected of involvement with former minister Farooq's murder. The police cordoned off the village where Mehdi was reported to be present. There was an exchange of

fire. Mehdi's seven companions fled away.

- ◆ Nawaz alias Nawazy, who was reported to have been wanted in five cases, was killed in an encounter in Badaber.

- ◆ Ashfaq, identified as an outlaw, was killed in Ahmadnagar, Gujranwala district. A police party raided a house to ferret out the criminal. It withdrew under fire. Another police party arrived and it besieged the village and the outlaw fell in the crossfire.

- ◆ Five dacoits and an SHO were killed when the police cordoned off a village in Faisalabad district and an exchange of firing ensued.

- ◆ Two men, alleged to be dacoits, were killed (and an SHO injured) when they tried to run away in a car they had snatched from an MNA.

- ◆ Five robbers killed a man who offered resistance in a village in Faisalabad district. They were pursued by a police party. In the gun battle that ensued two criminals were killed while three escaped.

- ◆ In village Binda Sandela (Multan district) the police followed three highwaymen who had snatched a motor-bike. One of the robbers was killed in the shootout. The other two escaped.

- ◆ Tanvir (25) was killed in an encounter in Karachi (Baghdadi police station) in similar circumstances. He was one of the three suspected robbers. The other two escaped.

- ◆ Imtiaz, Tasawwur and Sajjad were killed in an encounter in Gujranwala district. They were believed (by the police) to be responsible for killing a sub-inspector of police and a constable.

- ◆ Mohammad Hanif was killed in Karachi (Korangi Town) while his companion was arrested. They had been pursued after they had snatched a motor-bike.

- ◆ Three alleged dacoits were said to have hid themselves in a field in village Alif Mirbahar (Shikarpur district). When the police challenged them a gunbattle ensued. Two of them (Gul and Lal) were killed while the third (Punhal) was hurt and arrested.

- ◆ In an encounter in D. G. Khan, the gunman of Rajanpur DPO was killed and a DSP hurt.

- ◆ A dacoit was reported killed in an encounter in Samundri, Faisalabad district.

- ◆ A young man who had been earning his living abroad and was visiting his family in Lahore's Township was killed in circumstances that made claim of encounter impossible. His only crime was failure to notice a policeman's signal to stop his car.

Death in custody

The cases of death in custody reported in newspapers during 2003 indicated a greater effort by the police to rush their victims to hospitals in a critical condition. Most of them were taken into custody for minor offences and such detainees are as a rule soundly thrashed. Many of them were quite young who are usually tortured for long hours in the belief that they can take it. The number of cases in which suicide was pleaded declined. Action was ordered against a number of

policemen but there was little interest in follow-up. As usual, deaths in custody were reported from all parts of the country except Balochistan.

- ◆ Two persons, Ashiq and Liaquat, were arrested by the Toba Tek Singh police for murder but Liaquat's arrest was not recorded. During interrogation his condition deteriorated to an extent that he was taken to the Gujranwala district hospital where he died.

- ◆ Saleem died in p.s. Landhi, in Karachi, apparently as a result of torture. A probe was ordered.

- ◆ Mohammad Yaqub Arain was detained at p.s. A-Section in Sukkur. After three days of interrogation he was taken to hospital and he died soon afterwards.

- ◆ Rehmat Masih was detained by the Lahore police and tortured. Died in hospital. His family and community protested vigorously.

- ◆ Also in Lahore, Saleem died while in the custody of Hajipura police. The SHO and three constables were suspected.

- ◆ Ghulam Abbas died in a police post in Jhang. He was hung upside down and tortured longer than he could bear.

- ◆ Aslam Javed died in the custody of Faisalabad police.

- ◆ Ghulam Haider was arrested by the Nawabshah police (B-Section) for vagrancy. After receiving traditional treatment at the hands of the police he was shifted to a hospital to die there.

- ◆ Mohammad Azam was held by the Lahore police (p.s. Baghbanpura) for possessing *charas*. Was found dead the next morning.

- ◆ Toohal Khan was arrested by Khairpur Nathan Shah police in Dadu district. Did not survive.

- ◆ Mohammad Husain was caught by private citizens for theft in Faisalabad and handed over to the Gulfishan Colony police. He was taken to hospital in a precarious condition and died there. The police said he had been severely beaten up by the people who had caught him.

- ◆ Allah Dino died in the custody of Larkana police (p.s. Dost Ali). A large number of people demonstrated in protest.

- ◆ Mukhtar Husain died in the custody of Jalalpur Pirwaala police (Multan district).

- ◆ Ejaz was arrested by Toba Tek Singh (Saddar) police on the charge of stealing a car and died in their custody. The police said he had committed suicide. The DSJ ordered a judicial inquiry.

- ◆ Qaiser was arrested by the Lahore police (Gulshan-i-Ravi) and tortured. When his condition deteriorated he was handed over to his family (allegedly after receiving bribe). He died in a hospital. A case against three policemen was registered.

- ◆ Haji Faiz died in the custody of Lahore police (Green Town).

- ◆ Gul Zada, who was detained by the Gujar Khan police, needed hospitalisation. The SHO was suspended.

- ◆ Mohammad Ashraf died in the custody of the Dina police (Jhelum district). The Chief Minister took notice of public protest. The provincial police chief

ordered the arrest of an SHO and an ASI.

- ◆ Afzal, described as a proclaimed offender, was held by the Gujranwala police (p.s. Aroop) and eventually taken to hospital where he died.
- ◆ Mohammad Kaleem Rajput was arrested by the Badin police (Tando Bago) on a charge of theft. Died in hospital.
- ◆ Zafar died in the custody of the Rawalpindi police. An SHO and several other policemen were arrested.
- ◆ Qamar Hayat died in the custody of Faisalabad police (Chak Jhumra). The police said he committed suicide.
- ◆ A woman died in the custody of the Karachi police that said she committed suicide by striking her head against the prison bars.
- ◆ Two brothers surrendered themselves to the police in Kohat and met with death. Three policemen were booked.
- ◆ The staff of p.s. Faqirabad in Peshawar was accused of thrashing a detainee in the lock-up till he died. Three policemen were arrested.
- ◆ Three policemen at p.s. Tharinda M. Panah in Bahawalpur were charged with murder for beating a suspect to death.
- ◆ A woman was killed when her house was raided by the Gujranwala police. An inspector and three other policemen were arrested.

Torture

Newspapers reported a large number of instances of torture by law-enforcing agencies throughout the year and across the country. The most common form of torture was detention without cause or torture to extort bribe or confession but it could include the rape of a girl after recovering her from her kidnappers (as happened in Karachi).

The most glaring example of systemic torture was reported from Okara region where a large community of tenants was subjected to torture by the Rangers, who were apparently accountable to no one. Families resisting cancellation of their tenancy rights were deprived of water, electricity, medical supplies and contacts with the world outside. Their leaders were held on trumped-up charges and human rights activists wishing to probe their plight were threatened with trial under anti-terrorism law.

A notable victim of brutal torture was Punjab MPA Sanauallah who was punished for his speech. He was picked up by plainclothesmen and assaulted. His head and moustaches were shaved and an example made for dissidents.

One did not have to do something drastic to render oneself liable to torture, as 20-year-old Shahzad Ali of Lahore discovered. He had protested against an FIA official's insistence on parking his car in a narrow street. During the exchange of hot words, Shahzad and his young friends deflated the car tyres. Sensing the ugly turn of events some neighbours called the police who took Shahzad to a police station and thrashed him. He was released but had to be taken to hospital. After an inquiry the city police chief ordered the arrest of four FIA men.

- ◆ Three detainees – Ghaus Bux, Rahim Bux, and Abdul Latif – were reported

Compromise on torture

An Afghan refugee, Amanullah, was arrested allegedly on a false accusation by the Chamkani (near Peshawar) police and tortured. The District Judge hearing a habeas corpus petition for his release ordered his medical examination. Severe torture in custody was confirmed. The police tried to protect itself by recording the detainee's arrest for theft after the filing of the petition for his release.

The court directed the SSP to register a case against the Chamkani SHO and an ASI as they had committed an offence under the Penal Code.

It is said that the police put pressure on the victim and his father, Gula Jan, to withdraw the case from the court and also tried to implicate them in false cases. When these tactics failed they persuaded the two victims to accept Rs. 30,000 as compensation for torture and drop the matter.

The District Judge then directed the police not to register an FIR against the culprits as they had entered into a compromise with the victims.

to have tried to commit suicide by banging their heads against the iron bars of the lock-up gate at p.s. Sakrand. Police torture had made them desperate, they said.

- ◆ The Rawalpindi police had three absconding policemen caught in Jamrud. They were among the nine police officials, including an SHO, who had been booked for murder for killing a 19-year-old young man in custody at p.s. Civil Lines.

- ◆ A case against the SHO and others of p.s. Nawan Lahore, in Toba Tek Singh district, was registered on the orders of a magistrate. They were accused of illegally arresting and torturing a college lecturer, his father and brother.

- ◆ The Narang Mandi (Sheikhupura district) police arrested three men who were described as members of a notorious gang of dacoits and made a demonstration of beating them along several kilometres of Narowal-Muridke road. Garlands of shoes were hung around their necks, and they were forced to bark like dogs and abuse themselves in filthy language.

- ◆ The Peshawar police raided a wedding function at a hotel, arrested well-known Pushtu singer Gulzar Alam and musicians and tortured him at p.s. East Cantonment. Subsequently his house was raided to torture him further.

- ◆ The Kamoke police (Sheikhupura) was accused of raiding a madressa and subjecting teachers and students there to violence and harassment.

- ◆ The Garh Maharaja police (Jhang) dragged 16 traders from their shops, forced them to lie on their bellies on the road, and lashed their backs. They said

Extended torture

Fazal Karim was arrested in Karachi on May 14, 2002 in the course of a round-up of people suspected of involvement in Daniel Pearl's brutal murder. However, he was not accused of any offence and was detained without charge for 11 months at p.s. Banu, near Thatta. His family petitioned the Sindh High Court and the court of sessions. After several failed missions by bailiffs, he was found detained without any record by civil judge Faiz Mohammed Bhatti posted at Mirpur Bathoro. He asked the SHO concerned to release the detainee forthwith. The order was not complied with. An order to produce the detainee in court was countered with a request to give him in police custody. The court allowed judicial custody for five days. The police made a dash to the sessions court in Thatta, arriving there at 5 p.m. – after normal court time. The district judge was told the detainee had been arrested a day earlier for keeping five kilograms of *hashish* in his brief-case. Remand was obtained. The case then dropped out of news.

The detainee made no secret of his jihadi connections. He said his name was Imran alias Fazal, resident of Hyderabad but belonging to Rahim Yar Khan. He admitted that he had spent eight years in Afghanistan and had met Taliban and Al-Qaeda leaders. These confessions obviously provided grounds strong enough to deny him the right to due process.

that the victims were dealing in obscene videos.

- ◆ The LHC took notice of a woman's complaint that her husband had been tortured at Lahore's Civil Lines police station. One of his legs was broken, she alleged. A case against a DSP and three other officials was ordered.
- ◆ A sub-inspector and a Lance Naik of the Anti-Dacoity and Robbery Cell at Hyderabad were arrested for torturing a detainee, Dur Mohammad.
- ◆ The police from p.s. Tipu Sultan in Karachi broke into the house of Nasir Muzaffar. Before his efforts to contact his lawyer and the police centre could bear fruit he was taken to the police station and tortured.
- ◆ The LHC asked the Lahore SSP (Investigation) to explain why no action had been taken against the SHO of p.s. South Cantt for running a private torture cell from where a court bailiff had recovered an illegally detained person.
- ◆ A man and his wife were beaten up in FIA's airport cell in Lahore.
- ◆ In Muridke, a 70-year-old man and three young men were forced out of a wagon, disrobed and beaten up in the street. The old man was accused of passing off spurious currency and the younger ones of teasing girls.
- ◆ Every detainee held at a private investigation cell was tortured. Two

detainees were recovered in a month from such cells in Lahore – one maintained by the Batapur police and the other in Model Town.

Public protests / riots

A large number of public demonstrations in protest against crime and police excesses were staged across the country. On many occasions the demonstrators vented their anger by attacking / burning vehicles and clashed with the police. The latter's ability to deal with crowds in a peaceful manner showed little improvement and the tendency to treat each demonstration as a riot was much in evidence.

Most of the demonstrations took place in Karachi. The provocation was long periods of breakdown in power supply, shortage of water or incidents such as the Quetta massacre, the assassination of Maulana Azam Tariq or Dr Ibn-i-Hasan or the killing of activists belonging to one MQM faction or the other.

The demonstration that was quelled with the use of more excessive force than anywhere else took place in Donga Bonga, in Bahawalnagar area. Four persons fell to police bullets



A victim of dacoity in Lahore put up a banner to save the dacoits the trouble of a fruitless visit. The protest in the message was probably not noticed.

Elsewhere, the most serious demonstrations

were held in Islamabad (against Maulana Azam Tariq's murder, one protester was killed), at village Thikrianwala in Faisalabad district (25 people were hurt and the police booked 100 protesters on the charge of terrorism; eventually the case was dropped), and at Mardan (JUI-F supporters who were protesting against Maulana Tariq's assassination were subjected to lathi-charge). Action was taken against officers of Mardan police.

Other protest demonstrations noted were at: Sukkur (to demand recovery of abductees); Faisalabad (against the beating up of a rickshaw driver); Dokri in Larkana (against murders); Gujrat (against failure of the police to check crime); Sialkot (against murder); Kot Diji (against the police); Rawalpindi (against sectarian killings); Sukkur (against police); Khanpur (against murder); Lalamusa (against dacoities); Sukkur (murder of a union council naib-nazim); Quetta (against murder); Islamabad (traders' hartal against dacoity); Shabqadar (kidnapping); Shakargarh (trader's kidnapping); Karachi (disruption of power); Karachi (doctor's murder); Dadu (abduction); Faisalabad (dacoity and murder); Sanghar

(child's abduction and murder); and Mauripur in Karachi (sectarian killing).

A police report on riots

The police sometimes described public protests as riots. For instance, a departmental report quoted in the press said rioting was on the increase in Karachi and mentioned water and power shortage and disputes over possession of mosques as the main causes.

According to this report, there had been 420 incidents of rioting in the city during the first eight months of the year as against 328 incidents during the corresponding period in 2002 (total for the year was 468). 79 riots were said to have taken place in August alone. Some examples of rioting:

- ◆ During the demonstrations against the murder of Dr Ibne Hasan a number of vehicles were burnt and property attacked.
- ◆ 95 per cent of the riots were caused by water shortage and power breakdowns.
- ◆ *Sunni Tehrik and Ahl-i-Hadiih (or Deobandi)* were fighting for control over mosques. At least 29 mosques had been declared disputed by the authorities.
- ◆ The report conceded that demonstrations organised by political parties (against invasion of Iraq, the Thar Canal, the LFO) remained peaceful.
- ◆ *Lack of civic facilities:* Another report for the entire Sindh province for the first half of the year noted 2,424 demonstrations in the urban centres. The main cause was lack of civic facilities. The civic agencies, especially in Karachi, Hyderabad and Sukkur, were advised to do more to solve the basic problems of the population.

Accountability

Some progress towards holding the law-enforcing personnel accountable for transgressions was noted during the year. To a great extent this was due to decisions by district judges to exercise their powers under the new police law and order action against the offenders. Senior police officers also showed a greater interest in going for culprits in the force.

Sentenced to death

Two police officials – former SHO Rana Umar Yunus and ASI Noor Mohammad – were sentenced to death by a court of sessions in Vehari (Punjab) for torturing a detainee to death in 1997. According to the prosecution they had arrested Abdul Latif from his house and tortured him till he died. The victim's dead body had then been thrown into a canal. The case had been registered on the LHC (Multan) orders.

Generally, however, the process of prosecuting the police personnel for excesses, including causing death in custody or in fake encounters, was extremely slow. For instance, three policemen belonging to Hujra Muqim Shah (Punjab) were charged in 2003 with killing a man in a fake encounter three years after the event.

Trial, too, was subject to long delays. The case against former chief minister Shahbaz Sharif and others, and this one before an anti-terrorism court, for an

encounter killing in Lahore's Sabzazar Colony, continued throughout the year. At one stage the prosecution told the court that there was no possibility of proving Shahbaz Sharif's involvement with the crime. The court, however, continued issuing notices for his appearance.

Jirga preferred: No wonder the police officials preferred to submit themselves to the jirga whose verdict could be offered as proof of compounding of their offences. Two such cases were reported during the year. In one of these, a Larkana jirga imposed a fine of Rs. 700,000 on a DSP and two SHOs (under suspension) for killing a man. In the other case a constable was ordered to pay for a life taken by him at the standard rate – Rs. 300,000 per head.

Official figures: All provincial police forces claimed to have taken disciplinary action against a large number of their personnel. Punjab had the highest figure – heavy penalties imposed on 3,000 and light punishment on 17,000.

Recommendations

1. *The law-enforcing agencies need to be helped to appreciate a broader definition of crime. Their own excesses and actions outside the law, such as deaths in custody, unjustifiable encounters, torture, and illegal detentions should be treated as crimes in their surveys. Use of bonded labour should similarly be viewed as a crime.*

2. *The new police law lacks legitimate sanction and this deficiency will have to be removed through debate at recognised public forums. Till this happens effective monitoring of the police force's use of their enhanced powers must be guaranteed.*

3. *The actions taken against terrorist, sectarian and militant groups, though welcome, fall in the category of symptomatic treatment. Greater reliance must be placed on secularising the state's basic outlook and attacks on archaic social traditions that are rooted in feudalism, ignorance and poverty.*

4. *The Karachi report on riots underlines the fact that disorganised mobs pose a greater threat to law and order than agitation by political parties. The implication that greater space for political activity could help reduce mob violence cannot be refuted.*

5. *While the delegation of high court powers to district judges has produced welcome results at some places, it is necessary to ensure that each incident of extra-legal killing is probed by a judicial officer of the rank of ADSJ or higher. And reports of all such inquiries must be released to the public.*

6. *The law-enforcing agencies' biases against women, members of minority communities, the poor and socially under-privileged are quite deep-rooted. Their intensive training in international standards, particularly in matters related to detention, investigation of crime, torture, and use of force, ought to receive priority. Elimination of the protection offered by impunity will also deter the law-enforcing personnel from abuse of authority.*

7. *Women will continue to be a main target of criminals unless their social*

and economic rights and personal freedoms are guaranteed. In addition to abolishing laws and practices that discriminate against them, ways will have to be found to ensure social recognition of their equality of status with men.

8. Continuance of brutality and cruelty towards women in various forms, such as honour-killing, karo kari, swara and vani, has been helped by the support these practices receive from political leaders, administrators, the feudal elite and blind followers of tradition. All of them need to be sensitised to morality based on human rights norms.

9. The tendency to deny due process to anyone accused / suspected of being a terrorist needs to be strictly curbed.

10. The law-enforcing agencies cannot be allowed to shoot people whom they suspect of being criminals unless they can offer credible justification for their suspicion. They need to re-learn the lesson that their task is to establish the rule of law and not to undermine it.

11. Compilation of crime data and cases of infractions of law by any party still needs to be improved and made more scientific.

12. The deweaponisation campaigns seem to have lost their initial vigour. Law and order cannot be maintained unless illicit arms are eliminated and use of licensed weapons, including those issued to law-enforcing personnel, is efficiently monitored.

13. The factors contributing to the growth of the jirga system need to be seriously analysed and ways found to end all informal fora of justice.

14. Casualties caused by explosive devices, including landmines, cannot forever be dismissed as unavoidable. Loss of life or limb or property in such incidents should be accepted as violation of human rights. Special efforts need to be made to remove bombs from scrap piles and fields and manufacture / import / sale of fireworks strictly monitored. A campaign to remove landmines or at least to protect people living in or travelling through areas where they have been laid is overdue.

Jails and prisoners

No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall be denied the right to consult and be defended by a legal practitioner of his choice.

Every person who is arrested and detained in custody shall be produced before a magistrate within a period of twenty-four hours of such arrest.

Constitution of Pakistan

Article 10(1) and (2)

The dignity of man and, subject to law, the privacy of home, shall be inviolable.

No person shall be subjected to torture for the purpose of extracting evidence.

Article 14(1) and (2)

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Universal Declaration of Human Rights

Article 5

Everyone has the right to recognition everywhere as a person before the law.

Article 6

No one shall be subjected to arbitrary arrest, detention or exile.

Article 8

With the policy of disallowing visits to jails by NGO activists, lawyers, journalists and other interested citizens continuing into 2003, conditions within jails remained even grimmer than in past years. There were also indications that jail staff was able to adopt tougher policies against prisoners after curtailing of contacts with civil society groups.

Torture was endemic; violations of the jail manual routine, while the Juvenile Justice System Ordinance (JJSO) of 2000 continued to be extremely poorly

implemented. A riot at the Sialkot Jail during which four judges and five prisoners died, mainly as a result of police mishandling of the situation [See box] indicated some of the dangers arising from the poor treatment of prisoners, which led them to take desperate actions, and the problems presented by overcrowding, which added to the difficulties faced by often ill-trained jail staff in managing prisoners.

Bureaucratic delays, corruption at various levels and the inefficiency of the overburdened judicial system, meant that the time spent by many prisoners waiting for their cases to be heard often exceeded the prison sentence provided under the relevant law. Despite official pledges to remedy the situation, the number of prisoners held in jails, including those on death row, continued to increase. The number of deaths at jails also indicated the brutality suffered by many prisoners. Health facilities, food and water supplies remained inadequate, with even the most basic needs of prisoners often unmet.

Conditions at jails

In January, the jail department of the Punjab constituted a committee to examine existing situations at jails and suggest ways to improve conditions.

The need for such a review arose as jail officials continued to maintain that all 30 jails in the Punjab were badly overcrowded. According to official figures published at the end of the year, over 51,621 prisoners were detained at the jails against an authorised capacity of 17,637. Out of these, 32,305 were under trial prisoners, 11,091 were convicts and 5,781 were condemned prisoners. These condemned prisoners, whose number continued to rise due to the long delays in carrying out death sentences, were housed in miserable conditions in the severely restricted space of death cells, and often as solitary prisoners, disallowed privileges available to other categories of inmates.

In ten jails in Balochistan, 2,641 prisoners were held against an official capacity of 1,845; in Sindh 18,919 prisoners were held at 16 jails against an official capacity of 7,786 and in the 22 jails of the NWFP, 10,162 prisoners were held against a capacity of 7,497.

The largest number of inmates was housed at the Adial Central Jail Rawalpindi, where against an authorised capacity of 1,894, at least 5,191 prisoners including 159 females were held.

Prisoners across the country were reported to be facing grave health problems due to the severe overcrowding, while sanitation facilities were poor. At several prisons inmates faced the non-availability of fans and drinking water. Rusting pipes brought only impure water to them.

The conditions at jails also meant that the implementation of proposed reforms was almost impossible.

At least 5,621 prisoners including 227 females and 810 juvenile prisoners were housed in the Adiala Jail, Rawalpindi, which had a capacity for only 1,800. Similarly, the new Bahawalpur Central Jail lodged 2,336 inmates far exceeding the jail's capacity for 1,332. The Bahawalnagar District Jail, Kasur District Jail

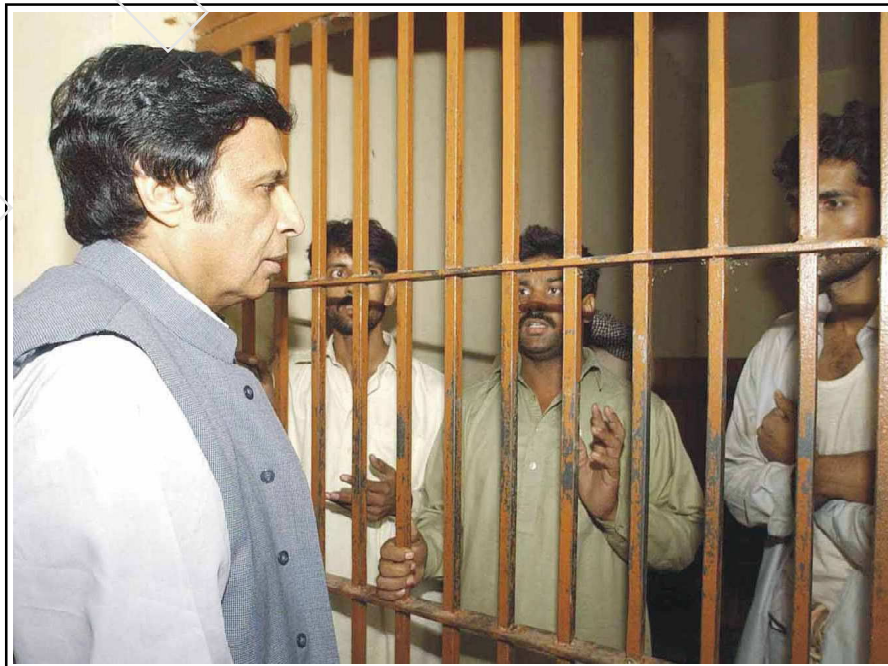
and Peshawar Central Jail were also overcrowded. The Kasur jail housed 1,522 prisoners against a capacity for 444, with nine children, 18 women, four infants and 1,491 men among those held. Inmates of Swat district jail were reported to be living in particularly miserable conditions, with 500 prisoners housed at a jail with a capacity for only 200. A severe shortage of toilets forced prisoners to form long queues and await their turn.

At least 5,262 convicts sentenced to death were housed in 812 death cells in Punjab jails, in violation of rules that stated condemned prisoners must be held alone.

The absence of judicial lockups created problems for under trial prisoners who were locked-up in police buses for hours while awaiting hearings, without access to toilet facilities and with no provision to meet relatives present at the courts.

Some attempts were reported during the year to alleviate the problems faced by prisoners. In February the federal interior minister ordered jail officials to segregate vulnerable prisoners including women, juveniles, addicts, foreigners, the mentally retarded and condemned prisoners from the main bulk of inmates. In March, the Punjab government directed all jail superintendents to shift Shia prisoners to separate barracks during the Muslim month of mourning, Muharram, most devoutly observed by Shias, so they could practice their beliefs without difficulty.

The Punjab government increased the expenditures on police, judiciary and jails from Rs. 12 billion to Rs. 15.77 billion in the provincial budget for 2003-04.



The Punjab chief minister could bring little relief for prisoners held at overcrowded jails, where they faced frequent mistreatment.

An additional amount of Rs. 500 million was put aside for the construction of courts and jails. The new schemes included construction of two barracks for 60 prisoners each and death cells in 17 jails in Punjab under the Access to Justice Program, assisted by the UNDP, under which improvements in judicial performance and prison conditions were planned. This was aimed at creating space for 1,320 additional prisoners. The Punjab government also ordered the construction of five new district jails and 86 judicial lockups at the tehsil level. Plans were announced during the year to re-locate the Sialkot Jail at new premises. There was however concern that the shifting of the jail to the city outskirts would aggravate the problems faced by relatives of prisoners wishing to meet them on a regular basis.

In March the Punjab Chief Minister expressed dissatisfaction over substandard meals being provided to jail inmates. He ordered the meals be improved, and ordered installation of fans and water coolers at all jails. The finance department was instructed to release funds for this purpose.

The Sindh Chief Minister also expressed concern over conditions of jails in Sindh in April and directed the home department to provide prisoners with facilities in accordance with jail manual, including proper food, clean water and medical care.

In January, the Punjab government reportedly began computer classes for prisoners at Kot Lakhpat Jail in Lahore, Central Jail, Rawalpindi and District Jail Sialkot, as part of a project aimed at imparting training in various skills to prisoners. It was also stated that industrial units had been established with collaboration of the private sector in Sahiwal Jail where blankets were being produced as well as at Sialkot Jail where sports items of international standard were being manufactured.

The measures adopted to reduce overcrowding in the Punjab, including remissions given to prisoners, did have some impact. By the second half of the year, the release of around 10,000 under trial prisoners as well as those involved in petty offences meant that the total number of inmates at jails in the province fell to around 47,000, compared to over 52,000 at the start of the year. According to government officials, 24 new district and divisional jails were also being constructed across the country as the year closed, to further alleviate the overcrowding problem.

Overcrowding in Sindh, and also in the NWFP, remained an acute problem, while the practice of arresting even those accused of the most minor offences, such as vagrancy, meant that there was a risk in the Punjab as well that the prison population would once more begin to soar to previous levels.

Riots at jails

The unrest at prisons, caused mainly due to the poor conditions prevailing, led to repeated episodes of violence all through the year.

The worst incident was seen at Sialkot Jail in July, [See box], but riots also took place at other prisons at various times during the year.

Dozens of prisoners rioted at Mach Central Jail, Quetta, in May with authorities

resorting to using tear-gas to gain control over the situation. Seven jail inmates and three police officers were injured in the incident. The riot began after inmates demanded permission to meet relatives outside their cells, and an overall improvement in conditions. Prisoners initially clashed with jail guards and then started throwing stones at policemen who were summoned to the scene. They also took hostage three wardens of the jail, with authorities using considerable force against inmates before the members of the prison staff could be released.

In another incident, district jail officials and prisoners clashed over the shifting of hardened criminals to separate barracks in Gujranwala jail in August. The jail authorities stated they were separating hardened criminals from juvenile delinquents, when prisoners started pelting stones on jail officials. Prisoners claimed unnecessary force was used to carry out the shifting. No serious injuries were caused.

In the worst incident of rioting during the year, three civil judges and five prisoners were killed and two judges critically wounded inside Sialkot District Jail on July 25, after police raided the prison to free ten judges taken hostage by prisoners. *[See box]*. One of the injured judges died days later at a Lahore hospital.

After this incident, the Punjab chief minister ordered the setting up of a highly trained special squad to deal with emergency situations in jails. He also ordered a thorough search of all jails in the Punjab for weapons. During the inspection of jails that followed these instructions, security arrangements at New Central Jail Bahawalpur were found to be unsatisfactory, while Press reports stated that the extremely poor conditions at the jail meant a riot was likely to take place.

As part of the new security arrangements put in place after the incident at Sialkot, orders were given for all jails to be equipped with close circuit cameras, screening machines and other security-related electronic devices.

In June, 58 members of the banned extremist groups, the Sipah-i-Sahaba Pakistan (SSP) and Lashkar-i-Jhangvi (LJ) began a hunger-strike at Multan Central Jail, which continued for four days, creating considerable unrest at the jail. The prisoners were demanding that they be kept in barracks with other prisoners and their fetters be removed. The men had been held in various cases of sectarian crime, murder and robbery. Press reports also pointed out that holding them together, at the same jail, presented serious security risks.

In December, rioting at Sanghar district jail was sparked by the sudden death of a prisoner. *[See also section on Torture of prisoners]*.

Other incidents of unrest among prisoners were reported during the year from Karachi Central Jail, Adiala Jail, Peshawar Central Jail and several smaller prisons, as inmates demanded better food and protested brutal treatment by staff

Crimes behind bars

Rampant corruption among jail staff allowed drugs, mobile phones and firearms to be smuggled into jails, with many cases of crimes within jails reported.

In July, two prisoners killed their cellmate on death row at the Adiala Jail,

The Sialkot jail tragedy

The tragic death of nine people, as a result of police action at Sialkot District Jail, where desperate prisoners had taken a visiting team of civil judges hostage, was a reminder of the consequences deplorable conditions within jails and the official policy towards prisoners could have

The hostage drama at Sialkot district jail on July 25, that left four civil judges and five prisoners dead, and one other judge seriously wounded, was a reminder of the dangers the terrible conditions at jails could lead to, as prisoners took desperate actions. It was also a reminder of how police mishandling of a situation could so easily result in avoidable tragedy.

The failure, in the aftermath of the event, to address the broader issues in which it was rooted, including official policy regarding the treatment of prisoners, routine violations of the jail manual, brutality against prisoners and the lack of training of jail staff, meant that the danger of more such incidents remained in place. The dismissal of at least 12 jail officials at the jail was not a step that went towards resolving the real problems that existed at prisons across the country.

At around 11.00am, on July 25, a team of 14 officials headed by District and Sessions Judge Chaudhry Zafar Hussain was carrying out a routine inspection of the barracks at the Sialkot district jail, when five armed prisoners wielding guns suddenly surrounded them and took them hostage. The inspection team included three Additional Sessions Judges, seven Civil Judges and three judicial magistrates. The head of the inspection team, Judge Chaudhry Zafar Hussain, and three Civil Judges were able to escape, while the remaining 10 judges and 22 women prisoners were taken hostage and held in a cell at the jail. Jail staff initially tried to act against the prisoners, but retreated after they were fired on, causing several to be injured.

The prisoners demanded their own freedom in exchange for that of the judges, and sought a bus, guns and guarantee of safe passage from the jail with the hostages.

After seven hours, during which attempts to talk with the captors, held on charges of kidnapping and robbery apparently continued, police took the decision to storm the jail. The raid resulted in the death of the five prisoners and three of the judges, additional district and sessions judge Sagheer Anwar, civil judge Shahid Munir Ranjha and another civil judge Asif Mumtaz Cheema. Two other civil judges, Shehryar Bukhari and Sibtain Kazmi were critically injured. Shehryar Bukhari died in August at the Punjab Institute of Cardiology as a result of the injuries he had sustained. The dead prisoners were identified as Ejaz alias Jaji, Muneer alias Muneeri, Shahbaz, Ishaq and Rafeeq.

The police operation, according to findings that emerged in the Press and during hearings at the LHC, was badly planned, hastily executed and carried out by poorly trained policemen who apparently panicked as they came face to face with the prisoners holding the hostages. It remained unclear whether the killed judges had been hit by bullets fired by police or the prisoners, with an autopsy, that could have answered some of these questions, not carried out on the request of the families of the judges. The province's top jail and police officials maintained that police had negotiated

with the captors over a wireless set for almost five hours, and the Acting Inspector General of Prisons, Capt (Retd) Sarfaraz Ahmad Mufti had talked with them for over an hour. However, Judge Chaudhry Hussain, who had led the team of judges to the jail but was able to escape capture, and had followed developments from outside the jail, noted that the hostages had in fact twice surrendered, but police had not accepted this surrender and failed to consult higher authorities before opting to go ahead with their raid. One policeman was injured during the shootout.

Following the tragedy, The Inspector General (IG), Prisons, ordered a high-level departmental inquiry. The jail superintendent, Sikander Hayat, deputy superintendent Iftikhar Bhatti and at least ten other members of the jail staff were suspended. An inquiry was also ordered into how the prisoners acquired weapons and mobile telephones.

The Punjab chief minister meanwhile ordered the suspension of the Deputy Inspector General (DIG) Police, Gujranwala and the Senior Superintendent of Police (SSP) Sialkot. Both were nominated in the FIR lodged in the case by a senior civil judge, who blamed jail and police officials for the death of the civil judges who had died in the incident. Both men were arrested, along with four constables and at least ten members of the Sialkot jail staff.

A fact-finding commission set-up by the LHC, headed by LHC Registrar Shaikh Abdul Rashid, submitted its 232-page report on the killings at Sialkot jail to the LHC Chief Justice in August. The report was not made public but in an interim report submitted earlier, the commission had held the Sialkot Jail staff responsible for the incident.

The police investigation team set-up was unable to complete its investigation until October. The findings of this investigation blamed the former DIG, Gujranwala, Malik Iqbal, already in jail, for the 'premature' operation, while levelling all other blame at negligence by jail staff in allowing weapons to enter the prison.

Court hearings in the case were continuing, as the year closed. In December, the Investigating Officer (IO) in the case, Ghulam Muhammad Kaliyar, District Police Officer, Kasur publicly announced that he had refused to continue the inquiry, as the plaintiffs in the case had expressed anger against him, and he interpreted this as a vote of no confidence. The court was informed of his decision.

HRCF, in a statement issued after the incident, said that the gruesome event was a reminder of the extent to which the State system had become dysfunctional. The statement also reiterated the urgent need to address the conditions prevailing in jails and the desperation of prisoners as a result of the brutality they routinely faced.

Each of the four incidents of violence at jails reported during the first seven months of the year had resulted from the extremely poor treatment of prisoners, torture inflicted on them and the denial of basic needs including sufficient food, clean water and medicines. There were no indications, as the year ended, that measures had been taken to improve conditions at jails across the country.

Rawalpindi. After an exchange of heated words among the three prisoners, Azhar Mahmood, 23, was strangled by his two cellmates after he fell asleep.

In another incident at the same jail, three prisoners, who apparently formed a part of a gang operating in the jail, clashed with three other inmates and poured boiling cooking oil on them. The victims were sent to hospital, while the three accused were locked in 'punishment' cells.

In another incident in January, a clash between two rival groups of convicts facing death sentences at Attock District Jail left three prisoners seriously injured. The rival groups attacked each other with iron rods. In another incident, two groups of prisoners at Mianwali jail, involved in numerous previous clashes attacked each other, with staff using batons to restore order.

Nine prisoners were injured at Central Jail Sukkur in June in a clash between three groups of prisoners. The inmates used bricks, iron rods and sticks during the fight that started over a minor dispute.

Two condemned prisoners injured each other during a clash in a death cell at Gujranwala jail in August. The prisoners apparently held an enmity against each other. They were admitted to the jail hospital after the incident, while one jail official was suspended and two others transferred.

Two inmates at Lahore Camp Jail severely wounded another inmate in August following suspicion that he had leaked information about drugs in their possession.

Cases of sexual harassment of juvenile prisoners by adult inmates were also reported. Adult inmates in a jail in Sindh were stated to have sexually abused fifty juvenile prisoners on a regular basis for six months. The children were transferred after news of the sexual abuse became public, with the IG admitting that the incident had taken place.

In April, a jail warden was arrested for supplying narcotics to inmates of Sahiwal Central Jail. Two prisoners were also arrested for keeping hashish. In another incident, a Lahore Camp Jail warden was arrested when his colleagues discovered drugs on him. The warden was a retired army official and apparently regularly supplied drugs to inmates.

Torture and maltreatment

While the use of torture remained widespread, there were also disturbing indications that it was in fact expanding, with the failure to punish those responsible encouraging others to resort to similar brutality against prisoners.

The death of a sanitary worker employed at the Punjab secretariat in April, as a result of torture during detention, was a reminder of the degree of violence regularly used against detainees.

Angry protests over the tragedy by the friends and family of the victim were greeted by force against the protesters, as police used batons and tear-gas to break-up the protests outside the secretariat. The torture victim, Ilyas, had been picked up by the police on a complaint of theft made by a secretariat official. The victim's son claimed that his father, besides being subjected to severe torture, was kept in illegal detention before being sent to the Lahore District Jail. When

Murder in prison: the death of Naseem Bibi

The brutal killing at Kot Lakhpat Jail during the year of yet another person accused under the country's blasphemy laws indicated the immense dangers such prisoners faced

On August 24, Naseem Bibi, 45, a resident of Shadbagh in Lahore died at Kot Lakhpat Jail, three months after she had been detained along with her two sons, Zahid and Shahid, on blasphemy charges.

While prison staff insisted she had suffered a sudden heart attack, her sons and lawyer maintained she had in fact been battered to death by other inmates. Jail staff had failed to prevent the violence, while some accounts suggested they had either joined in or urged prisoners on. Naseem Bibi had been suffering taunts and threats of death, as a blasphemy accused, from the moment she entered jail. Despite the pleas of relatives and lawyers, no measures were taken to ensure her safety.

According to her lawyers, Naseem Bibi, a widow, and her sons had been falsely accused by a neighbour, Yasin, of burning pages of the Holy Quran. The family maintained they the allegations stemmed from the fact that Naseem Bibi had turned down advances by the neighbour.

A local court charge-sheeted the three accused on August 6, after they had already been in jail for over two months. Answering queries following the death of Naseem Bibi, the assistant superintendent of Kot Lakhpat Jail, Noor Hassan, held that the prisoner suffered asthma and had been admitted to the jail hospital after her condition worsened. He maintained she however suffered a cardiac attack and died while at hospital. Family members refuted this claim, and stated signs of severe beatings were visible on the body.

Last year, another blasphemy accused, Yusuf Ali, had been gunned down at the same jail. In February 2003, Mushtaq Zafar, accused of blasphemy was gunned down in Lahore soon after he left a court hearing, while yet another accused person on trial was killed in Kasur. **[See also chapter on Law and Order].**

The death of Naseem Bibi added to the growing concern for the safety of persons accused of blasphemy, with a growing number killed before courts are able to deliver a final verdict as to their innocence or guilt.

his condition deteriorated, apparently as a result of the violence he suffered, he was finally taken from the jail to hospital, where he died. Reports stated that relatives of the deceased sanitary worker were receiving threats from the police to hush up the matter.

In August the Justice and Peace Commission, an NGO that monitored rights abuses against minorities among its other activities, began an inquiry into the death of Samuel Masih, 19, an under trial prisoner involved in a robbery case who had been found hanged at Lahore District Jail earlier in the month. He had spent eight days in prison. Police claimed he had committed suicide, using his

trousers to hang himself. His brother however stated that Samuel was tortured to death, after being wrongly implicated in a robbery case. His brother also said that police were attempting to extract a bribe in order to release the detainee.

The Justice and Peace Commission found that Samuel had apparently been falsely accused of robbery by his employer, who wished to avoid paying him his wages. He had also been sodomised by fellow inmates, and then tortured by jail staffers when he complained.

According to the Justice and Peace Commission monitoring cell, three Christians were among 24 people killed in police custody in Lahore and its suburbs during the first half of 2003. The NGO demanded that the government sign international conventions against torture and inhumane punishments and observe international standards in the treatment of prisoners. It also condemned the excesses of jail staff and police, resulting in the increased number of deaths in custody. Meanwhile, the advisor to the Punjab chief minister on law and human rights directed the IG Prisons, to hold an inquiry into the multiple deaths in Punjab jails.

A medical team which interviewed 200 children at the Youthful Offenders Industrial School in Karachi in March found that almost 60 percent of the boys had been subjected to acute torture, including severe beatings, electric shock, hanging by the feet and 'cheera' (forced stretching apart of the legs, often in combination with kicks to the genital area).

It was also reported that several boys who attended classes at Bahawalpur juvenile jail were forced to do so in shackles. Fetters were commonly used at most jails, with juveniles often subjected to shackling – regardless of the fact that this was a violation of the Juvenile Justice System Ordinance (JJSO).

In January, the Lahore High Court (LHC) adjourned hearing of a petition against police excesses in dealing with prisoners. The petitioner, M.D.Tahir, submitted that police took prisoners of Gujarat, Kharian, Mandi Bahauddin and Ferozwala to the trial courts in small vehicles and subjected them to inhumane treatment. If any prisoner had to use the toilet, he was abused and tortured by the police officials.

Other accounts of severe brutality by jail staff also came in, and appeared to fall in line with official policy to mete out 'tougher' treatment to prisoners. Some of these were as follows:

A prisoner, Sultan Maachi, died in March after torture at the Central Jail, Dera Ghazi Khan. He had quarreled with his fellow condemned prisoner and tried to cut off his nose, following which jail staff inflicted torture as punishment. The deputy superintendent of the jail claimed that he had died of complications caused by diabetes. 700 prisoners went on strike after hearing of his death.

Two prisoners at the district jail, Jhelum, who were said to be seriously ill, died in June, allegedly due to the negligence of jail staff and the medical officer, who delayed shifting them to hospital and allegedly also beat them repeatedly.

An under trial prisoner at the Sanghar district jail told journalists in August that the jail superintendent routinely abused, humiliated and beat prisoners, while

many were kept in fetters almost round the clock. A similar account came in December from Faisalabad jail, with the brother of a prisoner detained at the prison maintaining staff frequently tortured prisoners and demanded bribes to stop doing so.

In September, Ashraf, the brother of a prisoner, Aslam, moved the sessions court stating that his brother had been tortured to death by jail officials at Gujranwala jail. The medical board appointed by the court confirmed torture. The judge ordered a judicial probe into the case.

In December, the death of Mohammad Akbar, an under trial prisoner at Sanghar district jail, sparked riots among inmates. Akbar reportedly died after torture, during which gutter water was forced up his nostrils, apparently as part of an attempt by jail staff to extract further bribes from his family. The jail superintendent, Younis Masih, claimed the prisoner had died due to cardiac arrest.

There were at least eight reported cases of unexplained deaths of prisoners during the year, with available evidence suggesting torture was used

The previous year, the father and wife of a deceased prisoner, Ghulam Idrees, had claimed that he was severely tortured by the deputy superintendent of the Central Prison Peshawar, and this resulted in his death in August 2002. The case continued to be heard, and the court summoned the jail deputy superintendent and doctor in connection with the death.

Health and welfare of prisoners

Overcrowding in jails, poor sanitation, the virtual absence of medical facilities, lack of medicines and poor food were some of the factors that contributed to acute health problems for many prisoners, and the spread of disease within jails.

During the year it was reported that out of 5,621 prisoners held at Adiala Central Jail, 1,686 were suffering from potentially fatal diseases including tuberculosis, asthma, hepatitis and unexplained fevers. Only 73 beds were available for sick prisoners.

Welfare organisations visiting the jail reported that the health of women held at the prison was no better. Pain killers were doled out to prisoners complaining of sickness, regardless of the nature of the complaint, with no efforts made to treat the disease.

Similar circumstances prevailed at the special prison for women in Larkana. A group from the District Public Safety Commission visited the jail in May and found no medicines were being provided to the prisoners. The lady doctor informed the team that medicines were not available at the jail. Skin diseases, ulcers, hypertension and other complaints were commonplace.

At workshops organised by the Sindh AIDS Control Program and UN-AIDS in July in Karachi, it was noted that jail inmates were at high risk of acquiring sexually transmitted diseases, mainly due to rampant drug addiction. The precise number of AIDS patients within the jail population was unknown.

In September, five new cases of HIV infection were discovered at the Central Prison Larkana, taking the total of HIV/AIDS sufferers to 45 at Larkana jail

alone. However, no effort was made to identify prisoners suffering from the disease, to offer them treatment or to educate prisoners about the risks of infection.

At least 200 prisoners were found in August to be suffering from leprosy, asthma and grave stomach ailments at the Central Jail, Khairpur. Only a few had been admitted to the Civil Hospital.

The delays in taking sick prisoners to hospitals caused death in a rising number of cases.

In April, 13 under trial prisoners at the Hyderabad Central Jail were stated to be suffering grave health problems requiring proper examination and diagnosis. However, they were taken to the Civil Hospital Hyderabad only after a delay of several months, despite pleas by their families. The doctors accused authorities of deliberately delaying treatment for the prisoners.

Drug addicts and the mentally ill

According to a report compiled by the Sindh Inspectorate of Prisons, over 2,000 drug addicts were confined in different Sindh jails of which over 700 were in Malir District Jail alone.

In August the jail authorities in the province noted that this was a huge factor in the problem of overcrowding and the spread of addiction in jails. They recommended the government notify drug addicts as sick persons, excluding them from parview of criminal code and releasing them on parole.

The jailed addicts were either imprisoned under the Hudood laws, or were convicts who were also addicts. Far fewer addicts were released during the year than those taken into jails.

The failure to treat addicts as patients rather than criminals meant they suffered serious health problems in jails, while the absence of rehabilitation centres contributed to addicts being thrown into jails both by police, and in some cases by relatives conniving with police, since no facility to house and treat addicts was available.

The presence of a large population of addicts in jails also contributed to the drug trafficking problem inside detention centres.

Like addicts, the mentally ill often found themselves in jails, rather than at treatment facilities. Indeed, some estimates suggested that the number of mentally ill prisoners at all jails in the country was rising sharply, with the conditions of detention meaning that those serving time also often succumbed to mental ill-health. No psychiatric counseling or treatment was offered to them, with jail staff at times beating the mentally ill, or confining them to cells reserved for such prisoners, with up to four or five placed in space intended for a single prisoner.

Families at times also handed over the mentally ill to police, so that they could be sent to jail, given the severe shortage of facilities to treat the mentally ill or offer the long-term care they required, while the lack of public awareness added to the problem.

Suicides

With the number of reported suicides soaring, the Punjab prison department

started a survey in August to determine the factors responsible for this. The survey was intended to determine means to prevent suicides in the future. During the year, jail authorities banned the supply of objects in metal boxes to prisoners, to prevent them manufacturing weapons from the metal.

Hanging and the cutting of wrists with sharp objects seemed to be the most common method of committing suicide. The fact that jail authorities frequently cited suicide by the prisoner to cover up the increasing instances of death due to torture was also believed to be a factor behind the soaring rate of such cases.

According to the numerous press reports appearing during the year from across the country, it was clear that prisoners in many cases had committed suicide or attempted to do so to escape torture and other forms of brutality.

At least 13 suicides were reported during the year from jails across the country, a sharp increase on the number of such cases reported during previous years.

Escapes from custody

A large number of prisoners were able to escape from custody during the year, in some cases in connivance with police. The growing number of escapes indicated the lack of professionalism and efficiency in managing prisoners, and the multiple flaws in security arrangements.

In September, nine handcuffed under trial prisoners escaped from police custody after injuring a policeman and two women who happened to be passing by at Kahuta. The incident occurred when a group of 27 under trial prisoners, including a woman, were brought to Kahuta from Adiala Jail in a prisoner van for hearing of their cases in the court of a civil judge. After reaching Kahuta, the prisoners, apparently using knives and other weapons, overpowered their police escort. Four of them were re-arrested within an hour. It was uncertain how the prisoners had obtained weapons.

In an incident in July, two under trial prisoners, Bakht Ali and Mohammad Umar, facing trial in murder, robbery and Hudood cases, escaped from the custody of a police squad after jumping off the prison van. A police official stated that the prisoners had escaped with handcuffs and had gotten rid of them later. It was suspected a policeman might have given them the keys. The escape was believed to be part of a plan, as the relatives of the escaped prisoners were also found around the place of incident. 15 policemen were arrested on suspicion of aiding the escaped prisoners.

Some other cases of escapes from custody in 2003 were as follows:

- ◆ Two prisoners held for murder escaped from Parachinar Jail in January. They were identified as Ishaq Bangash and Raees Khan Mengal. The administration suspended 10 guards including a watchman of the jail after the incident.
- ◆ Three officials of Faisalabad Borstal Jail, including one head warden and two wardens, were booked in January for helping a murder accused escape.
- ◆ In April, a killer convicted of double murder, Latif escaped from the Noorshah police lockup in Sahiwal. He complained of abdominal pains and escaped

after the lockup was opened.

- ◆ Another murder accused fled from the court of Justice Khwaja Sharif in Lahore in April after pushing aside a policeman, when the court refused to confirm his interim bail.

- ◆ Two under trial prisoners escaped from police custody in Hasilpur in April. The five constables escorting the prisoners were suspended.

- ◆ In July, six accused in criminal cases escaped from the judicial lockup of Layyah. Three were re-arrested, and 14 policemen were suspended.

- ◆ A prisoner, Muhammad Ismail, who had been awarded a 10-year prison sentence managed to escape from Services Hospital in Lahore in July, where he was being treated for tuberculosis. The police arrested the constable in charge, as well as the wife and the mother of the prisoner.

- ◆ Four under trial prisoners managed to escape from the custody of Islamabad police in September while being loaded into a van.

- ◆ Another prisoner, accused in a robbery case, escaped from Adiala Jail while working at the premises of the jail in September.

- ◆ Four prisoners escaped from the judicial lock-up of the district courts, Sialkot, after demolishing the rear wall of the toilet in October. They faced charges in cases of robbery, dacoity and murder.

Political prisoners

Pakistan Muslim League, Nawaz (PML-N) acting president and Alliance for the Restoration of Democracy (ARD) president Javed Hashmi, joined the ranks of political prisoners in the country during the year, after being arrested in November on charges of abetting mutiny and sedition. *[See also chapter on Political participation].*

It was estimated that as compared to 173 political prisoners the previous year, including religious leaders, those charged in corruption cases and other offences, this number had fallen to under 100 in 2003.

Asif Ali Zardari, the spouse of Pakistan Peoples Party chairperson Benazir Bhutto, remained the best known political prisoner in the country, completing almost seven years in jail, since his detention in 1997. He had been convicted in one case of corruption during this period, with the government refuting PPP claims that he was a political detainee, and maintaining he was in fact a convict. Zardari was released on a seven-day parole in January by the federal government, allowing him to attend the last rites of his wife's stepmother, who died at Larkana. Zardari was also allowed to celebrate Eid with his children at the Pakistan Institute of Medical Sciences (PIMS). Case hearings against him continued in several courts, while press reports stated that the long years in jail were taking a growing toll on Zardari's health.

In June the Punjab prisons department shifted PML-N MPA Ajasam Sharif from District Jail Lahore to Shah Pur Sadar, Sargodha Jail, after the cancellation of his bail by the judicial magistrate. He had been arrested earlier in June on

charges of beating up a doctor, Dr. Tariq Bokhari, after a minor dispute. The PML-N termed the arrest as a well-thought out plan to suppress the opposition's protest campaign and described the shifting as an act of deliberate harassment.

A habeas corpus petition for former Sargodha mayor and ex-MNA, Chaudhry Abdul Hameed was moved in the LHC in May. Hameed, who had been held in Sargodha Jail in connection with four corruption cases, had been granted pre-arrest bail in two of the cases by the LHC. The court had issued restraining orders against his arrest in the remaining cases. The petitioner's counsel argued that the police could not detain the petitioner in jail without receiving court orders for his judicial remand, and held that his confinement was illegal.

In August, a terrorism case was registered against three religious leaders, including the late Maulana Azam Tariq, who was murdered in October, Allama Sajidur Rehman and Maulana Masudur Rehman for passing derogatory remarks against a religious sect. However, no arrests were made.

In May, after 27 opposition MPAs in the Punjab Assembly were banned from entering the assembly, police rounded up at least 50 political activists linked to the PPP and PML-N during attempts to stage protests outside the assembly over the next three days. Though the MPAs were released within hours of their detention, at least 35 political activists, including at least 12 women, were jailed for over a month on charges of violating laws on maintaining public order. Many of them were removed from Lahore to jails in Multan, Sargodha and other locations, causing grave inconveniences to their families.

Illegal detentions and imprisonment of militants

Apart from the illegal detention of persons 'picked up' by agencies [*See also chapters on Political participation and Freedom of association*], illegal detention in both jails and police stations was commonplace. At least 15 cases involving illegal detention by police at lock-ups and other locations were reported during the year [*See also chapter on Administration of justice*], while it was reported from prisons around the country that in many cases, inmates continued to be detained even after they had completed their terms. Inefficiency and indifference appeared to be the main factors responsible in such cases, with at least six instances of illegal detention reported during the year of prisoners who had served sentences awarded by courts.

In February the Sindh High Court (SHC) issued notices to the home secretaries of Punjab and Sindh and the superintendent of Karachi, Sukkur and Adiala jails against the illegal detention for eight years of the son of Ruqqayya Khanum. Her son, Abid Rasheed, had gone missing in 1994. She found during the year that he had been sent to a jail in Sukkur, apparently after being held in a criminal case. She maintained the charges against him were false, whereas he had been produced in a court only after several years.

Apart from this, persons accused of militancy also continued to be detained, even though it was often unclear what the charges against them were. In March, Khalid Sheikh Muhammad, accused of being linked to the al-Qaeda, was picked

up after an operation officials said took place in Rawalpindi. The secrecy surrounding arrest and the details of how it was carried out left many lingering uncertainties over the matter.

Newspaper reports expressed doubts over whether the militant had really been held at the house of a Jamaat-e-Islami (JI) woman leader in Rawalpindi, whose son was also detained for several months, before being released without charge.

In several other cases, persons held on charges of militancy were acquitted by courts after months spent in detention. The policy being followed with respect to militants, particularly the failure to adhere to the rule of law and the lack of transparency meant that the sense of injustice towards militant groups prevailing within both militant organisations themselves and the general public, increased. As such, official policies contributed to the expansion of militant tendencies in society, rather than checking these.

The five members of the family of Dr Ahmed Javed Khwaja, arrested the previous year from the house in Mazawan, continued to be kept at the Chung sub-jail in solitary confinement as the year started. Lawyers claimed Dr. Khwaja, his brother and their three sons, were being mentally tortured. While the men were accused of links with al-Qaeda, the evidence against them remained largely unknown, with the government insisting this could not be presented on grounds of national security. The three younger Khwajas, including two sons and a nephew of Dr. Khwaja, were kept in detention even after the LHC ordered their release, and finally freed only after lawyers obtained written orders from the judge. Dr Khwaja and his brother were set free in beginning of June after the federal review board ordered their release. The family was apparently warned not to talk to the Press about their detention, which lasted for a period of nearly six months.

In March Pakistani jail authorities refused to produce in court two suspects charged in the killing of 11 French naval engineers and two Pakistanis in a suicide bomb attack in Karachi in 2002. Both were charged with murder and terrorism.

In March an anti-terrorism court in Karachi put off the hearing of a bomb blast case against activists of the banned Harkatul Mujahideen Al-Aalimi because of the non-availability of a court room inside the Central Prison Karachi.

At least 15 leaders of the banned Tehrik Nifaz Shariat Muhammadi (TNSM) were finally released from Dera Ismail Khan jail in March. They had been arrested early in 2002 after their return from 'jihad' in Afghanistan. No charges had been lodged against them.

Most of the hundreds of other activists, including those returning from Afghanistan and others linked with groups within the country, who were held in 2002, had been freed by the start of the year. However, action to jail militant activists, in most cases without charges, continued. Around 50 others were detained in November after six militant groups, including four which had re-emerged under new names after being banned in January 2002, were banned once more. Authorities were said also to be attempting to locate leaders of banned outfits, including Maulana Masood Azhar. Azhar had been detained in 2002, but was then released with no charges being pressed. He had remained under house

arrest for a period of his time behind bars.

Foreigners in jails

At least 1,700 foreign prisoners, including 24 women and 40 juveniles were confined to Pakistani jails on various charges. Among these, at least 550 were Afghan nationals, with 80 percent of them confined to jails in the NWFP [*See also chapter on Refugees*]. Most of the detainees were jailed for smuggling, unauthorised entry, presence in the country without valid documents and narcotics trading. Out of these, 891 were confined in prisons in Sindh, 515 in the NWFP, 243 in Punjab, 65 in Balochistan and three in AJK. Only 643 had been convicted, while the rest awaited trial.

More than 1,800 foreign nationals, including Europeans, Africans and Arabs who had come to Afghanistan during the Taliban regime, were, according to some Press reports, languishing in various prisons in the tribal belt of Pakistan since US occupation of Afghanistan. They had been captured after they fled across the Afghan border, during the previous two years.

Amongst the foreigners being held was a Liberian national, arrested for not possessing valid documents. He had been held at the Peshawar Central Prison for over a year, although he had been sentenced in 2002 for a term of only a month. However, he was unwilling to return to his own country because of the ongoing civil war there.

Appeals were also made by NGOs to the Punjab government during the year to take measures for the release of several hundred foreigners, who had completed their term but were still languishing in 29 jails in the province. Most lacked means to finance their trips home, while the diplomatic missions representing their countries in Pakistan were unwilling to intervene.

Four Palestinians, imprisoned for hijacking a Pan Am plane in 1986, remained in jail in Rawalpindi, although their terms had ended in March 2002. They were being detained under the Foreigners Act as they lacked valid documents to stay in Pakistan, while their nationality was disputed by Palestinian authorities. The Palestinians continued to be held in violation of orders by the Rawalpindi Bench of the Lahore High Court, the Federal Review Board the National Authority for the Registration of Aliens (NARA) and appeals made by HRCP and other bodies.

In March, four Iraqi prisoners tried to commit suicide by cutting their wrists with broken glass to protest their continued incarceration at Adiala Jail, although their sentences had ended.

Two Bangladeshi nationals filed applications before the Balochistan High Court (BHC) against their detention by the Balochistan government in January. They had entered Iran to search for jobs but were arrested and deported to Pakistan. They had been sentenced to a six-year term, but continued to be held even six months after this ended. The BHC issued notices to the Deputy Attorney General of Pakistan and Advocate General of Balochistan in the case. Four more Bangladeshis were arrested in October for unlawfully entering the country.

A sizeable number of foreigners were also arrested for smuggling narcotics

during the year. They included two Tanzanians, a Spaniard, an American and a Nigerian. The American prisoner, Eric Aude, 23, had in 2001 been sentenced to imprisonment for attempting to smuggle narcotics out of the country. His mother in the US remained engaged in a struggle to arrange his return, maintaining that in several letters written from Adiala Jail, Rawalpindi, he had warned of suicide. She also maintained he had been tricked into carrying the drugs.

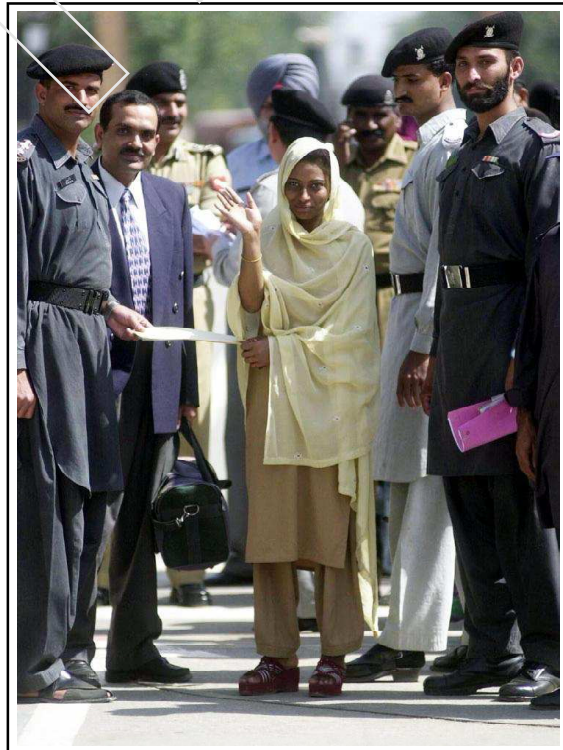
A number of foreigners, including at least 11 Afghans, held on charges of involvement in militant activity during the past two years, were released during 2003.

In January the Peshawar High Court (PHC) directed the deputy attorney-general to inform it about the whereabouts of five Arab employees of a Kuwaiti NGO arrested in 2002 for alleged involvement in militancy.

Indians in jails

Indians held in jails in the country faced special problems, with the precise number of such detainees unknown. The reluctance of Indian authorities to acknowledge the nationality of Indians jailed in Pakistan added to the problems. Pakistani authorities adopted a similar approach in cases involving nationals held in India.

Around 1,294 Indians were thought to be held in Pakistani jails during the year, including over 400 fishermen. Other fishermen were freed at various times during the year.



Zakia returns to India after six years in Pakistani jails.

In May, 20 Indian fishermen, held off the Balochistan coast after drifting into Pakistani waters were handed back to India, two months after they had been detained. Pakistani fishermen were also handed back in reciprocal arrangements that continued through the year. Nearly 300 Indian fisherfolk returned to their country in 2003, while a similar number of Pakistani fishermen were returned by India. However, even as the year closed, other fisherfolk from both countries continued to be held.

During the same

month Indian authorities asked Pakistan to release and repatriate 22 Indian Sikhs held in Pakistani jails. An Indian Sikh organisation claimed that 22 Sikhs were being coerced to convert to Islam by Pakistani jail authorities.

The Pakistani government in the middle of the year announced a decision to release 700 Indian prisoners held in various jails of the country, including a large number of fisherman. While most fishermen held in the country had been released by November, other Indian prisoners continued to be held, with only 16 Sikh prisoners freed in September. Most Indian and Pakistani prisoners held in each other's countries had no contact with families, were undefended and in many cases continued to be held even after completing their terms.

A Bangladeshi woman, Zakia, 22, smuggled to India while in her early teens and then apparently lured into the country by a trafficker almost seven years ago was sent back to India across the Wagah border in October. Zakia had been held at Kot Lakhpat Jail in Lahore after being found in the country without papers in 1997.

Several other Indians were held in October and November, most of them on espionage charges after straying across the border. Indians in jails in the country were said to face additional problems, because of discrimination by authorities and other inmates.

Pakistanis in foreign jails

The government informed the National Assembly in August that at least 9,091 Pakistanis were imprisoned in 53 countries with 5,158 in Saudi Arabia alone, 287 in the US, 810 in India and 406 in the UK. Around 2,084 of these were involved in drug related cases. Thousands others were believed to be in jails in Gulf countries, awaiting deportation, after entering the countries illegally.

According to figures provided by the foreign minister, at least 500 Pakistanis remained in Afghan jails as the year closed, with the government maintaining throughout the year that efforts were on to release them. The Pakistan government complained to the Afghan government about the treatment of Pakistanis detained in Afghanistan on several occasions. At least 800 Pakistanis were released from Afghan jails during the year, with HRCF playing a role in facilitating the release.

Shahid Khan, a Pakistani in prison in Kabul, in a letter to journalists written in April claimed a large number of Pakistanis had died in Afghan jails as a result of torture, ill health and malnutrition. Two Pakistanis were reported to have died in Shebergan prison in January. Many other deaths were thought to have gone unreported.

During the year, at least 1,000 Pakistanis were released from jails in Afghanistan, while the number of those who continued to be held was uncertain.

At least 22 Pakistanis were released during the year from Guantanamo Bay in Cuba, where they were being held by the US on suspicion of involvement in militancy. Some of those released stated that they had been subjected to torture, and kept blindfolded with their heads shaved soon after they were detained. At least 25 other Pakistanis, according to accounts given by released prisoners,



For some families, a time to rejoice as sons held in Indian jails were freed.

were thought to be among those still held at the prison.

While at least 300 fishermen were returned after detention in India during the year, the Pakistan government stated that talks were on for the release of other prisoners in India, including 19 who suffered mental illnesses.

A number of Pakistani boys, all aged under 16, were handed back by India after remaining in Indian prisons for periods ranging from two months to over a year. In August, Munir, 13, who had strayed into Indian Territory while herding sheep near his village in Cholistan, close to the border, was returned to Pakistan. Eight other boys,

all of them from the Thar area in Sindh, returned in November. Most had accidentally crossed the border, and been held by Indian police. Among the boys was Dinesh Kumar, 15, who had crossed the border in June after failing his matriculation exams. Fearing the anger of his parents, he had set out in search of relatives in Gujrat in India, but been detained by police in Amritsar. Dinesh's father, Chaman Lal, had sought help from HRCP in the matter soon after his son went missing, and the organisation remained closely involved in the case. In a statement issued after the release of the eight boys, HRCP also pointed out, while appreciating the efforts of the Indian and Pakistani governments in enabling the release of the children that a number of other Pakistani boys continued to be held in India. These included a number of Pakistani boys held at Faridkot Jail. Two brothers in their late teens from Azad Jammu and Kashmir, who in December had accidentally strayed across the Line of Control (LoC) into Indian-held Kashmir, were handed back within a few days.

In Late December, Shahnaz Parveen, from Azad Kashmir, returned home with her daughter, Mobeen. She had been held in Indian jails for many years, after accidentally entering the country.

Other Pakistani nationals were detained in Turkey, Greece, Iran, Italy, Spain and other countries, in some cases on charges of involvement in terrorism.

At least 90 Pakistanis were present in Thai jails. Many among them had complained of mistreatment, but as in the case of Pakistanis in other countries,

there were no official efforts to assist them.

During the year, Kamil Hussain Bangash from Parachinar, who had undergone at least 10 years imprisonment in Uzbekistan on charges of spying, was finally able to return home with the assistance of the Pakistan embassy. According to his family, he had gone to Uzbekistan for higher education, and had been falsely implicated in a spying case. *[See also chapter on Labour].*

Women and juveniles in jails

A study by the Islamabad-based NGO, SACHET, the results of which were made public in February indicated that over 7,000 women and children were held at 75 jails in the country. Most were detained in extremely poor conditions, and faced a considerable threat to their safety.

An indication of this came in August when the interior ministry ordered an inquiry against the SP of Sukkur Central Jail for harassing a female prisoner. She had allegedly been raped after she refused to enter into sexual relations with him, and then pressurised to avoid reporting the matter. Female prisoners at the jail began protests to demand action against the official.

According to available figures, 1,249 women in jails were awaiting trial. Of these 745 in the Punjab, 236 each in NWFP and Sindh, 19 in Balochistan and one in AJK were under trial. 421 women had been convicted. Of these, 269 were in the Punjab, 31 in Sindh, 98 in NWFP, 22 in Balochistan and one in AJK.

According to the final report of the Special Committee on the Hudood Ordinance constituted by the National Commission on the Status of Women (NCSW) to repeal or amend the controversial law, 88 percent of women prisoners in the country were in jails as a result of ambiguities in the Zina Ordinance.

Illiteracy, poverty and lack of awareness about legal procedures were the major handicaps confronting under trial women prisoners. Many women had been abandoned by their families because of the stigma attached to the arrest of women. Slow judicial processes and delays by police in presenting the challans of the cases in court resulted in many women spending years in jail before any final verdict as to their guilt or innocence. Lack of access to legal aid, and the shortage of transport to take women to courts, were among the other major problems they faced. Women in jails in fact frequently held that the delays in their production in courts was the biggest problem they faced, with women prisoners often lowest on the priority list of those to be taken to courts by police.

The federal minister for education, during a visit to the jail in March, found around 155 women prisoners in Adiala Jail along with at least 35 small children. She called for reforms to improve the situation in jails, and for education to be provided to children held alongside their mothers. No educational, health or recreational facilities were available to these children.

The condition of juvenile prisoners was still worse, with widespread violations of the JJSO continuing. *[See also chapter on Children].*

In the Bahawalpur and Karachi jails, barracks in which juveniles were kept were in extremely poor condition and the children had to sleep either on the floor

or on raised cement blocks. There were severe shortages of medicines and water. An independent medical team, visiting the jail in March found that in Karachi's Industrial School, linked to the Borstal Jail, 57 percent of children were suffering from scabies and 11 percent from respiratory illnesses.

According to Amnesty International (AI), up to 4,500 children were held in jails in the country, more than two-thirds of whom had not been convicted of any offence. The conviction rate, when cases did reach courts, was only around 15 percent. AI also noted a majority of juvenile prisoners were in jails due to their false implication in various cases by the police. Some of them were as young as eight years.

There were also cases reported of children who had spent long periods in jail because their case files or charge sheets had gone missing.

There were 3,995, male under trial juvenile prisoners in the country. Of these, 3,025 were in the Punjab, 470 in Sindh, 446 in NWFP and 54 in Balochistan. There were 927 convicted male juveniles. All nine of the female under trial and convicted juvenile prisoners belonged to the Punjab.

Most juveniles across the country continued to be held alongside adults. Institutions specifically for juveniles were limited, and those that existed were based at Bahawalpur, Faisalabad and Karachi.

At a seminar on the 'Juvenile Justice System in Pakistan' held in Lahore in April, Hina Jilani, the secretary-general of HRCP, pointed that despite the promulgation of the ordinance, female juvenile prisoners were still treated as women prisoners. All female prisoners under the age of 18 were deprived of facilities and concessions provided to male juvenile prisoners. There was no separate Borstal institution and no certified jail schools for girls.

In January, the secretary, social welfare department, Punjab had said that female juveniles from all Punjab jails would be housed in Borstal institutions in separate areas. In case this was not feasible due to existing logistics at Borstal jails, they would be sent to homes run by the social welfare department. No action was taken to implement this.

In January the Hyderabad District Council demanded regular production of juvenile offenders before the courts. The council showed concern over the imprisonment of a large number of juvenile offenders without any significant progress in their cases.

The failure to extend the JJSO to FATA and PATA meanwhile resulted in the continued conviction of children in these areas by ordinary courts and their treatment as adult prisoners. In March, two minor boys were found to be on death row for killing a boy. They had been awarded capital punishment by a Qazi court in Swat district, falling under PATA, in July 2002 but their appeal was still pending.

The IG of Prisons, Peshawar, said in August that the number of juvenile offenders released on probation had risen to 103 since the implementation of the JJSO in the NWFP. He also stated that work on the construction of Borstal jails at Bannu and Peshawar had begun. Other officials in all provinces meanwhile

stated during the year that the JJSC needed to be more effectively implemented, if it was to have any real impact on improving the circumstances in which children were detained.

Relief measures

While assurances were made through the year of reforms in the prison system and steps to improve the conditions in which prisoners were held, the main form of relief continued to be the remissions in their sentences granted to prisoners and the release of detainees. Large-scale releases of prisoners brought about some improvement during the year in the severe overcrowding of Punjab jails.

Around 2,219 prisoners were released from February to October 2003 in the Punjab, with the government directing the release of as many as possible of those held for petty crimes. Remissions were also granted on occasions such as *Eid* and Independence Day.

Around 1,055 convicts serving various terms were released in the Punjab on special remission for passing academic and religious examinations.

An NGO in Sindh, the Human Rights Network, stated in January it would start a campaign for the release of prisoners who had completed their terms but were still in jail due to non-payment of fine also awarded to them. The number of such inmates in Sukkur jail alone was stated to be more than 120.

In February, Justice Khosa of the LHC ruled that all prisoners behind bars for over six months for not paying Arsh, Diyat, Daman or other fines were entitled to be released. While deciding a petition filed by Rehmat Bibi, the court observed that the law did not allow keeping a prisoner behind bars for over six months for not clearing a fine. Despite this ruling, prisoners continued to be detained for non-payment of fines. The LHC Chief Justice meanwhile observed that prisoners kept behind bars for failure to pay Diyat could not be released.

Welfare organisations continued to make efforts to provide better healthcare and education to prisoners, while increased efforts from such bodies were seen to offer recreational trips outside jails, books, toys and education to children in jails along with their mothers.

Prisoners on death row

The long delays in deciding appeals, and the slow pace of carrying out executions, meant that the number of prisoners held on death row across the country continued to expand, and was estimated to be at least 6,593 as the year closed. Over 5,000 were held on death row in the Punjab alone.

These prisoners lived in extremely cramped conditions in death cells, and were often, for periods of years, deprived even of the rights available to other prisoners.

The international Coalition against the Death Penalty meanwhile listed Pakistan, along with six other nations, as a country that still executed people for crimes committed as juveniles, even though the JJSC barred capital punishment to juveniles.

The fate of 261 men on death row in Sindh remained undecided with decisions

on their petitions still awaited. Some of the appeals had been undecided for as long as eight years. 216 appeals were pending in the Sindh High Court and 32 in the Supreme Court. There were 117 condemned prisoners in Central Prison Karachi, 81 in Central Prison Sukkur and 63 in Hyderabad Jail. Some of them had been awaiting decisions on their appeals for well over 10 years.

In Punjab, some 403 prisoners were sentenced to death during the year. Out of these, 241 were convicted on charges of murder, eight for trafficking narcotics, one for terrorism, one for blasphemy and one for rape.

The hanging of Qadeem Khan, 80, in Peshawar Central Jail on December 2 was condemned in a statement issued by HRCP.

A juvenile offender, Tahir Khan, on death row for the last four years for killing a man, meanwhile continued to await the fate of his appeal before the Federal Shariat Court, as did Muhammad Ameen, condemned to death for a crime committed as a juvenile. [*See also chapter on Children*]. Rubina Ansari, convicted of murder in 1999, who was to have been hanged at Mianwali Jail in 2001, was also among those still on death row. Protests, from both international and national organisations, had followed after black warrants were issued for her.

Recommendations

1. Overcrowding in jails is contributing greatly to the dismal conditions within them. Given the gravity of the problem and the constraints in constructing new prisons, the mere release of prisoners from time to time will do nothing to alleviate the situation.

Instead, changes in laws and their implementation are required to discourage police from placing those guilty of minor offences behind bars, alongside improved access to justice. Community-based restraints, a parole system and other means can be strengthened as alternatives to imprisonment.

2. The rise in the number of deaths, including murders and suicides, in jail is alarming. All reported cases of suicide, or death in other unusual circumstances, must be followed up by a judicial inquiry. In cases where the victim is found to have died due to torture by jail staff, or due to their failure to intervene in cases of violence by other prisoners, action must be taken under relevant laws.

3. Given the increasing number of riots taking place in jails, mainly due to conditions prevailing within them, police and jail staff must be trained to properly handle such dangerous situations, without resorting to desperate measures that might cause loss of life.

4. Jail staff guilty of violating the jail manual, or of torture and extortion, must be punished under relevant laws. In many cases a failure to follow regulations or respect even the most basic rights of prisoners has led to extremely volatile situations including riots erupting within jails. A prisoner must also be informed of his or her rights and rules requiring this enforced. Torture and brutality must not be condoned under any circumstances.

5. The restrictions on visits to jails by members of civil society have resulted in deterioration in conditions within jails. Regular visits to prisons by committees

including eminent jurists and other citizens, as well as committees appointed by the government, must be carried out, so that prisoners can make complaints about conditions when necessary. Reports can also be submitted by these committees. The access of journalists to jails must be permitted to allow a regular monitoring of conditions.

6. The Juvenile Justice System Ordinance 2000 and its various provisions, aimed at providing adequate protection to youthful offenders, is still to be implemented in full. The reasons for the failure to do so need to be examined and remedied.

7. Reform must be seen as a major purpose of the prison system. The emphasis must be on rehabilitating prisoners in society by providing them with vocational training, literacy and other skills, as well as with expert counselling and psychological help where required. This is especially true in the case of juvenile prisoners for whom detention should be avoided as far as possible and where this is absolutely essential in imprisonment alongside adult prisoners avoided to prevent the criminalisation of young offenders.

8. Recommendations on prison reforms made by various committees need to be implemented.

9. Jail staff must be trained to recognise the need to protect the basic rights of prisoners and ensure they are treated humanely and their dignity preserved. Brutality by prison staff is an offence and only aggravates poor conditions within prisons.

10. Poor pay structures, a lack of training, low social esteem, staff shortages, frequent transfers and dismal housing conditions for jail staff breed corruption, contribute to their lack of interest in rehabilitating prisoners and to the deplorable situation in jails. The rights of jail staff should also be safeguarded

11. The long detention of under trial prisoners, sometimes over several years, contributes to overcrowding in jails and consequently the poor conditions within them, besides being violative of detainees' basic rights. To reduce the strain on prisons and protect the rights of those facing trial, the task of processing cases must be speeded up by establishing more courts, appointing more judges, improving methods of investigation and streamlining the trial and bail procedures. Rules that set time limits for the investigation of cases and the production of prisoners before courts must be strictly implemented to check the police tendency to seek extensions in cases or to avoid bringing prisoners before courts.

12. Detainees must have access to legal aid. The denial of this frequently removes from prisoners their right to seek redress of grievance, including illegal detention. Reports that prisoners are being denied permission to meet their counsel is of particular concern. The basic rights of all those held in jails, including those accused of involvement in militancy, must be protected.

13. Those guilty of involvement in illegal detention must be punished under the law. This includes prison staff who continue to hold prisoners after the completion of their sentences unless a bribe is paid and those guilty of 'picking up' persons in violation of the law. Violations of court orders regarding illegal

detentions must also be penalised. It should be noted by authorities that mass illegal detention is not an answer to the entrenched problem of militancy. Violent trends in society can be checked only by putting in place holistic policies that address the root causes.

14. The dignity and privacy of women in jails must be safeguarded. Female staff should solely be responsible for women in jails, and all detainees must be protected from sexual abuse and harassment.

15. It must be kept in view that the children detained alongside their mothers are not guilty of any crime and should in no way be penalised and treated as prisoners. Educational, recreational and health facilities must be available to these children. They should be helped to spend at least some of their time outside the prisons.

16. Prison staff conniving in the committing of any crime within jails, including sodomy, must be punished. Juveniles must not be housed alongside adults to offer them protection from such crimes.

17. Drug addicts and the mentally disordered must not be jailed but provided the expert care they require.

18. Provincial health departments should be made responsible for the health care of prisoners. Preventive health, to stem the increase in dangerous infectious diseases including AIDS, and prompt medical care or hospitalisation for prisoners who fall sick must be ensured at all jails.

19. Students, and other groups in society, can be involved in the education of prisoners and interaction with them, as a means to aid rehabilitation and overcome resource constraints, while also raising awareness about the condition of prisoners.

Under trial prisoners must also be included in all educational efforts.

20. The absence of police vehicles and staff continues to hamper the production of prisoners before courts. Transport should be supplied specifically for this purpose and a special police force entrusted with the task of escorting prisoners to the courts.

21. The conditions under which prisoners are kept at courts must be overhauled

The use of cramped vans to detain prisoners for many hours is unacceptable. Conditions of detention at police lock-ups are often also inhumane and need urgent improvement.

22. Fishermen from Pakistan and India entering each other's waters must not be detained, and steps taken to implement India's announcement that it will not imprison Pakistani fisher folk. The continued detention of fisher folk adds hugely to their suffering.

23. The exchange mechanism for Indian and Pakistani prisoners needs to be streamlined so that they can be expeditiously identified and repatriated, with a permanent system set in place for this.

24. The right to privacy during visits, currently available to political prisoners in many cases, needs to be extended to all categories of detainees. Visits should also take place in an environment of dignity, and be organised to ensure prisoners

are able to interact freely with visitors.

25. New prisons or prisons that have been shifted must be located in areas that are easily accessible to relatives of prisoners and other visitors.

26. The plight of Pakistanis in jails overseas, and particularly in Thailand and Saudi Arabia, needs to be taken up immediately by the authorities. Steps must be taken to ensure there is no miscarriage of justice, adequate living arrangements are provided and missions kept in regular contact with detainees. Exchange treaties with countries where Pakistanis are being held also need to be finalised.

27. Foreigners jailed in the country must be permitted to meet staff from their missions and family members without hinderance. Those in need must be provided legal aid. They must not be kept in jails after the expiry of their terms, but arrangements made for their repatriation with the support of their missions in Pakistan.

28. Jail staff disobeying court orders regarding the rights and welfare of prisoners must be awarded suitable punishment.

HRCS

State of Human Rights in 2003

III



Fundamental freedoms

Freedom of movement

Every citizen shall have the right to remain in and, subject to any reasonable restrictions imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof.

Constitution of Pakistan

Article 15

Everyone has the right to freedom of movement and residence within the borders of each state.

Everyone has the right to leave any country, including his own, and to return to his country.

Universal Declaration of Human Rights

Article 17(1,2)

The restrictions seen during the previous two years on free movement within the country as a means to prevent rallies by the political opposition were not evident on the same scale in 2003.

While the right to assembly continued to be denied in many cases, the mass arrests of political activists to prevent them reaching another city or the expulsion of political leaders from a particular town, were not repeated.

However, in a disturbing development, there was evidence as the year closed that the notorious Exit Control List (ECL) was once again being misused to prevent persons known for expressing views that did not accord with those of the government from leaving the country.

Rather than enforcing laws that prevented the incitement of hatred, restrictions on movement were used to prevent members of the clergy entering various towns, as a means to prevent sectarian violence. Such bars were most common during the month of Muharram.

Foreigners were denied entry to several districts in the Punjab, apparently to

prevent access to border areas or key military facilities. Citing security reasons, journalists and other observers were prevented for much of the latter half of the year from entering the tribal area of South Waziristan, where a military operation apparently aimed against militants continued for many months.

Movement within the country

Entry to the tribal areas, and specifically to South Waziristan, remained in place all through the year, and became more stringent after authorities in the middle of the year began a massive military operation aimed at tracking down militants they believed to be present in the area. Journalists, activists, political leaders, clerics, visiting military delegations and diplomats were among those denied permission to enter the area where the operation was centred or a broad belt around it. In October, a delegation of the Muttahida Majlis-e-Amal, including leaders from across the country, was informed in Peshawar it would not be allowed to proceed into the South Waziristan area.

Journalists, both those from within the country and foreign media persons, were strictly ordered by the district administration to remain outside the limits of South Waziristan agency. In at least two cases, reporters found in the area were warned of arrest unless they left immediately. *[See also chapter on Freedom of expression].*

While details of the operation in South Waziristan were extremely sketchy, it was believed the right of movement of local persons had also been restricted on grounds of security.

The extraordinary measures seen the previous years to prevent political leaders from reaching destinations within the country, or externing them from specific cities, were not put to use in 2003. However the threat remained such steps could be adopted once more as the government kept up efforts to curb political dissent.

As in the past, clerics continued to face a traditional bar on free movement, enforced during the Muslim month of mourning, Muharram, most devoutly observed by Shias. The restriction on movement was used, rather than existing laws against the incitement of hatred, as a means to prevent sectarian violence. The increased use of audio cassettes, video tapes and other electronic means to disseminate views and put forward opinions placed a still greater question mark over the effectiveness of curbs on physical movement as a means to prevent sectarian tensions. As Muharram began in March, the district administration of Multan barred 47 clerics including Allama Sajid Naqvi of the Tehrik-e-Jafriya Pakistan (TJP) and the late Maulana Azam Tariq of the Sipah-e-Sahaba Pakistan (SSP) from entering the district. 29 clerics were barred from entering Lahore district during Muharram, 46 from entering the NWFP, 50 from Dera Ghazi Khan, 10 from Islamabad and 12 from Khairpur, while similar curbs were placed on entry to other districts.

The continued presence of troops along the border with India meant movement

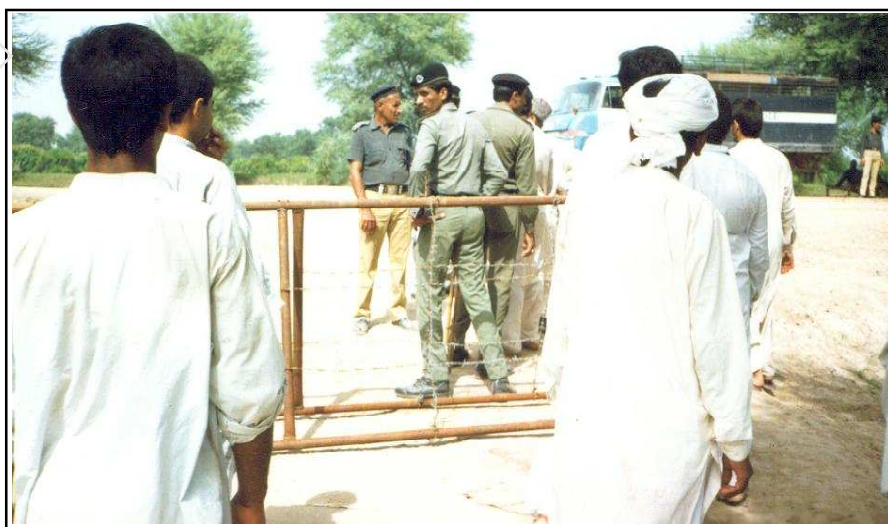
of people in villages lying along this frontier, in Kasur, Sialkot, Lahore, Cholistan and other areas continued to come under restriction, with civilians barred from specific demarcated areas.

Movement outside the country

There was evidence as the year closed that the Exit Control List (ECL), repeatedly misused in the past as a tool of harassment, was being utilised for this purpose once more.

Though the list had during 2002 reported to have been whittled down to under 1,000 names, from the number of over 3,000 it had reached in 1999, with names removed in a number of cases as a result of court orders, new names had apparently begun appearing on the document in late 2003. In November, Shahbaz Bhatti, head of the All Pakistan Minorities Alliance (APMA) and the Christian Liberation Front (CLF) complained he had received a letter informing him that his name had been placed on the ECL. No reason was given for this, and no known cases existed against Bhatti. It was however believed that the action was a message to Bhatti to desist from speaking out against discrimination against minorities in the country at international forums and criticising government actions, particularly the failure to protect minorities. Bhatti also maintained he had received messages suggesting that if he committed not to make statements hostile to the country, his name could be taken off the list.

The action against Bhatti represented a threat to other activists, and in fact all those expressing dissent against the government, with HRCP among the organisations that strongly criticised the renewed evidence of misuse of the ECL. HRCP also demanded that the ECL be scrapped, given that a number of other



Many blocks on movement remained in place.

laws existed to prevent those facing criminal charges from fleeing the country.

In late November, Pakistan Peoples Party (PPP) leader Jehangir Badr, whose name appeared on the ECL, and who faced several corruption charges in the country, was permitted by the Lahore High Court (LHC) to leave the country to perform umra. The leader's counsel had told the court Badr's name had been retained on the ECL as part of a 'personal vendetta' by the federal interior minister.

Pakistani nationals continued to face increased difficulty in reaching other parts of the world as a result of tough entry conditions imposed by a large number of nations over the past three years. While travel outside the country was not a right, the limited visa operations offered by the missions of many western countries — even though a number, including the UK, had during the year begun to expand services — presented acute difficulties for many families. The sharp decline in the number of Pakistani students able to enter institutions in the USA for higher education was one indication of this, while many Pakistani visitors to western countries reported difficult entry procedures at airports as part of the measures put in place to check global terrorism.

The resumption of road and air links with New Delhi permitted more people to visit India, while restrictions on travel by rail continued to create difficulties, and for many people, restricted access to relatives living across the border with India.

Delays and mismanagement at passport offices, as well as rampant corruption, meant many citizens faced difficulty in obtaining travel documents. The announcement by the National Database and Registration Authority (NADRA) that after December 31, 2003 new computerised national identity cards would be required to obtain passports threatened to add to the difficulties. This was particularly true given that ten of thousands of persons across the country were in November reported to have failed to obtain new identification documents due to the many bottlenecks being faced in the procedure. NADRA was also scheduled to take over the process of granting passports after 2003.

Aliens in the country

Foreigners visiting the country remained barred from travelling to most parts of the tribal or northern areas, with this bar especially strictly enforced during the year, as a result of military operations in several areas, including those lying along the border with Afghanistan.

Non-Pakistanis were also barred from entry to six districts in the Punjab, on the grounds that these lay along border areas or housed 'sensitive' installations. In October, a Dutch couple, travelling across the southern Punjab, were arrested after entering the limits of Dera Ghazi Khan — one of the districts into which the entry of foreigners was barred due to the presence of atomic energy installations. The couple was jailed for a night, after they expressed their inability to leave the district the same day. Two months later, in December, a Danish couple who had

entered Dera Ghazi Khan after driving across Balochistan, were detained at a hostel for a night, and then escorted by police to Muzzafargarh. A police spokesman held that under existing laws, foreigners were considered a security threat.

Pakistan also continued its policy of placing tougher visa conditions on those wishing to enter the country.

The National Authority for the Registration of Aliens (NARA) continued its efforts to register all foreigners in the country, with advertisements in the Press warning against the employment of unregistered foreign nationals. In December, it issued instructions that only registered aliens should be issued permits allowing them to fish off the Karachi coast and other areas. Mistrust about the intentions behind this drive, and confusion over the status of a large number of persons of Bengali, Bihari or Afghan origin however meant this process was slow.

Recommendations

1. The Exit Control List (ECL) and the Exit from Pakistan (Control) Ordinance that permits its existence, must be scrapped. The list has repeatedly been used as a means of harassment and political victimisation. In many cases it has in fact failed to serve its primary purpose of preventing the exit of those wanted in criminal cases. Other laws are already in place to meet this requirement.

2. The curbs on the movement of religious leaders, especially during the month of Muharram, as a means to prevent sectarian violence need to be reviewed. This is especially true given that in many cases, the views of these leaders are being propagated through the use of video, cassettes or pamphlets, even in their absence. The strict enforcement of existing legislation intended to curb the incitement of religious hatred, or the instigation of unrest, may serve as a more useful means to prevent violence while also sending out a clearer message against such violations of law.

3. Restrictions on travel to the tribal areas need to be done away with. Journalists, activists and political leaders must be permitted to assess the human rights situation and other realities in all parts of the country. Denial of entry to specific areas on the basis of security prevents this and increases the possibility of rights being violated.

4. The steps announced as a security measure to tighten the grant of visas to foreigners should not be used as a means to prevent entry to the country of those seeking to travel for legitimate purposes of work or recreation.

5. The process of issuing passports and new identity cards, now required to obtain passports to citizens needs to be streamlined to ease the difficulties faced by those attempting to acquire travel documents.

6. The bars imposed in the past on the travel of political leaders to other provinces or cities, as a means to prevent public gatherings, violate their fundamental freedoms as citizens.

They also prevent the exchange of views and the sharing of opinions between

people from various parts of the country during rallies staged to put forward their common demands and express their opinions. Such undemocratic restraints restricting movement between specific areas of the country must not be used.

7. Political assembly and the organising of rallies by various groups to draw attention to their concerns must be permitted. Curbs on free movement to prevent activists from attending such meetings must not be utilised as a means to clamp down on dissent.

Freedom of thought, conscience and religion

... It is the will of the people of Pakistan to establish an order ... wherein shall be guaranteed fundamental rights, including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality

Constitution of Pakistan

Preamble

Subject to law, public order and morality (a) every citizen shall have the right to profess, practise and propagate his religion; and (b) every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions.

Article 20

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Universal Declaration of Human Rights

Article 1

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 18

No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.

No one shall be subject to discrimination by any state, institution, group of

persons, or person on the grounds of religion or other belief.

**UN Declaration on the Elimination of All Forms of
Intolerance and of Discrimination Based on Religion or Belief**

Articles 1(2) and 2(1)

Religious freedoms continued to come under threat in the country, with non-Muslim citizens facing increased problems in day to day life as a result of expanding discrimination.

Actions taken by the Muttahida-Majlis-e-Amal (MMA) government in the NWFP resulted not only in a worsening of the conditions of women and minorities in the province, but also had a ripple effect across the country.

This growth in intolerance, already on the rise over the past many years, led to more cases of harassment and intimidation of non-Muslims, as well as a dramatic resurgence of sectarian violence, directed against Shias.

While the violent, terrorist killings of Christians seen the previous year were not repeated on the same scale, the Christian community continued to face deeply engrained social and economic discrimination, as well as a threat of militant action.

The Hindu community in the country too faced increased violence, with authorities failing to offer adequate protection. More cases of the rape of Hindu women, forced conversions and other forms of violence were reported in 2003 than during previous years.

The Ahmadi community once more faced the main brunt of attack, including the loss of life and property, as well as growing social ostracisation and discrimination, in most case brought about as a result of actions by orthodox militant clerics. Although such clerics continued to incite hatred against Ahmadis, no attempts were made under the country's laws to prevent them from delivering sermons attacking Ahmadis, most often in towns with large Ahmadi populations.

The continuation of policies seen the previous year, of banning militant organisations or 'picking up' those allegedly guilty of terrorist violence, and the lack of transparency behind such actions, contributed to an increase in support for militant forces. This was manifested in the rapid growth of madrassahs in the country. *[See also chapter on Education]* Changes in anti-terrorism laws made in 2002, which permitted persons suspected of militancy to be detained without charge for up to a year, led to more arrests of militants, who were often kept in jails for months before being released, adding to the sense of victimisation and injustice among such groups as well as the public, and the consequent expansion of support for them. The rising number of militant organisations also suggested a growth in the threat of intolerance and militant violence.

In May the United States Commission on International Religious Freedom recommended Pakistan, besides five other nations, be designated as a country of particular concern (CPC) for violation of religious freedoms.

The growth of intolerance and Talibanisation

The continued expansion of intolerance in society was evidenced not only by violence against non-Muslims, or indeed members of Muslim minority sects,

with at least one hundred Shias killed during the year in a series of attacks on mosques and on individual members of the community [See also chapter on *Law and order*] but also by other social trends.

These included the complaints from both Christian and Hindu communities of the forced conversion of girls, who were abducted, and then made to marry Muslims.

Apart from this, evidence of increased discrimination against non-Muslims in matters of employment and education also surfaced. In a letter written to HRCP in October, Chetan Lal, from village Jhok Sharik, Taluka Mirpur Bathero in district Thatta complained that the headmaster of the local primary school had expelled his brother, Mahesh Kumar, aged six, from the school. Another brother, Saddam Roy, 10, had been failed in examinations, mainly as a result of discrimination based on their belief.

According to other accounts by members of non-Muslim communities, there were more and more cases in which they had been refused employment simply on the basis of their religion. Christian families were increasingly choosing to give children names that would not immediately identify them as Christian, to avoid such discrimination.

While the presence of a large number of MNAs linked to the alliance of religious parties, the MMA, in the central legislature, appeared to encourage more extremist views in society, the failure by authorities to take action that could resolve some of the problems of non-Muslims contributed to their difficulties. Ahmadis, for instance, remained on a separate voting list, with no steps taken to resolve this situation.

Actions by the MMA government in the NWFP, replicating some of the measures of the former Taliban regime in Afghanistan, meanwhile, added to the climate of intolerance. Hindu, Sikh and Christian communities in the NWFP all complained of growing discrimination after the swearing in of the MMA government late in 2002.

Since then, the government had banned the playing of music in buses, dance, the medical examination of women by male doctors or medical testing by



A call for still greater intolerance?

male technicians, the coaching of female athletes by males and coverage of women's sports by male journalists, and had revoked licenses for selling liquor to non-Muslim foreigners, depriving a number of Christians in particular of their main source of livelihood. It had also ordered schools change students' uniforms from shirts and trousers to the traditional shalwar kameez and to ensure that girls covered their heads. On May 16, at least 150 owners of shops selling audio and video cassettes, and transporters defying the ban on playing music in buses were arrested in Peshawar, during an 'anti-obscenity' drive. On May 23, hundreds of activists of the MMA pulled down or defaced billboards in Peshawar depicting women or western products. Police failed to stop the demolition of the boards. On June 1, the government ordered offices, shops and schools to close at prayer times every day to allow all males to go to mosques. The NWFP provincial assembly in June passed a Shariat Bill, providing for the establishment of Sharia as the supreme law of the province, and for the setting up of three commissions to examine the economy, judiciary and the system of education, to recommend ways to "Islamise" them and wipe out "obscenity and vagrancy." The MMA also continued through the year its efforts to pass the Hisba (Accountability) Bill, under which Islamisation measures could be enforced.

These actions in the NWFP, as well as attacks on cable TV operators and NGOs, came under fierce attack from civil society groups across the country. However, no action was taken by central authorities to protect girls' schools that were forced to close down as a result of actions against NGOs, or to offer security to the threatened activists of such groups [*See also chapters on Freedom of association and Freedom of expression*].

The steps taken by the MMA government, in several cases appeared to have been echoed in other provinces. Segregation of male and female students was more strictly enforced than before on university campuses in both the Punjab and Sindh, while the Punjab government took measures that restricted dance and theatrical performances. [*See also chapter on Freedom of expression*].

Attempts to restrict the freedom of religion also took the form of attacks on the minority Muslim Shia community, which resulted in the death of at least 100 Shias during the year. The worst incident came in Quetta in July, when at least 53 Shias were killed in an attack by suicide bombers on a mosque in the centre of the city, triggering riots in Quetta. At least seven other victims of the attack died in hospital in the days that followed. In other incidents of violence against Shias during the year, most of it concentrated in Karachi, at least 40 other Shias were killed. In June, 12 Shia police cadets, all from the Hazara area, died in an attack on the van carrying them in Quetta. An attack on a van carrying SUPARCO employees near Karachi in October, in which six persons died, was also believed to be sectarian.

Shia doctors were targeted in some attacks in Karachi, leading to even more doctors from within the community joining those who had fled abroad in previous years.. The government failed to devise policies that could help curtail growing sectarian violence in the country, or create greater confidence within the

Shia community which repeatedly complained during the year that not enough had been done to protect its members or to apprehend those responsible for the killings. The arrest of the leader of the banned Shia party, the Tehrik-e-Jafriya Pakistan (TJP), Allama Sajid Naqvi, in November, on charges of playing a role in the brutal murder of Maulana Azam Tariq, the leader of another banned party, the Sunni extremist Sipah-e-Sahaba Pakistan (SSP), led to angry protests by Shias across the country.

No efforts were made to prevent leaders of the Millat-e-Islami Pakistan (MIP), the new name the SSP had given itself to evade the ban placed in early 2002, from attacking Shias in speeches made after the killing of Tariq, in Islamabad in October. While the SSP had been banned, Tariq himself was permitted to contest the 2002 general election and take up his seat in the National Assembly. Alongside five other groups that had altered their names after previous bans, the MIP was banned as the year closed. The duality and ambiguity in policy against groups involved in militancy and the spread of hatred appeared to spur on such tendencies in society. There was also a failure, as in 2002, to put in place holistic policies that could address the root causes of growing militancy, intolerance and religious hatred in society.

Freedom of religion

The freedom available to individuals to practice their belief continued to be restricted, with Hindus, Christians and other groups all coming under attack.

The existence of specific laws against Ahmadis meant that they continued to face legal discrimination, while attacks on the community appeared to accelerate during the year.

According to Christian groups, the attendance of worshippers had fallen over the year as a result of the violent terrorist attacks in 2002, with fears that more such violence could be inflicted. Police remained deployed outside the larger churches in major cities of the country for the earlier half of the year, while groups monitoring minority rights also complained of violence by police and threats of violence by orthodox groups, following the handing over of colleges nationalised in the early 1970s to missionary administrations.

Hindus too faced increased harassment, from both official and non-official quarters, while the Sikh community in Peshawar reported facing intimidation on the streets under the MMA government in the province.

☛ Ahmadis

The Ahmadi community confronted violence, widespread discrimination, harassment, and in some cases death due to the beliefs it adhered to. Alarmingly, the threat came not only from orthodox forces in society but also from official quarters.

Anti-Ahmadi laws remained in place, while orthodox clerics were able to deliver sermons calling on Muslims to persecute or even kill Ahmadis, without any action taken against them under the law. The impact of such prejudice on the

Cases against Ahmadis

Under sections 295-A and B

♦ Haris Khan was charged under Ahmadi-specific laws. PPC 295-A and also 298-C in August 2002. He was later released on bail. In 2003, through either fraud or connivance with police, a warrant of arrest was again issued against him. The warrant was cancelled only after considerable difficulty, while Haris Khan still faces court hearings.

♦ In June 2003, Ghulam Hussain from Rajanpur, was booked under section 295-A after being accused of making blasphemous remarks. He held that the accusation was false, and had been levelled as the result of a petty dispute. The police told the victim that if he recanted his faith, he could be freed. If he refused to do so, he could find himself facing a prison sentence of at least ten years. Faced with this, Ghulam Hussain told the court he was not an Ahmadi and had become a Muslim, after which he was freed on bail.

♦ There were a number of incidents during the year in which where requests for routine bails were rejected in cases involving Ahmadis. Ehsanullah was charged in July in Mardan under 295-B along with his sister, who faced mental health problems, and had allegedly burnt some papers of a magazine on which Quranic verses were written. The two were arrested after a complaint. The sessions judge was approached to release them on bail. He accepted the bail of the sister, but did not grant the same to Ehsanullah, who remained in jail as the year closed.

[Section 295-A of the Pakistan Penal Code reads as follows:

Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs. Whoever, with malicious and deliberate intention of outraging the religious feelings, of any class of the citizens of Pakistan, by words, either spoken or written or by visible representations insults or attempts to insult the religion or religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to (ten) years, or with fine, or with both.

Section 295-B reads:

Defiling, etc. of copy of Holy Quran. Whoever wilfully defiles, damages or desecrates a copy of Holy Quran or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life]

Under section 295-C

♦ Iqbal, who lived at Narang Mandi, Sheikhpura, had joined the Ahmadi community in 1995. Late the previous year, he married his cousin Aliya, a non-Ahmadi. The marriage did not work out. The couple

separated, and in June, Aliya approached the court. She accused her former husband of blasphemy, as well as other offences under anti-Ahmadi laws. Iqbal was arrested, and remained in jail for almost six months, before he was granted bail by the Lahore High Court. He still faces charges of blasphemy.

- ◆ In July, police in Islamabad registered a criminal case under sections 295-C and 298-C, for blasphemy and under anti-Ahmadi laws, against two persons who had jointly authored a book, 'Pakistan key Mazhabi Acchoot' (Religious untouchables of Pakistan), about the plight of Ahmadis in the country.

[Section 295-C of the Pakistan Penal Code reads as follows:

Use of derogatory remarks, etc., in respect of the Holy Prophet.
Whoever, by words either spoken or written, or by visible representation, or by imputation, innuendo or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished by death, and shall also be liable to fine.]

Under sections 298-B and C

- ◆ Nazir Ahmad owned a shop, the Ahmadiyya Glass Store at Aqsa Road in Rabwah, where he also manufactured frames for photographs and pictures. He had displayed a large framed photograph of the founder of the Ahmadi movement at his store. On March 12, in the early evening, the officer in charge of the local police post visited the store accompanied by cleric, Allah Yar Arshad, known for his anti-Ahmadi preaching, and three constables. The police took away the photograph and registered a criminal case on the complaint of the cleric, under anti-Ahmadi sections of the PPC, 298-B and C, carrying possible imprisonment for three years

- ◆ In June, Rabwah police registered a case for writing the kalima (Islamic Creed) on their house against Mubarik Cheema and his father. The police destroyed the kalima, and arrested the youth. The young man spent approximately four weeks in prison before being bailed out. Both father and son face court proceedings.

- ◆ Suleman Ahmad of Dera Ismail Khan was booked under section 298-C in May for allegedly leading Ahmadis in prayers and propagating his faith. Suleman was a member of the local Brothers Health Club for Body Builders, the members of which reportedly did occasionally discuss religion, but in a friendly atmosphere. In April, Suleman won a position in a contest, which apparently caused jealousy among his competitors. They approached the son of Riaz Gangoli, the local president of the Majlis Tahafuz Khatam-e-Nabuwat, after which police was informed, an FIR registered and Suleman arrested. His plea for bail was initially rejected, and he was released only after several months in jail.

- ◆ In September, police registered a case against Muhammad Arif, an electrician from Rabwah, under section 298-C, at the accusation of a

cleric, Allah Yar Arshad. The cleric told police that Arif had come to his mosque, preached his faith to him and asked him to convert. According to Ahmadi organisations, the argument arose after Arif completed electrical repairs at a madrassah run by the cleric, who declined to clear his bill of Rs 350, and instead paid him only Rs. 200. This led to a brief scuffle, after which the complaint against Arif was made.

[Section 298-B of the Pakistan Penal Code reads as follows:

Misuse of epithets, descriptions and titles, etc. Reserved for certain holy personages or places. (1) Any person of the Qadiani group or the Lahori group (who calls themselves 'Ahmadis' or by any other name) who by word, either spoken or written, or by visible representations

(a) refers to or addresses, any person, other than a caliph or companion of the Holy Prophet Muhammad (peace be upon him), as 'Ameer-ul-Mumineen', 'Khilafat-ul-Muslimeen', 'Sahaabi' or 'razi Allah anho';

(b) refers to, or addresses, any person, other than a wife of the Holy Prophet Muhammad (peace be upon him) as 'Ummul Muminen';

(c) refers to, or addresses, any person, other than a member of the family (ahle-bait) of the Holy Prophet Muhammad (peace be upon him) as Ahle bait; or

(d) refers to, or names, or calls, his place of worship as masjid; shall be punished with imprisonment of either description for a term which may extend to three years, and shall be liable to fine.

(2) Any person of the Qadiani group or the Lahori group (who calls themselves 'Ahmadis' or by any other name), who by word, either spoken or written, or by visible representation, refers to the mode or form or the call to prayers followed by his faith as "Azan" or recites Azan as used by Muslims, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

Section 298-C reads:

Person of Qadiani group etc., calling himself a Muslim or preaching or propagating his faith. Any person of Qadiani group or the Lahori group (who calls themselves 'Ahmadis' or by any other name), who directly or indirectly poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representations or in any manner whatsoever outrages the religious feelings of Muslims shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.]

Ahmadi community was immense

One example of this came after the demise of the head of the global Ahmadi community, Mirza Tahir Ahmad, in April in London. Mirza Tahir Ahmad had been forced to leave Pakistan in 1984, as a result of growing victimisation under anti-Ahmadi laws, which left him unable to perform his duties. Despite the pleas by the Ahmadi community that permission be granted to bury their leader in his own country, orthodox clerics, particularly those linked to the Tehreek-e-Tahafuz-e-Khatm-e-Nabuwat (Movement for the Protection of the Finality of Prophethood) threatened that a law and order situation would be created if the body was brought back. Eventually Mirza Tahir Ahmad was buried in London.

Ahmadis also faced discriminatory action by the government itself. On June 27, the Punjab education department dispatched a 'top priority' registered letter to the management of three schools in Faisalabad, run by members of the Ahmadi community. In the letter, the school administrations were advised to declare their institutions as 'Qadiyani' (a widely used alternative name for members of the Ahmadi community) schools, and to state this in their advertisements, on their letterheads and brochures. According to reports from Faisalabad, since June the police, education department officials, military intelligence personnel and police special branch officials had repeatedly visited the schools, all of which enjoyed a good reputation. Staff had been harassed, and as a result of the steps taken, some parents, fearing a possible closure of the schools, had withdrawn their children.

The Tehreek-e-Tahafuz-e-Khatm-e-Nabuwat, which had for years conducted a vicious campaign against Ahmadis, continued its activities during the year. Even the town of Rabwah (renamed Chenabnagar), within which nearly 95 percent of the population was Ahmadi, was not a safe haven for the community. Indeed, anti-Ahmadi organisations often made the town the focal point for their campaigns against the community, and connived with police for the registration of various cases under anti-Ahmadi laws. The 'offences' for which the cases were registered included the display of the kalima (Islamic creed) or were based on claims that a member of the community had committed blasphemy.

The Khatam-e-Nabuwat organisation, at a gathering in the Chamanabad colony of Rawalpindi in July, urged Muslims to enforce a complete social boycott of Ahmadis and distributed pamphlets inciting hatred against the community. Other such gatherings were held in various towns throughout the year, with loudspeakers, pamphlets and posters used to campaign against Ahmadis. No action was taken against those inciting such hatred.

While Ahmadis continued to be barred by from holding religious conferences at Rabwah, the Tehreek-e-Khatm-e-Nabuwat was permitted to hold numerous open-air gatherings in the town, including its annual congregation in August at which orthodox clerics from across the country called on the government to take further action against Ahmadis, and imprison those adhering to the faith.

Ahmadi students, and even school children, also continued to face problems. Under the arrangements by the Punjab education department, Ahmadi children from three local schools assembled at a government high school at Rabwah in

March to sit the final school examinations. After they had assembled, an unexpected lecture was delivered by examination staff about the finality of the Prophethood of Hazrat Muhammad (Peace Be Upon Him), and the school children informed that anyone who differed from these views was an infidel.

More instances of harassment at the workplace were reported. Two Ahmadi, Rafiq Ahmad and Abdul Shakoor, employed at Soofi Textile Mills, Millo Mor, Jhang, reported to Ahmadi organisations in July that they were facing repeated questioning by police, putting their jobs at risk. The police action apparently came after a letter, written to the assistant commissioner, accused the two Ahmadi of preaching their faith and inviting colleagues to watch MTA (Muslim Television Ahmadiyya).

In another incident reported from Pasrur, Awais Ayub Butt, an Ahmadi who had been appointed lecturer at a the Government Degree College in the town, was dismissed in September, with no solid reasons given for his dismissal. He believed he had faced such action only because of his faith, and filed an appeal before the LHC. The court, a few months later, gave a decision in his favor and Butt was accordingly appointed once more to the college. However, when he reported to join, the college principal did not allow him to do so. Sermons against Ayub were meanwhile delivered from mosques in the area. A day later, the college principal handed the lecturer a letter stating that in view of the clerics opposition and the sentiments of college staff against Qadianis, he should seek appointment elsewhere. The letter bore the signature and official seal of the college principal.

Daud Shakir, the Ahmadi headmaster of a government primary school in Nankana Sahib, complained in June that he had faced harassment and threats, warning him he would be punished because of his beliefs, after he turned down the demand made by a union council nazim that he issue a bogus letter. Other similar complaints by Ahmadi came in from across the country, with some reporting they had been declined jobs at banks, private firms and businesses, solely on the basis of their faith.

Attacks on places of worship

In May, at Bhakkar, four persons jumped over the wall of the Ahmadi place of worship in the town at around 2.00am, beat up the caretaker and locked him in a room. The attackers then took away the television set and a receiver kept in the building. The town had also seen harassment of Ahmadi in the past.

Some 18 years ago, a place of worship was built by Rana Wali Mohammad, an Ahmadi, on his own land and at his own expense, at Ahmadnagar, a village near Rabwah. Ahmadi had been using the building for worship for nearly two decades. But after a campaign by a cleric linked to the Tehreek-e-Khatm-e-Nabuwat, Ghulam Mustafa, who alleged that the building was being used to propagate the Ahmadi faith, it was sealed in October on the orders of the home secretary.

Ahmadi in Rabwah (Chenabnagar), Faisalabad, Sahiwal, Hyderabad and other

towns also received threats that their places of worship would be attacked.

Acts of violence

Ahmadis continued to face violence of various kinds, including beatings, verbal assault and even murder. Alarming, the number of such cases during the year was higher than in 2002, with the trend of accelerating anti-Ahmadi violence seen over the decade continuing.

Some of the cases reported during the year were as follows:

- ◆ In July, Brigadier Iftikhar Ahmad, aged 65, was shot dead by three assailants in broad daylight at his home in Rawalpindi. Brigadier Iftikhar lived near the well-guarded Army Officers Colony, opposite the official residence of the President of Pakistan. At about 13:45pm on July 17, while he was having lunch, three armed intruders forced their way inside the house, opened fire on him and hit him in the chest. A brief scuffle took place as the victim's brother-in-law attempted to apprehend them, but all the assailants were able to escape. Brigadier Iftikhar was rushed to the Combined Military Hospital (CMH) where he died after surgery. The attack on an army officer sent out clear signals to the Ahmadi community that none of them were safe. While police maintained the murder was part of a robbery attempt, even though no item was taken away from the house, Ahmadi groups held that the broad daylight shooting and the methods used, indicated this was another targeted killing of an Ahmadi.

- ◆ In August, two men attempted to murder an Ahmadi, Munawar Ahmad Khan, at his home in Chak 82 D, district Sahiwal. Munawar was a former official of the district organisation of Ahmadi elders. The two assailants arrived at his house early in the morning, when the victim got up for prayers. As soon as he answered the doorbell, they opened fire on him, after confirming his identity. The victim was rushed to the district hospital by his family in a critical state, and then taken to a private hospital in Lahore. He survived the attack, but spent several weeks in hospital.

- ◆ Extremist organisations in the NWFP, including the little-known Dawat Tehrir, Hizbullah and the Jaish-e-Muhammad distributed threatening letters to Ahmadis in May, making specific demands and warning of grim consequences if these were not met. For example, a letter sent to Saleem Ahmad in Peshawar stated the family must either declare Ahmadi beliefs false, or pay 'jizya' tax (an Islamic tax payable by non-Muslims) or hand over their son for 'service to Islam' by having him volunteer for a suicide bomb attack.

- ◆ Shafqat Raza, an office-bearer for the local Ahmadi organisation in village Alipur Chatta, district Gujranwala was in July, intercepted by four members of an extremist group on two motorcycles. They took him to an isolated spot, beat him and detained him for over four hours. They also threatened him with murder and before releasing him told him that he should not be seen again at the Ahmadi centre in the village.

- ◆ In another incident in October reported from Shahpur Sadr in the Punjab, an Ahmadi, Hamid, who had gone from Rabwah to Shahpur Sadr to visit relatives, allegedly started discussing his faith with a non-Ahmadi, Muhammad Aslam.

Muhammad Aslam became very angry and beat Hamid up with shoes, while others in the area blackened his face, made him ride a donkey and forced him out of the town.

✪ *Christians*

Christians, who formed around 2.5 percent of the country's total population, were spared the kind of militant violence inflicted on them in 2002.

However, isolated incidents of violence continued, as did the social and economic discrimination Christians had faced in the country for the last many decades.

Groups working for the rights of Christians also maintained that forced conversions were on the rise. These usually involved young Christian women, who were abducted, made to convert to Islam and then wed to Muslims. According to Christian groups, reports also came in of young Christian men who had been forcibly converted, and then sent for 'jihad'. Most such cases were reported from remote areas of the northern Punjab.

In November, the head of the All-Pakistan Minorities Alliance (APMA) and the Christian Liberation Front, Shahbaz Bhatti, an often outspoken advocate for the rights of the Christian minority, received a letter stating his name had been placed on the Exit Control List (ECL). No reasons were cited for this, and no cases were known to exist against Bhatti. The move was largely seen as an effort to prevent him raising the issue of Pakistani minorities, and the failure by government to protect their rights, at international forums. HRCP condemned the action against Bhatti [*See also chapter on Freedom of movement*].

Incidents of violence against Christians also took place. In July a 39-year-old Roman Catholic priest, Father George Ibrahim, was shot dead at his home in Renala Khurd, located on fruit farms managed by a private company. Father Ibrahim had been sleeping when at least six assailants entered the house and shot him dead. Police attributed the murder to a dispute between two factions of the church, which had also led to a previous clash in which several people had been injured. However, Christian groups held the priest had been shot dead by militant extremists, targeting Christians.

Several news items during the year suggested that non-Muslims in the country, and particularly Christians, were being made victims of the war in Iraq. In Faisalabad, a nine-year-old maid servant, Razia Masih, was according to the Christian Liberation Front (CLF) dragged before the television set each night in the family living room of her employers house as the war raged early in the year, and beaten, tortured and taunted. She was told by the family she worked for that she, as a Christian, had to pay the price for the sufferings inflicted by the US-led forces on the Muslims of Iraq. The child remained in hospital for several weeks after her family was able to rescue her, recovering from rape, burns and broken bones. Her former employers were not charged and denied the violence.

According to Christian groups, in several incidents reported from across the country, Christian girls were raped, and targeted for the crime because of their

faith. In many cases, police were less willing to act against those responsible for violence against non-Muslims. Cases of torture by prison and police staff on Christians were also reported [*See also chapter on Jails and prisoners*].

Economic discrimination against Christians meant they remained amongst the poorest communities in the country. The sale of kidneys, by Christians in Lahore's Jauhanbad area, one of the most impoverished localities in the city, was reported to be widespread, as a result of poverty and unemployment. [*See also chapter on Health*].

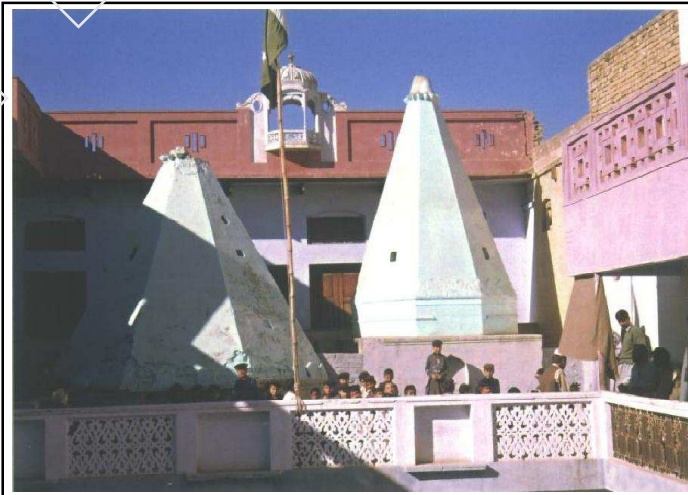
Christians, according to reports by groups monitoring abuses of their rights, were denied employment or promotion on the basis of their faith with growing frequency, and such deeply entrenched discrimination remaining a primary factor in the problems faced by the Christian community.

✪ *Hindus*

The number of reported cases of violence against Hindus, as well as an expansion in discrimination against them, resulted in a distinct worsening in their plight over the year.

Reports of the victimisation of Christians came in from the Punjab, Sindh, Balochistan and the NWFP, where Hindus living in Peshawar and other areas reported that they had, for the first time in decades, faced overt discrimination after the swearing in of the MMA government late the previous year.

In January, the Hindu community in Shikarpur observed a shutter down strike to protest against the setting on fire of religious books and other material at one of their temples, Balak Ram Ji Mari at Lakhi gate. The



Is there no other place for this government school rather than a 'seized' Hindu mandir?

president of the local Hindu organisation demanded a judicial inquiry into the matter, and blamed religious activists out to make mischief for creating religious disturbances between the Muslims and the minority Hindu community, which had for decades lived peacefully in the area.

On September 17, 2003 in broad daylight, six armed persons, allegedly led by the sons of local landlords in Chak No. 54-55/DB near Yazman in Bahawalpur

district, attempted to rape three Hindu women in the village, Bhoorti Ram, Soorti Ram and Kishni Ram in the presence of their families and other villagers, after taking them inside a hut. In a series of incidents that had taken place during preceding months, other Hindu women had been raped or molested in the same village.

The men, apparently thwarted by the angry crowd that had gathered outside Soorti's hut, released their captives after about 30 minutes. They then turned their fury on the villagers, most of them Hindus, beating them with their pistol butts and briefly taking the men hostage. Several villagers sustained injuries in the attack. In desperation the three women approached a landlord of neighbouring Chak No 56, who helped register a case against the six men. The day following the attack, a group of Hindus held a demonstration outside the office of the tehsil nazim and later marched to the offices of the local police chief. The police filed four FIRs against the assailants, charging two with gang rape and two with violence.

According to a local Hindu, this was the seventeenth incident in the area in 2003 in which the Hindu community had been victimised. Two days before the incident, the daughter of a Hindu elder, Mava Ram, had been abducted by the sons of the local landlords who sent her back the next morning after subjecting her to gang-rape through the night.

In another incident a few months previously, Lunia Ram was on his bicycle with his wife a short distance away from the village when a man identified as Sohail waylaid them, and after beating up Lunia Ram, dragged his wife to the nearby cotton fields but was prevented from raping her by villagers who had been alerted by her cries for help.

The Hindu community in Yazman had also suffered other forms of victimisation. Their children did not go to school because they were mistreated by the Muslim teachers. A Hindu girl studying in class eight in the local government school taught other Hindu students in the evenings at a village school run by Catholic missionaries.

Incidents of discrimination against Hindus were also reported from other parts of the country. In November, the Peshawar Cantonment Board in Pakistan served a notice to the Balmeek Hindu community in the city to vacate about 70 houses in the Kali Bari area, occupied by them for over 130 years. Similar notices had also been served a month earlier, with a 140-year old Hindu temple among the buildings the community had been asked to vacate within a week. It was understood cantonment authorities planned to demolish the houses and temple. No announcement was made about compensation or alternative places of residence for the Hindus who faced displacement at extremely short notice.

According to a local Hindu, the property was in the name of Mehar Chand Khanna, who had bought it legally in the 19th century. The cantonment board, however, insisted the residents were occupying the area illegally and encroaching on government land. Following pressure by the Hindu community, and mediation by federal government officials and minority MNAs on the behalf of the residents

of the area, the cantonment board announced in December it would not pursue the matter.

The board also maintained that Muslims, Sikhs and Christians were also living in Kali Bari along with the majority Hindus, and the action had not been directed against a single community.

The case of a Hindu student, Jagdish Lal, enrolled at the Edwards College, Peshawar, who had gone missing in May, also remained unsolved as the year closed. According to the family of Jagdish Lal, from Swat, he was last seen while on his way to a local temple at Jhanda Bazaar.

Late in November, the representatives of minority groups from across the NWFP began a campaign demanding ownership rights to places of worship and the protection of such sites across the country. They urged the authorities of the Peshawar cantonment board to permanently withdraw the decision about the proposed demolition of two residential compounds and the historical Hindu temple.

Through the last six months of the year, at least 500 Hindu women in Jacobabad continued their protests against the alleged abduction of a teenage Hindu girl by a Muslim youth. Soni, the 16-year-old girl had gone missing in June, and her father had repeatedly rejected suggestions that she had eloped with a local Muslim shopkeeper. She was already engaged to a Hindu. On June 26, a formal complaint was lodged by the family, stating that Soni, daughter of shopkeeper Ashok Kumar, had been abducted three days earlier by a Muslim. According to a local Hindu leader, Kishan Lal, this was the fourth case of the abduction of a Hindu woman in the district during the year. About 20 Hindu women had been abducted throughout the Sindh province in 2003. The Hindu population of Sindh was estimated to comprise of around 400,000 people.

In another incident, the Qasimabad police in Hyderabad, picked up 13 liberated Haris, including Munnu Bheel, in October and took them to the police station where they were tortured. The action appeared to be aimed at forcing Munnu Bheel to deny his family had been kidnapped. The HRCP had been pursuing the case of the hari since 1998, when his family was abducted in Jhuddo by a landlord of Sanghar. Despite repeated appeals, the nine family members had not been freed. *[See also chapter on Labour]*

☛ Sikhs

Sikhs in the NWFP complained of increased victimisation during the year. Communities based in the northern, tribal areas maintained the harassment they suffered had increased as a result of government operations against militants in the area, and the consequent fanning of extremist feelings against non-Muslims.

An incident early in the year in Peshawar brought protests from Sikhs. Harivender Kaur, aged 6, the daughter of a local merchant, Naam Singh, went to the house of a neighbour Nasir Khan, and apparently converted to Islam in the presence of a number of people. Since then the child had remained in the custody of Nasir Khan, as he stated he feared the girl might be killed if returned to her parents. The father of the girl demanded the government take action against the

accused for kidnapping his minor daughter, while the Sikh community warned of protests. A nephew of Nasir Khan held that the girl was 12, and did not wish to return to her family. The matter remained unresolved as the year closed.

Blasphemy laws and their impact

The expanding evidence of the misuse of blasphemy laws, often to settle minor dispute, brought continued protests from groups campaigning for the laws to be repealed.

While non-Muslims remained especially vulnerable to being targeted under the laws, more and more Muslims were also accused under sections 295-B and C of the Pakistan Penal Code (PPC), dealing with blasphemy. The climate of intolerance, and the increasing number of cases in which charges brought on the basis of economic or social motives had resulted in people being jailed, setting a precedent that more and more persons chose to follow, was largely responsible for the increase in the filing of blasphemy cases.

In December, Christians in Paracha Colony in Lahore's Shahdara area alleged that a recent convert from within the community, Naseer Masih, who had changed his name to Naseer Ahmed, was using the blasphemy law to settle old scores. As a result of accusations he had made, a Christian labourer, Anwar Masih, had been charged with blasphemy and detained at the Camp Jail.

Fears, particularly within the lower judiciary, of retaliation by orthodox forces in cases where a person accused of blasphemy was acquitted, meant judges almost invariably chose to safeguard their lives by convicting persons produced before them. Even in cases where the accused were later acquitted by higher courts, they spent prolonged periods in jails, and faced a threat to life even after their release.

The rising risk of death faced by persons accused of blasphemy, before courts could deliver any final verdict as to their guilt or innocence, was illustrated by two cases in Lahore. Naseem Bibi, 45, was battered to death at Lahore's Kot Lakhpat Jail in the middle of the year. *[See also chapter on Jails and prisoners].*

In February, Professor Mushtaq Zafar, on bail granted by the Lahore High Court in a blasphemy case he faced, was gunned down less than a kilometre from the court as he was leaving after a hearing. Another victim facing trial was murdered in Kasur. *[See also chapter on Law and order].*

It was also clear that charges of blasphemy were being brought on increasingly frivolous bases. In September police in Lahore arrested two shoemakers from the Badami Bagh area on charges of blasphemy because the design on the soles of the shoes they made resembled the word 'Allah'. The men were freed after police investigations found the accusation, by Shabir Hussain, had been brought on the basis of a business rivalry. Others, less fortunate than the shoemakers, found themselves in jail as a result of accusations stemming from similar motives.

Three Christians accused of blasphemy, including Ayub Masih who had spent nearly six years in jail, four of them on death row, before the Supreme Court

overturned his conviction last August, and two brothers, Saleem and Rasheed Masih, who were imprisoned for nearly four years until the Lahore High Court announced their acquittal and release in March, were freed during the year. Others across the country, including Muslims as well as non-Muslims, however continued to be detained and faced long periods of suffering.

No official moves to amend or repeal the laws were made during the year.

Conversions

A growing number of Ahmadis, Hindus, Christians and Sikhs were during the year reported to have converted to Islam, with clerics often publicly claiming 'credit' for such conversions. The trend of collective conversions at the hands of clerics before public gatherings also appeared to be on the increase.

According to organisations monitoring the rights of minority communities, many conversions took place under immense social pressure, while in other cases, these were merely cosmetic, and aimed at warding off harassment by clerics or to acquire employment, in some cases made available only to Muslims.

In March, more than 30 Hindus of Rajpur Tharo Mandi village including, 13 women, embraced Islam at the hands of Shakargarh's religious scholar Sahibzada Ghulam Mohiuddin.

On November, 17 Qadiani families comprising over 160 individual men, women, and children converted to Islam at Mohallah Qazian, village Shaikh Muhammadi on the outskirts of Peshawar.

Many other similar conversions continued to be reported throughout the year.

Recommendations

1. The increased threat to the life and welfare of minority groups at the hands of militants cannot be tackled by expanding policing alone. Holistic policies, aimed at upgrading the declining status of non-Muslims and tackling the issue of militancy through broad-ranging changes in various spheres, need urgently to be put in place to avoid a further loss of life.

2. All laws that discriminate against minorities and provide legal sanction for such discrimination must be scrapped. These include the continued separate electoral list for Ahmadis.

3. Ahmadis should be granted the right to profess and practise their faith, as equal citizens of the country. Specific laws against them should be done away with while acts of discrimination by authorities must be halted.

4. Those guilty of violence against minority communities or of instigating others to carry out attacks, whether through sermons, pamphlets, posters or any other means, must be acted against under relevant laws. The failure to penalise those carrying out such acts is encouraging attacks on minority communities and their places of worship. Minority groups must be given the full protection of the

law.

5. District administrative officials must be proceeded against under the law whenever they are found guilty of connivance with groups targetting minority groups for harassment and violence.

6. Those accused under blasphemy laws must be protected both within and outside jails, given the growing number of cases in which such persons have been murdered before any final verdict by the courts.

7. The laws on blasphemy are in need of urgent review given their frequent misuse. The government has already acknowledged this itself by attempting to make a procedural amendment in the law in 2000 to guard against its abuse. It must now stand firm in its stance and amend or repeal all laws that can be used to settle disputes or enmities, with dangerous consequences for the accused. Capitulating to pressure from those threatening violence and failing to make essential changes in the law can only encourage the forces of obscurantism.

8. Courts, district administrations and law enforcers must be made aware of the need to protect minority groups under the law and avoid falling victim to prejudices against them. The hasty registration of cases frequently encourages orthodox groups to initiate further such action and thus worsening the situation for minorities.

9. The judiciary, at all levels, needs to be made aware of the rights of minorities and the dangers of encouraging further intolerance or prejudice in a society where many tensions already exist.

10. The creation of hatred by delivering provocative speeches or issuing fatwas must be banned and laws to this effect fully implemented. Those guilty of inciting mob attacks on individuals must be punished under relevant laws.

11. The expanded emergence of quasi-religious courts and informal court-like tribunals in various parts of the country presents a growing threat to citizens. A parallel legal system must not be allowed to operate.

12. Sectarian violence must be curbed by enforcing laws against the keeping of arms and stopping the training of militants.

13. In view of the increasingly dangerous situation in the country, efforts must be made to build an environment of greater tolerance and innovative means adopted for this. Incorporating material on the rights of minorities and the need for tolerance in school curriculums, providing more public space to the various schools of Islamic thought adhered to by many in the country, that are opposed to the orthodox interpretations imposed by militant groups and encouraging debate and discussion at all forums can all form a part of such a strategy.

14. Forced conversions and undue pressure on members of minority communities to convert, must be halted. All citizens of the country, regardless of belief, also need to be protected from discrimination, intimidation or harassment of all kinds.

Freedom of expression

Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restriction imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court or commission of or incitement to an offence.

Constitution of Pakistan

Article 19

Everyone has the right to freedom of opinion and expression; this right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Universal Declaration of Human Rights

Article 19

New laws on the press, promulgated late in 2002, remained unenforced throughout the year, including the Freedom of Information Act. This meant that journalists in the country remained deprived of any right to access information. A new law, on contempt of court, promulgated in July, meanwhile further curbed the right to free expression.

At the same time, newsmen appeared to face a heightened threat of violence from groups within society, with at least two persons murdered during the year as a direct result of opinions expressed in their writings. Others faced threats, harassment and intimidation from both official and unofficial quarters.

While the government continued to insist the Press was free, evidence of measures to coerce newsmen continued to come in through the year. The mainstream electronic-media also remained in government hands, with cable-based channels available only to limited audiences.

According to World Press Freedom Rankings released by the Paris-based

organisation for media freedom, Reporters Sans Frontieres (RSF), Pakistan was 128th on a list of 166 countries in terms of how free its media was. The previous year, in the first such ranking compiled by RSF, Pakistan had been placed at 119th place in a list of 139 countries. RSF also reported that new press laws posed a threat to the print media, while welcoming a liberalisation of the broadcast media.

The Green Press, in its annual report released in May, painted a bleaker picture, and held that the Press in the country enjoyed almost no freedom. It cited over 50 incidents that it said amounted to 'crimes against the press' between May 2002 and May 2003.

The MMA government in the NWFP meanwhile curtailed other forms of expression, including dance, music and theatre, while there were also disturbing indications of official efforts to control information available over the Internet.

Restraints on free expression

Reports during the year released by various media-watchdog organisations, including the New York-based Committee to Protect Journalists (CPJ) and the Vienna-based International Press Institute (IPI) noted that journalists in the country continued to exercise restraint amounting to self-censorship, as a result of the environment of harassment and intimidation in which they worked.

These organisations also feared that press laws promulgated in 2002, including the Defamation Ordinance 2002, the Press Council Ordinance 2002 and the Presses, Newspapers, News Agencies and Books Registration Ordinance (PNNBRO) 2002, would be used to curtail the liberties of the Press. Groups representing newspaper editors, working journalists and newspaper owners within the country meanwhile continued to demand that the Freedom of Information Act, 2002 be enforced, incorporating the amendments suggested by the media bodies, along with other Press laws given the difficulties being caused by the delay in doing so. The Freedom of Information Act promulgated the previous year had come under



Journalists had plenty to protest about.

severe attack on the grounds of the numerous limitations it placed on the right to access information. Despite the continuing criticism, amendments recommended the previous year by stakeholders

were not made a part of the law.

In July, the Contempt of Court Ordinance, 2003, was issued, greatly widening the scope of existing laws on contempt. The law made even mere criticism of a judge a punishable offence, sparking off widespread protests from the lawyers, journalists and activists. The ordinance stated that contempt of court would be punishable with imprisonment, which might extend up to six months or a fine, or both. Discussion in parliament of any matter of public importance with criticism of the conduct of a judge was also declared an offence, in effect ending the parliamentary impunity of legislators.

Meeting in January, the Council of Pakistan Newspaper Editors (CPNE) stated that the non-formulation of rules regarding registration and the grant of declarations was creating multiple ambiguities. The CPNE noted that taking advantage of the severe problems the industry was facing regarding declarations, with new publications largely unable to set up operations, the bureaucracy was attempting to divest the provinces of their press registration rights, and give these to the federal government, further centralising control over media.

The CPNE in April again called for recommendations by stakeholders on laws pertaining to freedom of information and defamation be notified, while expressing deep concern over the inordinate delay in the formulation of the Pakistan Press Council. Despite this, ordinances promulgated in 2002 were not enforced as the year closed, with this failure continuing to create problems for publications across the country. In September, the CPNE stated its committee on press freedom would be looking into several violations of rules on free information reported during 2003.

In April, the All Pakistan Newspapers Society (APNS), bringing together newspaper owners, expressed concern over a policy adopted by the federal cabinet in March. The policy advocated placing powers for the release of all government advertisements in the hands of the Press Information Department (PID), and wresting away the authority of semi-government bodies to release advertisements independently. The APNS feared this amounted to a still further concentration of powers that could be used against the Press in government hands, and held that such a policy marked a continuation of the dictatorial, anti-Press policies seen during the era of the military ruler, Ayub Khan. Both the APNS and the CPNE demanded that the information ministry focus attention on facilitating the free flow of information, and also spoke out against its alleged attempts to 'conspire' with editors and publishers who wished to enter the CPNE.

In July, the APNS expressed concern over the curtailment or suspension of government advertising to specific publications, and reiterated that the policy of using advertisements as a lever infringed upon press freedom and negated the democratic posture of the government.

In February, HRCP expressed grave concern over the heightened threat faced by Sindhi newspapers as a result of government policies. This appeared to be a part of a wider campaign against critical elements within the national media, with the Sindhi language press, known for vibrancy and willingness to take on authority, having already faced numerous efforts to tame it, often by initiating criminal

cases against reporters and editors. HRCP received a complaint early in the year from the Sindh National Council about the difficulties being faced by the 'Daily Sindh', published from Hyderabad, as a result of government indifference to its problems. These difficulties began just over a year ago, when dacoits robbed it of most of its equipment. Though the criminals had been apprehended, the stolen items had not been returned to the newspaper despite the assurances of the interior secretary. As a consequence, there were fears the publication would be forced to close down, following the path of at least 12 other Sindhi language newspapers that had in recent years ceased publication, mainly as a result of the denial of government advertisements.

On February 12, yet another Sindhi newspaper joined these publications. The 'Sindhi Hyderabad', once the second largest newspaper in the Sindhi language, was forced to close down as a result of the 50 percent reduction in its advertisement quota some three years ago. Almost 100 people lost their jobs. In an attempt to draw attention to their plight, journalists from the newspaper, joined by other newsmen from Sindh, in August marched on foot to Islamabad. After receiving no response from the ministry of information, they set up a hunger-strike camp in front of the Press Information Department (PID). The chief editor of the publication held that since the newspaper advocated land reforms and the rights of tenants, it had been forced to close down as a result of an alliance between the military and feudals.

In June, Amir Mir, the editor of the weekly 'The Independent', a hard-hitting magazine from Lahore that had begun publication the previous year, resigned following months of intimidation, threats and harassment from government officials. In March, the CPJ had in a letter to President Pervez Musharraf expressed grave concern about a threat allegedly made by Punjab home secretary, Brigadier (retd) Ejaz Shah, warning the owner of 'The Independent', Ilyas Mehraj, that the government had decided to act against the paper as it was working against the 'national interest.' Shah denied making the comments. After 'The Independent' decided to publish a detailed story on this campaign of intimidation, more threats to the editor and owner followed. Advertisements to 'The Independent' from the Punjab government, a key source of revenue for any publication, had been stopped in late 2002. HRCP also received complaints about the government efforts to prevent the magazine from continuing to voice its often-critical news stories and comment, and had issued statements expressing alarm over the situation. Following Mir's decision to step down as editor in the wake of continuing threats to the publication, which put its survival at risk, the editorial policy of the magazine appeared to undergo a dramatic shift, with content toned down drastically. The Pakistan Federal Union of Journalists (PFUJ), the Punjab Union of Journalists (PUJ) and the CPNE were among the bodies that expressed grave alarm over the policies of intimidation carried out against 'The Independent'.

Amir Mir was targetted by President Musharraf for writing 'anti-army' articles at a November 20 reception for newspaper editors. During the same meeting, the monthly 'Herald' magazine, for which Amir Mir was writing, and the monthly 'Newline' were also attacked by President Musharraf for working "against the national interest" Musharraf reportedly warned the time had come for both 'Herald'

and Amir Mir to be “dealt with”. A few days later, Amir Mir’s car was set ablaze outside his home in Lahore. He reportedly also received threats from the Inter Service Intelligence (ISI) warning that this was just “the beginning.” In response to a letter written to President Musharraf by the New-York Based Human Rights Watch, protesting the increased threats to journalists in the country, the government denied ‘Herald’ or Amir Mir had been targeted. The CPJ and other international watchdog bodies also took up the matter.

In April, the Lahore High Court (LHC) finally dismissed a case in which the chief editor and reporter of ‘The News’ had been accused of anti-State activities on the basis of a published report. The case took over a year to settle.

In early May, Sarwar Mujahid, a journalist covering the conflict between military farm tenants and Rangers in Okara for several Urdu language dailies in Lahore, was arrested on charges of terrorism and inciting the public against Rangers. He was produced before an ATC in Lahore, and remanded to police custody for four days. Okara police meanwhile also booked the reporter in several criminal cases. Mujahid was shifted to the Okara district hospital after he suffered health complications stemming from diabetes. His family reportedly continued to receive threats for weeks after his arrest. The reporter, who among other charges had been accused of firing a 7mm rifle at Rangers, denied ever seeing such a weapon, and stated his problems with authorities arose after he made persistent attempts to reach the Okara Military Farms. Rangers and police had been preventing newsmen from visiting the area or speaking to tenants.

On May 30, the web-based weekly newspaper, the ‘South Asia Tribune’, brought out from Washington, accused the Pakistan government of blocking access to the site. Shaheen Sehbai, the editor of the publication, had also been targeted the previous year by the government, and had resigned as editor of the English language daily, ‘The News International’. Sehbai accused the authorities of using the Pakistan Telecommunications Ltd (PTCL) Internet Exchange, set up in January ostensibly to filter out pornographic sites, to block the website of the highly critical publication. This was denied by the government. However, for unknown reasons, direct access to the site was often problematic.

In August, Khuzdar-based journalist, Rasheed Azam, was detained by police, apparently on the report of agencies. Azam was a stringer for two national dailies, and an activist of the Baloch National Party (BNP) Shortly after his arrest, he was accused of having distributed an anti-army poster and charged with sedition. HRCP strongly condemned the arrest, and demanded that due process of law be followed in the case. In October, an HRCP team visited Rashid Azam in prison in Khuzdar, and once more drew attention to his continued detention, and the increased instances of actions by agencies that aimed to curtail free expression and dissent.

At the end of August, HRCP expressed concern at the filing of a case against seven journalists in Hyderabad on charges of anti-State activities, and described this as proof of increased intolerance for the freedom of the media.

Late in the year, concern increased over the fate of journalist Khawar Mehdi Rizvi, who continued to be held in illegal detention as the year closed after being

taken into custody in Karachi early in December. Rizvi had been held alongside two French journalists, Marc Epstein and Jean-Paul Guilloteau, working for the Paris-based 'L'Express.' The two French nationals, released on bail from jail on December 24 but kept under house arrest, had been arrested for allegedly illegally entering Afghanistan from Pakistan. It was also reported authorities believed they had handed over information about militancy in Pakistan to Afghan authorities. The journalists were early in January sentenced to a six-month jail term by a Karachi sessions court, but then set free within days.

RSF was among the international watchdog bodies which, at the end of December expressed grave concern about the fate of Rizvi. Authorities declined to confirm they were holding him, even though the journalist had been shown on PTV at the time of his arrest alongside the two Frenchmen.

In June, newspapers were advised by the PID to avoid carrying a detailed interview former Prime Minister Nawaz had given from exile in Jeddah. Newspaper editors also complained the issuing of such 'advice;' was on the increase, and given the significant powers of leverage the government held over the Press, carried with it a strong element of threat. Newspapers were in many cases pressurised to carry articles and columns forwarded by the PID.

The role of the PID came under increased criticism from bodies of journalists, with Peshawar-based journalists in August questioning its existence at a seminar and pointing out that the department often acted to prevent them from carrying out duties, rather than offering facilitation of any kind.

Threats to media professionals

For a growing number of journalists across the country, attempts to perform their duties put them at huge risk of physical injury, or even death.

The case of the young Sindhi journalist, Ameer Bux Brohi, who was murdered in October, highlighted the growing scale of this threat [*See box*], which came from both official and unofficial quarters.

The increased number of incidents reported highlighted the failure of State to ensure the safety of journalists, or indeed other citizens who faced harassment, intimidation and violence as a result of the views they expressed.

Indications of the involvement of police, or other government agencies, in a number of the cases reported was especially disturbing, with international media watchdog bodies also raising concerns about the threat journalists in Pakistan so often faced.

Some of the incidents that came to light in 2003 were as follows:

- ◆ In February, Fazal Wahab, a young author, journalist, Pakistan People Party (PPP) activist and social activist was murdered by unidentified men in Mingora. It was believed that the brutal killing was motivated by two recent books produced by Wahab, in which he had criticised Osama bin Laden and the Taliban. One of these books was titled 'The Role of Mulla', and attacked clerics. Local clerics had issued several fatwas (edicts) against Wahab after the book

Silencing the truth: the murder of Amir Bux Brohi

The gunning down of Amir Bux Brohi, almost precisely a year after another Sindhi journalist met an equally violent end, highlighted the expanded risks faced by journalists

Amir Bux Brohi, 26, a reporter for 13 years for the Sindhi language daily, 'Kawish' and the KTN television station associated with it, was gunned down in Shikarpur, on October 3, as he was returning home from work.

Though the murder took place metres from the District Police Officer's (DPO) office, within the highly secure police lines area, the killers were able to escape. After Brohi fell to the ground, one of his killers was reported to have returned and shot him at close range in the throat.

Brohi's family, his colleagues and many journalists across Sindh maintained that Brohi's killers were hired by influential local feudals, who wished to take revenge on the reporter for his bold exposure of tribal practices, and the involvement of feudals, police and other influential persons in crime. Other reports held that the murder was not necessarily an outcome of Brohi's professional activities. These reports pointed out that a large amount of money was found in accounts maintained by Brohi, and state that the possibility of the murder being the outcome of a dispute on monetary matters cannot be ruled out.

Journalists from across Sindh converged at Shikarpur to attend the funeral of Brohi and join in the mass protests against the killing. Newspaper editors warned that more deaths could follow, and in letters sent to the interior ministry, Sindhi journalists demanded that efforts to arrest the killers be stepped up.

In the emotional speeches made at press clubs and at protest demonstrations across Sindh, numerous incidents of threats made to newspapers by pirs, landlords and others were cited.

Almost the same time the previous year, in October 2002, another young Sindhi journalist, Shahid Soomro, had been gunned down by assassins who rang his doorbell and then greeted Soomro with a hail of bullets. Soomro had also worked for 'Kawish', and the sons of a powerful feudal from Kandhakot were accused of his murder. Other reports again suggested a personal dispute could be behind the murder. Soomro's killers today remain free. The case was settled early in 2003 by a jirga, at which it was agreed the accused party would pay a sum of Rs 1,600,000 to Soomro's family.

Journalists protesting Brohi's death have demanded that this time round, his murder not be settled through a tribal gathering. They have also warned that unless the persons responsible are apprehended and penalised under the law, the risk to other journalists will remain high, and in the years ahead more could meet the same fate as Brohi and Soomro.

was published late in 2002. It was also reported the writer was about to publish a new book making grave allegations against close relatives of local political leaders. It was believed that local extremist militants were behind the murder, with former HRCP Chairperson Afrasiab Khattak, soon after the murder, stating the government was responsible as the writer had already complained he had been receiving death threats.

- ◆ During the same month, Reporters Sans Frontieres (RSF) called on Pakistani authorities to ensure the safety of journalist Syed Anwar, of the Peshawar-based English language daily, 'The Frontier Post', who had been receiving threats allegedly by henchmen of an Afghan military commander.

- ◆ Police officials in Dera Ismail Khan were in March alleged to have beaten and harassed Mehmood Khattak, a reporter for the English-language daily, 'Dawn' after he completed a story criticising police performance and the inhumane treatment of detainees.

- ◆ In April, a bookmaker in Sargodha, Amir Hashmi and his accomplices allegedly attacked the office of the Urdu-language daily 'Khabrain', after a news item against them appeared. Staff at the office was beaten, and cash and equipment worth RS 30,000 stolen.

- ◆ Sami Paracha, a reporter for the English language daily, 'Dawn', was in April kidnapped in Kohat by members of an extortion gang for publishing a story about extortion of money from the business community.

- ◆ In July, sub-editor of the daily, 'The Frontier Post', Munawar Mohsin, filed an appeal in the Peshawar High Court (PHC) after being sentenced to life imprisonment and a fine of Rs.50,000 by a sessions court on charges of blasphemy. The charges stemmed from the publication of an allegedly blasphemous letter on January 29, 2001. All the other journalists accused in the case had been acquitted. Munawar Mohsin's colleagues and brother had informed the court he suffered mental health problems and was a drug addict. International bodies, including RSF and Amnesty International expressed concern over the case.

- ◆ In October, RSF called on Pakistan to protect two newsmen who had been detained in September by an extremist group in Khyber Agency. Although the two had been released soon afterwards, RSF noted that they still felt threatened. Nasrullah Afridi and Aurangzeb Afridi, correspondents of the Peshawar-based Urdu-dailies 'Subah' and 'Mashriq', had been detained in a private prison by the Tanzeem Ittehad-I-Ulema for several hours. The action apparently came as a result of pressure exerted by influential people in the area, following the publication of news items about smuggling and the involvement of tribesmen in this, as well as comments about clerics. The journalists had been asked by the group that had kidnapped them to attend a meeting, and had been receiving death threats after they failed to turn up for the occasion, fearing for their safety

- ◆ In November, three Faisalabad-based newsmen, Abid Nawab Toor, Yasir Nawab and Naeem were 'picked up' by police and subjected to torture after a story appeared in the weekly magazine they worked for accusing police of extorting money from students. The journalists were held during a raid on the publication. A medical board set up by the district judge, on their complaint,

Media outreach in Pakistan

Following are statistics on the Pakistani media for 2002 – 2003, compiled and produced by Gallup Pakistan.

Newspaper readership

Urban	60%
Rural	35%
All Pakistan	45%
Readership on a given day	30%
Readership from a purchased newspaper	
Purchased	51%
Neighbours/Friends	13%
Public Places	24%
Offices	7%
Miscellaneous	5%

Newspaper Delivery

Through Hawker Delivery	52%	Shops	31%
Roadside/Miscellaneous	17%		

Magazine Readership 10% of national population

Radio Audience (in normal time)

Urban	21%	Rural	27%	All Pakistan	23%
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Cinema Going 13% of the national population

TV Ownership in Pakistan

*TV homes within the country	10 million
TV homes in urban areas	5 million
TV homes in rural areas	5 million

TV Viewership

**Total	40 million		
Urban areas	69%	Rural areas	37%

Cable and Satellite Penetration

Among urban TV viewers	42%
Among rural TV viewers	16%
Among all Pakistan TV viewers	29%

*Since some TV homes have more than one TV set, the total number of TVs can be estimated to be 11 million

**Including regular and casual viewers and those who view from own homes or public place/neighbours/friends.

found the newsmen had been badly beaten, causing injuries that required hospital treatment.

Other reports coming in throughout the year highlighted the threat from militant elements, drug traffickers, other criminals and police faced by journalists. In several cases reporters had apparently faced violence after exposing petty criminal activity, with the trend on the rise across the country. The failure of authorities to extend protection or support to journalists in such cases was also notable.

Curbs on working journalists

Actions from State agencies, and more rarely from other quarters, aimed at preventing journalists from access to information or from covering events, appeared to be on the increase – in a continuation of the disturbing trend seen over the past few years. These efforts to prevent pressmen from covering events acted to curb information reaching citizens across the country.

At a seminar arranged by the Press Institute of Pakistan (PIP) in April, at Lahore, crime reporters said they faced multiple problems due to the police refusal to provide even basic information or allow them to see records. Reporters covering other spheres of activity also faced similar problems. Some of the incidents reported during the year were as follows:

- ◆ On January 1, police in Lahore harassed and detained several journalists who were attempting to cover a press conference held by lawyers against the demolition of a building at the Lahore High Court. The reporters were prevented from reaching the offices of the Lahore High Court Bar Association (LHCBA) where the conference was being held.

- ◆ During the same month, at the Alhamra Arts Council in Lahore, a reporter for a foreign radio network, Osama, was beaten up by security staff when he tried to interview Mrs Pervez Mushrraf. The Punjab Union of Journalists (PUJ) condemned the incident, and the increased efforts to hamper working journalists by police and other security services.

- ◆ In March, Special Services Group personnel at the Frontier House, Peshawar, insulted around 30 journalists who were attempting to cover a meeting at the premises.

- ◆ . Rangers posted at the Wagah border were, in April, reported to have abused and manhandled reporters covering the arrival of an Indian delegation across the border.

- ◆ In May, police outside the Punjab Assembly building in Lahore baton-charged several reporters who were trying to interview opposition leaders, as they were being arrested and taken away for attempting to enter the assembly. The entry of 27 opposition MPAs to the building had been barred. Several journalists, including two photographers, suffered injuries. The Punjab law minister, following a boycott of assembly proceedings by journalists, ordered an inquiry into the incident – the results of which remained unknown as the year closed. *[See also chapters on Political participation and Right to assembly].*

- ◆ Only the official media was provided accreditation to cover President

Pervez Mushrraf's speech at the Saarc education minister's conference in May at Islamabad, despite protests from other journalists.

- ◆ A week later, the chief justice of the LHC banned media coverage of the proceedings of a petition seeking the trial of president on charges of high treason.
- ◆ Police at Karachi Central Jail in July manhandled several journalists as they attempted to cover the trial of Asif Zardari at the jail.
- ◆ Senate secretary, Shahid Iqbal, was in July served a legal notice by Advocate Syed Zafar Ali Shah for harassing a journalist from an Urdu newspaper who had reported an incident in which the secretary beat-up a Senate employee. Other newspapers had published the same news item.
- ◆ In September, staff encircled journalists covering proceedings of the NWFP provincial assembly, apparently on the directives of the Speaker, who had ordered the journalists be prevented from approaching MPAs and talking to them within the assembly building.
- ◆ During the same month, the correspondent for 'Dawn' in Bajaur Agency was manhandled, apparently by guards of a tribal chief. Authorities declined to take action, despite complaints from the journalist and the Tribal Union of Journalists (TUJ).

Other incidents of harassment, deliberate obstruction and hostility to journalists continued to come in from around the country as the year closed.

The electronic media

While there were some welcome indications that a more liberal policy regarding the electronic media was being put in place in the country, progress was often slow and somewhat uncertain. PEMRA (Pakistan Electronic Media and Regulatory Authority), set-up in March 2002, had, as the year closed, given out licences to 29 new radio stations since its inception, many of which had begun functioning, offering a wider variety of programming to thousands across the country. Licences for 13 television companies were announced, but it was unclear where these were based, who owned them and when they were expected to start broadcasts. This meant that apart from the officially-controlled Pakistan Television (PTV), almost all other Pakistani channels were based outside the country. This of course severely hindered the number of parties able to set-up television channels, and in turn restricted choice available to viewers, with alternative to PTV available only over cable or satellite.

In an important step, in July the federal cabinet approved cross media ownership of television channels. PEMRA rules, announced in 2002, had disallowed print media owners from also owning television channels, and all through 2002 and 2003, newspaper owners had lobbied for this bar to be lifted. The cabinet reversal of the previous decision was widely welcomed.

A test-case of the extent of the willingness to end PTV's monopoly on the live coverage of major events in the country came at the end of November, when a private television channel, based in Dubai, 'Geo', stated it had bought rights to telecast Pakistan's one-day cricket matches against New Zealand, after putting up the highest bid. The right to cover the event was strongly contested by PTV,

which refused to allow the TV channel to relay coverage of the match in Lahore on November 29. After widely publicised protests by the TV channel, the deprivation of viewers of any coverage of the match and a public controversy, 'Geo' was eventually permitted to share telecast rights with PTV. Press reports stated President Pervez Musharraf had intervened in the matter. 'Geo' meanwhile pointed out that the fact that both PEMRA and PTV fell under the information ministry, meant that a conflict of interests could jeopardise fair-play in matters of granting rights or licences.

Statistics provided by PEMRA indicated that access to electronic media still remained low across the country. Around 88 radio and 60 TV sets were present for every 1,000 persons, well below the international average of 150 sets per 1,000 persons.

Early in the year, after scrutinising over 100 applications received, PEMRA granted licences to 22 companies to establish new radio stations. Broadcasts from these stations began in Bannu, Karachi, Hyderabad, Rawalpindi and other locations during the year.

All through the year, the federal information minister pledged to set up new television channels under PTV, to broadcast programmes on sports, education, science and other spheres of public interest. Whereas four new television channels were initially proposed, before the year closed, the information minister stated 10 more channels would be established. A new PTV station in Azad Jammu and Kashmir was also planned. The MMA government in the NWFP meanwhile stated during the middle of the year that it was in the process of planning the establishment of its own television channel in the province, to disseminate information, views and opinions in keeping with its ideology.

PEMRA continued to come under severe criticism in the country during the year. At a seminar in Lahore in January, it was accused by playwright Shahid Mehmood Nadeem of in fact expanding State control over the electronic media by censoring programmes run by private networks. At other forums, speakers complained about long delays in the issuance of licenses, and continued State control over whom the licences were issued to.

In September, after proceedings that extended over nearly a month, a contempt proceeding against the London-based private television channel, ARY digital was withdrawn by an Anti-Terrorism Court (ATC) in Karachi. The contempt proceedings had been initiated by Justice Arshad Noor Khan after remarks allegedly derogatory to the judiciary were broadcast. The channel had submitted a full apology.

While channels available over the expanding cable network in the country offered a wider choice of programming to an estimated 4 million viewers, only 0.1 million among these viewers received cable transmissions legally. In all other cases, the programming was being provided illegally by cable operators across the country. Cable TV operations also came under attack in many areas of the NWFP during the year from orthodox elements, while official restrictions on the broadcast of Indian channels remained in place. *[See also section on Curbs on free flow of information].*

The continued hold of the government on PTV, which remained the only

channel available to the majority of viewers across the country, also severely restricted access to a variety of opinion. In fact, the space available to the opposition on PTV appeared to have declined sharply compared to the previous year, during which the Election Commission of Pakistan (ECP) had made attempts to enforce at least some degree of impartiality in coverage given to various political parties in the run-up to the October 2002 general election. According to official figures, between November 2002 and May 2003, the opposition got total coverage of seven hours and 47 minutes, against 92 hours and 45 minutes given to government officials and the officially-backed Pakistan Muslim League, Quaid-e-Azam (PML-QA) on PTV's main 'Khabarnama' news broadcast and other news bulletins. The total duration of coverage for members of government on all programmes was 470 hours and 49 minutes. Of this, the president got coverage of 31 hours and 33 minutes, while the prime minister received coverage of 53 hours and 14 minutes. The opposition meanwhile received coverage of only 1 hour and 55 minutes.

Complaints against the Press

While complaints against obscenity, blackmail and a lack of professional ethics within the Press appeared to be on the increase, there were some indications that media bodies too were more determined than before to tackle the growing problem.

In November, the APNS at a meeting in Karachi announced it was suspending the daily 'Khabrain' from membership, after the Urdu-language newspaper allegedly submitted forged documents during an inquiry into charges made against it.

The CPNE and the APNS called for the Pakistan Press Council to be set-up at meetings throughout the year, and held that the council was needed to regulate press matters. They argued that after the promulgation of the Pakistan Press Council Ordinance in 2002, further delay in establishing the body was unjustified. Bodies of working journalists opposed the council, and demanded representation of professional newsmen on it.

During the middle of the year, the declaration of the Urdu-language evening newspaper, 'Postmortem', brought out from Lahore, was cancelled after a Lahore High Court (LHC) verdict. The paper, repeatedly accused of defamatory content and attempts to blackmail in the past, had been accused by the female executive of a company of attempting to damage her reputation and standing. It was however reported that within a month, the owner of the publication had begun bringing out a new newspaper, containing similar material.

Other complaints about attempted blackmail by newspapers, defamation and lack of ethics also came in.

Participants at a one-day workshop on 'Portrayal of women in the media', held at Islamabad in February, by the NGO Aurat, were meanwhile highly critical of reporting of news items in the Press concerning women, and particularly crimes committed against women. It was noted that the main purpose behind such stories often appeared to be to sensationalise the issue. The increased tendency to print photographs and full names of victims of rape was noted, and bodies of journalists asked to check this violation of ethics. The depiction of

women in advertisements in the print and electronic media was also criticised.

Restraints on freedom of artistic expression

New restrictions on artistic freedoms were placed by the Muttahida Majlis-e-Amal (MMA) government in the NWFP. The growing influence of orthodoxy meanwhile also appeared to have an impact in other parts of the country.

Continuing policies put in place the previous year, the MMA in the NWFP began measures to enforce its ban on music in public vehicles or public places, dance and many forms of theatre. Stage artistes in Peshawar complained on several occasions of harassment by police, who entered their houses [*See also chapter on Women*], while the performance of plays was forcibly stopped at venues across the province. Plays at educational institutions, alongside musical programmes, were also barred.

During the Muslim month of fasting, Ramazan, the MMA government stopped cinema houses from showing films, on the grounds that these could lead to immoral thoughts.

It was not however in the NWFP alone that restrictions on artistic freedoms were imposed. Early in the year, the Punjab education minister announced a ban on all dance performances at schools, including folk dances, after attending a programme at a girl's school during which dances formed a part of the presentation.

A few months later, in August, a furore broke out after the City District Government placed a ban on dances in stage plays, on the grounds of obscenity. After angry protests from artistes, complaints by female artistes of harassment by police on the pretext of enforcing the new restrictions and criticism from other sections of society, the City District Government agreed to seek public opinion on the issue. While a temporary ban on all dances remained in place, and under directions from the chief secretary, dance sequences were omitted from scripts, a committee comprising theatre owners, artistes, playwrights, directors and government officials submitted its recommendations on the subject. The committee, while opposing a ban on all forms of dance, proposed censoring the scripts of stage plays three days prior to the opening of plays, and suggested the arts council and CDG officials jointly issue no objection certificates. It also proposed imposition of a ban on the performance of artistes using vulgar language or making indecent gestures during their performance on stage, and suggested that action should be taken against the directors of objectionable dramas and the owners of theatres where these were staged.

The LHC, hearing a petition moved by theatre owners against the ban, meanwhile ruled that dance could not be banned as not all performances were obscene. Strict censorship of dance on stage however remained in place all through the year, despite the lifting of the blanket restrictions. In late November, the Punjab government banned all theatrical performances in the city, maintaining that theatre owners needed to acquire new licences to stage these dramas. Artistes, directors and members of the public strongly protested that the ban that came just before the Eidul Fitr holidays, a time when many attended popular entertainment shows.

Film producers in Lahore also complained of tough censorship, which they

said had an adverse impact on the marketability of films, and was as such damaging the film industry in the country.

Orthodox student groups in Lahore, Multan and other cities meanwhile continued to act to prevent musical programmes or plays to be staged at campuses, while in November the prime minister asked hotels not to stage 'objectionable' fashion shows, and to avoid arranging such shows during the month of Ramazan.

Checks on information flow and new media

The most serious attempt to check the free flow from official quarters came during the middle of the year, when the federal ministry for information technology, citing a check on pornography and access to pornographic sites, began blocking thousands of websites available over the Internet.

Since late last year, warnings had been issued that the setting-up of a system that enabled PTCL to block selected websites in fact went against the very concept of the Internet, which offered a huge range of information. The pressure to block pornographic websites had come largely from the orthodox Jamaat-e-Islami (JI). In May, the web-based publication, 'South Asia Tribune', known for views highly critical of the Pakistan government, stated its site was being deliberately blocked by the Pakistan authorities. This was denied by the federal minister for information technology [*See also section on Restraints on free expression*].

The controversy involving the website raised new fears of checks on information available over the Internet. According to some reports, sites based in Israel and India were also being blocked. The action by PTCL led to a serious slowing down of Internet speed for thousands of users across the country for over a month. In addition, according to reports surfacing by the end of the year, it was clear that the attempted filtration was largely unsuccessful, given the huge number of pornographic sites, and the fact that proxy servers could be used to access them in many cases, making censorship of the Internet extremely difficult to achieve in technical terms.

In March, the government began an effort to persuade cable operators to adhere to a ban imposed in 2001 on Indian channels. Mainly as a response to the huge demand from viewers, many cable operators had once more begun airing channels showing Indian films, television dramas, stage shows and other programmes. As the stand-off between the government and cable operators continued, during the middle of the year cable operators observed a 'strike' during which most Pakistani channels and many news and entertainment channels were taken off air. Cable operators stated that the ban on Indian channels was placing their livelihood at stake, and demanded a lifting of the restriction for Indian based entertainment channels. According to statistics provided by bodies of cable operators, whereas 875 registered cable operators existed in the country, 600 did not turn up to renew their licenses for 2003 because of the heavy losses they were suffering, with thousands of viewers cancelling subscriptions.

After assurances from the federal government that their grievances would be addressed, the strike was ended. In August, PEMRA cancelled the licences of six cable operators for failing to observe the ban on Indian programmes, while further punitive action was taken in September. The ban on Indian channels

remained in place as the year closed.

Cable operators also faced a growing threat from orthodox elements in the country, who accused them of spreading obscenity and criticised the content of many programmes available on cable television.

In January, the district administration of Charsadda announced it would not allow a planned cable network to be set up in the town. During the same month, HRCF condemned an attack on OK Cables in Peshawar, during which staff at the offices of the cable operator were beaten up and cables dug up out of the ground, causing huge losses. Similar action against cable operators was reported from Kohat, Nowshera, Mingora, Bannu and other towns across the NWFP. A tribal jirga in Orakzai agency banned televisions, VCRs or cable TV. Attempts were also made in parts of the Swat Valley to enforce a ban on television imposed the previous year. Activists of groups linked to the banned Tehrik-e-Nifaz-e-Shariah Mohammadi (TNSM) were reported to have entered home and damaged television sets found there. Efforts to stop cable television transmissions were also reported from Jhang, Khairpur, Multan and other towns outside the NWFP, with the government in all cases failing to act to protect threatened cable operators

Other attempts to curb information also continued. Early in the year, the Punjab government confiscated all copies of books published in Azad Jammu and Kashmir on the Mangla Dam expansion project. The government in the province also banned a book by Mufti Kafaitullah, which allegedly contained derogatory material against religious sects.

Several issues of international magazines were also banned during the year, including an issue of 'Newsweek' magazine in July. The magazine, all copies of which were seized as they reached the country, was stated to contain material 'derogatory to Islam'. The ban of the 'Newsweek' issue, and several other magazines was criticised by RSF and other groups. It was also noted that in many cases, such bans were particularly pointless given that most published material could be accessed over the Internet. Despite this, publications continued to come under ban, with at least two books, said to contain 'objectionable material' on Islam, also banned during the year in the NWFP.

Recommendations

1. *Laws that fail to recognise the right of all citizens to access information and act as a further means to curb free expression, must be revised and brought into conformity with the drafts of the laws agreed on by bodies representing media professionals, editors and owners. The fears of working journalists and editors that the laws will be used as a means of harassment, and of owners that they will be used to cancel declarations or restrict individuals from bringing out publications, must be addressed while revising the ordinances.*

2. *The doubts concerning issues of declarations for publications, registration of newspapers and other matters caused by a delay in enforcing laws promulgated in 2002 must be addressed, given the problems this ambiguity over the existing*

legal mechanisms is creating. The continued failure to enforce the law on freedom of information is also disturbing. A law permitting wider access to information must immediately be put in place.

3. The increased intimidation of journalists by personnel linked to the State intelligence apparatus, and attacks on individual journalists and publications by members of government, must be halted. Law enforcers and intelligence agency staff must not be used to harass journalists failing to follow the officially dictated policy line.

4. The tendency to close down publications must be given up. Where a violation of law has taken place, this needs to be tackled using normal legal means and action taken only if authorised judicially.

5. The electronic media must be freed from official control by showing greater speed and generosity in the award of licences to private television and radio channels.

6. The government must not succumb to pressure from orthodox groups to act against journalists under blasphemy laws or other provisions without a proper inquiry.

7. Journalists and media organisations must be protected from attacks on them and all necessary administrative measures taken to ensure this. Threats to journalists from criminal mafias, politicians and persons with influence have increased in recent years and the need for greater security is essential to permit media professionals to carry on with their work. In instances where members of the administration are themselves responsible for intimidating or threatening media professionals, action against them should be taken under relevant laws.

8. Curbs aimed at preventing journalists from carrying out their professional duties must not be imposed within public-sector organisations and the use of official machinery to harass and intimidate them strictly checked.

9. The mechanisms available to the government to indirectly control the Press, such as the grant of advertising, or the assessments of the Audit Bureau of Circulation (ABC), must be placed under autonomous, transparent control to avoid misuse as a means of coercion. The grant of newsprint should also be brought under an established and verifiable set of regulations. Other laws must not be used to harass the Press.

10. The secret fund for journalists maintained by the Information Ministry or any other agency must be scrapped to help eliminate corruption. It has already been officially acknowledged that this fund serves no legitimate purpose. The process of nominating journalists for key foreign visits should be transparent and should indeed be carried out by the organisations to which the journalists belong.

11. The Official Secrets Act, the laws on sedition and the Maintenance of Public Order (MPO), should be done away with. These laws have repeatedly been used to curb free expression.

12. An independent body of professionals and eminent citizens must control the state-owned electronic media, so that it can offer a wider range of views and grant space to those opposing the government. The wide reach of television and

radio makes this all the more essential. Government control over the largest national news agency, the Associated Press of Pakistan (APP) must also end.

13. Actions by orthodox groups to restrict people's access to information by destroying television sets or disallowing the operation of licensed cable networks, must not be allowed.

14. Use of Internet needs to be further promoted by reducing charges and expanding existing services. Attempts to limit the information available over it must not be made, given that steps ostensibly put in place to check pornography can also be used to block other information.

15. The media community must itself consider ways to protect citizens from its excesses and devise mechanisms to make this possible.

16. All laws that hamper press freedom, including the contempt of court law, need to be revised.

17. The expanded efforts to restrict artistic expression must be discouraged by putting in place policies that promote traditions of dance, music and other forms of art. Censorship rules for films and theatre need to be re-formulated to allow both for creativity and the addressing of key social issues. The ban on Indian cable channels must be lifted.

Freedom of assembly

Every citizen shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order.

Constitution of Pakistan

Article 16

Everyone has the right to freedom of peaceful assembly and association.

Universal Declaration of Human Rights

Article 20(1) *Freedom of Assembly*

With elected, civilian governments replacing military administrations in the centre and provinces, the right to political assembly did not come under the same harsh restrictions faced the previous year. However, there was evidence that despite this façade of permitting democratic rights, the policies of the past remained largely in place. Groups other than political parties continued to face curbs on their right to assembly, and in a number of cases become victims of violence unleashed by police. In other cases, activists linked to political parties too found their rights to assembly being severely limited, while lawyers, continuing their campaign against the Legal Framework Order (LFO), were prevented from staging gatherings at venues they had selected for the purpose.

Police mismanagement of protests by citizens repeatedly led to unnecessary violence, and the use of tear-gas, batons and bullets against unarmed people.

Restrictions on political protests

The restrictions placed since March 2000 on public gatherings by political parties, which had been somewhat relaxed ahead of the October 2002 general elections, continued to mean that political parties wishing to stage rallies were required to seek prior permission and could hold meetings only at specific venues. Parties also staged much of their protest within assemblies, where the controversial Legal Framework Order (LFO) came under attack, with the number of meetings

at public places consequently declining.

Authorisation for such rallies was not denied quite as often as had been the case in 2002. However, in certain specific instances, the failure to acquire prior formal permission was given as the justification for the arrest of activists and leaders. In late December, a case was registered by police in Karachi against Tehrik-e-Insaaf leader Imran Khan for staging a rally to launch the party's mass contact campaign without prior permission.

In February and March, the Muttahida Majlis-e-Amal (MMA) staged large rallies in several major cities to express their protests against the war in Iraq, and the failure of the Pakistan government to specifically condemn the US-led attack on the country.

In May, after 27 opposition Members of Parliament (MPAs), most of them linked to the Pakistan Peoples Party Parliamentarians (PPPP) were denied entry to the assembly after staging a vocal protest against the LFO, efforts by opposition activists to organise rallies outside the assembly building were thwarted by administrative efforts. For three successive days, opposition leaders, MPAs and activists were picked up by police and detained at various lock-ups to prevent them from staging rallies. While leaders and MPAs were generally freed within a few hours, 18 activists were sent to jail for over a month.

Despite these actions, the Punjab chief minister maintained in July that there were no curbs on political protest in the province. In August, the Alliance for the Restoration of Democracy (ARD) was able to stage a gathering on August 14 at the historical venue of Mochi Gate in the city. During the past two years, ARD efforts to stage rallies on March 23 in the city had been thwarted through multiple arrests, the placing of blockades and other measures.

However, there were indications that in specific cases, the administration was quite willing to use force against political opponents. In September, cases were lodged against 150 activists of the Jamhoori Group, a coalition of several opposition parties including the Pakistan Muslim League, Nawaz (PML-N) and the Pakistan Peoples Party (PPP) after they staged a protest against the conduct of run-off polls held for offices in the Ravi Town council in the city. MNAs Khawja Saad Rafique and Pervaiz Malik were among those booked for staging a rally without obtaining prior permission, and for 'illegal' use of a loudspeaker. Around a dozen activists were arrested.

In early November, 15 PML-N activists were held in Lahore and another 31 in Rawalpindi after rallies against the arrest of ARD President Javed Hashmi on charges of sedition and abetting mutiny [*See also chapter on Political participation*].

In the middle of November, the Anti Terrorism Court (ATC) in Rawalpindi ordered that 15 PML-N men held in June 2002 on charges of terrorism after a rally to demand rights for Kashmiris in Rawalpindi be released. The court held that political activists staging rallies could not be held on charges of terrorism, and acquitted the men on the grounds that the State had failed to prove its case

against them.

Curbs on other groups and use of force

The protest campaign begun in 2002 by lawyers against the Legal Framework Order (LFO) continued into 2003. In October, lawyers staged a 'long march' from Lahore to Islamabad, where they planned to stage a rally outside the Supreme Court premises and their convention at the Supreme Court Bar office, located inside the apex court building. On October 14, as lawyers arrived in Islamabad in a convoy of vehicles, the Supreme Court barred the holding of a convention on its premises. On October 15, lawyers were informed they could not enter the apex court building, and instead held their convention at a crossing outside the presidency. Representatives of the Supreme Court Bar Association (SCBA) and other bar associations, addressing hundreds of delegates, including legislatures of opposition parties, urged President General Pervez Musharraf and Chief Justice of Pakistan, Sheikh Riaz, to step down and vowed to carry on their struggle against the LFO. About 1,000 riot policemen stood on guard, and briefly scuffled with lawyers who tried to enter the Supreme Court building. However, representatives of the community persuaded all participants to instead assemble outside, and avoid taking on the police, thus avoiding potential violence.

While the use of force to prevent assembly by lawyers was not as visible in 2003 as during previous years, tactics to hamper the campaign against the LFO took a different, and somewhat more insidious form, with efforts continuing through the year to persuade individuals and groups from within the lawyer's community to switch loyalties and abandon the efforts against constitutional amendments, extensions in the retirement age for judges and other steps taken by



Hands on action to prevent assembly continued, in this case against those protesting Javed Hashmi's arrest.

the government.

Meanwhile, in October, the LHC observed that the right of people to agitate to draw attention to their concerns must be protected. The court was hearing a petition filed by villagers of the Nari area near Khushab, who had earlier in the year faced the wrath of the district administration and police for staging a rally against water shortages in their villages. 55 villagers had been held and 300 booked, many of them on charges of terrorist activity, after police used tear-gas and batons to break-up the protest. The court ordered that charges against villagers be dropped and was informed of new schemes to provide water to them.

A month later, the worst violence against people staging a protest during the year took place at village Donga Bonga, near Bahwainagar, after police opened fire on a crowd of people agitating against a rise in crime and the recent murder of a coachman by dacoits. Four people were killed, and five others injured as a result of the shooting. On the orders of the Punjab chief minister, an inquiry was initiated. However, there were fears that like other similar inquiries in the past, it would yield few results.

The police action took place after the protesters in the village gathered outside the local police station to stage their rally. Greeted with abuse by officials present at the station, the villagers resorted to attempting to forcibly enter the building, and ransacked parts of it as well as a nearby Rural Health Centre. These actions apparently invited a hail of bullets from police, and the consequent deaths.

This was not the only incident in which police used brute force against unarmed citizens. In May, in Ghotki district, Mirpur Mathelo police booked 200 protesters agitating against water shortages in the area. The rally had been broken up using batons, with several participants injured as a result. Police stated the protesters were attempting to block the National Highway.

In September, five women and two children were injured near a gas field controlled by the Marri tribe near Sukkur. Protesters from the Shar tribe, led by women and children, staged a rally to protest exploratory drilling at the gas field, which they maintained violated their tribal rights, as the gas field was disputed. Police used extraordinary force, including tear-gas, batons and according to some reports, bullets fired in the air, to break-up the small rally, led by 12-year-old Zulekha Shar, who was among those injured.

Similar displays of violence were also seen in January in Ghotki, as police clashed with students linked to the Islami Jamiat-e-Tulaba (IJT) who staged a protest against the US.

The poor handling by police of rallies and protests was a factor behind the repeated incidents of violence seen. The setting alight in Karachi in July of around a dozen vehicles, as rallies were staged against the carnage of over 50 Shia worshippers at a mosque in Quetta also resulted from the inadequate crowd-control skills of police. Similar violence broke out in Islamabad in October, after the gunning down of Sipah-e-Sahaba Pakistan (SSP) leader Maulana Azam Tariq. One person was killed after protesters set a cinema alight, with the violence demonstrating the inability or unwillingness of authorities to manage some truly

threatening situations, even as batons and bullets were used against unarmed citizens seeking to draw attention to their concerns.

Recommendations

1. The basic democratic right of assembly must be permitted to all political parties and other groups.

This must be recognised as a fundamental freedom available to all citizens. The use of repressive means to curb peaceful assembly is unacceptable.

2. Curbs on assembly must not be used as a political weapon and all groups must be able to put their views before people. The harassment, externment and arrest of leaders of opposition parties and other anti-government groups must not be used as a means to prevent assembly, as has repeatedly happened in the past.

3. The repeated use of Section 144 and the MPO to curb assembly must be avoided.

4. Religious assembly during Muharram and on similar occasions must not be curbed on the grounds of preventing sectarian violence. This can best be controlled by acting under relevant laws against those who incite hatred or resort to violence.

5. Groups in civil society must be permitted to put forward their demands and air their grievances. Restrictions on these rights leave no channels open to people to draw attention to their very real concerns aggravating the problems that already exist in society.

6. Brutal means must not be used to curb assembly. Police violence against citizens is unacceptable and must not be used in an attempt to prevent people from drawing attention to their concerns.

7. Police must be trained to handle protests of various kinds, given that mismanagement has repeatedly led to loss of life and the unleashing of violence that could easily have been avoided.

Freedom of association

Every citizen shall have the right to form associations or unions subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality.

Constitution of Pakistan

Article 17

Everyone has the right to freedom of peaceful ... association.

No one may be compelled to belong to an association.

Universal Declaration of Human Rights

Article 20(1,2)

Militancy, particularly in the NWFP, and actions by government apparently aimed at exerting greater control over NGOs and their activists, both presented an increased threat to the freedom of association during the year.

Indeed, the abduction, illegal detention and harassment of activists, apparently by agency personnel, sent out a clear message of warning, while militant groups were able to target NGOs with no apparent attempt by the government to protect such organisations. NGOs working for the empowerment and education of women and girls appeared to face the most problems from orthodox forces, though even teams engaged in seemingly innocuous activities, such as vaccinating children against polio or assessing infrastructure needs also experienced increased threat amid a climate of growing intolerance.

Proposed new laws to regulate NGOs continued to come under attack from civil society, and appeared to fit in to a broader official policy aimed at repressing dissenting voices within society. Though the laws were not enforced, the threat they presented continued to loom, while the opinions on the need for such checks on NGOS repeatedly put forward by government officials gave an indication of

the expanded problems for NGOs that could lie ahead over the coming months.

Threats from militant forces

NGOs based in Peshawar, particularly those working for the rights and liberties of women, reported that under the MMA government in the province, they were facing increased problems in setting up schools, shelters or other projects. There were also indications that the scale of the threat faced by NGOs in the NWFP, and particularly the tribal areas, was on the rise.

In April, unidentified attackers fired rockets at a building housing the offices of several NGOs in Dir. Among the offices hit was that of the Dir-Kohistan Development Project (DKDP), funded by organisations based in several European countries. The organisation was engaged basically in work on infrastructure, but apparently the presence of foreigners visiting the area to inspect sites, and indications that projects such as schools could be a part of future plans, brought the wrath of local militant elements who were thought to be responsible for the attack. Since the incident took place late at night, no injuries were caused. However, the offices of the DKDP, and several other NGOs based at the same premises were gutted as fire broke out after the rocket attacks, with records and documents lost as a result.

No person was arrested for the attack, although local police indicated that militants linked to orthodox groups could be involved. Such elements also seemed to be operating more openly and widely across the province in the presence of an MMA government in Peshawar.

In July, a project to launch a shelter known as 'Mera Ghar' for women in Peshawar, being managed by the Aurat Foundation with funding from the German-based GTZ, was cancelled amid allegations of interference by the MMA government. Apparently, the MMA wanted the shelter to be set up by an organisation linked to the Jamaat-e-Islami (JI), and had attempted to persuade GTZ to hand over funds directly to it, rather than to Aurat Foundation, leading to GTZ withdrawing funding entirely. *[See also chapter on Women].*

On July 13, a jirga of tribal chiefs of the Orakzai Agency that met in Dabory announced a ban on the presence of women NGO workers in Orakzai. A period of one week was given to NGOs to withdraw female staff, a step that meant the closure of schools for girls as no female teachers could continue work. The jirga, which also banned television and VCRs in the area, stated that the growing influence of NGOs was having a negative impact on morality in the area. They further warned that no tribal chief would be responsible if a woman activist was 'abducted' after the one week withdrawal period was over – a threat that appeared to give an open licence to those who chose to endanger the safety of women. There were in fact conflicting reports suggesting that some tribal chiefs had called for the kidnapping, and 'forced marriage' of single women found working in the area. However this was denied by other tribal leaders, who said that they would never condone 'un-Islamic' violence against women.

While NGOs began to withdraw women workers and close schools in face of the threat, the government claimed ignorance about the jirga, and took no

steps to protect NGOs or uphold the rights of girls in the area to an education.

A few days later, on July 21, tribal leaders of the Janikhel and Wazir sub-tribes, held a jirga at which they banned all NGOs from operating in the Federally Administered Frontier Region, Bannu and accused NGOs of spreading obscenity. The tribal chiefs also stated that, as per tradition, girls and women in the area did not leave their homes for either education or work, and that this could not be changed. A government spokesman meanwhile denied that any NGOs were active in the region, while no other administrative steps were taken to offer protection to those wishing to educate girls or establish other facilities in the area.

In December, women activists, including several westerners, linked to the UK-based Save the Children and a local NGO, Roosh Development Society, were attacked in Hangu by militants linked to local pro-Taliban groups. The women were visiting local schools to raise awareness about violence against children when a group of several dozen militants, including students from local madrassahs, attacked their vehicles and pelted stones on them. District officials stated they were consulting authorities in Peshawar about action against the culprits, while all NGOs in the area stated they were suspending work in view of the threat they faced and to protest the failure to act against the militants.

Other, verbal attacks on NGOs and their workers were reported from many parts of the NWFP, with local clerics accusing workers, and especially women associated with NGOs, of immorality, prostitution, involvement in the trafficking of women, spreading obscenity and a wide range of other offences. Even though such speeches, in areas such as Dir, were at times made over loud-speakers, and targeted activists such as those of Khwendo Kor, active in setting up schools for girls, no action was taken against those levelling the attacks.

In at least two incidents reported during the year, polio vaccination teams visiting tribal areas were driven out and not permitted to carry out their work, on the grounds that the health workers were spreading 'obscenity' by talking about family planning. The WHO meanwhile reported that complying with local demands that women not be included in the teams presented difficulties, as men were not allowed access to women and the children with them.

It was however not only in the NWFP that the environment of increased hostility affected the working of NGOs. In May, students linked to the Islami Jamiat-e-Tulaba (IJT) forced a Gujranwala-based NGO, Bargad, to wind-up a one-day workshop it had planned to conduct at the Punjab University, after obtaining prior permission from the Vice Chancellor. Rights of women, the spread of AIDS and so on were some of the matters to be discussed. IJT students, who arrived at the workshop as students wishing to attend were being registered, ordered the NGO workers off the campus, despite being told permission had been obtained from authorities.

In November, the Jamiat-e-Ulema Pakistan (JUP) leader, Engineer Salimullah, during a press talk in Lahore, attacked NGOs and their activists, and accused such organisations of accepting funds from 'Jewish organisations' in order to carry out immoral and illegal work. He demanded a government probe against

NGOs, while the mood of increased hostility against NGOs was also echoed by sections of the Press.

Threats from government

Legislation proposed the previous year to regulate nearly 80,000 NGOs working in the country was not enforced as the year closed, the threat posed by such actions remained in place.

Civil society groups across the country continued to oppose the new measures, seeing them as a potential threat to their autonomy and as a new tool of official harassment.

In April, after a meeting, it was announced that the ministry of women's development, social welfare and special education and the Pakistan Centre for Philanthropy (PCP) were in the last stages of drafting the Non-Profit Public Organizations (Governance and Support) Act, 2003, which would soon be presented to the federal cabinet for approval. The document had been prepared the previous year by the PCP, with the organisation, set-up in 2002 with the stated aim of assisting the government to coordinate social work in the country, maintaining that more public-sector control was required over NGOs. The PCP held that the new law would assist NGOs and the government to work more efficiently in various sectors.

The PCP had earlier recommended that autonomous commissions be set up at the provincial and national levels to regulate NGOs. While no further progress was reported during the year on the proposed new law, in September, the PCP director, Shahnaz Wazir Ali, addressing representatives of NGOs in Lahore, stated that the organisation aimed to monitor the funds, governance and project delivery of recognised NGOs in the country. She also spoke of the possibility of setting in place a process for certifying NGOs, under which organisations receiving such certification would receive tax benefits, and, according to the PCP, also gain credibility among the public.

In May, the federal ministry for youth affairs began an effort to identify bogus NGOs, collecting funds on the pretext of work for youth. 68 such NGOs, who had failed to submit annual reports, were among those that faced a possible ban.

While the government continued to act against NGOs that it accused of involvement in militancy, the lack of transparency in carrying out such actions often left doubts behind about the reasons behind the measures taken. While at least five NGOs, funded from Arab countries or thought to have links with militant organisations, were asked to leave the country during the year, no details of the charges against them were made public. In August, the Sindh High Court (SHC) struck down a directive issued by the State Bank of Pakistan (SBP) to the Habib Bank asking it to freeze all accounts of the Al-Rashid Trust, identified by the US State Department as a terrorist organisation. The SHC ordered Habib Bank to honour a cheque for Rs 400,000 that had been presented in September 2001 but not encashed by the bank. The court however ruled that the federal government was free to adopt steps required to check terrorism against the Al-Rashid trust or

other groups.

Harassment of activists

During the year, harassment of NGO activists by official agencies remained on the increase, and appeared to form a part of a wider campaign directed against dissenting politicians, journalists and other citizens. *[See also chapters on Freedom of expression and Political participation].*

In March, following the HRCP Annual General Meeting (AGM) in Hyderabad, prominent activist and HRCP member Akhtar Baloch was picked up by agency personnel, and subjected to illegal and arbitrary detention for three days. During his detention, Baloch was subjected to treatment that amounted to torture.

Following the release of Baloch on March 26, HRCP conducted a detailed investigation into the action taken, and concluded that Baloch had nothing against him and was not linked to any criminal activity. The charges made amounted to a pretext for the illegal arrest. On the basis of the account of his detention and interrogation provided by Baloch, HRCP also became convinced that Baloch was arrested as part of an attempt to target HRCP office-bearers and terrorise activists, particularly those based in remote areas.

HRCP demanded an independent inquiry into the action against Baloch. While initial assurances were given that such an investigation would be conducted, by the end of the year there were no indications that any such activity had been carried out or any action taken against those guilty of 'picking up' Baloch.

Another activist, Krishan Sharma, a Hindu, was illegally arrested apparently by agency personnel on March 21 while travelling in interior Sindh, and finally released in November. His case was taken up by Interfaith International, the World Peace Council and other groups. Sharma had been associated with HRCP, Baanh Beli and other organisations active in Sindh, and was known for his often vocal condemnation of government. Neither Sharma's family, nor any court, was informed as to the reasons for his arrest or his place of detention.

After more than three months and on the intervention of the Sindh High Court (SHC), the Judge Advocate General (JAG) branch of Pakistan Army submitted a letter saying that he had been arrested under Section-2 (1) (d) of the Official Secrets Act and that he was to be court-martialled for espionage. During the court case hearing the Deputy Attorney General, stated that Sharma had been detained under the laws of "the Pakistan Army Act read with the Official Secrets Act" and the court's constitutional jurisdiction could not be invoked for his release. Rights groups contested this claim.

Sharma was eventually released quietly in November, creating further doubts about the credibility of the charges made against him. His family was warned not to publicise his release or to make statements, but Sharma's brother confirmed in mid-November that he had been freed several days previously.

In November, another activist, Shahbaz Bhatti, chief of the All-Pakistan Minorities Alliance (APMA) and the Christian Liberation Front (CLF) was prevented from leaving the country and informed in a letter that his name had

been placed on the Exit Control List (ECL). It was believed this action stemmed from his attacks on the government's failure to protect the rights of religious minorities. *[See also Chapter on Freedom of movement].*

The actions taken against the activists sent out warning signals of the increased threat to their safety from official quarters, while in the NWFP in particular, NGO workers also complained of intimidation and harassment by orthodox clerics.

Trade unions

New laws introduced in 2002, particularly the Industrial Relations Ordinance (IRO), 2002, placed enormous restrictions on the activities of trade unions and the rights of workers to set up Central Bargaining Agents (CBAs). These curbs on the right to association meant that trade unions, already functioning under huge restrictions in the country, faced still greater problems. The All Pakistan Federation of Trade Unions (APFTU) reported during the year that as a result of the new laws, the conditions of workers at many factories and workshops appeared to be worsening *[See also chapter on Labour].*

International groups, including the ILO, noted that the new restrictions curbed the right to free association, and called for amendments in the legislation.

In various organisations, including the railways department and Pakistan International Airlines (PIA), trade union activity was subjected to further restrictions.

Student unions too remained banned on campuses across the country. In September, according to press reports, the federal government took note of continued political activity at universities, and asked the education ministry to consult with provincial governments on how this could be prevented. It also advised that the ban on student unions be retained till a final decision on the matter could be made. *[See also Chapter on education].*

Recommendations

1. *Those guilty of making threats, inciting hatred and carrying out violent attacks on NGOs or other peaceful associations and their activists must be penalised under relevant laws to safeguard the right to a freedom of association. A failure to do so will only aggravate the existing climate of severe hostility within which many NGOs function.*

2. *The increased actions by the State and its agencies against activists are alarming and present an immense threat. A full, independent investigation into all cases of illegal arrest and detention must be carried out, so that those responsible can be penalised under existing laws. Other forms of harassment against activists, utilising mechanisms such as the ECL, must also be brought to a halt.*

3. *Measures must be taken to ensure increased protection for associations facing a particular threat because they are run by Christians or other minority groups, given the attacks that such groups have come under in the past. An environment must be created enabling these organisations to continue their*

activities.

4. *The district administration should be held responsible in all cases where NGO activists are not protected in the face of intimidation and violence. Those guilty of the forced closure of schools must be punished under the law. A failure to take adequate measures can result only in a worsening of the situation in the NWFP where work of many NGOs has already suffered as a consequence of the campaign against them.*

5. *Action against NGOs accused of misusing funds or other violations of the laws that exist to guard against illegal activity should be carried out only under the due process of law. Unilateral action, aimed at sealing NGOs, freezing funds or forcing them to quit operation, goes against this principle. Any action against an NGO must also be transparent and carried out under specific laws.*

6. *The right of association and the right to collective bargaining must be restored by lifting the ban on all trade unions and student unions. Those guilty of acting unlawfully can be dealt with as per the law.*

7. *While NGOs or other organisations choosing to work alongside the government should be fully permitted to do so in all sectors, those choosing to work independently, or even to express opposition to government policies, must not be victimised in any way. Any legislation must not be used to harass or victimise such organisations, to intervene in their working or to determine which sectors they should work in.*

HRCP

IV

State of Human Rights in 2003



Democratic development

Political participation

... the state shall exercise its powers and authority through the chosen representatives of the people ...

Constitution of Pakistan

Preamble

... the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed ...

Preamble

... fundamental rights [shall be guaranteed] subject to law and public morality

...

Preamble

The state shall encourage local government institutions composed of elected representatives of the areas concerned and within such institutions special representation will be given to peasants, workers and women.

Article 32

... it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law ...

Universal Declaration of Human Rights

Preamble

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 1

The year 2003 was marked for the most part by the state of parliamentary paralysis caused by continued controversy over the sweeping constitutional amendments, including the Legal Framework Order (LFO), ushered in the previous year by President Pervez Musharraf. While the issue was settled following a deal between the government and the alliance of religious parties, the Muttahida Majlis-

e-Amal (MMA) as the year closed, through the year the LFO remained the dominant factor in determining the nature of political happenings.

The situation arising as a result of fierce protests by opposition parties to the LFO, and the failure to table it before parliament, meant that the National Assembly remained largely unable to carry out legislative activity through the year, while the Senate was unable to meet till December 2003. This poor performance by parliament meant that during the first year of its existence, the National Assembly was able to pass only two bills, one of them a minor amendment to an Ordinance promulgated in 2001.

With almost all decision-making taking place outside parliament, in many cases through orders of President Pervez Musharraf, who failed until January 1, 2004 to fulfill the constitutional obligation of obtaining a vote of confidence from parliament, but nevertheless continued to occupy the presidency, people remained completely ousted from the political process. Their representatives inside the National Assembly played almost no role in devising legislation that addressed the many concerns of ordinary citizens, while opposition legislators, engaged in their protest against the LFO and the snatching away from parliament of the right to amend the constitution, too failed to table bills voicing the concerns of ordinary people. The room available for citizens to participate in decision-making within the civilian sphere too decreased as a consequence of the mass induction of serving and retired military men to posts meant for civilians.

The claims of a return to democracy in the country were seen as mainly cosmetic by groups such as the Commonwealth, which in September refused to readmit Pakistan to the forum. It's membership had been suspended in 1999, following the military takeover, and the Commonwealth, after detailed discussion and despite hectic lobbying by the government, judged that the situation had not changed sufficiently to allow Pakistan back into the group. While President Pervez Musharraf gained a vote of confidence from the presidential electoral college comprising of the central and provincial legislatures on January 1, 2004, as an outcome of the settlement reached with the MMA, questions over his legitimacy, while still retaining his post as Chief of Army Staff (COAS), continued to crop up in political circles.

During the year, rights watchdog bodies, such as the New-York based Human Rights Watch (HRW) drew repeated attention to the many violations of democratic norms in the country. In a letter sent to President Pervez Musharraf on October 10, two days before he completed four years of rule, HRW demanded the country be immediately returned to constitutional rule. It also pointed out that numerous incidents of the harassment of political activists, journalists and other citizens had come forward, while mainstream parties in the opposition, except for the Muttahida Majlis-e-Amal (MMA) had been sidelined.

The interventions in political parties seen the previous year, and the use of coercive measures against those dissenting from the official line, were seen once more. Indeed, actions to curb dissent had become increasingly overt as the year

closed.

NAB laws also continued to be used against political opponents, while the status of cases against members of government remained unclear. NAB officials remained reluctant to divulge whether the cases against sitting federal ministers were still being pursued.

The performance of district governments was affected by the continued failure to clarify matters such as the distribution of powers, to hand over responsibilities for education, health and other spheres that had devolved to the district level and confusion regarding the allocation of funds. Clashes between politicians and elected district government office-holders appeared to aggravate the problems faced, while increased reports of corruption and malpractice at the district level also came in.

Militarisation of society

While the extraordinary powers accumulated by the President, who also retained his post as Chief of Army Staff (COAS), indicated a shift to still greater autocracy at the higher political levels, the hold of the armed forces on other spheres of society too continued to expand.

Due to a consistent policy of posting retired and serving armed forces personnel to the civilian sector, the armed services presence in the power structure assumed more visible proportions than ever before, while the policy also meant the military was able to further consolidate its hold on every sector of public life. According to Press reports appearing at the end of 2003, between October 1999, when President Pervez Musharraf assumed power, and 2003, at least 1,027 army, navy and air forces personnel were inducted into the administration and into corporations on posts intended for civilians. This compared to 211 inductions of armed forces officers in the Central Superior Services between 1980-1985, under the rule of the late General Ziaul Haq, the dictator seen as having initiated the trend.

While 400 of the appointments of the servicemen were cancelled quietly in October 2002, ahead of the general election, the mass postings meant that servicemen held key posts in education, the bureaucracy and other sectors, including those as the vice chancellors of at least two universities.

More appointments were also made after October 2002, with the federal minister for communications in December 2003 informing the National Assembly that 64 army officers, most of them still serving, were working at various posts within the National Highways Authority. At least 13 of them held posts of BPS Grade-18 and above.

Not surprisingly, the mass militarisation of the civilian sector created deep resentment from civilian officers. In many cases, they felt posts they had qualified for only after passing multiple examinations and training courses were being taken away and handed out to those who had been recruited and trained for an entirely different purpose.

Political parties, including the Pakistan Muslim League, Nawaz (PML-N)

and the Muttahida Majlis-e-Amal (MMA) continued to criticise the induction of services personnel, with MMA leader Qazi Hussain Ahmed stating during a public gathering in Lahore late in 2003 that the trend was creating a huge of injustice within civil sector institutions. The kidnapping and torture of the deputy opposition leader in the Punjab Assembly, Rana Sanullah, in May 2003, was thought to have been motivated by his criticism of army officers to civilian posts within the assembly. *[See section on harassment of political opponenís].*

It was pointed out too in the Press that even as the servicemen were inducted, the Cabinet Division had reported in 2002 and 2003 that there were almost “700 unabsorbed, surplus civilian employees” in the government cadre.

The LFO deal

After negotiations that continued through most of the final six months of 2003 between the government and the MMA, a constitutional accord was struck on December 24. The outcome of this accord was the 17th (amendment) Act, which made its passage through parliament with a two-third majority during the final days of 2003, and was signed by President Pervez Musharraf on December 31.

Under the deal struck with the MMA, the government agreed to the seven central demands raised by the alliance, in exchange for support for the LFO. The points agreed on included (1) a withdrawal of the three-year extension in retirement age offered to supreme court judges, (2) keeping local governments under the Sixth Schedule, in their present form, for six years, (3) the National Security Council to be set up under an act of parliament, (4) the decision to dismiss a government under article 58 (2)B of the constitution by the president to be referred to the Supreme Court within 15 days, (5) the president to seek a vote of confidence



Opposition leaders and activists, this time outside the Punjab assembly, again paid the price for their protests against the LFO.

from the electoral college, (6) the president to consult the prime minister on the appointment of armed forces chiefs but not to be bound by the advice of the prime minister

and (7) the president to give up his uniform by December 2004. The agreement also laid down that article 63(1)(d), under which no person would hold two or more public offices simultaneously, would come into force from December 31, 2004.

On January 1, President Pervez Musharraf was endorsed as the constitutional head of the state by the presidential electoral college, with 658 legislators, making up 56.23 percent of the total strength of the electoral college, supporting him in the vote of confidence. While President Musharraf won 56 out of 100 votes in the Senate, 191 out of 342 in the National Assembly, 254 out of 371 in the Punjab Assembly and 99 out of 168 in the Sindh assembly, he obtained only 30 out of the 142 NWFP assembly votes and 28 out of 65 Balochistan assembly votes. With the PPPF, ANP and PML-N boycotting the vote, 336 members of the electoral college, including 43 Senators, were absent on the day of balloting.

The 17th (amendment) Act passed by parliament made amendments in some clauses of the LFO, but failed to touch many of its other provisions, under which sweeping changes had been made to the constitution. At least 21 provisions of the LFO, which dealt with such key issues as the eligibility of persons contesting general elections, the setting up of the election commission, the rules laid down for participation by political parties, the powers available to the president to appoint governors and other central issues were left unaddressed. Commentators also noted that while concessions on both sides were made while drafting the final deal, the agreement as a whole kept intact the extraordinary powers accumulated by the President of the country. This in fact meant bodies such as the National Security Council (NSC), to be set up by an act of parliament rather than as a constitutional body under the deal, were no longer a key requirement to consolidate power in presidential hands.

While the government maintained the passing of the 17th (amendment) Act and the vote of confidence for the President brought legitimacy to the existing set-up, there were signs early in January that rifts even within the MMA continued on this point, with Qazi Hussain Ahmed, head of the Jammāt-e-Islami (JI) insisting the President could not claim legitimacy until he discarded his uniform. Parties forming a part of the opposition too questioned the status of the President. [*See also chapter on Laws and law-making*].

Parliamentary performance and decision making

While the 17th (amendment) Act remained the most significant piece of legislation passed during the year, the performance of parliament as a whole remained hugely disappointing.

The National Assembly completed its first year in office on November 17, having managed with considerable difficulty to muster up the mandatory 130 days of meetings required, after a prolonged session beginning in August that continued for almost two and a half months. The actual working hours of the assembly however came to just over 121 hours. Protests over the LFO, and boycotts of the proceedings as a part of these protests, took place all through 2003. The chaotic proceedings meant that debate on national issues was extremely

limited, while federal ministers frequently remained unavailable to answer questions raised. The absence of members of the ruling Pakistan Muslim League, Quaid-e-Azam (PML-QA) from the house, and the lack of serious effort to reply to queries, was pointed out on at least three occasions during the year by the Speaker, Chaudhry Ameer Hussain.

According to the official record, two bills were passed during the first twelve months since the National Assembly was sworn in. The first of these was an amendment to the term 'chief executive' and its replacement by 'prime minister' in the Removal from Services Ordinance, 2001. The second bill, passed in June 2003, was the Finance Bill, comprising the federal budget, the adoption of which was a constitutional necessity.

The parliament, on at least two occasions in 2003, approved increases in the privileges of MNAs. Salaries were doubled in November, and arrears of four months granted on the demand of MNAs.

A five-member delegation from the UNDP's Inter-Parliamentary Union programme, which visited Pakistan in October on the invitation of Prime Minister Mir Zafarullah Khan Jamali to make recommendations to improve the working of the parliamentary system, expressed dissatisfaction about its functioning. The delegation expressed concern that parliamentary committees to work on legislation for the betterment of people had not been set up a year into the term of the National Assembly. It also stated that the fact that most questions raised from both treasury and opposition benches had not been answered indicated a lack of transparency in government. The delegation noted that the real purpose of parliamentary proceedings should be to serve the people the MNAs represent and to allow the voices of these people to be heard in decision making, but observed that this was not happening.

A delegation of parliamentarians from the European Union (EU), which visited the country in November, expressed similar misgivings about parliamentary working and the failure to place the needs of people first in legislative matters, while also raising concern over the arrest of Pakistan Muslim League, Nawaz (PML-N) acting president, Javed Hashmi. There were also indications that parliamentarians lashing out against government measures within parliament faced intimidation as part of an effort to silence them. *[See also section on Harassment of opposition parties].*

The new Contempt of Court Ordinance, 2003, issued in July, which made even criticism of a judge a punishable offence, laid down that discussion in parliament of any matter of public importance with criticism of the conduct of a judge was an offence. This ended the parliamentary impunity of legislators. Judges were given powers to act even on a statement that had been expunged.

The problems facing parliament through 2003 also meant that decisions on key national issues were taken without public debate or the building of a consensus, and in most cases within the offices controlled by the President and his close advisors. Indeed, numerous press reports suggested that powers remained firmly vested in forces located outside parliament. Decision making by presidential

ordinance continued, even in the presence of elected assemblies, *[See also chapter on Laws and law-making]*, while press reports in November indicated that even federal ministers had attempted to cut short the process of discussion by tabling bills directly in parliament, without first obtaining cabinet approval.

While no legislation to safeguard the interests of citizens was passed by the National Assembly during the year, the legislative and administrative steps taken by the Muttahida Majlis-e-Amal (MMA) government in the NWFP, that curtailed the rights and liberties of citizens, went unchallenged by the federal government. *[See also chapters on Women and Freedom of thought, conscience and belief]*. The fact that through much of the year, efforts continued to reach an agreement with the MMA, eventually finalised at the end of December, on backing the LFO and the holding of two offices by the President of the country, who also retained his position as Chief of Army Staff (COAS), in part accounted for this.

The presence of an expanded number of women in assemblies had a positive impact on expanding debate within legislatures on issues such as harassment of women, domestic violence, the Hudood laws, violence against children and other issues of key concern to citizens. *[See also chapter on Women]*.

Harassment of opposition politicians

A number of incidents that took place during the year indicated the extent of harassment of members of opposition parties, and the effort to quash dissent from all quarters. Indeed, such attempts to intimidate members of the opposition who refused to give up their stand against the government continued all through the year, combined with a policy of luring MNAs and leaders of opposition parties over to the government camp by making promises of important posts or other



Demands tabled by opposition politicians were usually disregarded.

benefits.

Some of the incidents of harassment reported during the year were as follows:

- ◆ An MNA from the tribal areas, Maulana Abdul Malik, on February 27 told the National Assembly that he had been kidnapped in Peshawar by agency personnel, soon after a meetings of elected representatives from the tribal areas with the NWFP governor. He had been taken along with two other abducted tribal MNAs to a small basement room and subjected to severe pressure to vote for specific candidates in Senate elections, rather than for candidates supported by the Muttahida Majlis-e-Amal (MMA). The MNA maintained the incident proved democracy had not been restored and that even elected members of the National Assembly were subject to coercion. The MNA was able to narrate the account of his ordeal only after MMA leaders repeatedly pleaded with the Speaker that the motion could not be deferred, as the kidnapping of tribal MNAs had affected the alliances showing in the Senate polls. No action was taken against those responsible for illegally detaining the MNAs.

- ◆ On March 8, MPA and deputy opposition leader in the Punjab Assembly, Rana Sanaullah of the PML-N was kidnapped from Faisalabad and subjected to severe torture, before being dumped along a roadside later the same night. An HRCP fact-finding team, led by secretary-general Hina Jilani, which visited Rana Sanaullah at the Civil Hospital, Faisalabad on March 10, confirmed he had been 'picked-up' by state agencies. The leader identified one of his kidnappers as Major Pervez Raja of the ISI. Rana Sanullah, according to his own account, was taken to the local ISI office, where wounds were inflicted and his hair and moustaches shaved off. Doctors subsequently confirmed 22 injuries to the victim's body. In response to a query by HRCP, the Speaker, Punjab Assembly, Afzal Sahi, while condemning the incident, stated he had asked the deputy opposition leader not to make "dubious and objectionable" speeches on the floor of the assembly. Press reports meanwhile conjectured that Sanaullah's questioning of the appointment of army officers at key posts in the civil sector had led to the action against him. HRCP concluded after its detailed fact-finding that through the incident the rulers wanted to deliver a message to those raising a voice for rule of law and against unconstitutional practices, and thus restrain them from speaking out on critical issues. The fate of Sanaullah's application before the concerned authority for registration of a case against Major Pervez and others remained unknown.

- ◆ At least 27 opposition members of the Punjab Assembly were on May 28 arrested outside the assembly building, after attempting to enter it. The arrests came after a ban had been placed by the Speaker on the entry of the 27 MPAs to the house, following their protests against the LFO. While the MPAs were released after several hours, they were once more detained the following day while attempting to stage a protest outside the assembly. Several dozen activists held alongside the MPAs were detained for periods up to a month. Many, including arrested women activists of the PPP and PML-N were sent to jails outside Lahore, adding to their difficulties, as relatives were unable to meet them. Police stated

the arrests had been made after Section 144, barring public assembly, was imposed. No official notification of the imposition had been issued. HRCP stated after a fact-finding that the action against the public representatives came as huge blow to democratic working, and proved once again that the authorities remained unwilling to abide by law or respect fundamental rights. *[See also chapter on Freedom of assembly].*

- ◆ In June, in a statement issued from London, the chairperson of the PPP drew attention to a campaign of intimidation against MNA Aijaz Jakhrani, elected in the October 2002 general election from Jacobabad. She maintained that the PPP leader had faced continued intimidation since he defeated Illahi Bux Soomro, a candidate backed by the authorities, in the election. Early in June, he and his cousin, Abdul Wali Jakhrani, had been arrested in their village, Dadpur Jagir, on murder charges, although neither of them had been named in the FIR lodged. Five haris were also detained with them. Abdul Wali Jakhrani was sent to a jail in Balochistan where he was held for several weeks, while the efforts to persuade Aijaz Jakhrani to switch loyalties and support the government led by Prime Minister Mir Zafarullah Jamali apparently continued through the year.

- ◆ During the same month, family members of PML-N President Shahbaz Sharif, including his wife, Nusrat and two daughters, were forced to return to Saudi Arabia after police raids carried out over several days on the family's homes in Lahore to search for them. Government officials maintained that the family members, who had returned earlier in the year, were violating an agreement reached in 2000 under which they were to remain in exile in Saudi Arabia. Shahbaz Sharif denied any such agreement barring the return of female members of the Sharif family existed. It was also believed that the action against the family had come in response to statements made by Shahbaz Sharif criticising government policies. At least 15 PML-N activists, detained during protests over the action against the women, were held at Kot Lakhpat Jail in Lahore for over three weeks, before being released early in July.

- ◆ PML-N Senator Sadia Abbasi, early in June, complained that a team of unknown men had raided her home in Islamabad. They had failed to produce court orders for the search. She alleged that this action was a part of a systematic campaign of harassment.

- ◆ At the end of October, Alliance for the Restoration of Democracy (ARD) president and acting PML-N chief Javed Hashmi, was arrested on charges that included sedition and abetting mutiny. The charges stemmed from a letter Hashmi had read out at a press conference earlier in the month, apparently written by unnamed military officers which questioned army involvement in national politics and called for an inquiry into the Kargil episode of 1998, which had led to skirmishes between Pakistan and Indian forces. The levelling of the extraordinary charges against Hashmi appeared to be a part of a stepped up campaign of intimidation. Hashmi, who had been taken into custody after being dragged out of his car in Islamabad, was, according to family members, subjected to severe ill-treatment amounting to torture. HRCP noted that while the regime may have valid reason to be sensitive to the army's reputation, it could not be absolved of the blame for

making the institution controversial. Hashmi remained in prison as the year closed. In December, the federal interior minister stated that seven other parliamentarians, from the PPP, PML-N and MMA, who had been nominated in the same case, also faced arrest.

◆ Following the arrest of Hashmi, and the widespread protests by opposition political parties, in late November leaders of the PML-N were held on charges of speaking out against the government and the President, even though this did not constitute a violation of the country's laws. Javed Latif was arrested in Sheikhpura and sent to the district jail on a 14-day judicial remand. The FIR against him stated he had delivered a 'provocative' speech against President Pervez Musharraf at a meeting earlier in the month. A few days later, two PML-N leaders in Faisalabad, MNA Abid Sher Ali and his brother, were held under Maintenance of Public Order (MPO) laws for making 'provocative' statements against the government during a political meeting. Abid Sher Ali was arrested on Dec. 10.

Other complaints continued to come in during the year of attempts to harass and intimidate members of the political opposition, often to persuade them to switch loyalties. In some instances, the National Accountability Bureau (NAB) was used to pressurise opposition activists [*See also section on Misuse of NAB laws*]. Throughout the year, leaders of the PPP maintained members faced harassment and a campaign of threats, as part of an effort to silence them or lure them over to the pro-government PPP-Patriots – a breakaway faction of the party created the previous year by party leaders who decided to support the PML-QA led government. MNAs linked to both the PPP and PML-N, according to some press reports, also faced a campaign of harassment by state agencies during the year. They however opted not to make this public at a press conference, fearing still greater intimidation if they did so.

Interventions in working of political parties and dealings with opposition

The policies put in place the previous year, of intervening in the working of political parties, continued – alongside increasingly overt efforts to stamp out dissent. Rather than promoting discussion, debate and consensus-building, attempts to silence critical voices within the opposition became increasingly aggressive as the year progressed.

A series of 'closed door' negotiations with major political parties, aimed at reaching an 'agreement' that would permit the Legal Framework Order (LFO) to remain in place, and President Musharraf to retain his office as COAS, at least for a limited period, as well as President continued through much of the year. The outcome of these talks was seen in the form of the 17th (amendment) Act, passed at the end of December. [*See section on Deal on LFO*]. These dialogues went against principles of open debate, excluding citizens from any part in the process or an insight into the proceedings.

The attitude of President Musharraf towards politicians in general, and

members of the opposition in particular, was also clearly reflected in a number of remarks made during the year in which he accused them of uncivilised behaviour or of working against the best interests of the country. Even harsher condemnations of opposition leaders, particularly of PPP chairperson Benazir Bhutto, were made by dissident party leader Fasel Saleh Hayat, as well as other members of government. Such accusations acted to create greater political acrimony rather than building a more constructive climate within which discussion, debate and disagreement could all be harmoniously incorporated.

The use of coercive tactics to persuade individual opposition members to change loyalties also continued. *[See section on Harassment of opposition politicians].*

The ARD kept up its protests against the LFO and other constitutional amendments for much of the year, while differences between the Muttahida Majlis-e-Amal (MMA) and the ARD on opposition to the government had grown wider as the year closed. The death of ARD chairman, Nawabzada Nasrullah Khan, on September 26, a few days after the veteran leader, aged 85, suffered a heart attack, deprived the ARD of the committed leadership of the experienced politician, who had since 1999 spearheaded the campaign against military rule. However, the alliance, led by its new chairman Makhdoom Amin Fahim of the PPP and president Javed Hashmi of the PML-N, elected in October, vowed to continue the struggle for the full restoration of a democratic dispensation in the country.

According to press reports, efforts to create a divide within various opposition parties continued all through the year. As was the case through much of 2002, both the PML-N and PPP stated members had been harassed and bribed in an effort to coerce them to switch over to the government camp. The backing for factions of the PPP opposed to Benazir Bhutto, particularly the group led by federal minister Aftab Ahmed Sherpao, was seen as a part of these tactics, with PPP MNAs pressurised to link up with this group or PPP dissidents in parliament. The PML-N leadership also accused state agencies of coercing members to join the ruling PML-QA, and in some cases made threats of violence or the registering of criminal cases against those who declined to comply. PML-N leaders, including Javed Hashmi, Zulfikar Khosa and Khwaja Saad Rafique made complaints of such tactics at several press conferences held during the year.

Leaders of the Jamiat-e-Ulema Islam, Fazl (JUI-F) and the Jamaat-e-Islami (JI), the two biggest groups within the six-party alliance of religious parties, the Muttahida Majlis-e-Amal (MMA), meanwhile accused secret agencies of playing a part in promoting rifts within the alliance, as part of official efforts to influence its decision-making. A leader of the JI, Liaquat Baloch, at the end of September maintained that the agencies had first created a rift between the MMA and a component party, the Jamiat-e-Ulema Islam, Sami (JUI-S), led by Maulana Samiul Haq, and were now attempting to encourage other smaller parties within the alliance to also threaten to withdraw support for the MMA government in the NWFP. JUI-F leaders had voiced similar apprehensions after the first indication of differences with the JUI-S emerged in July. The JUI-S apparently sought an

expansion in its share of seats in the NWFP cabinet, and a greater role in decision making. Efforts to widen existing rifts within the MMA appeared to gain greater momentum each time talks with the government on a deal on the LFO ran into trouble, with the threat posed to the central leaders of the alliance and the MMA government in the NWFP by such dissent apparently aimed at encouraging a compromise with the present federal set-up. The death of MMA President Maulana Ahmed Shah Noorani, chief of his own faction of the Jamia-e-Ulema Pakistan on December 11, as the MMA attempted once more to finalise a deal with the government on the LFO, came as a set-back, and delayed the deal finally reached at the end of December.

Other factors that presented a threat to the MMA remained in place. On June 30, the Peshawar High Court's election tribunal unseated MMA MNA Mufti Ibrar Sultan from Kohat for not having the requisite bachelor-level university degree, setting a precedent that MMA leaders feared could see scores of religious-party legislators thrown out of parliament. The court ruled that the MNA's educational qualification from a religious institution were not equal to a university degree, which was mandatory for contesting the elections under constitutional amendments introduced the previous year. The MMA leadership, during protests across the country, held that the court's decision was politically motivated and delivered under government pressure. Queries regarding the status of madrassah degrees, made ahead of the October 2002 general election, had been settled after it was decided that for the purpose of the election, the diplomas would be regarded as the equivalent of degrees.

Hearing an appeal by the MMA MNA, the Supreme Court on July 8 restored the membership of Mufti Ibrar Sultan. The chief justice said Mufti Ibrar's appeal would be heard with another petition filed by a private lawyer, Dr Aslam Khaki, challenging the qualification of the MMA's 65 legislators. A final verdict on the matter remained pending as the year closed.

It was not opposition parties alone that suffered attempts to intervene in their working, or to dictate political events by manipulating individuals and groups. The resignation of Mian Azhar as President of the ruling PML-QA late in 2002, and the election of Chaudhry Shujaat Hussain as the new President of the party on January 1, 2003, was largely thought to have been orchestrated by the President and forces close to him. Numerous allegations that these forces were making decisions for the party, rather than Prime Minister Jamali or party president Shujaat Hussain were also made during the year by PML-QA leaders, who in many cases spoke to the Press anonymously, apparently fearing reprisals. These leaders believed that President Musharraf had resisted a planned federal cabinet expansion, pledged repeatedly by Jamali and Hussain, on the grounds that this could lead to differences with the allies supporting Jamali's fragile government. A suggestion made by the federal information minister in November that President Musharraf be made head of the PML-QA was met with anger by party members, with leaders stating that such decisions needed to be made democratically, within the party itself, rather than dictated from the outside. The fact that a similar proposal had also been made a few months earlier by the same minister suggested that it

could be part of a broader plan.

The intervention in the working of the PML-QA, as well as the government, according to press reports, had during the year created some friction between Prime Minister Jamali and President Musharraf, though this was denied by both men. The fact that the President held enormous powers, including the power to dismiss governments, under amendments he himself had made in 2002, however left little doubt about where the true locus of power in the country lay.

Misuse of NAB laws

With at least four ministers within the federal cabinet still on the Exit Control List (ECL) till March, as a result of cases pending against them, the credibility of NAB waned still further during the year.

It was clear that the body, set up to check corruption in 1999, had over the past four years lost whatever ability it had to prosecute, without bias, those guilty of fiscal wrongdoing and to cleanse the deep-rooted culture of malpractices embedded in the country's institutions. The extent of this failure was manifested in the 'Annual Corruption Perceptions Index', released by the Berlin-based watchdog organisation, Transparency International (TI), in October. The group's findings indicated that the level of corruption had slightly increased in Pakistan during the year, with a score of 2.5 awarded against a score of 2.6 in 2002. The scores, out of the highest possible mark of 10 for the cleanest countries, also meant Pakistan remained among ten countries within which levels of corruption were described as 'critically high'. Pakistan's overall score had shown a marginal improvement since 1997.

A detailed report on corruption in Pakistan, titled 'National Anti-Corruption Strategy', released by NAB in April, meanwhile focussed much attention on blaming politicians for the expansion of corruption, while putting forward limited evidence to back such assertions. The reports also failed to make any reference to sectors managed by the armed services themselves.

While such publications gave an indication of the biases within NAB, affecting both its credibility and its effectiveness, a detailed report carried by the 'Weekly Independent' in January, before the publication underwent a drastic change in policy as a result of government pressure, [*See also Chapter on Freedom of expression*] stated that the Auditor General of Pakistan had detected misappropriations and irregularities of over Rs 70 billion during an audit of defence expenditures within the last ten years.

Other actions during the year also acted to damage the credibility of NAB and the government's commitment to the battle against corruption. In April, it was reported that on the orders of Prime Minister Jamali, a man convicted to 38 years in jail had been released on parole. Two other persons, convicted under NAB laws, had also been freed on parole a few weeks earlier. Four federal ministers, Aftab Sherpao, Makhdoom Syed Faisal Saleh Hayat, Liaquat Ali Jatoi and Sheikh Rashid Ahmed meanwhile remained on the ECL at the start of the year, and faced a number of cases. The fate of these cases remained unclear as the year progressed, with NAB officials, according to press reports, declining to provide

details.

Aftab Sherpao was, in the middle of the year, acquitted by the Peshawar High Court in one of at least three cases pending against him. He had been acquitted in another case the previous year, while the fate of the remaining case was unclear.

In February, interior minister Faisal Saleh Hayat, appearing before an accountability court in Lahore, was granted exemption from personal appearance for the remaining proceedings in a NAB reference against him. The minister had earlier failed to appear before the court on several occasions, and maintained he had been prevented from doing so as he was attending to official matters. The outcome of the reference against the minister, as well as other cases against him and his close family members, remained unclear. The minister however stated in June that his name was no longer on the ECL, and he faced no charges. He did not explain how this change in status had come about.

In April, a spokesman for NAB, answering queries raised during a press briefing in Islamabad, maintained it could not act against PML-QA president Chaudhry Shujaat Hussain and Punjab Chief Minister Chaudhry Pervaiz Ellahi, despite widespread allegations of loan default, unless the State Bank of Pakistan (SBP) forwarded the cases against them. He maintained that amendments made in 2000 in the NAB Ordinance took away NAB powers to proceed against loan defaulters on its own. During the year, as well as in 2002, the Jamaat-e-Islami (JI) and the Pakistan Tehreek-e-Insaaf, led by Imran Khan, had presented documents that they claimed proved Chaudhry Shujaat Hussain and Chaudhry Pervaiz Ellahi were guilty of massive default. Similar allegations of corruption against the two men, as well as interior minister Syed Faisal Saleh Hayat, were made by the PPP, but remained uninvestigated.

Apart from such selectivity in the matter of whom to pursue corruption cases against, NAB was repeatedly accused of being used for purposes of political victimisation. In October, PML-N acting president Javed Hashmi alleged that the body was preparing to file further references against him, as part of a campaign of harassment and intimidation.

Farzana Raja of the PPP, a member of the Punjab Assembly, also reportedly faced acute harassment, with the arrest by NAB of her husband, Pir Mukarram Shah in June seen as a part of this campaign. The woman MPA, according to PPP leaders, was being targeted because of her vocal opposition within and outside the assembly to the LFO and the army's continued role in politics. Her husband, Pir Mukarram Shah, also closely linked to the PPP, was dismissed from his post as Executive Director Production at the Printing Corporation of Pakistan in August 2002. He appealed the dismissal before the Federal Services Tribunal, and was reinstated in June 2003. However, he was arrested days after resuming duties by NAB, and illegally detained, without any warrant for over a month. During this period, he was reportedly held in an extremely small room, and pressured to ask his wife to give up agitational politics. Pir Mukarram Shah was in August shifted to Adiala Jail in Rawalpindi. His wife, Farzana Raja, stated she had been approached by a Punjab government member who suggested that if she met interior minister Syed Faisal Saleh Hayat to 'discuss' the NAB cases against

her husband, and agreed to switch political loyalties, many of the difficulties the family faced could be resolved.

While the PPP continued to maintain that Asif Ali Zardari, the spouse of chairperson Benazir Bhutto, was being victimised by NAB, a spokesman for the body, in the middle of the year, stated that Zardari, who completed seven years in jail during the year, was not being held illegally but was in fact a convict who had started a seven year jail sentence in 2002. During his seven years in jail, Zardari had been convicted in a case involving corruption at the Pakistan Steel Mills. Various other cases remained pending before courts. PPP leaders also alleged that NAB, and the government, had played a central part in the verdict delivered by a Swiss court in August, finding Benazir Bhutto and Asif Zardari guilty of acquiring large sums of money and misusing official powers to do so. The conviction was in September suspended by a Swiss Tribunal hearing an appeal lodged by Ms Bhutto and Asif Zardari. NAB, which widely publicised the detailed judgement of the Swiss court finding the former prime minister and her husband guilty, denied any role in the verdict.

In September, statistics provided by NAB indicated that 310 politicians were among the 1,233 individuals in the country under investigation by NAB. The politicians were stated to include sitting MNAs and ministers of the ruling party, but no further details were provided. Press reports in December noted that over the last year, NAB had focussed increased attention on investigating members of the bureaucracy. Investigations against at least seven sitting MNAs were also stated to have begun as the year closed, on the basis of the details of their assets that they had submitted to the Election Commission of Pakistan (ECP), which showed wealth apparently beyond their means.

District governments

Continued confusion over the exercise of powers and a deepening conflict with provincial governments hampered district governments, established under the elaborate devolution plan of 2001, from fulfilling their functions.

Under the agreement reached on the LFO between the government and the MMA, district governments were to continue under the existing system for six years.

Allegations of inefficiency and corruption against some nazims, and apparent attempts to oust nazims from opposition parties by provincial set-ups further hampered the system, which underwent something of a crisis during the year.

At a seminar in Lahore in June, speakers, including former police officers, local government experts and NGO activists held that the local government system, and the Police Ordinance 2002, had been put in place without gaining a true understanding of the conditions prevailing at the ground level. As a result, they warned, that the system would fail and still greater administrative chaos would be seen across the country.

By January, the battle that would in June lead to the collective resignation of all 24 district council nazims in the NWFP, and threats of resignations by union council nazims, was well underway. The MPAs in the NWFP assembly, backed

by the MMA government, demanded a greater say in the exercise of powers and the running of development schemes at the district level. The MMA government sought changes in local government laws to allow this, while putting forward arguments in the provincial assembly that the present system was leading to immense administrative chaos. The city government in Peshawar meanwhile opposed MMA efforts to segregate education, arguing that this would hinder the education of girls, while in Bannu, Kohat and other areas nazims clashed openly with elected MPAs.

The situation led in June to the resignation of all the 24 district nazims in the NWFP. The MMA government alleged the resignations had been orchestrated by the federal government, as part of its efforts to destabilise and pressurise the provincial set up in the NWFP. By the end of June, in an effort to resolve the crisis, the federal government had initiated talks with the provincial government on amendments in local government laws that would permit a more peaceful co-existence between provincial and district governments.

The NWFP was not the only province where problems between the provincial and district administrations surfaced. In the Punjab too, MPAs in the assembly demanded a review of the system, and sought greater control over development work and funds in their areas. The Punjab chief minister, in May, stated that the problems being faced would be resolved with the cooperation of the federal government.

In response to the growing problems with the working of district governments being expressed in the provinces, President Musharraf stated categorically on several occasions that the system would not be changed. In February, the National Reconstruction Bureau (NRB), which had authored the local government system, held a consultation in Murree with senior journalists, politicians, analysts and others to discuss the existing system and find ways to solve the difficulties that had arisen.

Early in the year, the Sindh provincial government and the district governments also found themselves in conflict, with Sindh joining the chorus of provincial voices seeking major changes in the set up.

The conflict between the provincial and district set ups had a negative impact on administrative working. In May, it was reported that the uncertainty over whether the city government in Karachi or the concerned department of the Sindh government was responsible for tackling various problems related to water supply had resulted in multiple problems. Water being supplied was found unsafe, while sewerage blockages and other similar difficulties continued through the year. In March, the city nazim of Karachi, who was associated with the Jamaat-e-Islami (JI) had complained about interference in his work by the provincial government.

The PPP-backed nazims in Sindh, including those in districts Nawabshah and Khairpur, reported during the year an increase in harassment as the ruling PML-QA and its ally, the PML-Functional (PML-F), headed by the Pir of Pagaro, attempted to remove them. In November, Nafisa Shah, the district nazim Khairpur, stated in a letter to the Sindh government that she was feeling increasingly unsafe,

because of a campaign of harassment and intimidation by those opposing her and the PPP, and that she was being pressurised to resign.

Problems linked to political victimisation were also faced in the Punjab. While candidates backed by the ruling PML-QA swept by-elections held in September, it was alleged that in many cases the administrative machinery had been grossly misused to support them. In July, it was alleged by representatives of several NGOs in Multan that a candidate, Zainab Khatoon Malik, had been coerced to withdraw from the contest by her PML-QA backed opponent, Pir Riaz Qureishi. It was also alleged she had been abducted as part of the coercive tactics. The candidate herself denied these allegations, maintaining she had withdrawn voluntarily. The contest for the seat of district nazim, which fell vacant when Shah Mehmood Qureishi of the PPP resigned on October 10, 2002, after being elected to the National Assembly, was won by Riaz Qureishi.

In August, the nazim of Data Ganj Buksh town in Lahore, Khawaja Ahmed Hassaan, associated with the PML-N, was removed from office in a move that he claimed was backed by Mian Amer Mehmood, the PML-QA supported district nazim, Lahore. After a prolonged legal battle, during which Khawaja Hassaan alleged that the no-confidence move against him was illegal and in violation of laid down rules of procedure, he was restored to his office in October by a full bench of the Supreme Court.

Despite the difficulties faced, there were some indications that district governments had made efforts to address the basic concerns of the people who had elected them. In Sindh, the district governments played a major role in distributing textbooks without charge to schoolchildren. Efforts to improve facilities at public-sector hospitals and schools were also reported from Attock, Badin, Khairpur, Jacobabad and other locations.

There were also numerous complaints about inefficiency and corruption within local governments. In April, press reports stated that the Karachi city government had, despite the passage of over a year, failed to distribute a sum of Rs 92 million meant for the award of scholarships to girls. As a result, hundreds of girls had been deprived of a chance to attend secondary schools.

Meanwhile, complaints about the handing over of funds to local governments continued. In June, 102 union council nazims and members in Hyderabad threatened to resign to protest the failure to grant them funds to carry out developmental activities. Women councillors across the country continued to complain about failures to grant funds and exclusion from decision-making. [*See also chapter on Women*]. Minority councillors stated they were not consulted by nazims and at times not invited to attend meetings.

Allegations of grave corruption came in against tehsil nazims in Haripur, and Kharian, while in a number of instances reported during the year, meetings of councils had disintegrated into fistfights and exchange of abuse.

However, despite the problems, there were indications, based on surveys carried out by NGOs, that people wanted the system to continue, alongside

measures to resolve the various problems being encountered in its functioning.

Recommendations

1. *The sweeping constitutional amendments imposed in 2002 have altered the parliamentary, federal nature of the country's political system. Many of these changes remain in place despite amendments made before the Legal Framework Order (LFO) was passed by parliament. The country's laws brought back in conformity with the constitution of 1973.*

2. *The Legal Framework Order must be scrapped, alongside the many other laws brought in by an unelected government.*

3. *Those responsible for the many cases involving the alleged harassment of MNAs and political activists, should be penalised as per the law. An impartial inquiry must be conducted each time such an incident is reported.*

4. *Steps must be taken to set up an autonomous and visibly impartial Election Commission to conduct all future elections in the country and thus ensure the transparency that was missing from the most recent electoral exercise.*

5. *Extreme steps to prevent political gatherings or rallies are an outrage.*

The right to peacefully put forward their demands and hold meetings must be allowed to all political groups and repressive measures used against them halted

6. *Rules must be put in place so that in the future the election in any area from which women are excluded is immediately nullified.*

7. *The reservation of seats for women should continue at all levels. The quota of seats should be expanded to 50 percent of seats to grant equal representation to women. More innovative means to promote the participation of women in politics should also be considered in consultation with women activists.*

8. *The intervention in the internal working of political parties, or attempts to create new factions, must be halted.*

9. *All political parties must be allowed to run their affairs freely and to participate in elections on an equal basis.*

10. *The confusion still surrounding the LB polls scheme, including powers available to nazims and funding for councils, should be clarified without further delay.*

11. *Accountability laws must not be used to victimise political opponents. Similarly, action also needs to be taken against police officers accused of harassing political activists or exerting pressure on them to change political loyalties.*

12. *Concerns being raised about the impact of district governments on provincial autonomy, and acrimony over the share of powers between provincial and district governments, must be addressed. Ignoring voices of dissent can only aggravate existing problems of national integration and political development.*

13. *The 1999 Supreme Court ruling, calling for amendments to guarantee fundamental rights to the people of the Federally Administered Tribal Areas (FATA) and to have an independent judiciary must be fully implemented.*

HPRCF

HRCP

V

State of Human Rights in 2003



Rights of the disadvantaged

Women

All citizens are equal before law and are entitled to equal protection of law.

There shall be no discrimination on the basis of sex alone.

No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground only of ... sex ...

Steps shall be taken to ensure full participation of women in all spheres of national life.

The state shall protect the marriage, the family, the mother ...

The state shall ... [ensure] that ... women are not employed in vocations unsuited to their sex....

Constitution of Pakistan

Articles 25, 27, 35, 37

All human beings are born free and equal in dignity and rights ...

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind ...

All are equal before the law and are entitled without any discrimination to equal protection of the law ...

Men and women of full age ... are entitled to equal rights as to marriage, during marriage and at its dissolution.

Marriage should be entered into with the free and full consent of the intending spouses.

Everyone has the right to equal access to public service in his country.

Mother and childhood are entitled to special care and assistance.

Universal Declaration of Human Rights

Article 1, 2, 7, 16, 21(2), 25(2)

The year 2003 brought little change in the fortunes of women in the country.

The Shariah Act, 2003, passed by the NWFP provincial assembly in June, further threatened their rights and liberties as equal citizens, while other laws

discriminatory to women remained in place.

Despite the increased representation of women in the assemblies, there was limited impact in terms of legislation in favour of women. However, it was noted that in the provincial assemblies in particular, the presence of women appeared to encourage debate about issues confronting women and children in the country.

According to reports by the New York-based Human Rights Watch, between 70 to 80 percent of women in the country suffered domestic violence, in the form of physical, sexual or verbal abuse. Data collected by several Rawalpindi-based NGOs also indicated that within the last five years, up to 5,000 women had been burnt alive in the city by husbands or in-laws. Violence in the form of rape, murder, kidnapping, trafficking, acid-burning, mutilation and harassment continued against women across the country, with tradition often used as the motive to inflict violence or carry out crimes against women.

The alarming picture regarding violence against women in the country provoked no official moves to offer them greater protection. Despite the recommendations of the National Commission on the Status of Women (NCSW) during the middle of the year that the 1979 Hudood Ordinances, under which thousands of women remain in jail, be repealed, the law remained in place as the year closed.

It was also estimated that at least 60 percent of women in the country lived in conditions of acute poverty, with women and children the worst victims of the expanding economic deprivation suffered by millions.

Women in politics

The presence of 188 women in the national and provincial assemblies and 17 in the Senate on the basis of seats reserved for them had only a limited impact as far as legislation was concerned.

It was noted that women in the assemblies often allied themselves strictly with the stance taken by the political parties to which they belonged, and which remained dominated by men – indicating some of the problems with the present system of reserving quotas for women. NGOs, including the Aurat Foundation, continued to call for amendments in the Political Parties Act under which only parties allocating at least 33 percent of tickets for general seats to women would be allowed to contest elections. NGOs also demanded political parties commit to reserve 33 percent of seats in assemblies, the Senate and local bodies for women – as well as undertaking other steps to give women a voice in decisions made at the party level.

The presence of the largest ever number of women parliamentarians did however appear to encourage debate on a broader range of issues, with honour killings, domestic violence, the abuse of children, kidnapping of children, state of healthcare for women, harassment of women at work and other issues figuring during debate in the assemblies – a positive change that held out the promise for the future. In October, a draft bill was put forward by a woman member of the Treasury in the Punjab assembly to combat growing domestic violence, with the opposition Muttahida Majlis-e-Amal (MMA) fiercely opposing it. Similar opposition

came from the MMA, including most of its female parliamentarians, for proposals in the National Assembly to repeal Hudood Laws. A bill moved by MNA Sherry Rehman for the empowerment of women also created much discussion during the year, with a repeal of the Hudood laws among the proposals. *[See also section on women and law].*

The inclusion of at least 36,000 women councillors in local governments across the country did appear in some districts to expand the ability of women to put their problems before elected representatives. However, some of the problems women councillors had been facing since their election in 2001 continued, with a number continuing to complain development funds had not been allocated to them. In other cases, women councillors complained of attempts by male nazims and councillors to block their developmental work. In several cases, women councillors also became the target of deliberate harassment by local influentials, politicians and fellow councillors, who appeared to resent their efforts on behalf of women suffering violence or other difficulties. Nasim Akhtar, a female councillor of village Sadra Badra in the central Punjab, was beaten for hours and paraded naked through the streets by a long-time political rival and his supporters at the

end of December 2002. Her abusers threatened to kill her if she reported the events to the police and attempted to prevent her from going to the hospital. Akhtar alleged that the police



Women activists remained at the forefront of political protests.

were bribed and initially refused to register a case. Finally, days after the incident, police arrested the political rival and his two sons. It was believed Nasim Akhtar's efforts to speak out on behalf of women suffering harassment at the hands of feudal elements in the area had led to the violence inflicted on her. *[See also section on violence against women]*

Early in the year, it was reported that all the 242 women councillors elected in the local bodies elections from Dera Ismail Khan District were facing problems in getting development activities started, as funds had not been allocated to them. However, in January, an amount of Rs 2.4 million from tehsil municipal committee funds was set aside for them. It was also decided in April that development funds allocated, for women councillors would be increased from Rs 10 million to Rs 20

million in the next fiscal year.

In January, at least 30 female members of the National Assembly formed the 'women's caucus' within parliament to generate a consensus on all issues relating to women including the Hudood Ordinances. The women also formed the Parliamentary Organisation for Women Empowerment and Rights (POWER) that would enable them to concentrate on policy matters related to the rights of women.

The issue of the number of registered women voters in the country continued, with no effort made to enroll the many women not included on voter's lists. In the last general election on October 10, 2002, out of 72 million voters entitled to cast their votes, over 53 percent were male – indicating a large number of women in the country were not registered as voters.

Women parliamentarians and activists working for the rights of women also urged the government to introduce laws under which polls would be void if women were not allowed to vote, as had happened in several tribal areas in the 2002 polls. Women in the NWFP assembly demanded a law making 25 percent to 30 percent votes cast by women compulsory in any constituency for a poll to be considered valid.

The ministries of women development, social welfare and education launched a National Plan of Action in April to train women parliamentarians. Under a similar programme, assisted by the UNDP, around 7,000 women councillors in over 28 districts of Punjab had been imparted training by March and all women councillors were to be covered by the end of the year.

Women and law

Despite the recommendation in the middle of the year by the NCSW that the Hudood laws, introduced in 1979, be repealed – the government failed to take steps to do so. Women activists, backing the call to repeal the laws under which thousands of women remained in jail, also pointed out that until such discriminatory laws were set aside, the status of women in the country would remain unchanged.

The Shariah Act, passed by the NWFP assembly in June, which included many aspects of the 15 Amendment or Shariah Bill of 1997 the then Nawaz Sharif government had tabled, and which was passed by the National Assembly before being blocked by the Senate, imposed segregated university education in the province. It also put forward measures to Islamise the judicial system. Efforts continued by the ruling MMA to pass a proposed Hisba Bill in the NWFP, under which Islamisation measures were to be enforced – along the model used by the former Taliban in Afghanistan. Such proposed legislation meant a threat of further curtailment of rights and liberties hung over women in the province, and also in Balochistan – where the MMA, as a member of the ruling coalition, announced plans to introduce similar legislation.

There were however some more encouraging moves as far as legislation to protect women was concerned. In October, a woman member of the treasury in the Punjab Assembly, Dr Anjumn, tabled a draft law against domestic violence. The surprisingly tough proposed Punjab Prevention of Domestic Violence Act, 2003, imposed tough penalties on male household heads found abusing children or women. Amid strong protests from the MMA members, the bill drew strong

support from women MPs on all sides of the political divide, and was put before a house committee for further discussion. Amendments to the bill were proposed by the committee in December.

A month earlier, in September, the NWFP law department had prepared several draft laws to check violence against women in the name of honour and other crimes, under the title of the NWFP Prevention of Violence against Women Act, 2003. However, it was thought unlikely that the MMA government in the province would allow the draft proposals to be passed by the assembly, with other law department drafts on ensuring property rights for women also not put before the house.

The recommendations made by the NCSW to the government in September to repeal the Hudood Ordinances remained one of the most important developments as far as the legal rights of women were concerned during the year. The commission had been revived in 2000 by President Pervez Musharraf to act as a watchdog body to monitor policies and laws. The NCSW, headed since late 2002 by Justice Majeeda Rizvi, had in October the previous year set up a committee, including members of the ulema, to review the Hudood laws. The commission reported in September that 30 to 40 percent women jailed in the country were detained for crimes under the Hudood Ordinance, and that this ordinance needed to be replaced rather than amended, given the injustices it imposed on women.

Women activists across the country backed the NCSW recommendation, and called for the government to act on it. Earlier in the year, almost 3,000 women participating in a rally in Multan had demanded an end to discriminatory laws such as the Hudood Ordinance and the law of evidence.

In January, the Law and Justice Commission of Pakistan invited proposals from the general public on the issue of distribution of inheritance, with women continuing to be deprived of their share. The commission also asked the secretary to formulate a plan for full and effective enforcement of the law.

In May, HRCP chairman, Asma Jahangir, informed the Supreme Court that over 250 couples were facing hardship in jail, due to a delay in the decision on an appeal against the Lahore High Court (LHC) judgment in which it would be declared that a Muslim woman could not marry of her own free will. In December, the apex court overturned the LHC verdict, and held an adult, Muslim woman could marry without the consent of her guardian or *wali*.

The lack of access to justice also presented huge problems for women. However, newspaper reports indicated, a growing number were approaching courts on matters pertaining to divorce and custody, suggesting that awareness of their rights among women was on the increase.

Women at the workplace

Largely due to the restrictions placed on their activity, the contribution of women to the national economy was only 15 percent. The participation rate of women in the workforce too was only 20 percent compared to 48 percent for men.

The fact that much of the work women routinely carried out, in the home,

on farms and in other spheres of activity was not included in statistics on labour largely accounted for these figures. In other words, the work women did was in most cases unpaid and uncounted.

During the year, the Sustainable Development Policy Institute (SDPI) reported findings by Dr Saba Khattak that over 90 percent of the factory workforce in the plastics sector comprised of women. 84 percent of those working in the pharmaceuticals sector and 93 percent in the food sector were also women.

According to available statistics, while nearly 80 percent of women aged over ten years in the country worked on agricultural farms, only 37 percent among these received any wages or other reward for their labour. Most worked as unpaid labourers. This was also true of women working in home-based crafts industries, with the majority receiving no wages for their work. In many cases



Economic harvests brought in by women often went unrecognised.

women were involved in preparing food items, beverages and so on sold on roadside carts. Male members of the family who sold the items retained the income generated by such activities.

Various reports showed that while most women at work in the country toiled at low paid jobs as labourers or factory workers, their wages were more likely to be withheld on flimsy grounds, compared to those of male co-workers. The finding reported in the press early in the year that 90 percent of women factory workers and labourers had no awareness about their rights contributed to the difficulties they faced.

Women also faced other kinds of discrimination. In November, the Supreme Court upheld the policy prevailing within Pakistan International Airlines (PIA) to forcibly retire airhostesses, but not their male counterparts, at the age of 45. Airhostesses had filed a petition against this violation of their constitutional right not to be discriminated against, and won a favourable verdict from the Sindh High Court (SHC). However, hearing an appeal from PIA, the apex court ruled in its favour, with the national carrier arguing that passengers liked being served by 'young girls'. The chairman of PIA, in December, was quoted as having agreed

to permit hostesses aged above 45 to continue in service.

Women made up fewer than ten percent of senior officials and managers in the country, while women holding technical or professional jobs constituted a mere 26 percent of workers in these spheres. While these figures indicated a marginal improvement over the past five years, the number of women holding posts at the policy-making or senior management levels was extremely limited.

The Senate secretariat in Islamabad, for instance, offered jobs to 457 employees but accommodated only two women employees. The National Assembly employed 813 people out of which only nine were women. The National Assembly had three women working as senior civil servants, with one each at BPS-17, BPS-19 and BPS-20. The defence ministry employed two women among a total of 136 employees. The information technology and telecommunication ministry had one woman out of 17 employees; the parliamentary affairs ministry had two women out of 28 employees; the ministry of religious affairs had one woman out of 169 employees and the ministry of scientific research had only two women employed with it.

Seven women diplomats were appointed ambassadors in January from among the Foreign Service cadre. Most career diplomats were posted in European countries, and this was seen as a step towards including more women at key posts. The induction of more women into the subordinate judiciary was a step aimed at curbing discrimination against women. Out of the 35 newly elected civil judges, 13 were women.

In February, the Punjab Public Service Commission recommended six candidates to the government for appointment as sub inspectors (female) in BPS-9 in Rawalpindi police range. It also recommended three female candidates for appointment as assistant sub-inspectors in BPS-9 in the Dera Ghazi Khan police range.

During the year, the National Commission on the Status of Women (NCSW) recommended a reservation of 50 percent seats in all sanctioned posts of BPS-17 in the executive and secretariat groups under federal and provincial governments for women. The management of Agha Khan Education Services Pakistan (AKESP) meanwhile decided to reserve 35 percent quota for women within the organisation.

The extension of small loans to women, through micro-credit schemes, remained at the centre of policies aimed at helping them improve their ability to generate income. Credit for women continued to be given out by various public sector and semi-autonomous organisations, while the ILO stressed the need to encourage entrepreneurship by women.

The First Women's Bank Ltd (FWBL) had the best outreach to women, with nearly 25,226 women borrowing Rs 6.6 billion from the bank. In July, the bank slashed interest rates for women borrowers from 16 percent to 14 percent to encourage entrepreneurship. FWBL entered into two major collaborations with international donor agencies, to provide training to women bankers and to provide managerial skills to women entrepreneurs.

Women continued to outscore men in almost all examinations, with more women entering medical colleges than men as a result of this. However, in many

cases women failed to take up careers after qualifying, leading to a rising debate about their right to places in colleges and the reasons for their failure to make use of their professional skills.

Harassment: With no laws in place, despite growing demands to protect women facing harassment at work, women in all spheres continued to face such abuse.

While women working as factory workers, domestic servants or labourers were thought to face the most acute harassment, women working at managerial positions also reported increased abuse. Anecdotal evidence, from press reports, suggested that within most organisations, complaints made by women against harassment by male colleagues or superiors were almost always ignored or resulted in further victimisation of the woman.

A press report in October stated that many nurses working in private hospitals were being subjected to sexual harassment by senior male doctors. Nurses also complained widely about harassment from attendants of patients or even patients themselves. As a result, a growing number of nurses sought jobs overseas.

A study carried out in Karachi during September, on 200 Karachi-based working women revealed that 93 percent women faced harassment in some form. Of these, 45 percent experienced psychological abuse, 33 percent suffered physical abuse and 25 percent faced sexual abuse. 50 percent of women surveyed preferred home-based work due to fear of harassment at the workplace and other social pressures.

At the official level, harassment of work continued to be seen as a personal problem of women. There was no change in the decision made by the federal cabinet in 2002 to reject a proposed amendment to the Pakistan Penal Code (PPC) for punishment of molestation with sexual motive at the workplace, on the grounds that any such law could be misused by women workers.

In January, nine organisations working on women's rights held a national consultation to finalise a draft law on harassment at the workplace. In June, the Sindh women development's minister stated that new laws to protect women from harassment were being drafted. However, as the year closed, no change had been made in the existing situation, with thousands of working women across the country continuing to face harassment in various forms.

Women and development

With Pakistan ranked 135 out of 175 countries in terms of gender development according to UNDP figures, it was clear that the impact of poverty, lack of education and healthcare were most acutely felt by women and girls. Findings over the past two years also indicated that with poverty rates in the country soaring to over 35 percent as compared to 17 percent a decade ago, more women and children were falling into the poverty trap with each passing year.

While studies carried out around the world indicated that educating girls and empowering women to make decisions could have a huge impact on family welfare, population growth, health and income generation within households,

experts speaking at several seminars within the country also held that national development was in fact closely linked to an improvement in the status of women and their ability to generate income. Micro-credit schemes in various forms generally contributed to this on a small scale, but it was noted that such schemes could not alone act to alleviate poverty, and that far greater State intervention was required to meet the many basic needs of women.

In August, the UNDP and the government inked a five-year gender responsive programme as a step towards eradicating poverty in Pakistan through a rights-based approach to sustainable human development.

Other studies conducted during the year indicated how restrictive the conditions in which many women lived were. According to findings by the Sustainable Development Policy Institute (SDPI), 50 percent women in the country needed permission to step out of the house and 91 percent women received support from their families in terms of decision-making only after they start earning. 36 percent of women owned land but only nine percent had any control over it.

Education: The gap between male and female literacy rates remained wide. According to the Pakistan Education and School Atlas, the male literacy rate was 60 percent while female literacy rate was at 36 percent. [See also chapter on Education]

In July, the Female Literacy Plan was launched in Karachi, targeting two million girls aged between four and nine years out of school in Sindh. The UNICEF-assisted programme aimed at the enrollment of 85,000 girls of school going age by 2004 in five districts of Sindh.

In June, the Pakistan Education Forum announced plans to provide free basic literacy skills to 1,500 women and 300 children in rural areas in Islamabad, through 50 adult literacy centres. The Women's Literacy for Empowerment Project run by the government as part of the Education Sector Reforms (ESR) aimed at making 1.1 million women literate during the year. By August however, only 15 percent of targetted women had been reached.

A study conducted during the year in rural Sindh, in 30 villages of Badin, Sanghar, Larkana, Tharparkar, Mithi and Dadu showed that women faced huge problems because of the restrictions on mobility, with this greatly limiting their access to both education and health.

International donor agencies, including USAID, UNESCO, the Asian Development Bank (ADB) and the World Bank (WB) meanwhile continued to draw attention towards the dismal education situation for women. While funds poured in to both the government and private sector, real change was slow to come. Even though education for girls had gained acceptability within families as compared to the situation 15 years ago, and literacy rates had increased, the dropout ratio among girls, and the number of girls who had never attended school, remained among the highest anywhere in the world.

Health: Although the population growth rate declined by two percent over the previous five years, the total fertility rate still stood at an average of five births per woman. At the same time, health services for women and children remained

extremely poor. This was especially true in respect of the care available to mothers during pregnancy and childbirth. 30 to 35 women in the country were reported to die every day due to pregnancy related complications. Figures also showed four percent of the female population died before reaching adulthood, often due to a failure to provide timely medical intervention.

The maternal mortality rate, estimated officially at 350 and unofficially, in some parts of the country, at 700 per every 100,000 women, remained the highest in the region. 80 percent of deliveries were carried out at home.

At least 100 deaths of women in child birth were reported during the year in the NWFP, after the MMA government in the province placed restrictions barring male doctors from attending to female patients, or male technicians carrying out tests on women. With few female radiologists, anaesthetists or professionals in other technical healthcare fields available, thousands of women across the province suffered immense difficulties. Families of female patients accused clerics of adopting measures more draconian than those of the former Taliban regime in neighbouring Afghanistan. *[See also chapter on Health].*

It was also reported during the year that one woman died every 20 minutes in Pakistan due to health-related factors. 38 percent women remained malnourished.

With 60 percent of the population living in rural areas, it was estimated that the vast majority among them never received any kind of medical attention during pregnancy, childbirth or sickness. Age of childbearing still remained under 16 years for most rural women.

In February, a budget of Rs 1.26 billion was set aside for women's health facilities by the Punjab government under the Women Health project. The health project was launched in collaboration with ADB in four districts of the province and was intended to serve as a pilot project for future initiatives aimed at improving healthcare for women. *[See also chapter on Health].*

Violence against women

There was evidence during the year that more women were reporting domestic violence of various kinds, including rape, molestation and other crimes, there was no indication that the rates of such crime was on the decline.

Indeed, the continued expansion of the 'jirga' system, under which tribal gatherings delivered verdicts, once more led to crimes being committed against women, including 'honour' killings or attempts to carry these out against adult couples who had married of their own free will. *[See box].*

'Jirga' verdicts also led to other crimes against women. In December, a 'jirga' of the Kalpur Bugti tribe that met in Sukkur 'settled' the murder case of a schoolboy, Habibur Rehman, by imposing a fine of Rs one million on the guilty party and asking them to give two of their women in matrimony to two men from the aggrieved side.

The collection of accurate data on violence against women remained problematic, with a wide variance in figures sometimes seen. Data collected by

HRCP indicated there had been no decrease in violence as compared to 2002. Estimates by some newspapers suggested that up to 75 percent of women across the country suffered some form of violence, while one in every four women had faced physical abuse.

International human rights watchdog bodies continued to report multiple incidents of violence against women. Human Rights Watch, according to statistics it had compiled based on various studies in the country, estimated that a woman in Pakistan was raped every two hours while up to 90 percent of women suffered from some form of domestic violence. These figures indicated no improvement over the situation in 2002.

According to statistics provided by the Karachi-based Lawyers for Human Rights and Legal Aid (LHRLA) and the Asian Women Human Rights Council at a two-day 'national court' on crimes against women held in August in Karachi, and organised by LHRLA and the UNDP, between 2000 and 2003, 973 women were raped, 1,065 gang-raped, 2,866 murdered, 1,511 were made victim to karo-kari, 3,273 injured, 530 burnt to death and 4,478 kidnapped. The figures also indicated 3,098 cases of violence against women were reported in the press during 2001, but in 2002 this soared to 6,785 cases. Till August 2003, 4,723 cases of violence against women had been reported.

Other statistics, including those put forward in a report compiled by several NGOs in Rawalpindi, which was released during the year, indicated that as many as 5,000 women had been burnt alive in the city alone over the last five years.

Madadgar, the helpline for women and children in Karachi run by LHRLA and UNICEF, found more than 895 cases of violence against women were reported during the first two months of 2003. This included 260 murders, 124 cases of gang rape, 46 cases of sexual harassment, 228 cases of physical abuse, 41 cases of rape and 26 cases of strippings in public. Most of the cases, according to information reaching the helpline, had taken place in Sindh.

A study conducted in Karachi by the students of the Jinnah Postgraduate Medical Center (JPMC), showed 43 percent women faced violence during pregnancy, out of which 19 percent faced sexual violence.

The hold of tradition

Tradition, often confused with religion, was frequently cited as the motive behind crimes committed against women.

Indeed, many of the 'honour' killings in the country were declared to have been carried out in the name of tradition, although in many of these cases, disputes over property or fiscal matters appeared to lie behind the brutal killings of women, most often by family members.

Cases of 'swara' or 'vani', under which women from one family are given away to male members of their rival's family as 'compensation', continued to be reported, with the commodification of women underpinning them. Despite the

barring of such practices by courts and orders by the chief justice of Pakistan in 2002 to prevent 'swara' or 'vani', numerous incidents still took place.

In February, a girl in Mianwali who was given in marriage as compensation to the victim's family for a murder committed two and a half years ago, was killed by her husband.

According to news reports from Naushero in Sindh, in August, three people abducted the daughter of a watchman, gang-raped her and then sold her in the Punjab. The girl managed to escape and reported the crime to the police. A *jirga* meanwhile met at Naushero, and decided that the minor sister of the accused men be handed over to the victim's brother as 'vani'.

In December, the Press reported the verdict of a '*jirga*' in village Jatoi in Muzaffargarh district, in which two girls, aged two and seven years, were to be handed over as 'vani' to a 45-year-old man and his eight year old son to compensate for alleged illicit relations by their cousin with a member of the aggrieved parties family. The Punjab chief minister ordered an inquiry into the case following the publication of reports. Other cases of 'vani' involving small girls continued to be reported during the year.

At least four high profile cases during the year, involving the decision by young adults to marry of their own free will, once again highlighted the role '*jirgas*' and tradition can play in threatening the lives of citizens who choose to act against the wishes of their family or clan. [See box].

Another case that generated much debate, that of Noor Khatoon, a district councillor, writer and poet, indicated how even seemingly independent women can fall victims to tradition. [See box].

In February, a minor girl in Sukkur was married to settle a karo-kari dispute. Following this, the Sindh High court ordered two landlords who were accused in the case of a forcible marriage of a 9-year-old girl and criminal assault on her, to appear in the court on cross-examination. The order was passed on a petition filed by Nawab Khatoon, mother of the girl in which she alleged that Bashir, a relative, blamed her son, Yaseen, for having committed adultery with his wife. The matter was taken up before the local *jirga* in Pano Aquil, for settlement where it was decided to marry Yasin's 9-year-old sister with Bashir as compensation. Later 'nikah' between the minor girl and Bashir was solemnised with the pledge that she would not be sent to the house of her groom until reaching the age of adulthood. However, this was not honoured. The girl's mother also alleged that Bashir criminally assaulted her daughter, resulting in a worsening of her physical condition. The court ordered the child be handed back to her parents.

Multiple cases of honour killings came in from around the country, with 'suspicion' over character frequently cited as the motive.

Dowry, and disputes linked to it, remained a major factor in violence committed against women. In an effort to check such crime, the Lahore High Court (LHC)

in March directed the Punjab chief minister to ensure the implementation of the Bridal Gift Restriction Act 1976. The Law Commission was also preparing a draft law on Marriage Expenses, Dowry and Bridal Gifts (restrictions) Act 2003 to supersede the 1976 Act whereby the upper limit on the total expenditures at weddings would be increased from 5,000 to 50,000 and the upper limit on dowry would be increased from 2,500 to 10,000 in rural areas and to 25,000 in urban areas.

In June, a newly wed women committed suicide in Lahore, a few days after her wedding. It was reported that her in-laws had been pressurising her to bring in more dowry, resulting in her decision to take poisonous tablets. Many other such cases were reported from around the country.

The practice of 'watta-satta', in which two men marry each other's sisters, also continued and remained another factor behind domestic violence against women. In May, Shumaila, 20, was set alight by her in-laws in Rawalpindi, apparently as a result of a dispute arising between her sister, who had returned home, and her brother-in-law.

At least partially as a result of increased poverty and a failure to bring about any improvement in the status of women, the selling of women, in some cases as child-brides, also appeared to be on the rise across the country. Most such reports came in from the southern Punjab and Sindh.

In February, Farida, 19, was recovered from the home of a landlord by Rohri and Panj Aquil police. It was discovered the unfortunate woman had been sold by her brothers for Rs 70,000. She had been raped and was three months pregnant at the time of her recovery.

In May, activists of HRCP and other NGOs held a protest demonstration in Chilya in Sindh against the selling of a minor girl, Mithas Mallah, by her father and her forcible marriage to an old man, apparently in connivance with a feudal lord. In October, 13-year-old Baby Pathani, who had been sold into marriage in Dadu for Rs 100,000 by her paternal grandfather, was able to escape from captivity at the home of her 60-year-old 'husband', and return to the home of her parents. Her parents then arranged for the marriage to be nullified, and sent the child to the Darul Aman in Rawalpindi to ensure her safety. Investigations showed the girl had been sold to Mohammad Qasim by her grandfather, to settle a debt he had incurred during treatment in hospital.

The practice of marrying off young children, sometimes in infancy, the 'marriage' of women to the Holy Quran in Sindh as a means to avoid the division of family property and other crimes against women, committed in the name of 'tradition' also continued.

☛ Honour killings

While the practice of karo-kari continued to come under increased discussion within and outside the country, and proposals came in at seminars in Sindh that new laws to penalise offenders be formulated, incidents of such murders continued

to come in.

Indeed, in response to reports of the growing incidence of such crime, in February, the federal government was asked to address the honour killings issue by United Nations High Commission for Human Rights (UNHCR). The commission urged Islamabad to also make necessary amendments in all discriminatory laws to grant full freedom to women, and elevate their status -- a factor seen as vital to pushing down the rate of crime against them. The increased feudal hold on society in many rural areas appeared also to be promoting 'karo-kari' (black man, black woman) and other traditional practices.

According to the data compiled by the helpline Madadgar, by the end of August 2003, 631 women and six minors had fallen victim to honor killings during the previous eight months. The highest number of cases carried out in any month was the 113 reported in August. 112 killings out of the 631 killings were carried out by brothers, 247 by husbands, 54 by fathers, two by maternal or paternal uncles and 25 by sons. 317 cases were reported in Sindh, 255 in Punjab, seven in Balochistan and 61 in the NWFP.

Reports of honour killings from towns and cities appeared to be on the increase across the country, while it was believed that many cases, particularly those taking place in more remote areas of the country, were not reported.

According to the statistics compiled by HRCP, 172 cases of honour killings were reported in the Punjab. 16 victims were minors, 69 were single and 61 were married. 13 women were killed along with men. An FIR was registered for 90 cases while the accused was held in only 23 of them. Similarly in Sindh, according to data compiled by HRCP, 398 deaths as a result of karo kari were reported at the end of 2003, out of which 243 victims were women. 148 men also died in karo kari murders. 152 persons, including 97 women were, according to HRCP data, reported to have lost their lives as a result of honour killings in the southern Punjab alone during the year.

In April, the police was directed by the federal government to register cases committed in the name of honour and provide immediate justice. However, despite these efforts, it was believed that at least 70 percent of persons committing honour killings across the country escaped without being penalised.

In April, the LHC issued notices to the government on writ petitions seeking legislation against karo-kari and other forms of 'honour' killings, and the exercise of judicial functions by assemblies of local notables known as a *jirga*. The court was of the view that *jirgas* should be prohibited from usurping the judicial functions of the state.

🔗 Burnings and domestic violence

With studies suggesting up to 80 percent of women suffered domestic violence in some form, the need for legislation to specifically penalise the offence continued to be raised. The impact of a new laws, such as a draft bill on domestic violence tabled before the Punjab Assembly in October, also remained uncertain given the

The case of Noor Khatoon

During the year, Noor Khatoon, from Khairpur was added to the growing list of women accused of being a 'kari' and subjected to immense violence.

In March, a family court in Khairpur took action on a suit filed by Noor Khatoon Shar for dissolution of her marriage, and summoned her husband Sharafdin Shar, to appear before the court. A poet and member of the district council of Khairpur, Noor Khatoon contended that Sharafdin had subjected her to torture, rendering her conjugal life miserable. She said she could not live with him.

Noor Khatoon's troubles had begun some months earlier, after she was married against her wishes to Sharafdin. She had stated that the marriage was arranged by her stepmother and her uncle. Apparently, the uncle's daughter had been engaged since childhood to Sharafdin, but had eloped with a Christian man. To avoid her being declared a 'kari', the uncle decided to hand Noor Khatoon over to Sharafdin in place of her cousin, and persuaded her stepmother to join him in this effort. Since Noor Khatoon initially declined, she was beaten and coerced.

Following the marriage, Noor Khatoon's plight worsened, and she alleged that her husband routinely tortured her, had pulled out her fingernails and thrown acid on her. She also claimed that this treatment was aggravated by his anger against her for raising issues pertaining to violence against women.

Early in the year, Noor Khatoon was 'rescued' from her husband's home by members of her own clan, brought to her father's house in Thari Mirwah, near Khairpur and then accused of being a 'kari' by a tribal jirga set up to hear her case. The jirga ruled that she should be killed, and a date in May was set.

Noor Khatoon was however able to save herself by writing letters to several Sindhi newspapers and the Khairpur district nazim, Nafeesa Shah. After meeting Noor Khatoon, and helping move a court on her behalf, Noor Khatoon was, with court permission, in March moved to the house of the district nazim.

HRCP was among the organisations that condemned the incident. Noor Khatoon, who had been receiving death threats since she was declared a 'kari' received no support from local authorities, who ignored her complaints. As the year closed, a final decision on her fate continued to be awaited. Noor Khatoon herself remained at the house of the district nazim, protected by several policemen, and with a threat of death continuing to hang over her.

continued existence of laws such as those on Qisas and Diyat.

The findings of NGOs in Rawalpindi, widely reported in the Press, that 5,000 women had been burnt alive within five years in the Rawalpindi area sent out shockwaves across the country, with such figures suggesting the rate of violent crime carried out within the confines of homes could be far higher than originally suspected.

The factors that held even the families of the victims from reporting some of the murders committed within homes were highlighted by a case brought to the notice of HRCP in October. On September 22, Qasira, daughter of Amanat Ali, had been forced to squat on the ground at her home in Karachi, while kerosene was poured over and around her by her husband, Sabahat Raza Zaidi, an assistant professor at the prestigious DG Science College. The kerosene was then set ablaze while her two young children, aged three and one year, watched. The victim was warned her sons would also be killed if she screamed. The victim suffered in near silence, and after she was taken to hospital with 80 percent burns to her lower body, told medical staff of what had transpired only hours before her death on September 26. Doctors had declined to believe the tale of attempted suicide she and her in-laws initially narrated. Her family, in Lahore, at first refused to lodge a case fearing for the safety of her children, and finally agreed to do so only under pressure from other relatives after they saw the state of Qasira's body, brought to the city for burial. The alleged murderer has been absconding since, with both his sons.

While such accounts of horrendous crimes carried out within the 'safety' of homes abounded, in September a press report pointed out that no wife beater had been punished in Lahore for over a year. While 315 women complained about being assaulted by their husbands in women's police centers in the city between January and August, only two cases had been registered and only one reached the court.

The failure of police to act in cases of domestic violence remained a major difficulty in penalising those responsible for such crimes, even though women police officers stated that complaints of beatings, threatened burnings or torture were increasing, and constituted the vast majority of cases brought to their notice. They maintained that intervention did not take place, as frequently such charges were withdrawn under family pressure.

Alarming, newspaper reports during the year also suggested electrical shock was increasingly being used as a means to torture women within households, by both husbands and in-laws. [*See also section on mutilation*].

🔪 *Murder*

During the year, hundreds of women around the country were murdered as a result of disputes arising over property or financial matters, domestic disagreements, issues of dowry or feuds involving male members of the family.

In the Punjab, according to HRCP data, 424 murders of women were reported

from January to August. Out of this, 60 were minor girls, 243 were married women and 153 were single women. 92 of the killings took place as a result of 'domestic disputes', with newspaper reports suggesting that matters as trivial as failing to have a meal ready on time, arguments over the behavior of children or accusations of visiting her own family 'too often' had resulted in the victim being killed. 30 of the murders took place over property disputes and 10 women were murdered due a decision to exercise their own choice in marriage. A FIR was registered in only 230 cases and the accused was held in 48 cases.

In September, a woman in Sialkot was axed to death by her brother for pressuring him to give her dowry on the insistence of her in-laws at Laliyan village, Head Marala.

During the same month, another woman, Rahima, was axed to death by her husband, Hamzo Brohi, and father-in-law, Saeedullah Brohi, in Saeedullah Brohi village after a domestic dispute. The Phuladiyoon police lodged a murder case and arrested the two accused.

Similar cases of murder continued to be reported throughout the year. [*See also box on Matters of will*].

🔪 Rape

Several cases that came to light indicated the impunity with which persons guilty of crimes against women seemed able to repeatedly carry out such offences. They also pointed to the dismal police failure in terms of tracking down criminals.

In February, at a press conference in Bahawalpur, Abdul Razaaq, 58, confessed to killing 78 women after sexually assaulting them. He claimed to have strangled the women in different parts of the country after raping them, over a period of eight years. His story was alarmingly similar to the one narrated in January by Maulvi Sarwar Mughul, a father of eight children in Gujranwala, who was arrested on charges of killing three prostitutes and injuring two others. Some press accounts stated the victims had been raped before murder. The murderer was quoted as saying that if given a chance, he would have liked to have beaten the statistic of Javed Iqbal, the killer who claimed in 1999 to have murdered over 100 runaway children, and that he wished to kill all prostitutes in order to 'cleanse' society. In June, appearing before a court, Mughul surprisingly pleaded 'not guilty' to the charges against him, while several witnesses changed statements they had made earlier.

In Multan, early in the year, a large number of women participated in a rally against the rise in gang-rape cases, and the failure to act against those responsible.

A few months later, in June, a fact-finding conducted by HRCF into the brutal kidnapping and rape of a young woman, aged 20, while out on a walk near the Government Girl's Degree College, Vehari, indicated police were not pursuing the matter and there was pressure on the victim's family to reach a compromise with her influential abductors. The girl had been rescued by police from a

farmhouse, where she had been repeatedly gang-raped.

The case also highlighted the need to provide counselling to women surviving rape, with the victim reported to be suffering severe mental trauma as a result of the assault. She had not been provided with any psychological support.

In October, HRCF in Karachi demanded protection for Saima, 19, who had been gang-raped twice. Saima had been brought to Karachi from her home in Sheikhpura six months ago, by Niaz Mohammad. Niaz Mohammad, who was already married and had six children, apparently ran a prostitution business. Saima, according to HRCF's findings, was first raped at her husband's house in Orangi by six men who entered with her husband's consent. An FIR was registered. After the couple moved to another house, some of the men involved in the previous assault, who had not been arrested, again entered the house and raped Saima. Press reports stated at least one among them was a press photographer, who took pictures of Saima as part of a bid to force her into silence. The SHO of the Supermarket Police station refused to hear Saima's complaint against her husband. Through the efforts of HRCF and WAR (War Against Rape), Saima was provided police protection, and was able to narrate her own story, in which she held her husband responsible for the gang-rape and for prostituting her.

Cases of women visiting public places or parks being subjected to rape also appeared to be on the rise. According to newspaper reports in Karachi, in August, a young couple leaving the Aladdin Park was kidnapped by three men. The man was blindfolded while his fiancée was subjected to gang rape. At least two similar cases of rape were reported from other parks in various cities.

In late November, a 12-year-old girl in Chughlan Village, Mianwali district, was abducted while collecting firewood and then brutally gang-raped, allegedly by five Afghan men from a refugee camp in the area. A case was registered against the five men.

Figures compiled by the Sindh Police department showed rape cases registered a 21.5 percent rise in the first six months of 2003, as compared to the corresponding period in 2002. 42 cases had been registered between January and June 2003, while it was believed most cases went unreported due to social stigma and reluctance on the part of families to make rape public.

According to figures compiled by the LHRLA in Karachi, 895 cases of abuse against women were reported during the first two months of 2003 alone. Of these, 124 women were gang-raped and 211 raped.

In the Punjab, at least 516 rape cases were reported up till September according to figures compiled by HRCF. Out of this 136 victims were minors, 139 were married women and 325 were single. 238 women were gang-raped, 145 were kidnapped before the incident, 278 were raped and 118 were killed after the act. An FIR was registered in 273 cases and the accused was held in only 29 cases. Similarly in Sindh a total of 286 incidents of rape were reported at

the end of November. Out of this 93 victims were adult women and 78 were minors. 85 of the victims had been gang-raped. 97 cases of attempted rape were also reported.

✦ *Kidnappings*

While over 400 cases of kidnapping were reported from the Punjab alone during the year, in many cases elopements by young women were in fact reported by parents as abductions, somewhat confusing the existing statistics.

The reports by groups working for the rights of minorities, of kidnappings of young women followed by forcible marriage and conversion to Islam seemed to be on the rise. The organisation CLASS, based in Lahore stated that at least 14 or 15 Christian girls, some aged under-18, had been forcibly converted after kidnapping and then married off to Muslims.

In a matter taken up by the federal senate in December, the kidnapping of four women social workers in Balochistan, who had been visiting villages to advocate family planning, was discussed. The kidnappers had demanded ransom of Rs 2 million, or threatened to kill the women.

In the Punjab, according to figures compiled by HRCP on the basis of press reports, at least 474 cases of abduction were reported during the year. Out of this 117 victims were minors, 119 were married women and 337 were single. 26 of the victims were raped after abduction, three were abducted for ransom and 19 were cases involving old enmities. FIRs were registered in 308 cases out which the accused was only held in nine.

✦ *Molestation and abuse*

Reports of harassment, molestation and 'eve-teasing' of women came in from workplaces, public venues and university campuses across the country.

The fact that at least 40 cases of stripping of women in public places took place across the country, a huge increase over previous years with only 12 such incidents reported in 2002, also indicated the expanded threat women faced. It was also believed that most such cases went unreported.

In June, it was reported that eve teasing at university campuses in Peshawar was rising sharply, with the failure of the administration to take action placing women students at greater peril.

At the Punjab University too, multiple cases of teasing, harassment and molestation were reported during the year by female students. During the middle of the year, it was reported that persons not enrolled at the university appeared at times to be entering it with the specific purpose of teasing female students. In other cases, male students appeared to be responsible for teasing women, while harassment by student groups linked to orthodox parties, who sometimes resorted to publicly questioning the moral character of female students who they named, adding to the problems they faced. Efforts to enforce the segregation of male and

female students were also reported from several universities and colleges in Sindh during the year, including those at Jamshoro, Hyderabad and Karachi.

Several incidents in which nude pictures of women were used to blackmail them also surfaced. In January, in Karachi, it was reported that three policemen and the editor of a magazine were allegedly involved in blackmailing young women by forcibly taking nude photographs of them. 107 nude photographs of young women were placed before the Anti-Terrorist Court, after police arrested the four accused with three women while carrying out a random check of vehicles. The women claimed they had been kidnapped, and were being forced to pose for photographs.

In April in another incident in Karachi, an additional district and session's judge sentenced a photographer and dismissed a police constable for blackmailing young women after taking nude pictures on the pretext of arranging a career in the modelling industry.

In July, six men in Kasur stripped a woman when the victim and her husband pulled them up for eve-teasing on the premises of district courts, where the couple had come to attend a hearing in a civil case.

According to the data compiled by Madadgar, during the first two months of 2003, 26 women were publicly stripped and 46 were sexually harassed.

The cases of the stripping of women were on the increase across the country. One such incident was reported from Sargodha in October, in which two young sisters, Azra Bibi and Safia Bibi, accused of immoral behaviour, were stripped, beaten up and made to walk naked in the village of Moza Dokhli Luddee Wala for over an hour. A case was registered after the District Police Officer investigated the complaint of the victims. However, influential people in the area, in the months that followed, persuaded the complainants to reach a compromise with the accused,

In the Punjab, at least 128 cases of sexual harassment were reported, according to HRCP figures. Out of this 24 victims were minors, 50 were married women and 76 were single. 36 cases involved stripping in public, while the fact that only four accused were held indicated why such cases were rising across the country.

⊕ *Mutilation*

The huge increase in the number of victims suffering attacks with acid, causing often-permanent mutilation and severe trauma, suggested urgent measures were needed to curb this brutal crime.

Compared to nine cases of acid burnings in 2001, and 46 cases in the Punjab in 2002, over 70 cases were reported from the Punjab alone in 2003. 62 of these took place in the southern Punjab, with 27 women, 23 men and 12 children among the victims.

The 'copycat' element behind the cases, the fact that assailants most often go unpunished and the easy availability of caustic acids, appeared to account for the growing number of attacks. The increase in incidents in which mutilation

using acid was carried out within families, with various press accounts describing attacks by husbands, in-laws or other relatives, also meant that cases went unreported. While disputes over domestic or matrimonial issues continued to lead to attacks with acid, it was also seen that an increased number of men were being made victims of such crime.

There were also indications that increased interest in the national and international media had also led to more cases of acid burning being reported, and more initiatives to help victims.

In August, the Punjab assembly passed a resolution declaring acid attacks on women to be equivalent to attempted murder and restricting the production, import, marketing and transportation of harmful chemicals.

However, at seminars, experts continued to call for a national law criminalising acid attacks, and improved implementation of existing laws banning the sale of corrosive substances.

Some of the cases that came to light during the year indicated the kind of tragedies attacks with acids inflicted. In May, a mother of two, Saima, was attacked with acid reportedly by her husband and sister-in-law. In June, Rabia, in Bahawalpur, suffered burns across 50 percent of her upper body when her former fiancée, Sajid, allegedly threw acid on her face after their engagement was terminated.

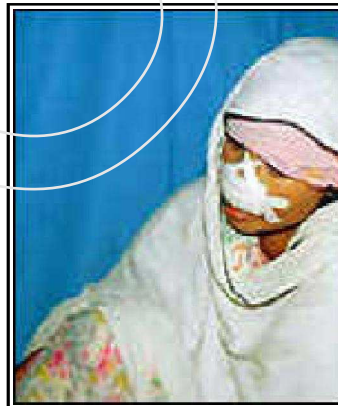
In June, a landlord in Sadiqabad, Mohammad Shafiq, allegedly threw acid on a female domestic servant after her refusal to develop illicit relations with him. She was rushed to the tehsil hospital and police registered a case against the landlord.

In another incident in October in Islamabad, the father of a 14-year-old girl accused his daughter's male teacher, Mazhar, of throwing acid on her face after failing to rape her, while she was coming back from school. The teacher supposedly abducted her and when she raised a hue and cry, acid was thrown on her. A case was lodged with the assistance of local NGOs, but Mazhar was able to evade arrest, reportedly because he had links with a sitting Member of the National Assembly (MNA).

Aside from acid burnings, cases of mutilation and torture of women, most often by husbands also continued to come in, mainly from Sindh and the Punjab. In several such cases reported in the Punjab, the victim's nose had been cut off, or damaged, to indicate she had been 'dishonoured', while it was also believed many such mutilations went unreported. *[See also chapter on Law and order].*

Violence in custody

While a manual for improving awareness within the force about the rights of



Another victim of violence inflicted at home.

Marriage by choice: matters of will

The stories of several couples that came to light during the year indicated the scale of the threat that still hung over adult women and the men they chose to marry of their own free will

The brutal murder of Shazia Khashkeli and her husband, Mohammad Hassan Solangi on October 8, in Sanghar, after the couple was tortured for several hours, drew renewed attention to the issue of marriages of choice by adult women.

Taking *suo muto* notice of the torture and murders, which took place in full cognisance of thousands of town people, the Supreme Court, during the same month ordered an inquiry by the area session judge. However, fears remain that given the apparent involvement of members of the administration in the affair, it is unlikely the investigation will reach a meaningful conclusion.

Shazia Khashkeli, 19, the daughter of a senior bank official and an intermediate student, had on September 27 eloped with Mohammad Hassan Solangi, a driver who worked at the home of neighbours. The Khashkeli tribe, who are mostly disciples of the Pir of Pagara, reacted swiftly, and began daily meetings to discuss possible punishments for Shazia for marrying a man belonging to the Solangi tribe, who are perceived as 'low caste' fish traders by the Khashkelis. Shazia was declared a 'kari'

The couple had fled to Karachi, where a notice appeared in the Press announcing their marriage. This angered members of the Khashkeli tribe further, and 'death squads' were dispatched to Karachi to hunt down the couple. Shazia's parents and immediate family apparently opposed a punishment of death, but appeared helpless against mounting tribal pressure. In early October, Shazia's father, Mir Hassan Khashkeli, lodged a FIR at Sanghar police station in which he alleged his daughter was kidnapped by Mohammad Hassan Solangi. He also claimed Shazia had in fact been married to another man at the time of the abduction.

Making what would prove a fatal mistake, Shazia and Hassan in October returned to Sanghar. The reasons behind this are unclear, with conflicting reports suggesting they either wished to clarify the facts or that they had been assured they would be forgiven since they had already wed.

Hassan, on October 7, met the District Police Officer (DPO) Ali Sher Jakhrani, who advised him to return the next day with Shazia. No protection was offered to the couple, despite the threats made by the Khashkeli tribal 'jirga'. As Shazia and Hassan made their way to the DPO's office on October 8 in a car, they were intercepted in broad daylight and in full public view by tribesman, who forced them into another vehicle. They were then taken to a house in the area, and severely tortured for three hours. Efforts were made to persuade Shazia to state she had in fact been kidnapped by Hassan, but she declined. A woman who attempted

to intervene on behalf of Shazia had her head shaven. A huge crowd collected outside the house heard the screams and pleas for mercy, but made no intervention.

A few hours later, Shazia and Hassan were taken to an open ground near a drain, and shot dead. Both were barely alive at the time. Local police arrived only to collect the bodies – and Shazia's mother was able to bury her daughter in the dead of night, only after making repeated appeals. As a 'kari' local tribesmen insisted there was no need to bury her.

While Shazia's father was arrested soon after a huge Press uproar broke out over the incident, her elderly maternal uncle, Chutto Khaskheli, surrendered to police claiming he had in fact killed the couple. This appeared to be a move to save her father.

The contention by her family that Shazia was already wed to another man is contested by local people. While many questions remain about the failure to protect the couple, the accounts coming forward suggest Shazia's own family tried to prevent her death, but were unable to do so in the face of immense tribal pressure.

Apart from Shazia's uncle, two other tribesmen had been arrested in the case by the end of 2003. It was however feared that eventually, Shazia's father would announce he had forgiven them, while Solangi's impoverished family would be coerced not to press charges. Like others before them, once the media attention fades away, it is feared Shazia and Hassan will be forgotten, while others remain under threat of suffering an equally grim fate.

The story of Shazia and Hassan was not the only one highlighting the danger women marrying of their own free will faced. In late November, President Pervez Musharraf order a police probe into the death of a young woman, Afsheen Mussarat, 20, who had been killed allegedly by her father and other relatives on November 12 in Multan because she had chosen to marry against their will.

The killing had attracted limited media attention, and the President acted after seeing a report in a weekly magazine.

Afsheen's murder had not been reported to the police. Human Rights Commission of Pakistan asked the Multan Police to conduct an inquiry into the suspected honour killing after family members of the victim failed to file an FIR

Afsheen and Hassan were cousins who belonged to different factions of the same warring clan. They met and fell in love when they were students, but kept their relationship secret because of problems between their families. They told their families about their relationship earlier in the year, but encountered fierce opposition.

Afsheen's family forcibly married her to another man on September 12, but she refused to consummate the marriage, after which her father

and grandfather threatened to kill her.

Afsheen panicked and eloped with Hassan on November 1. The couple fled to Rawalpindi and only agreed to return home after a family friend assured them they would be safe.

Afsheen was allegedly killed on November 12, five days after she returned. She was reportedly buried without rites in a shallow grave. Human rights activists described the inquiry into the case ordered by the President, and his assurance that those responsible would be punished, as a first step in the right direction.

The autopsy carried out at the end of November on the exhumed body of Afsheen Mussarat confirmed murder after prolonged torture. Her father, Mussarat Sahu, was arrested for the crime soon afterwards, and confessed to the murder. He was charged in December, while at least five other relatives had also been arrested by the end of 2003.

In June 2003, Shaista Almani, a college lecturer at Mehran College in Panj Aqil, Sukkur district, wed Balkhsher Mahar, the chairman of the taluka zakat committee. Members of Shaista's tribe opposed the marriage outside her clan, even though her own parents had apparently given consent. Shazia was declared a 'kari' by a tribal council headed by her brother-in-law, Mohammad Afzal. The Mahar tribe too opposed Balkhsher's marriage to a woman who was not a member of the tribe.

The young couple was able to flee to Islamabad, and then Karachi, but all the while were being hunted down by Almani and Mahar tribesmen. Press reports suggest they narrowly escaped capture and death several times, as a guesthouse in Islamabad and then a friend's apartment in Karachi were raided by tribesmen.

In September, Shaista alleged that her mother, father and younger brothers and sisters were being held captive in a bid to force her to return.

In Karachi, while the couple took shelter with Abdul Sattar Edhi, police, after investigating the case, suggested they appear before a court and stage a court marriage, after which they were released to live anywhere they wanted.

However, no safe shelter appeared to be available to the couple. Shaista Almani was at the end of October handed over to her parents through Almani tribal chiefs. She had been residing in the house of Rahim Bux Bozdar after the couple were forced to return to Ghotki by Almani and Mahar tribesmen, following a meeting between tribal chiefs. The Almani tribe had asked the Mahar tribe to arrange for the couple's return, and this demand was complied with. The Sindh vice chairperson of HRCP had in fact moved the district and sessions court to order the production of the couple, as he stated their lives were in danger. The court was however informed on October 28 that Shaista had already been handed back to her parents, while her husband, Balkhsher was reportedly being kept at the house of Ali Gohar Mahar, a chief of the Mahar tribe, and had been prevented from making any effort to re-join his wife. In late November,

Balkhsheer, apparently acting under intense tribal pressure, announced he had divorced his wife, as the couple faced a threat to life in case the marriage was kept intact. Shaista, who appeared badly traumatised by the divorce, appeared before the Sukkur bench of the SHC several times in December. The court noted she was unable to walk unassisted, and stated she feared for her life. The young woman was in December admitted to hospital on court orders so that she could obtain counselling. With relatives unwilling to shelter her, her future remained uncertain. In response to an appeal from Shaista, stating she feared for her life, President Pervez Musharraf in January 2004 ordered the Sindh government provide protection to her. HRCP activists continued regular contacts with her.

Another couple, Dr Mustafa Solangi, 43, and his wife, Dr Amanat Solangi, 42, too remain on the run. Dr. Amanat, a senior medical officer at the Peoples Medical College, Nawabshah, had late in 2002 wed Dr. Mustafa Solangi, a senior resident medical officer posted at Moro. Dr. Mustafa, who had known Dr Amanat for over a decade, had formally proposed to her family. Dr Amanat's mother had in fact accepted, and also attended the 'nikah' ceremony in Karachi, in November 2002.

The problems however arose after the marriage was announced a few months later, with Amanat's brothers fearing this would mean the loss of the considerable income she brought in from her practice as a gynaecologist. Facing severe harassment, the couple were forced to leave Moro. Unable to locate the couple, in September 2003, Amanat's brother, Mir Mohammad Solangi lodged a case of robbery and abduction against Dr Mustafa. Dr Amanat meanwhile submitted a petition to the Sindh High Court under Article 199 of the Constitution, maintaining she had contracted a valid marriage under the Muslim Family Law act of 1964, in the presence of witnesses. The 'nikah' had been registered by the concerned union council. She also accused her brothers of harassing and threatening her.

Cases lodged against Dr Mustafa were in October declared to be false by Naushero Feroze Police. Efforts to reach a compromise through a tribal gathering with Dr Amanat's brothers were also reported to have failed.

The couple meanwhile remains under threat, and have claimed they have, on at least one occasion,----- narrowly escaped murder. They have also been unable to resume employment, and at present remain without a permanent place to live and without employment.

Reports of other cases also continued to come in. In November, the Narewal and Khaskheli tribes in Sukkur forcibly separated a couple after they had married of their own free will in court. Gul Bano of the Narewal tribe and Naveed of the Khaskheli tribe had married in the Khairpur session court on October 14. The Narewal tribesmen however demanded Gul Bano be returned, and after the Khaskheli tribe handed her over to avoid conflict, a Narewal tribal 'jirga' decided the court marriage was not acceptable to them. Gul Bano's life was thought to be under threat following this 'jirga' decision.

detainees and women was launched by police in August at a ceremony in Islamabad, women continued to face a threat at the hands of police, with reports of violence in custody continuing. The failure to penalise policemen responsible for such crime also played a part in the growing number of incidents. Some of those that took place in 2003 are as under.

- ◆ In May notices were issued to a police sub-inspector, Basharat Ali, for a case involving rape in custody. The Sindh High Court (SHC) issued the notices in a petition filed by Amanat Ali, seeking prosecution of a police official for raping his daughter, 17, after freeing her from her kidnappers in Nawabshah. An FIR had been registered. The police sub-inspector had recovered the girl from Nawabshah, after she was kidnapped by accused Mohammad Sadiq, and brought her to Karachi the same day. However, he then forced her to stay overnight at the Al-Falah police station, rather than handing her over to women police. The girl alleged that she was raped twice by the policeman, who had been absconding since the girl made the complaint in January.

- ◆ In an incident in Rawalpindi, in July, a woman who had been offered a lift at R.A. Bazaar was arrested as she waited in the car. The young man offering her the lift had fled, and the car was found to have been stolen. Police took the woman to the police lock-up, where she was verbally harassed for hours. The harassment and intimidation continued for days afterwards, with the woman being summoned repeatedly to the police station, as part of an effort to coerce her to drop her complaint against police.

- ◆ In June, two women stage artistes demanded action against the Station House Officer (SHO) of Shah Qabool police station in Peshawar for falsely implicating them in a case on charges of committing obscene acts. The artistes, Rubi Anwer and her sister Shano Anwer were arrested by the police who entered their house, and booked them on charges of obscenity. The artistes alleged they had been asked to pay a bribe, and demanded an inquiry against police intimidation of women.

- ◆ According to a report in August, a police official and trainer of the Elite Police force in Lahore allegedly abducted a teenaged housemaid on her way home. The mother registered a case saying the inspector wanted to get married to the girl, and had kidnapped her to forcibly marry her after the family rejected his proposal.

Women in jails

According to available figures, over 1,500 women remained in jails across the country as the year closed. Most were held in extremely poor conditions.

According to the final report of the special committee on the Hudood Ordinance, constituted by NCSW to repeal or amend the controversial law, 88 percent of the women prisoners in the country were in jail as a result of ambiguities in the Zina Ordinance.

Women prisoners in Adiala jail were reported in August to be suffering from

tuberculosis and other life-threatening health conditions. The women's barracks at the jail had a capacity for 50 inmates, but housed 151 women and 26 children.

According to statistics compiled by the Society for Advancement of Community Health Education and Training (SACHET), and made public in February, 7,000 women and children were languishing in jails. These included under-trial and convicted prisoners in 75 jails across the country. Out of 1,249 women under trial prisoners, 745 were in the Punjab, 236 in the NWFP, 236 in Sindh, 19 in Balochistan, one in the Northern Areas and 12 in Azad Jammu and Kashmir (AJK). Out of a total of 421 convicted women prisoners, 269 were in the Punjab, 93 in NWFP, 22 in Balochistan and one in AJK.

According to a study conducted by the social work department of the Punjab University early this year, out of 108 women prisoners in Kot Lakhpat Jail, 62 percent were illiterate. Their average age was 33 and 80 percent had suffered worsening health after being jailed. 47 percent of the prisoners complained about stinking food and broken toilets, while it was also found that medicines supplied to them were often expired.

In May, during a visit to the jail in Larkana, the group members of the District Public Safety Commission found that no medicines were available for women prisoners.

According to press reports in February, 33 percent interned under-trial women were not produced in courts in Karachi for periods of three months or longer. Inmates from interior Sindh, jailed in Karachi, were often the worse sufferers, with no family members available to plead their cases. 25 percent of the women prisoners at the Central Jail Karachi belonged to Sanghar and 20 percent were from Hyderabad.

A lack of prisons for women in Karachi was also reported, with this factor and the prolonged detention of under-trial prisoners, contributing to the overcrowding in jails, which was a major factor in the poor conditions of detention.

Trafficking and sale of women

According to statistics compiled by the LHRLA the total number of women and children who fell victim to international trafficking were estimated at 700,000 to one million each year. Pakistan's porous borders also meant that women trafficked in the region were frequently brought to the country.

Pakistan was stated in international reports to be a place of origin, transit and destination for women and children trafficked for bonded labour and the sex trade. The Prevention and Control of Human Trafficking Ordinance, promulgated late in 2002, remained poorly implemented and appeared to have little impact on curbing trafficking. Indeed, several reports in the press suggested that trafficking of women within the country had increased, with women 'sold' by poverty-stricken families often 'purchased' for purposes of prostitution.

In March, a gang engaged in the trafficking of women was detected in Kohat and three people whose premises were being used to hide kidnapped girls arrested.

The law enforcement agencies recovered 16 girls. These girls were reportedly sold to influential people or used as sex workers. In July another gang was busted in Peshawar. An abducted girl was recovered from their custody and was reported to have been repeatedly raped during her captivity.

At a seminar in Islamabad in September speakers stated that women kidnapped at the Pakistan-Afghanistan border were evaluated at the rate of 600 rupees for every kilogram, and then 'sold'.

An interior ministry official meanwhile stated in February that the government had chalked out a comprehensive plan to control expanding human trafficking along Pakistan's border with Iran. The government also stated it was cooperating with NGOs in the area to discourage the trafficking of women.

At an open court organised in Dhaka in August by local NGOs, 40 female survivors of trafficking and abuse narrated their cases. Two survivors from Pakistan, one in person and one in a video message also testified before the court. The video-taped message was from a trafficked girl who was sold by his relatives for a few thousand rupees while the other survivor of violence was a teenaged girl who was kidnapped and raped, and after recovery by the police, further abused at a police station in Karachi.

While no data was available on the number of women trafficked from Bangladesh, evidence suggested an increasing number of such victims were arriving in the country.

In August, the former chairperson of HRCP, Asma Jahangir, stated that she had sent 20 Bangladeshi women back from Quetta during the past few years with the help of the interior ministry and the Bangladesh High Commission. She called on the NCSW to collect data on the number of trafficked women present in the country.

Suicide by women

The number of women committing suicide in the country appeared to be on the rise, with over 900 women, according to press reports, having taken their lives during 2003. It was believed many other cases went unreported, given the stigma suicide carried. The number of cases of attempted suicide was also rising, with over 500 such cases reported from across the country in the Press.

Domestic disputes, often stemming from financial pressures, appeared to be the major cause for suicide, followed by economic hardships. It was also noted that while both married and unmarried women were included among those who chose to end their lives, women aged under 40 years seemed most likely to commit suicide.

Some women also took the lives of their children, indicating the degree of despair they felt. In June, a mother threw herself, and her three minor daughters into the River Indus near Multan, apparently after a row with her husband, who was unable to support the family. In December, a divorced woman in Lahore killed herself and her four daughters by swallowing poisonous pills, due to severe

poverty.

In Gilgit, in July the body of a 45-year-old woman was fished out of the Ishkomen River. It was believed she had committed suicide, adding to the number of women in the area who had taken their own lives. The Ghizer Press Club stated in July that in 2002 seven women committed suicide but the number had increased to 15 in the current year. The reasons were unknown.

Shelters for women

While the issue of safe shelter for women fleeing violence within their homes, or others unable to live with their families, drew increased attention, no solutions were available for most such women.

There was an apparent expansion in efforts to set up shelters by charitable organisations and NGOs for women without a safe home, but this process was slow, and the running of these shelters often controversial given that in some cases, women housed within them were not permitted to leave or venture outside. The 'Mera Ghar' shelter project for women, which was to have been set up in Peshawar during the year by Aurat Foundation, was abandoned in July after a clash between the NGO and the MMA government led to the donor, the German-based GTZ, withdrawing the funds it had offered. Aurat alleged that the MMA had wished to persuade the donor to grant the funds for the shelter to another organisation linked with the Jamaat-e-Islami (JI), and that the MMA had objections to Aurat Foundation's ideological commitment to the empowerment of women. The MMA government denied it had attempted to obstruct the shelter project, and blamed mismanagement by Aurat as the reason for the withdrawal of the funds.

Reports based on complaints lodged at women's police stations, crisis centres and with other organisations in major cities meanwhile continued to note that safe shelter remained the primary need of most women who came in complaining of domestic violence or a threat to life. Over 50 percent of women visiting private or public crisis centres in fact sought a place to stay.

The Darul Amans based at cities, where women facing litigation involving domestic issues were most often sent by courts, were in almost every case badly over-crowded, and lacked bedding, sanitation or any recreational facilities. Women were kept in jail-like conditions, and not permitted out of these centres. The Darul Aman at Quetta, which had a capacity for ten women, was stated in October to be sheltering nearly 20 or 30 persons. A few months earlier, NGO activists who visited the Darul Aman at Dera Ghazi Khan found it to be in a terrible condition, with 50 or so women sheltering in accommodation intended for no more than ten. Sanitation, bedding and other facilities were poor, while a woman, confined to a solitary room, Saffo Bibi, who had been at the Darul Aman for the last many years, was said to have lost her mental balance as a result of her many years of suffering. No treatment had been made available to her.

The collective capacity of all the shelter homes in Karachi was not more than

200. Darul Aman, a government run shelter home for women, had a capacity for only 35 women. These figures were especially disturbing for a city with a population of over 10 million.

Early in the year, in January, a row had broken out after a Quetta-based NGO 'raided' the Edhi Centre in the city, and 'rescued' 22 women housed there. The NGO alleged that women at the Edhi Centre were being held in very poor, jail-like conditions, and had complained in a letter sent to the concerned NGO that there were being forcibly shifted to Karachi. The Edhi Centre denied the charges, and stated that its differences with many NGOs arose as it attempted to reconcile estranged couples, rather than initiate court proceedings for divorce and custody. Maulana Abdul Sattar Edhi, who had threatened to close down the centre in Quetta after the incident, during the same month announced he had forgiven the NGO workers involved and requested police cases against them be withdrawn. The women taken from the centre were returned.

In February, the ministry of women's development announced plans for the expansion of its crisis centre network to provincial capitals and selected rural districts, where shelter homes would be set up for the women in distress.

The crisis centre for women in distress in Islamabad, set up four years ago, meanwhile registered around 2,002 cases of violence against women in the Islamabad-Rawalpindi area in the last four years. The number was stated to be increasing each year. The centre also provided shelter to around 234 women who had no other place to live, and assisted women in receiving medical attention when required.

Recommendations

1. *Laws discriminatory to women must be repealed without delay. Others need to be enforced to ensure women are granted the legal protections available to them and those guilty of crimes against women punished under the law. The National Commission for the Status of Women's (NCSW) recommendation that the Hudood Ordinances be repealed must immediately be implemented while other laws that act to discriminate against women or threaten their rights, such as the Qisas and Diyat law, must also be set aside. Laws restricting the liberties and freedoms of women must not be put in place in any part of the country.*

2. *Representation for women in politics must be seen as an issue requiring more than cosmetic measures. Merely increasing seat quotas does not necessarily mean an increased voice for women. Steps to empower women, ensure political participation at all levels and lay down guidelines for political parties to nominate women candidates are necessary to guarantee genuine representation to women.*

3. *A policy must be put in place to declare elections null and void in all locations where women were barred from electoral contest or from casting their votes and organise fresh elections. The administration must ensure such illegal bars on women voters are not permitted. Women's participation in elections at all levels must be encouraged and the low enrollment of women in specific parts of*

the country remedied.

4. Women councillors and parliamentarians who are being prevented from serving their community due to a failure to grant them funds handed out to their male counterparts or because they are being discriminated against within councils must be enabled to play their role as elected representatives.

5. The increase in the award of verdicts that act to violate the right and dignity of women by extra-judicial court-like forums must be brought to an end. Tribal gatherings must not be permitted to mete out verdicts or make decisions that endanger the welfare of women, and members of government who through statements or action back the holding of such gathering must face penalty.

6. Judges, lawyers and police officials, among other sections of society, need to be urgently educated on the terrible consequences for women of many customs, including 'honour' killings, so that courts and the administration are deterred from extending protection to such illegal practices. Laws in place to protect women from being given away as part of a compromise must be fully implemented.

7. The gender disparity in education must be addressed. Links between the education and empowerment of women, as well as their welfare, are well established. Pakistan must also recognise that expanding education among women is crucial to its own development as well as to presenting a challenge to ingrained beliefs about the role and status of women within society.

8. Healthcare for women is crucial and must be extended to all women and children in the country.

9. Employment opportunities for women need to be increased as a means not only to utilise their potential and increase household incomes, but also to combat the menace of child labour. Factors that hold back employment, including a lack of training, social traditions and a lack of mobility must be addressed.

10. The increased number of cases involving the public humiliation and stripping of women presents an expanded threat to the security of women across the country. Those guilty of such offences must be penalised and efforts made at the official level to involve communities in checking such crimes.

11. Harassment of women at the work place and at public places must be prevented by implementing the laws that exist and introducing new laws as required.

12. Rape victims must be provided counselling and medical help. Female police staff must be specifically trained to handle cases of rape with sympathy and to encourage the reporting of cases. The number of women within the police force needs to be increased to safeguard the interests of women complainants and female victims of crime.

13. Specific laws against domestic violence are urgently required in view of the increasing number of such cases. The sharp increase in the number of acid attacks is alarming, and specific legislation needs to be put in place to protect women from mutilation. Laws pertaining to restrictions on the sale of acid and

other corrosive substances must also be more rigorously enforced.

14. Cases of stove burning must in every case be fully investigated and the case not closed until approved by a court, to discourage the labelling of such incidents as 'accidental'.

15. More shelters for women are an urgent need for thousands. These need to be established on the understanding that women seeking shelter are not criminals, and their basic freedom, including the right to movement, cannot be taken away from them.

16. Women in jails require greater protection against maltreatment and abuse and greater attention to their basic welfare. Cases of illegal detention of women by police, violence in custody or other crimes against women committed by law enforcers must be penalised under the law.

17. The trafficking of women within the country and of those brought in from abroad, must be stopped by enforcing laws and penalising those found responsible for such offences. The evidence that trafficking is on the increase is disturbing. The relevant law must also be enforced to prevent the sale of women and marriage of under-age girls.

Children

No child below the age of 14 years shall be engaged in any factory or mine or any other hazardous employment.

Constitution of Pakistan

Article 11 (3)

The state shall protect the marriage, the family, the mother and the child.

The state shall make provisions for ... ensuring that children ... are not employed in vocations unsuited to their age ...

Article 37(e)

... Childhood is entitled to special care and assistance.

UN Convention on the Rights of the Child

Preamble

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.

Article 3(1)

While children under 18 constituted 43 percent of the country's population of 149 million people, the continued failure to implement and devise policies aimed at protecting their interests meant that most children in the country faced acute hardships, stemming mainly from the socio-economic conditions of their families.

Nearly six million children aged between five and nine years remained out of school, while 600,000 children under the age of five died in the country due to preventable diseases. Flooding during the year, which most severely hit the province of Sindh, affected at least 129,000 children under the age of five, with food shortages, epidemic disease and unsafe water putting their lives at huge risk.

Children continued to be used as labour in various sectors and 18 percent of children within the age bracket of 10 to 14 years were engaged in work. They

often toiled in extremely hazardous conditions, while increased joblessness led to a rise in both child beggary and child labour. [See also chapter on Labour].

Children remained susceptible to physical and sexual abuse. Some reports by international agencies indicated in fact that the majority of children in the country faced physical violence from their parents, schoolteachers and elders. Trafficking of children appeared to be on the increase and the use of children as 'camel kids' re-emerged as a major threat. Children also continued to be kidnapped as beggars, slaves and factory and farm workers. According to the International Labour Organization (ILO) 1.2 million children were trafficked into exploitative work worldwide, and the number in Pakistan had risen significantly over the last two years.

The condition of juvenile prisoners remained unchanged. The continued failure to implement the Juvenile Justice Systems Ordinance (JJSO) 2000 left thousands aged under-18 in jails.

In short, despite being a signatory to the Convention on the Rights of the Child (CRC), Pakistan remained unable to protect the rights of its children or save them from disease, death, exploitation and imprisonment.

Conditions of childhood

Statistics on child mortality, stunting and other health-related issues showed that the condition of children in Pakistan remained among the worst in South Asia and the world. Children under the age of 14 were particularly at risk from disease. Poverty was an additional risk factor and had a considerable bearing on diseases that were spread by poor hygienic conditions. According to the statistics produced



Hardened to life in poverty.

by Karachi School Health Services (KSHS), the government was spending a mere 70 paise a year on health care for each pupil.

The mortality rate for children, infants and mothers collectively was 400 for every 100,000 live births. The infant mortality rate was 85 for every 1000 live births, the highest amongst South Asian countries, and had in fact risen from the figure of 83 in 2002. *[See also chapter on Health]*

Nearly eight million children, or 40 percent of the total population of children under the age of five, suffered from malnourishment. Lack of proper nutrition for children not only affected their health but also held back economic development of families.

According to statistics by international agencies, 63 percent of children aged between six months and three years suffered from stunted growth while 42 percent of children were anaemic or underweight. Around 10,000 to 12,000 children in the country suffered from acute growth problems as a direct consequence of undernourishment.

Lack of nourishment left children more vulnerable to disease. The government under the 'Expanded Programme on Immunization' provided 13 types of vaccination; free of cost, to the public but the coverage was reported to be less than 50 percent.

Over 20,000 children died in 2003 due to stomach ailments, according figures compiled by the WHO.

Two million children in the country were reported to be victims of acute respiratory tract infection. 80,000 cases of blindness in children were noted at hospitals, while it was believed the actual number of such cases could be many times more.

Even the projects introduced to improve access to better health facilities were ill managed. It was reported in May that 100 children fell ill in the Punjab, after nutrient pills were distributed as part of a government project to combat malnutrition. According to the director for the project, the children were supposed to chew the nutrients and not swallow them.

Education remained unavailable to most children in the country. According to the planning department of the NWFP, five to 10 percent children were reluctant to go to schools because of the environment there. 23 million children across the country had never been to school. 15 percent boys and 50 percent girls remained out of school and seven million children aged between five and nine were out of primary school. According to the UNDP Human Development report for 2003, the youth-literacy rate in Pakistan was around 58 percent, among the lowest in the world.

Children at peril

A report that surfaced in September revealed that children at Government High School For Boys No 3 in Peshawar had been victims of sexual assault by a

group of teachers and watchmen for over two decades. The issue came to light after a former student of the school informed a local lawyer that he had left school due to abuse by some teachers.

Two separate inquiry committees including one by the Parent Teachers Association began a probe into the allegations. The Parent Teachers Association investigated the matter by interviewing shopkeepers and staff of a hotel adjacent to the school. The committee found that the sexual abuse had been started by a senior teacher in the 1970s. The children were blackmailed into submitting to the sodomy by delaying the provision of certificates, reports and so on. They were also provided to 'customers' at a nearby hotel.

As the matter was taken up in the provincial assembly, the education department transferred the five people allegedly involved – rather than dismissing them, as had been demanded by the Parents Teachers Association.

During the assembly debate, it was also pointed out that similar activities continued in other primary and secondary schools in the NWFP, with this issue alone indicating the scale of the sexual abuse problem in the country.

Figures released at the end of the year stated at least 1,000 cases of physical abuse against children, 826 cases of sexual abuse and 623 murders of children had been reported to the police across the country in 2003.

A survey carried out by the Pakistan Paediatrics Association and Unicef, the results of which were made public in March, showed that over 80 percent of children in the country remained vulnerable to physical abuse from parents, elders and teachers. Boys were somewhat more likely than girls to suffer physical abuse, according to the study.

Research and data compilation carried out by the telephone helpline Madadgar, released in September, indicated an increase in the level of violence against children, both male and female. Compared to 1,615 cases in 2002, 1,384 cases of physical and sexual abuse were reported by September 2003. 719 were against boys and 665 were against girls. 830 of these cases were reported in Punjab, 440 in Sindh, 75 in NWFP and 39 in Balochistan. The data also showed that during 2003, 464 children were murdered, 224 sodomised, 300 raped, 175 injured and 41 tortured. 25 rape victims and 22 sodomy victims were murdered afterwards.

Statistics for January to August 2003 gathered by HRCP, and based on press reports, showed that a total of 208 cases of sexual and physical abuse occurred in the Punjab alone. Out of these, 114 were girls and 94 were boys. It was found that 18 of these children were killed after being assaulted. FIRs had been registered in 155 cases, but only 21 culprits had been held.

While reporting of incest was rare, such cases were stated to be on the rise. From January to April 2003, 39 cases were reported by Sahil, and other Islamabad based NGOs working for the rights of children. Only 11 cases were brought before a court, and of these seven of the accused were acquitted for lack of evidence. In 36.6 percent of the cases fathers were accused, in 10.8 percent of

At peril from the police: death at Colony Gate

The story of one child highlighted the kind of dangers all children face in society, even at the hands of those whose role it should be to protect them

On March 28, 2003, 14-year old apprentice tailor Owais was forcibly detained at a deserted building at Shah Faisal Colony Gate by four policemen and sodomised for over an hour. On returning home, Owais poured kerosene over his body and set himself on fire. He died the next morning, suffering 80 percent burns.

After less than five weeks of investigation, the case was unofficially closed. It was clear that the inquiry conducted was intended to cover up facts and protect those responsible, rather than to bring them to justice under the law.

On the day that the incident occurred, Owais had stepped off the P-1 bus at Shah Faisal colony gate off Sharae Faisal, returning from his sister's house where he often went to play with his sister's children. That was the last time she saw her brother alive.

Owais's brother Irfan lodged a FIR against four policemen, on the basis of what his brother had told him as he lay dying in hospital. Two of them, Dildar and Abdullah had been identified by a witness, a local shopkeeper. The third was Siddiqui, who had been posted with the other two and the fourth was believed to be their friend Fazle Rabi. They had taken Owais to an abandoned building, forcibly pulling him away, and then subjected him to sodomy.

The most critical piece of evidence in the case, it soon became clear, was the dying declaration of Owais. Police made an effort to sabotage this, by failing to turn up for over an hour after being called to the hospital, by the doctor on duty, Dr Sanjay, and the victim's brother. Given the circumstances, the duty doctor recorded the statement – as permissible under the rules when the death of a victim seems imminent. While Owais, according to his brother, told the doctor four policemen had sodomised him, the statement that police presented, after taking it from the doctor, attributed the crime to four 'unknown' persons.

In addition to this, the police investigating officer filed the challan on April 21, 23 days after the FIR was registered, whereas according to law, the investigating officer must file a challan containing the details of the case and investigation in court within 14 days from the day the FIR is lodged.

Other failings in the investigation also surfaced, including the

lack of an autopsy and discrepancies in the account of events.

Two of the key witnesses were harassed by the investigating officer. The first was the shopkeeper, who after reading about the incident approached the police. He identified Dildar and Abdullah as the culprits and later recorded his statement before the judicial magistrate. However, the police drove him back from the court and later he appeared to have been terrorised and threatened, refusing to provide details of what he had seen.

The other witness was the guard of the building where Owais was sodomised. The guard told the family of the victim that he had seen two policemen take him to the back of the building and then return with two more policemen behind them. The guard, however, refused to testify later. He too had apparently been threatened.

As has happened so often in the past, police succeeded in covering-up for those responsible. The men guilty of the crime against Owais have gone unpunished. Despite the Press publicity given to the case, the fate of the boy who died in such tragic circumstances has already been largely forgotten, while the same dangers that led to his life being lost still threaten thousands of other children across the country.

cases stepfathers, in 6.8 percent of cases grandfathers, in 15.2 percent of cases paternal or maternal uncles and in 11.9 percent other relatives.

Other instances of sexual abuse of children went almost unnoticed. In May, a small girl, who was mentally handicapped, was found dead at the Children's Hospital in Lahore, and had apparently been raped before murder.

In most government schools and many private schools, children were made victims of corporal punishment. Children also remained at peril from police, who frequently subjected them to severe brutality.

While many such incidents went unreported, some of the cases highlighting the kind of dangers children face that came to light during the year are below:

- ◆ In September, a 10-year old boy, Tasawar Abbas, was arrested by the police in village Pabbarwala, in the Jhang area, without being nominated in a case, and then tortured. The police had registered a case against the boy's father and elder brother for cutting grass for fodder from the farms of a local landlord. When they were unable to locate the elder brother, the police arrested the child along with his father, and beat him up in the interrogation room in an attempt to ascertain the whereabouts of his brother, Ramzan. Tasawar and his father were both held in the lock-up at Qadirabad police station for several days, and freed only after local people persuaded an elder in the area to intervene with police to set the child free. Police stated that Tasawar, rather than his father, had been

beaten as they feared the old man could die if tortured. In late September, a local lawyer produced Tasawar before activists and journalists at his office, where the boy narrated his tale of illegal detention and torture.

- ◆ A 12-year-old boy was molested by four men near Sihala in January. Police refused to register the case without receiving a bribe. When the complaints reached the SSP, a committee was formed to inquire into the matter. The committee ordered Sihala police to register the case.

- ◆ In March, Yasir, 8, was kidnapped from outside his home in Mughulpura in Lahore, sodomised by unknown persons and then murdered.

- ◆ A report in March stated that a man, Mohammad Iqbal, 21, managed to escape a labour camp after 16 years. According to his story, he was kidnapped from Rahim Yar Khan at the age of five and kept at labour camp in Dera Ismail Khan. He remembered that he was kidnapped by two bearded men. He revealed that there were about 95 prisoners with 25 men and 70 women from different parts of the country. Their job was to dig mud and cut stones amongst other things. When not working, they were tied up with ropes. Some women and children were also sexually molested by the camp leaders. He said that the leader had earlier killed two boys who tried to escape, but he managed to escape with the help of a woman and reached Lahore.

- ◆ In Faisalabad, in September, a girl, 12, was reportedly abducted and raped as she was on her way to school. The van driver was allegedly involved in the incident.

- ◆ A month later, in October, girls using a rickshaw to reach school in Lahore complained to their parents they were being routinely molested by the rickshaw driver. A case was registered, but the driver fled before he could be held.

According to statistics compiled by HRCP, 111 children were abducted in the Punjab for rape, sodomy, ransom and as a result of old enmities between January to August 2003. Out of these 78 were girls and 32 were boys. 69 FIRs were registered but only eight victims were recovered and only six accused held. Peshawar police claimed in June that they had recovered 161 abducted children between March to May 2003 and 134 missing children in one month.

The Royal Courts of Justice organised a three-day UK-Pak Judicial conference on child and family laws in January. Pakistan and the United Kingdom signed a Judicial Protocol on the abduction of children and agreed on the appointment of a special judge from each country to liaise between the judges of the two countries on the operation of the agreement, which was mainly aimed at solving the problem of children whisked away by fathers to another country.

According to HRCP statistics, 92 children were murdered in the Punjab from January to August 2003. Of these 60 were girls. 54 FIRs were registered, but only 12 persons were held:

There was an alarming, 30 percent increase in the incidents of children running

away from home according to the Edhi Foundation. Reports showed that more than 10,000 children in Karachi alone were living on the streets. Most of these children stated that the basic cause behind running away from homes was domestic violence and economic problems faced by families.

Police in most cases failed to register reports about runaway children, and despite the many perils they faced, the measures promised after the Javed Iqbal case, in which the self-confessed murderer claimed in November 1999 to have murdered over 100 children in Lahore, remained unfulfilled. Police intervention in such cases remained virtually non-existent, and the shelters for children which were planned never put in place on the ground. The few 'reporting centres' for runaway or lost children set up in Lahore in almost all cases remained abandoned.

Children behind bars

With the Juvenile Justice System Ordinance (JJSO) 2000, which came into force in 2001, remaining largely unimplemented, most notably in Sindh, the condition of children behind bars remained grim, with thousands still locked up alongside adult criminals.

According to a detailed report released by Amnesty International (AI) in June, around 4,500 juveniles were in detention across the country. More than 3,000 of them had not been convicted of any offence. *[See also chapter on Jails and prisoners]*

Violations of the JJSO were reported to be extremely commonplace, with children held in jails alongside adults. AI also found that children brought to the district courts in Karachi were held in fetters, in violation of the law. Similar abuses of the terms of the JJSO were also reported from across the country.

Juveniles continued to be sentenced to death, in violation of the JJSO and international law, with judges of lower courts at time unaware of the JJSO. Several of the juveniles who had their death sentences commuted by President Musharraf during AI's Secretary General Irene Khan's visit to Pakistan in 2001 remained on death row because the families of the victims had questioned their claim to be juveniles. According to government officials, in Punjab alone, there were over 300 cases in July 2003 where the age of the accused was being contested.

According to newspaper reports in May, confusion over the contents of the JJSO and action ordered by the President in 2002, meant that death sentences awarded to juveniles had not been converted to life imprisonment sentences. As a result, hundreds of juveniles across the country remained on death row, with 74 facing imminent execution in the Punjab alone.

One of the cases that gained attention during the year was that of Mohammad Ameen, 22. Ameen was sentenced to death by an Anti Terrorism Court in Rawalpindi in January 2001, after being found guilty of involvement in a robbery and killing in 1998, when he was 17 years old.

Ameen appealed against the death sentence to the Rawalpindi bench of the

Lahore High Court in September 2001. The judge hearing the appeal reportedly confused a medical report on Mohamad Ameen with one on the victim of the crime, and understood that Mohamad Ameen was aged 30. The appeal was rejected, and a further appeal to the Supreme Court in March 2002 was overruled on the grounds that Mohammad Ameen's lawyer had not raised the issue of age during the High Court Appeal. In its decision, the Supreme Court mistakenly reported that the Anti Terrorism Court in Rawalpindi had recorded Mohammad Ameen's age to be 30. A petition filed in the Supreme Court questioning this decision was rejected by the Supreme Court in June 2003. Mohammad Ameen's only hope of clemency lies in a mercy petition to the President which was filed in July.

Press reports in February meanwhile indicated over 7,000 women and children, both convicted and under-trial, were languishing in jails across the country. At the start of the year 3,995 male juveniles in jails were reported to be under trial, 3,025 in Punjab, 470 in Sindh, 446 in NWFP and 54 in Balochistan. The number of convicted male juveniles was 927, 678 in Punjab, 65 in Sindh, 81 in NWFP, and 103 in Balochistan. All the 48 female under-trial and nine convicted juveniles belonged to the Punjab.

At Hyderabad Central Jail, reports in January showed that juvenile prisoners were being kept with adult prisoners. 131 juvenile offenders of Sindh province were reported to have been subjected to criminal assault, and some suffered mental health problems. Non-production before courts meant that the cases of many juvenile lingered on for years.

In April, a SPARC (Society for the Protection of the Rights of the Child) team visited the Borstal Institute and Juvenile Jail in Faisalabad. The team reported that the juvenile inmates were being kept in unhygienic conditions. There were 377 inmates against a capacity of 151 out of which 178 were convicted and 199 were facing trial. The jail lacked indoor recreational facilities and there was a scarcity of drinking water. They found that five of the inmates were being treated for tuberculosis, one for chicken pox and one was suspected of having contracted hepatitis.

During the year, at least 2,000 juvenile prisoners were present in jails in the NWFP, out of which 700 were awaiting trial. As in other provinces, the JJSO remained unimplemented.

At the beginning of the year, the NWFP provincial government notified the rules of procedure for the JJSO. Orders were given that the powers of juvenile courts were to be given to the district and sessions courts. In addition, a grant of Rs. 25 million was given for the establishment of borstal jails in Peshawar. The Peshawar High Court also asked the NWFP government to provide legal assistance to juvenile offenders. However, by the end of the year, no borstal institution had been set-up, due to which probation officers were facing problems in looking after juvenile offenders. Under the JJSO, all juveniles must be kept in borstal institutions and not in jails. In addition to this, nothing has been done for the

establishment of separate juvenile courts. As the year progressed, the provincial government also failed to provide a panel of lawyers for juvenile offenders as requested by the Peshawar High Court.

During the year, 103 juvenile were however released on probation in the NWFP, as per the terms of the JJSO.

The continued failure to extend the JJSO to FATA and PATA. Meant that children convicted in these areas were not protected by its terms.

At the start of the year, at a seminar organised in Lahore by Unicef and the Social Welfare Department, an assurance was given that all female juveniles in the Punjab would be housed at borstals or other centres outside jails. A welfare committee headed by women district council members was constituted for the welfare of children in prisons, with at least 206 children in the Punjab believed to be in jail with their mothers.

The JJSO was adopted in Azad Jammu and Kashmir in January.

The imprisonment of children accused of petty crimes meanwhile continued. Over 12,000 children of less than 18 years of age were arrested in Punjab from July 1, 2002 to March 1, 2003.

In June, Unicef launched a programme to train judges, lawyers, jails staff and probation officers about the JJSO, but despite these efforts there was no evidence that implementation of the JJSO had been improved, while reports from Sindh suggested it was in fact being widely ignored in the province.

Courts too at times showed little respect for the law. The Vehari Senior Civil Judge in July sentenced two children, an 11 and 12 year old, under the Hudood Ordinance to four years rigorous imprisonment for subjecting an 8-year-old to sodomy.

Other judges seemed more willing to enforce the JJSO. In January, the civil judge of Gojra took serious note of the registration of a case against a 9-year-old boy on charges of keeping illegal weapons. The judge directed the Faisalabad police DIG to take strict actions against the sub-inspector who arrested the boy, apparently to bolster his own record in uncovering illegal arms.

In a similar case, a two-member bench of Peshawar High Court directed Nowshera police not to arrest two minor boys accused of attacking officials of the customs department. The judges disposed of a writ petition filed on behalf of the two boys, Ziarat Gul, 5, and Wali Khan, 13, observing that they were too small to attack the officials.

Similar action also came from some other courts, but on the whole the situation for children accused of crime remained bleak.

Childhood lost: children at work

According to Unicef, some three million children under the age of 14 were engaged in labour, and 18 per cent of children between the age of 10 and 15 were reported to be working in different spheres. Other international agencies estimated

that the number of working children could be closer to 10 million or more.

The Federal Bureau of Statistics placed the approximate figure of child workers engaged in labour of various kinds at 3.5 million, which was an increase from the previously stated figure of 3.1 million by the federal government in previous years.

The Bureau also conducted a survey in May 2003 to assess the child labour situation in the country, ahead of launching a child labour rehabilitation programme with the International Labour Organization (ILO). According to the survey, about 73 percent of the workers (2.5 million) were boys and 27 percent (950,000) girls. About 2.1 million were in the age group of 10 to 14 years, while the rest were in the age group of 5 to 9 years. Out of these 2.9 million worked in rural areas and 400,000 in urban areas. The labour-force participation rate of children was 10.3 percent in rural areas and 3.25 percent in urban areas. The survey showed that about 1.94 million of these children were located in the Punjab, 1.06 million in NWFP, 298,000 in Sindh and 14,000 in Balochistan. The survey also found that about 71 percent of the total-working children were engaged in elementary occupations,

such as agriculture, sales and service, mining, construction and manufacturing. Regarding the health of these children, the survey found that



Hawking away his childhood.

seven percent of these children faced frequent illnesses and injuries. It also reported that about 70 percent of them worked as unpaid family helpers.

Another survey was conducted by the ILO in April 2003 on labour in the Punjab carpet industry. This study put the number of children involved in the carpet industry at 107,065, against the 1.2 million figure reported by Unicef.

As many as 9,500 children below the age of 16 were involved in child labour in brick-kilns, auto workshops and hotels in Peshawar, according to details provided at a seminar organised by the Job Creating Development Society in collaboration with Unicef to observe World Day against Child Labour in June in Islamabad.

The mining industry was declared to be the 'hotbed for child labour' by

speakers at a seminar at the Sustainable Development Policy Institute in July. The children working in these mines were in most cases below the age of 16 years and reports of sexual abuse by the adult mine workers were common-place. These children were often used to drive donkey carts laden with coal to storage areas or for other heavy lifting and carrying work

Adverse environmental conditions for children at their work places also remained a huge concern. According to a report published by SPARC in July 2003, the adverse environmental conditions negatively affected the health of working children. Children were often exposed to potential risks such as harsh climate, dangerous tools, heavy loads, toxic chemicals and motorized equipment.

The failure to enforce laws intended to prevent children from working in hazardous conditions added to the difficulties.

At a workshop in May in Lahore by Unicef, the participants agreed that poverty was not the main cause of child labour. They claimed that it was lack of education and non-availability of schools that led children to either roam about streets or find work.

The International Labour Organization announced during the year it planned to launch the Time Bound Programme in collaboration with the government. The aim of the programme was to combat the six worst forms of child labour in the country selected from a list of 29 most hazardous occupations for children as defined by ILO Convention 182. The six worst forms of child labour include processes in tanneries, surgical instruments, coal mining, bangle production, fishing and scavenging. The ultimate aim of Time Bound Program (TBP) was to prevent and eliminate all forms of child labour.

In March, the Child Care Foundation and ILO announced that in collaboration with several NGOs they had rehabilitated around 15,000 children working in the carpet industry. They hoped this figure would be doubled by 2005. The rehabilitated children were provided with education, vocational training, recreation and health care and 400 non-formal schools setup. Around 10,000 carpet weaving children were studying in 315 centers in Sheikhpura and Gujranwala during the year. 400 more schools were to be set up in the second phase of the programme.

There were also some indications that mainly as a result of international pressure, the government was directing more attention to the issue of child labour. The Resource Center of the Punjab Labour Department during the year identified 30 hazardous occupations for children below 16 years of age, while other ministries also promised programmes to tackle child labour.

The All Pakistan Federation of Trade Unions (APFTU) launched a network during the year for the protection of working children. As part of this, APFTU launched a campaign in July in which they urged their workers and members to send their children to school.

However, despite these initiatives, millions of children remained engaged in various forms of labour in Pakistan, often working over 14 hours a day in extremely

grim conditions.

Trafficking in children

Trafficking in human beings was internationally beginning to rival the illegal trade in drugs and arms as the third largest illegal business with an estimated revenue of \$12 billion a year, according to an ILO report for 2003. The menace was also found to be penetrating deeper and deeper into the South Asian region.

The Karachi-based Lawyers for Human Rights and Legal Aid (LHRLA) conducted the first ever-countrywide report in trafficking in Pakistan in 2002, the results of which were made public in 2003. It was observed that the crime often remained hidden as most of the cases went unreported. At least 360 children, mostly boys aged under 12 years, were believed to be smuggled to Arab countries in 2003 for use as camel jockeys.

The smuggling of children to work as camel jockeys seemed to be on the increase, in a continuation of the pattern seen during the previous two years. Traffickers either kidnapped children or tricked parents into sending them abroad with promises of work and money. Most of the children belonged to the southern Punjab, and came from both urban and rural areas. In some cases impoverished parents sold children for around Rs. 3,000 to 7,000 per month. These children were illegally sent to the Arab countries to work under extremely harsh conditions. According to some reports, prior to a race the children were deprived of food and water to keep their weight down while many were beaten for refusing to mount a camel. The screams of frightened children encouraged the animals to run faster.

Human traffickers during the year resorted to new methods to smuggle children to Arab countries. They often took children along with their mothers or some female relative to make the smuggling seem less suspicious.

During the year, 86 Pakistani children were recovered and repatriated by the Pakistan embassy in the UAE. It was estimated that around 30 boys were kidnapped each month in Pakistan and sent to the Gulf to work as camel jockeys. The Overseas Pakistani Foundation (OPF) played a role in detecting and repatriating such children, while Pakistani embassy staff in Arab countries was asked to remain alert whenever an application was made for a child's passport to be renewed.

In May, 22 children who had been employed as camel jockeys were deported and returned to Pakistan from the UAE and Saudi Arabia. The children and a woman arrived in two groups and were kept with the Edhi Foundation till their parents were found. Most of the children were boys aged between five and ten years and belonged to the southern Punjab.

Six other Pakistani children, smuggled to the UAE in 2002, arrived from Abu Dhabi to Pakistan in May. The children were traced and brought back with the assistance of the Pakistani Embassies in Gulf countries. Two more 'camel kids' were recovered in June.

In July, a Pakistani couple was held in Taftan in Iran after it was discovered

that they had planned to smuggle two small boys to the UAE for work as jockeys.

Khidmat-e-Masoom, a Larkana-based welfare trust, early in the year issued detailed information about a network of different gangs involved in kidnapping and the trade of children, which was operating mainly in Upper Sindh. Perfume bottles laced with ether, medicated toffees or anaesthesia were used to kidnap children. Women were often used for kidnapping purposes, and accounts of such kidnappings in fact came in from across Sindh during the year. At least some of the victims were thought to have been taken to Arab countries for use as camel jockeys.

In August, Federal Investigation Agency (FIA) officials arrested a woman and her son, as they were allegedly smuggling three children to Dubai via Iran.

The promulgation in 2002 of 'The Prevention and Control of Human Trafficking Ordinance 2002' that defined trafficking as a criminal offence and imposed a 10-year sentence on offenders, had limited impact. It was stressed by various civil sector organisations that the loopholes in it needed to be plugged. Moreover the ordinance remained silent on internal trafficking, despite the fact that internal trafficking of women and children remained on the rise. In several towns in the NWFP, women were 'sold' after being 'bought' from impoverished families. The sale of young girls as 'child brides' was also on the increase in Sindh and the southern Punjab.

There were isolated reports of the kidnapping of children to be sold to couples in the West seeking to adopt infants. According to press reports, children were in some cases 'bought' from impoverished parents for this purpose, but it was clear more work was required to ascertain the various kinds of trafficking taking place and to effectively curb the crime.

Government initiatives

While government functionaries continued to make promises to protect the rights of children, on the ground little was done to alter the prevailing situation.

The continued lack of implementation of laws, such as the JJSO remained a huge barrier in the way of improving conditions for children. At several seminars, it was also noted the lack of State protection for abandoned and refugee children remained a major gap in existing legislation on the subject. Another major inadequacy was the absence of a specific law to protect domestic child workers. However, there was no progress in devising laws to plug these gaps.

In June, The National Commission on Child Welfare and Development (NCCWD) stressed the need to review and implement new and existing laws relating to children, particularly the JJSO. The Punjab Juvenile Smoking Bill was passed in the middle of the year by the Punjab Assembly, and prohibited sales of cigarettes to persons below the age of 18 years. However, it was clear by the end of the year that implementation of the law remained almost non-existent.

A 10-year Nation Plan of Action for child welfare and development was

formulated in consultation with stakeholders in June. The plan focussed on combating child abuse and crime and aimed to prepare a strategy for protection of children's rights.

In July, the 'Integrated Management of Childhood Illnesses' plan for children in Sindh was launched in collaboration with the WHO. Various civil sector organisations meanwhile also continued their efforts to improve the condition of children. Funding for programmes linked to child welfare came in from the Asian Development Bank (ADB), Unicef and other organisations, while the federal government pledged to show greater commitment to eradicating child labour and putting in place programmes to cater to the needs of special children..

Recommendations

1. Unsatisfactory implementation of legislation and the contents of ratified international conventions on the rights of children remain a huge problem. The provisions of the Juvenile Justice Systems Ordinance, operative since 2001, are still to be implemented, despite increased attention to this issue. Lacunas identified in the law are also still to be resolved. Most juvenile prisoners continue to be held alongside adults in unsuitable conditions within jails. The contents of the UN Convention on the Rights of the Child too are still largely unimplemented.

2. Areas of broader concern that have a direct impact on the welfare of children, including education, healthcare for mothers and infants, basic amenities such as safe drinking water, juvenile justice, child labour and the abuse of children need to be identified. The shocking statistics on the state of education and health in the country point to some of the reasons why so many children suffer acute deprivation. Priority must be given to improving the situation in these sectors and building in provisions to safeguard the rights of children.

3. Universal primary education must be guaranteed and access to schools made possible for every child.

4. Necessary legislation to ensure the implementation of ILO Convention 182, ratified by Pakistan in 2001, must be introduced. This includes curbs on the employment of children in hazardous occupations, with many children currently engaged in such trades. Laws to raise the age for employment in such trades must be introduced without delay

5. Until child labour can be eradicated, the safety of children within the workplace and their economic rights, must be guaranteed. Education must also be provided to them at their workplaces, aimed at providing them with literacy and the basic skills required to better their futures. Strategies that can lead towards the elimination of child labour, such as increased employment opportunities for women and awareness raising among parents, must be introduced.

6. Laws to check the smuggling of children need to be made still more specific while existing laws must be implemented. Apart from legislation to penalise parents who sell children, efforts to combat the extreme poverty these families face and to educate them about camel racing and its risks must be intensified as part of a

broader effort to protect the rights of children.

7. To combat the smuggling overseas of children for use as camel jockeys, staff at all exit points must be trained to watch out for minors who may have been kidnapped or sold for this purpose. This is especially important in view of the new methods being used by gangs of smugglers to evade detection.

8. Legislation to cover runaway children needs to be put in place. Indications that steps taken to protect such children and ensure the recording of reports on missing children by police have had little impact, while an increased number of children are leaving their homes, means that a urgent reassessment of the situation is required.

9. Laws to protect children from sexual and physical abuse need to be enforced. Health workers, teachers, community activists and others must be trained to recognise abuse and take action to ensure the safety of any child subjected to it.

10. Laws must be made on a priority basis to prevent the use of children as soldiers in conflicts and to punish their 'employers'.

11. Indications that the kidnapping of children for ransom is on the increase is a disturbing trend. Action must be taken to impart training to police on handling such cases and ensuring the safe recovery of abducted children.

Labour

The state shall ensure the elimination of all forms of exploitation and the gradual fulfilment of the fundamental principle, from each according to his ability, to each according to his work.

Constitution of Pakistan

Article 3

Slavery is non-existent and forbidden and no law shall permit or facilitate its introduction into Pakistan in any form. All forms of forced labour and traffic in human beings are prohibited. No child below the age of 14 years shall be engaged in any factory or mine or any other hazardous employment.

Article 11 (1-3)

Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality.

Article 17(1)

The state shall make provision for securing just and humane conditions of work ...

Article 37(c)

The state shall secure the well-being of the people, irrespective of sex, caste, creed and race, by raising their standard of living, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of general interest and by ensuring equitable adjustment of rights between employers and employees, and landlords and tenants; provide for all citizens, within the available resources of the country, facilities for work and adequate livelihood with reasonable rest and leisure; provide for all persons, employed in the service of Pakistan or otherwise, social security by compulsory social insurance or other means; provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective of sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment;

reduce disparity in the income and earnings of individuals ...

Article 38(a) to (e)

No one shall be held in slavery or servitude.

Universal Declaration of Human Rights

Article 4

Everyone, as a member of society, has a right to social security

Article 22

Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity and supplemented, if necessary, by other means of social protection. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 23 (1-4)

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holiday with pay.

Article 24

Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Article 25(1)

State parties recognise the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

UN Convention on the Rights of the Child

Article 32(1)

While according to official figures, employment in 2003 increased at a rate of 2.2 percent compared to 2.1 percent in 2002, and the employed labour force was estimated at 42.75 million, the State Bank of Pakistan (SBP), in its surprisingly hard-hitting annual report released in early November, questioned government figures depicting a brightening economic scenario.

The report pointed out that while the present government alone could not be blamed for rising poverty over the last 15 years, with figures showing that during the last decade and a half poverty-levels had risen from 20 percent to 33 percent, it was pointless to hang on to false pretensions or the notion that the situation was improving. The SBP said the biggest challenge facing policy-makers, and the only way to reverse the growing poverty trend, was to create more jobs. To achieve this, the SBP stressed the need to spend more resources on human development and on infrastructure projects to create jobs in the shorter term. In the longer term, it also emphasised increased investment was required if jobs were to be generated.

The still more disturbing 'Pakistan Human Conditions Report 2003', prepared

by the semi-autonomous Centre for Research in Poverty Reduction and Income Distribution (CRPRID), in cooperation with the UNDP, was released in December. The report found that the proportion of people living below the poverty line in the country had expanded to 38.1 percent. The figure for the previous year stood at just over 30 percent. Around five percent among these were described as living in extreme poverty. The federal finance ministry, even in the face of mounting evidence, refused to acknowledge poverty was rising.

The findings by the SBP and the CRPRID were swiftly endorsed by international donor agencies, including the Asian Development Bank (ADB) and World Bank (WB), which called on the government to adopt policies to push back poverty. The agencies estimated that poverty had increased since 2001, and lamented that the finance ministry seemed unwilling to accept figures produced by the statistics department indicating this trend. As a result, the statistics department had been avoiding conducting any surveys for nearly three years, aware that its findings were not appreciated by the country's finance managers.

During the year, it also became increasingly clear that the issue of unemployment was growing, with the lack of jobs affecting thousands of families across the country. The joblessness of adults accounted in part for the increase in the employment of children, given the absence of any other income within households.

The absence of a social safety net to protect the jobless was a key factor in the growing number of suicides seen over the year. Unemployment was cited as the motive for suicide by a majority of young men aged between 18 and 40 years who took their own lives. In some cases, they also took those of their children, who they were unable to support. *[See box]*

Rising rates of poverty added to the hardships faced by both the employed and, even more so, the unemployed. While the SBP put poverty at 33 percent, unofficial accounts suggested it that over 36 percent among the population of 149 million people lived below the poverty line. Translated from the language of statistics, this meant that they lacked enough food to sustain themselves, had almost no access to education or healthcare and were in many cases deprived of basic amenities such as clean water. There were no indications of any reversal in the existing poverty trends.

While fewer workers were downsized from public or private sector companies as compared to previous years, when mass lay-offs were seen, many hundreds continued to lose their jobs. Schemes to rehabilitate or compensate those who had been 'downsized' in many cases failed to bring them any benefits, due to long delays in implementation of policies or mismanagement which meant previously employed workers frequently found themselves without any source of income.

New labour laws, announced late the previous year, under which the role of government was reduced to that of facilitator rather than overseeing authority in industrial disputes, and tough restrictions placed on strikes or other action by workers to protest wages, working conditions or other measures, further stripped the rights of labourers to even draw attention to their concerns. Trade unions and bodies monitoring labour rights reported during the year that the existence of

these laws, and in particular the Industrial Relations Ordinance (IRO) promulgated in October 2002, was resulting in a worsening of the plight of workers.

The International Labour Organization (ILO) and international forums representing workers also continued during the year to draw attention to the condition of workers in Pakistan and the consistent failure to conform to ILO conventions on the rights of labourers, even in cases where these had been ratified by Pakistan.

HRCP noted an expansion in bonded labour across the country, and observed that it was evident the Bonded Labour Abolition Act was not being implemented with requisite vigour. While a final decision by the Supreme Court in an appeal lodged by HRCP against the verdict of the Sindh High Court early in 2002 dismissing the petitions for the release of 94 Haris and declaring these as disputes between landlords and Haris over debts that should be settled under the Sindh Tenancy Act, continued to be awaited, Haris remained in bondage across farms in Sindh.

There was also evidence that bonded or slave labour was on the increase on farms in the southern Punjab and among domestic workers. The lack of any law specifically laying down the rights of domestic workers meant they remained especially vulnerable to such abuse.

Children, who formed a growing part of the workforce, often toiled in hazardous occupations for up to 14 hours a day. Although Pakistan had in 2001 ratified ILO convention 100, on equal pay to men and women doing equal work, and labour policies announced in 2002 also incorporated this, the failure to implement the provision meant that women often remained underpaid, while also being subjected to other abuses at the workplace.

Distribution of labour force

According to the Economic Survey for the year, 69.45 percent of the total labour force was based in rural areas and 30.55 percent in urban areas.



A long wait for work.

The agricultural sector remained the largest employer in the country, with 19.08 million people, or 48.42 percent of the total employed force in 2003 working in a g r a r i a n

spheres. The manufacturing and mining sector employed 4.55 million or 11.5 percent of the total labour force, showing an increase from 10.15 percent in 1998. The share of employed labour force in the finance, insurance and social services sector declined from 16.23 percent in 1998 to 15.02 percent in 2003. Similarly, the share in the trade sector decreased from 13.87 percent in 1998 to 13.50 percent in 2003. The share in the construction and transport sectors also showed a slight decline compared to 1998, with just under 11 percent of the labour force employed in these sectors.

Unskilled workers formed the next largest occupational group after agricultural workers, comprising just over 18 percent of the labour force. This showed a slight decline from the figure of 20 percent in 2002. The number of persons working in the crafts trade or linked sectors grew to just over 15 percent, compared to 12.78 percent in 1998, while 11 percent of the workforce in 2003 was employed in managerial or technical positions, compared to nine percent in 1998.

Labour laws and policies

In a continuation of the campaign started the previous year against the Industrial Relations Ordinance (IRO) 2002, trade unions, watchdog bodies monitoring labour rights and other groups kept up their protests against the law. They pointed out that it greatly curbed the rights of workers to agitate for their rights, and placed tough, new restrictions on the formation of trade unions. It was also noted at seminars and workshops held throughout the year that the law strengthened the hands of employers, and in an environment where workers were frequently exploited, expanded the licence of employers to do so while withdrawing the rights of labourers to object.

New labour laws introduced in the Punjab in the middle of the year, eliminating visits to factories and workplaces by labour inspectors, also came under sharp attack from groups representing workers.

The negative impact of the IRO on workers was, according to findings tabled at consultations and seminars, already visible at various factories, workshops and other places of work.

The Pakistan Workers Confederation (PWC), early in the year, called for extensive amendments to the IRO 2002 to bring it in conformity with ILO conventions 87 and 98. The PWC pointed out it was discriminatory as it denied collective bargaining rights to many categories of workers. It also deprived labourers of other benefits, such as those admissible to them under the Employees Old Age Benefit Scheme, 1976.

In April, speakers at a workshop organised by HRCP in Karachi reiterated a stance taken the previous year, and stated the law threatened not only the rights of workers but also economic growth in the country.

Despite the calls from the All Pakistan Federation of Trade Unions (APFTU), political parties including the Pakistan Peoples Party (PPP), the Awami National Party (ANP) and the Pakistan Muslim League, Nawaz (PML-N), as well as leading

economists and activists, there were no indications that the government planned to repeal or amend the IRO.

The Punjab Industrial Policy 2003, announced by the Punjab government in June, meanwhile came under still fiercer criticism from groups representing workers. The new law, in violation of ILO convention 81 ratified by Pakistan, eliminated inspections of industries or other workplaces by labour inspectors and instead introduced a 'self-assessment' scheme by industry owners. ILO convention 81 made labour inspections mandatory to ensure legal rights of workers were protected.

The APFTU and other unions across the province pointed out that the elimination of labour inspections would lead to an increase in violations of labour laws, including the employment of children, hiring of contractual workers and failure to ensure safety standards. They also stated that under the new laws, educational funds reserved for worker's children had been cut along with other social benefits.

Opposition political parties joined the vocal protests of workers, and raised multiple objections against the new law in the Punjab Assembly. However, despite this, the law remained in place as the year closed.

In March, the Punjab labour minister announced the construction of a labour colony, including schools, hospitals and recreational centres, to be built over the next two years at a cost of Rs 5 billion.

In February, the Balochistan government established labour courts in the province in consultation with Balochistan High Court (BHC) and appointed district judges as presiding officers.

It was also clear, as the year closed, that the fears expressed by trade unions about the self-assessment scheme introduced under the Punjab's government's new labour policy were well founded. Reports in September showed that only 2.5 per cent of the industrial units in Lahore filed declarations in compliance with the laws, despite a month's extension in the period allowed for the purpose. The district labour officer disclosed that 1,000 declaration forms had been distributed in the city district. Of these, only 25 had been filled and returned. The forms sent out to the industrial units asked detailed questions about compliance with laws on worker's rights, maternity leave to women workers, safety standards and other issues – with trade unions pointing out that in the absence of inspections, the number of violations had soared.

Downsizing policies

In an important decision, while dismissing an appeal of Wapda against reinstatement of nine employees, the Supreme Court ruled in January that no government employee could be dismissed without being served with a show-cause notice and the holding of an inquiry against him.

In May, the SC also ordered the Sui Southern Gas Company to re-absorb over 800 employees dismissed earlier in the year.

While these rulings offered some protection to workers, the government

policies of downsizing, initiated three years ago, largely continued.

In February the termination of the services of over 12,000 employees of the federal government who were declared surplus during the previous two years was announced. Salaries, allowances and perks of all such employees were not part of the federal budget for 2003-2004.

At least 59 employees of the Pakistan Telecommunication Company (PTCL) were dismissed from service in Gujranwala in January.

Nespak compulsorily retired 30 engineers in April and said it was considering laying off 100 others.

Private concerns too continued to dismiss permanent staff, often to enable the hiring of contract workers in their place. Khoski Sugar Mills, Hyderabad, in April dismissed its entire staff, bringing protests from the APFTU. Faran Sugar Mills, Hyderabad, in April dismissed 426 permanent employees and 248 workers were dismissed from Fauji Sugar Mills in Badin in April.

In June the Muttahida Labour Federation protested the sudden dismissal of 250 workers from Millat Tractors who had been working for 12 years in Lahore.

The problems with Sui gas supply to the Punjab faced early in the year after sabotage of pipelines in the southern Punjab and Balochistan also led to unemployment. Thousands of workers in Sialkot lost their jobs after factories were closed in February due to the prolonged suspension of gas supply to industrial units. 20,000 labourers were also rendered jobless in Faisalabad due to the closure of a textile unit following the suspension of the gas supply in January.

An oil company, laying a pipeline in Kashmore, terminated 175 employees in July.

During the same month, the federal government approved a plan to close down 34 branches of National Bank of Pakistan by September 30 in the NWFP, a decision that involved the loss of 300 jobs, and brought protests from bank employees. However despite these efforts, the downsizing policies continued and it was believed thousands of jobs in both the public and private sector would remain at risk over the next few years.

Unemployment and the hunt for jobs

According to official figures, 3.34 million people included among the labour force were unemployed. Of these, 69.45 percent were based in rural areas and 30.55 percent in urban areas. The overall unemployment rate stood at 7.8 percent, with this figure having doubled since 1990.

While the official data indicated a sharp rise in unemployment, other estimates suggested joblessness could have soared to 14 percent, or more.

The UNDP Human Development Report for 2003 placed youth unemployment, or the rate of employment of people aged between 15 and 24 years, at 13 percent.

A survey by the Federal Bureau of Statistics during the year indicated the rate of unemployment in the country increased from 5.89 percent in 1998 to 7.8 percent in 2003. The trend appeared to be continuing.

With the existing employment exchanges functioning extremely poorly, people

searching for jobs had no place to turn. The despondency generated by this often had an extremely negative impact on families, both in monetary and psychological terms.

Women graduates in particular found it exceedingly difficult to find jobs. Despite their qualifications, most were offered low paid secretarial work, and offered lower salaries than those of their male counterparts.

An indication of the desperation for jobs was provided by two examples. A multi-national oil company received over 18,000 applications for a technical position they had advertised, many from persons without the stated qualifications. Another multi-national firm received 8,000 job applications for employment without even advertising.

Other employers also cited a similar flood of applications, often from candidates over-qualified for jobs on offer. In September postgraduates were among the hundreds who applied for jobs as police constables in Lahore, with long queues formed of persons who wished to submit applications. A news item in October stated that 14,000 applications had been received by the civil secretariat in Lahore for 100 posts of *naib qasids*. Candidates with masters degrees were among those who had applied for the clerical job, while most applicants had completed their intermediate, graduation or post-graduation.

One of the issues adding to unemployment was the fact that the government, the biggest employer in the country, was no longer able to absorb entrants to the labour force, and in fact downsized some 20,000 federal government employees during the year.

In February, the governor of the SBP noted that the lack of job opportunities within the public sector was a major factor adding to the problem of unemployment.

At seminars and workshops, experts and senior police officials stated that increased joblessness was resulting in a sharp increase in crime, with young men increasingly turning to criminal activity due to their failure to find jobs and consequent frustration.

The Pakistan Workers Confederation (PWC) pointed out that government policies were greatly contributing to joblessness. The PWC stated that in March, over 14,000 sanctioned posts in local bodies in the Punjab were lying vacant due to the ban on recruitments.

In May, the Sindh government announced plans to lift the ban on recruitment, and the filling of some 20,000 vacancies on merit in various departments during 2003-04. The Punjab finance department also estimated 25,000 persons would be recruited in Punjab government departments in 2003-04.

While the federal and provincial governments promised greater efforts to check joblessness there were no indications that the rate of unemployment was falling, with thousands across the country engaged month after month and year after year in an often futile bid to find work.

Tenants on farms

The struggle by landless tenants based on State-owned land in the Punjab

The cost of unemployment

Joblessness took a rising toll on families across the country, with some resorting to desperate measures to save themselves and their children from starvation

On October 24, Jamaluddin, 45, in Karachi, burnt himself alive, along with four minor children who he feared he could no longer support.

He was among at least 50 other men in Karachi who had killed themselves due to motives arising from their state of joblessness. Other deaths are thought to have gone unreported.

Jamaluddin, a father of five, lived in a tiny portion of an 80-square-yard house located in a katchi abadi of Zaman Town. His eldest daughter was already married and did not live with him. His other children were Nazish, 13, Lareb, 12, Naushad, 10, and Fiza, 9.

A mason by profession, Jamaluddin had been jobless for the past ten months. The only source of income for the family was the Rs. 50 per day brought in by 10-year-old Naushad, who had started working for a butcher. Jamaluddin had borrowed money from friends and acquaintances simply to feed his family, and had resorted to buying essential commodities from shops in the neighbourhood on credit. However, by September, the shopkeepers discontinued providing him goods owing to his inability to pay. For several weeks prior to his death, the family was reported to be facing virtual starvation.

Seeing no solution in sight, and fearing still greater misery ahead for his children, Jamaluddin took his life as well as that of his three daughters and son. Police found four bottles of kerosene in a small room of his house along with a matchbox. They believed that Jamaluddin used poison to kill his children before setting them on fire and then killing himself. Jamaluddin was also thought to have been using sedatives for some months, as a result of his growing depression.

In another incident reported from interior Sindh in the last months of the year, a 12-year-old girl fell unconscious from her school bench. After she regained consciousness she confided to her teacher that she and her family had been starving for the past two days, and had eaten almost nothing at all. She explained that her father was sick and her brothers couldn't find any work.

In Lahore too, private organisations working for the welfare of school children reported that at government schools in several impoverished areas, children stated they ate nothing more than dry 'roti' and may be a single cup of tea throughout the day, often

because fathers were unemployed.

There were also at least nine reports during the year, from various parts of the country, in which parents killed themselves, along with their children, to escape poverty and hunger. At least 20 children died in such incidents. It is believed many others may have chosen a similar end for themselves and their children, with their stories going unreported.

In the Jauhanabad area of Lahore, a predominantly Christian locality, families were said quite literally to be unable to clothe or feed children, with poverty increasing rapidly due to a lack of jobs. It was also reported that more and more desperate people in the area had begun to sell kidneys to private hospitals, in a bid to provide income for themselves and their families. In some cases, within a single family, several people had sold their organs. **[See also chapter on Health].**

continued into 2003.

In May, the fourth death of a tenant in 17 months as a result of State efforts to crush their rebellion focussed renewed attention on the situation on the farms. Amir Hussain, 34, died after Rangers began firing to dispel protesting tenants staging a sit-down on the Okara military farms. Some reports suggested other tenants could also have been killed during the violence seen on the farms, with tenants pressurised by Rangers to avoid reporting the deaths. The Joint Action Committee (JAC), comprising representatives of at least 15 NGOs, said in a statement issued in May after a visit to the farms that it feared up to seven tenants could have been killed between May 7 and 17.

Over a million tenants working nearly 70,000 acres of land in the Punjab owned by the provincial government and divided into 21 farms, had in 2002 begun an uprising demanding ownership rights to the land. Most of the farms are controlled by the military, and the fiercest battles took place on these tracts of land, policed since mid-2002 by Rangers. Rights have been accorded to tenants under various agreements dating back to 1913. However, these have never been granted.

In late 2002, after the use of immense power to crush the movement of tenants, authorities had begun efforts to coerce them to sign new lease agreements, under which their status would be converted from that of tenants to employees. This meant they could be evicted from the land after the contracts expired and would lose their rights under the Punjab Tenancy Act. Resistance from tenants was initially overcome using pressure tactics of various kinds, including charges filed against leaders who were repeatedly taken into custody throughout 2002 and 2003. However, by the middle of 2003, despite the efforts to create divisions among Muslim and Christian tenants, a renewed effort had begun on the farms to

claim rights.

In May, unrest on the Okara military farms broke out after Rangers began pressurising tenants to pay rent -- which they stated was a part of the new agreement signed the previous year. Tenants resisted, and asserted the agreements had been signed only under immense pressure.

With both sides adopting hard-line positions, there were no indications that the dispute was moving towards resolution.

In October, the management of the Okara military farms started laying off employees who were relatives of tenants demanding ownership rights to the land, and dismissed 50 of them. This step against tenants who had worked the farms for 25 years or more, added to the existing tension, while indications that land could be sold to multinational farms further aggravated feelings of injustice prevalent among tenants.

Trade union activities

Trade unions across the country focussed maximum efforts during the year on protests against the IRO 2002 and the new labour policy introduced by the Punjab.

At seminars, workshops and rallies, the APFTU, the PWC, the unions of Wapda, bank workers and various private industrial units, demanded amendments in the IRO. *[See section on labour laws].*

The continued restriction on trade union activity in various public sector concerns, including the Railways department, Pakistan International Airlines and the Karachi Electrical Supply Corporation also continued to be protested. Under the new laws trade unions in the private sector too faced new curbs, with fears that this would act to further undermine the already struggling trade union movement in the country.

The problems faced by trade unions also drew concern from the ILO and other bodies, with the ILO and other international forums of workers condemning the restrictions placed on the formation of CBA (Central Bargaining Agents) under laws introduced in 2002.

Despite this, trade unions continued efforts to demand protection of the rights of working people. The Pakistan Workers Confederation (PWC), Pakistan Labour Confederation and the Muttahida Labour Federation urged the government to announce an increase in pay and allowances in the federal budget. The demand was voiced at separate meetings of the three trade union organisations held in Lahore in June. The PWC also staged protests in the city against the hike in prices of basic commodities.

In August, the APFTU in Hyderabad accused industrialists in the area of violating labour laws and depriving the workers of their legal rights. The APFTU pointed out in a statement that workers were often not given appointment letters, and as a result deprived of medical facilities and pension. It was also pointed out that the minimum wage of Rs 2,500 set by the government was in many cases

not being paid, especially to labourers in biscuit factories.

Scores of labourers of a spinning unit near Kharianwala held a demonstration in July against the administration for denying them wages for several months.

In January, workers of the Kohat Cement Factory in Peshawar protested the withdrawal of facilities by the administration including the elimination of education facilities for the children of workers.

More than 2.2 million employees of grade 1 to 16 of federal and provincial government departments and autonomous and semi-government organisations observed a strike in May on the call from All Pakistan Clerks Association in Multan, Dera Ghazi Khan, Bahawalpur and Sargodha to press authorities to raise salaries and fringe benefits.

However, despite these efforts, the condition of workers remained grim, with only a tiny percentage receiving protection under labour laws and social security schemes for workers.

Hazards at the workplace

The director of the Center for the Improvement of Working Conditions and Environment, based in Lahore, said in January that no reports of occupational health hazards had come in in over five years, because of the lack of updated legislation to cover health and safety at work. He also pointed out that implementation of existing laws was very poor, and in many cases the laws themselves were outdated. Thousands of workers in the agricultural and informal sector were in fact uncovered by any law, and remained at immense risk.

In May, the Islamabad-based Sustainable Development Policy Institute (SDPI) organised a seminar on occupational health, with speakers stressing the need to put an effective system of monitoring in place.

While the Punjab government stated it planned to introduce annual health check-ups for all workers, it was unclear as the year closed what steps had been taken to put this policy, or others aimed at protecting workers, in place.

A press report in October stated that 27 workers of the Water and Power Development Authority (WAPDA) had died across the country in the months of July and August alone as a result of work-related accidents. The highest number of death took place in the Peshawar Electric Supply Company area, where seven workers died. Other deaths took place throughout the year, with the lack of safety equipment provided to workers and a failure to follow safety standards while working with power cables a key factor in this.

Reports from around the country indicated that at least 30 workers had died in mishaps at the workplace. These included falls from high places, death due to the collapse of building, accidents involving furnaces or electric equipment and injury caused by machinery. It was believed that many other deaths went unreported. The longer-term health-impacts on workers exposed to toxic fumes or other hazardous substances at factories remained largely unknown. [*See also*

box on mining sector]

Domestic labour

The fact that domestic work is, by its nature, a 'hidden' form of employment, taking place in private household settings, and the absence of laws to protect domestic workers meant that they remained especially vulnerable to abuse of various kinds.

With women and children forming a growing percentage of the domestic labour force, abuse, ranging from unfair dealing to slave labour and sexual or physical violence, was especially rampant.

A workshop on the problems of domestic workers organised in Karachi in May by Lawyers for Human Rights and Legal Aid (LHRLA), with other NGOs, underscored the need for legislation to safeguard the rights of domestic workers. Cases of mental or physical torture and sexual abuse, in addition to low wages were reported, and it was estimated that up to 99 percent of cases of violence against domestic workers were not reported to police. A list of recommendations, including a specific law to cover domestic workers, the setting of a minimum wage, terms of employment including maternity leave and the registration of domestic workers with the union council were also prepared at the workshop.

A two-day national consultation on domestic workers' rights held in Karachi in September, and organised by LHRLA meanwhile described the conditions in which domestic servants worked as 'modern-day slavery'. Speaking on the occasion, Nilofer Bakhtiar, the advisor to the prime minister for women's development, stated that 93 percent of women domestic workers had been victims of harassment, 45 percent had been mentally tortured, 35 percent physically



Long hours of work for meagre wages.

abused and 25 percent sexually harassed.

The Society for the Protection of the Rights of the Child (SPARC) meanwhile called for legislation to prevent the multiple abuses suffered by child domestic workers. They also held that while data on the true plight of domestic workers was limited, girls working inside homes faced the highest risks.

Numerous cases were also reported during the year concerning complaints of physical violence, rape and other crimes suffered by domestic workers. In some cases, domestic servants had been made to work up to 18 hours a day, while the incidents in which domestic workers were paid no wages or kept as prisoners within homes appeared to be on the increase.

Women and children at work

The failure to take into account the multiple tasks carried out by women within homes, on farms and in the informal sector meant that according to available official figures, the participation rate for women within the workforce remained far lower than that for men.

However, it was clear that these activities often had a huge bearing on household incomes, with women working within homes often playing a vital role in the economic-generating ability of male family members. [*See also chapter on Women*].

Women within the labour force often faced acute discrimination, including lower wages as compared to their male counterparts, despite the fact that Pakistan had in 2001 ratified ILO convention 100, on equal pay for equal work. The UNDP report for 2003 estimated that while men in Pakistan earned an average of US \$2,824 annually, the average amount earned by women was only US\$ 909. Harassment at work, severe discrimination in recruitment and promotion and numerous other similar factors also contributed to the many difficulties of working women.

Apart from harassment, many women in major cities cited transport as their most acute difficulty in terms of work, with the poor system of public transport gravely impeding women who worked outside their homes.

While there was still considerable uncertainty over the number of children engaged in work, the Federal Bureau of Statistics placed the figure of children at work in various fields at 3.5 million out of which 2.9 million were in rural areas. Most of these children were employed in mining industries, brick-kilns, workshops, carpet industry and various other fields.

SPARC meanwhile estimated that approximately 18 percent of children in Pakistan in the age group of 10-14 years were working in various fields. The organisation stated no reliable data on child labourers under the age of ten was available.

At a seminar on the 'Elimination of Child Labour', organised by the National Labour Federation and the Sindh Employees Social Security Institution in May in Karachi, it was stated that the government had shown willingness to sign the ILO

Down in the pits: Mine workers at risk

More evidence came to light during the year of the hazards faced by those working in the mining sector

While research on the mining sector, and conditions of work within it, remained limited, evidence emerging during the year suggested that miners were among the labourers facing the grimmest conditions of work across the country.

Multiple reports of the death of mine workers highlighted the risks they faced.

Participants at a seminar in Islamabad in July organised by several NGOs gave detailed accounts of the grim conditions prevailing in the mining industry. They stated that bonded labour and child labour were both rampant in this labour-intensive sector. Many children also faced physical and sexual abuse. 80-85 percent of mine workers were unskilled workers who were often made to live in extremely poor housing near the mines. Many were in fact bonded labourers, and worked for long hours without protective gear, while skin diseases, chest diseases and tuberculosis were all commonplace. The failure to implement ILO conventions ratified by Pakistan or even provisions of the country's own labour laws, was also a factor that contributed to the situation prevailing at mines.

While speakers at the seminar were highly critical of conditions in both public sector and privately owned mines in all the four provinces, they held that in most cases miners at private mines were far worse off than those engaged in the government-run sector.

A report prepared by SDPI on 'Bonded Labour in Pakistan's Mining Sector', the findings of which were presented during the year, stated that the physical structure of over 50 percent of mines across the country was unsafe, placing the lives of workers at constant peril. The actual numbers of deaths taking place were covered up, with families paid compensation of Rs 200,000 after a fatality.

The report further stated that bonded workers, including children, worked as virtual slaves and faced extensive exploitation. In many cases, the bonded workers had been brought in from rural areas, and had been offered 'advances' of up to Rs 40,000 to persuade them to take up work at the mines. In many cases, this sum was not paid. In addition, the fact that payments were often made after minerals were sold meant that miners resorted to borrowing from owners or contractors, and quickly became indebted.

The poor rate of payment to daily wagers added to the incidence of bondage. The maximum payment was Rs 300 per tonne mined, and especially in coalmines, it was extremely difficult to achieve this target. This was also why miners frequently engaged their children in work, in an effort to collect the required amount of coal.

Safety equipment in mines to detect poisonous gases was virtually non-existent, leading to multiple mishaps. In most cases, the unreliable method of hanging a caged bird down the pit to detect gas was used, with the death of the bird indicating toxic fumes were present.

Multiple cases of accidents in coalmines were reported during the year. In March, four coal miners were killed while 12 others became unconscious after inhaling toxic gas at a coal mine in Dulmial.

Eight other miners died in April when a van carrying coal hit a landmine in Loralai. Following the incident, representatives of the Pakistan Mines and Industrial Trade Unions Federation demanded the Balochistan government provide security to coalminers in the Chamalay area, who were at risk due to the presence of landmines.

In another incident, four miners died of gas suffocation in a coalmine in Surranj, near Quetta in May. Five others were found unconscious in the area where the gas had collected. The mine was briefly closed.

It was believed numerous other accidents at mines remained unreported. Doctors who set up medical camps for mine workers in several parts of the NWFP found they often suffered serious respiratory ailments and other grave health problems shortening their working life-span, as a direct result of the conditions in which they worked.

convention fixing the minimum age for a worker at 18 years, but this was opposed by industrialists. The lower wages paid to children, and the fact that unlike adults, children could neither agitate for higher wages nor form trade unions was cited as a major factor in this.

In August, the Pakistan Baitul Maal, a central fund where money collected as tax under Islamic law was deposited, formally asked the federal labour ministry to return Rs100 million. The amount had been handed over to the ministry in 2001 to start several programmes, in cooperation with the ILO and other organisations, to educate working children, create awareness about child labour and provide health services to child labourers. However, as no programme had been put in place, the labour ministry was asked to return the funds. [*See also*

chapters on Women and Children].

Bonded labour

The failure to enforce the Bonded Labour System (Abolition) Act of 1992 was evident in the reports coming in that bonded labour, previously restricted mainly to agricultural estates in Sindh and brick kilns in the Punjab, was expanding into other sectors.

It was most commonly reported from farms in the southern Punjab, while domestic servants too increasingly appeared to face bondage. In a rising number of cases, accusations of theft levelled against servants then led to employers insisting they work without wages, and as virtual prisoners, until the worth of the item allegedly stolen had been 'recovered'. This also meant that domestic workers were forced to 'borrow' money from employers, pushing them into debt.

Bonded labour was also said to be common in the mining sector [*See box*].

The January 2002 ruling of the Sindh High Court (SHC), that had dismissed 94 petitions of bonded haris declaring that disputes between landlords and haris over debt should be settled under the Sindh Tenancy Act of 1950, continued to mean that the release of haris from agricultural estates was considerably slowed down, with all new petitions filed by haris continuing to be rejected by the SHC. HRCP meanwhile awaited a final verdict from the Supreme Court on its petition against the SHC verdict, filed in 2002. The apex court had partially stayed the SHC verdict on the HRCP appeal. In its petition, HRCP had pointed out that the SHC ruling made no reference to the Bonded Labour System (Abolition) Act of 1992, which should take precedence over the Sindh Tenancy Act and other laws. HRCP also called on the government to clarify this, and noted that by hearing all the 94 petitions of haris together, the circumstances pertaining to individual cases had been overlooked.

Haris in bondage

While an estimated 1.5 million haris across Sindh remained in bondage on agricultural estates, often in extremely grim conditions, increased attention during the year also focussed on the plight of the 15,000 or so haris released through HRCP efforts during the past few years. Most of these haris remained based at seven camps around Hyderabad city, where conditions were poor and opportunities for employment or work extremely limited. HRCP continued to call for greater efforts from both the government and NGOs to help in the difficult task of rehabilitating the haris and in protecting them from the threat of kidnapping or attack by their former landlords.

An indication of the extent of this threat was provided by the story of Munoo Bheel, whose family was kidnapped in May 1988 and had been missing since then. The former landlord of the haris, Abdur Rehman Marri, and his accomplices were accused by eye-witnesses of the abduction. However, despite efforts by HRCP, which in 2003 published a booklet to highlight the case, the family had not

been recovered and no action taken against the perpetrators of the crime. In January, Munoo Bheel began a six-hour daily token hunger-strike outside the Hyderabad Press Club to draw attention to his case. The strike was continuing as the year closed. The Sindh governor visited the strike camp in October, but Munoo Bheel's family remained missing.

In October, a woman hari, Marwa, began a hunger strike to protest against the slavery of her two daughters and two sons, all held by a landlord in Digri.

In March, the HRCP council, the decision-making body of the organisation, meeting in Hyderabad, demanded that forest land should be distributed among landless haris and they should be given loans from the agricultural banks, enabling them to put to use their skills as farmers.

According to data compiled by the HRCP's Special Task Force Sindh (STFS), the courts had released 1,322 haris over the year. This compared poorly with the 2,434 haris released in 2002, and over 5,000 released in 2001. The SHC ruling of 2002, dismissing petitions filed by 94 haris, was seen as a key factor in this, with the verdict greatly hampering efforts to obtain the release of the haris.

At a seminar on bonded labour in Tando Alam in September, HRCP rejected amendments to the Sindh Tenancy Act unless the opinion of representatives of labourers and haris were included.

HRCP also continued to demand through the year that haris held in private jails should be freed and false cases lodged against them by landlords set aside.

In June, the HRCP STFS accused the Sanghar police of keeping four haris in illegal detention. A hari, Chunnu, had filed a petition before the SHC in October, 2001, complaining that landlord Qadir Bux Khas Khali had detained 12 members of his family for non-payment of loans. The SHC had ordered the release of these haris. However, Sanghar police continued to harass them and had detained four of them. These haris were kept at an unknown place and had not been freed as the year closed. While fewer haris were released over the year compared to previous years, those held on agricultural estates were said to be facing still worse conditions of detention. Reports of beatings, torture and the use of fetters came in from across the province, with landlords failing to respect the provisions laid down in law, while in turn the lack of action taken against them for such violations enabled them to continue their abusive treatment of haris.

Bonded brick kiln workers

In a detailed study released in April on forced labour at brick kilns, the Pakistan Institute of Labour Education and Research (PILER) confirmed reports of appalling conditions at kilns across the country.

It also strongly urged the government to implement the National Action Plan prepared by the federal labour ministry in 2000, under the supervision of former labour minister, the late Omar Asghar Khan, as a means to check the abuses. Estimates by representatives of brick kiln workers suggested that over 100,000

bonded brick kiln labourers, including women and children, were held at kilns across the Punjab. There were also findings that suggested this number was rising, as families slipped into greater poverty as a result of inflation and unemployment, and as a consequence also into further debt.

During the year, the Lahore High Court (LHC) ordered the release of over 350 bonded brick-kiln workers from kilns at Sheikhpura, Lahore, Multan, Okara, Kamoke, Gujranwala and other cities. Bailiffs often had to be sent to secure the release of workers, who were in several cases found in fetters. Women and children were included among the freed workers. The Peshawar High Court (PHC) during the year ordered the release of at least 30 bonded workers, mainly from kilns in and around the Peshawar area.

At the 6,000 or so kilns across the country, the number of children at work, many of them in bondage, was also a matter of concern. Many of the children laboured for over ten hours a day in extremely hazardous conditions. Since workers were hired on family labour basis, the services of women and children were rarely acknowledged, except when they were required to 'inherit' the debt liabilities of the deceased male members of the family, a factor that contributed greatly to the difficulties of families who found themselves forced to pay-off debts.

PILER estimated in its study that 90 per cent of workers took advances or loans from the kiln owners, and because the repayment period was protracted, they became bonded. The kiln owners were satisfied with this arrangement since it gave them leverage over their workers, while low rates of payment encouraged the taking of loans.

At times the indebted workers found another kiln owner to buy off their debt in return for labour bondage, but this did not resolve their problem since they were then bonded to a new master.

Brick-kiln workers also complained of coercion, pressure and beatings by kiln owners or their managers. Injuries caused by furnaces or during the digging of clay were commonplace. PILER found that there was virtually no protection against the fire at the kilns. The jalai wallas (the oven operators) wore open wooden sandals and used metal rods to handle the ovens. Their faces were not covered, and potentially lethal pollutants emitted by the kilns threatened their health as well as that of workers living in the vicinity of the kiln.

According to an agreement reached between the Pakistan Bhatta Association, Bhatta Labour Union and the Pakistan Bonded Labour Front and brick-kiln owners early in the year, workers were to be paid a minimum wage of Rs 184 for every 1,000 bricks produced. However, by May, it was clear this agreement was being widely ignored, with workers earning as little as Rs 60 a day.

Awareness about their rights was virtually non-existent among the kiln workers. Some of the cases that were reported during the year highlighted the problems faced by brick-kiln workers. Safdar Ali, a bonded labourer, was forced to work for Rs 80 per 1,000 bricks at a kiln near Lahore. In April 2002, he asked

for the rate of Rs 184 per 1,000 bricks as had been agreed with workers representatives. For this, the kiln owner bribed police to detain Safdar Ali for two days. After his release, he was forced to work up to 16 hours a day, because the owner claimed that he had paid money for his release from the police custody, and that Safdar needed to return this through work. Safdar and his brother were also allegedly sent for medical tests in May, during which their kidneys were removed. Safdar managed to escape in the middle of 2002, but was soon recaptured and sold to another kiln owner, along with his family. A few months later, he escaped once more and in early 2003 reported his story to representatives of brick-kiln workers in Lahore. His wife and children remain in bondage at a kiln not far from the city.

In September, the Bonded Labour Liberation Front Pakistan demanded the government grant social security to brick-kiln labourers, carpet labourers and agriculture labourers. PILER, in its report, also identified an improvement in wages for workers, means to allow them to set up collective bargaining agents (CBAs) to guard against exploitation and the provision of schools and healthcare facilities to kiln workers as urgent needs.

Slave labour on farms

The degree of oppression suffered by landless farm labourers and small sharecroppers was believed to be worse even than that borne by other categories of labourers. Bondage among farm workers on agricultural lands in the Punjab, mainly created through the use of debt, also appeared to be on the increase.

There were clear indications that police acted in connivance with often powerful land-owners and failed to protect bonded workers. In June, the Sialkot district and sessions judge issued notices to several police officers for not helping the court's bailiff in recovering labourers held at a farm in the area.

In another incident in July, nine members of a family were recovered by the court bailiff from illegal confinement at a landlord's house in Multan. The bailiff accused area police of delaying the raid by making him wait for over 90 minutes. No police officer took part the raid, in which the nine enslaved servants were freed. A relative had moved the court to seek their release.

While no figures were available, bonded labour on farms in the Punjab was thought to be increasing rapidly, and in fact spreading from the southern Punjab to other parts of the province as well.

The human smuggling racket

During the year, many hundreds of people who left the country illegally continued to be deported, detained or killed while attempting to reach destinations in the Gulf, the Far East, Europe, Africa or other parts of the world.

While almost 130,000 left legally, heading for Canada, the Middle East or other locations, at least triple that number was thought to have attempted to

depart illegally, using forged documents and the services of 'agents' specialising in this lucrative trade. Some estimates suggested the number of 'illegal' emigrants could be far higher than this.

The desperation generated by growing unemployment and poverty in the country, which resulted in despondency among young men in particular, led to the most of the attempts reported to leave the country. Often, people appeared willing to put their lives at risk by boarding unsafe vessels engaged in the illegal human smuggling racket, or attempting to make their way on foot across the border into Iran, and then head towards destinations in Europe.

The return of at least 9,000 Pakistanis to the country during the year, after they were deported from the US, Oman, Muscat, the United Arab Emirates, Libya, Greece, Canada and many other countries provided an indication of the scale of the problem. The foreign ministry in December stated it would investigate allegations of torture in Oman jails, made by returning Pakistanis who had been held there for several months or even years, prior to deportation. The labour ministry, in October, stated 22,000 Pakistanis had been returned from Oman alone since 2006. Despite the scores of Pakistanis dejectedly arriving at airports across the country after deportation, the issue of why so many were adopting desperate means to leave the country drew almost no official attention.

Human smuggling came under increased focus both at the national and international levels during the year. The 'Prevention and Control of Human Smuggling' was promulgated early in 2003 by the federal government, prescribing life terms for traffickers. During the year, the FIA registered 24 under this new ordinance, while at least seven gangs of traffickers were identified and detained. But despite the stepped up actions, people continued to make efforts to leave the country.

In October, the Federal Investigation Agency (FIA) stated that around 397 Pakistanis were killed or drowned at sea during the year while attempting to make their way to other countries, including 23 men and women who drowned in a Greek river in September. Most of these persons were from the Gujrat area.

Gujrat was identified in several press reports as a town that specialised in creating forged documents for those seeking to travel overseas illegally. Amounts ranging from Rs 50,000 to over 300,000 were charged for passports, forged visas and forged admission or invitation letters, depending on the destination of the intended traveller, and his ability to pay. Agents engaged in the illegal travel business also operated in all major cities, while those based in smaller towns were said often to escape detection due to less vigilant checks.

In April, the Sukkur police arrested members of a gang of fake recruitment agents. They recovered large numbers of bogus passports, identity cards, letter pads, seals and visa forms of other countries. The agents had reportedly collected a huge sum of money in a short period of time by duping innocent people on pretext of sending them abroad.

In February, 90 Pakistani job-seekers were found abandoned on a barren

island on the west of Karachi. Most of them belonged to upcountry areas and had paid substantial amounts of money to an agent who had promised to ferry them to Dubai. Instead, they were left on the island and told another vessel would soon pick them up. This ship never arrived.

In April, the FIA arrested two agents in Karachi while they were trying to send four Afghans to London. It was suspected they had sent 125 job-seekers to Saudi Arabia illegally earlier.

A human smuggling racket, involving taking people to Iran via Balochistan was unearthed in April, when the FIA's passport circle arrested 31 Bangladeshis and the driver of a bus with forged Iranian visas. It was found that the driver was earning Rs 1,000 per emigrant, while agents in Quetta were thought to be collecting far larger sums to arrange the operation.

275 Pakistanis were arrested in Sri Lanka in July while trying to leave the country illegally for Italy. 254 Pakistani men were sentenced to jail and fined Rs 50,000 each by the court in Sri Lanka after being detected.

In May, around 530 Pakistani labourers who had illegally entered Oman were deported, while another 600 were sent back in November. Many had remained in jail in Oman for months, after their illegal presence in the country was detected. More workers were deported from several Middle Eastern countries in September, while in August over 100 Pakistanis were sent back from Libya.

Around 2,000 Pakistanis meanwhile remained in European jails for illegal emigration.

Legal immigration of Pakistanis also increased, with the Pakistan workforce in the Gulf countries, the UAE and Saudi Arabia increased considerably according to overseas employment services run by the federal labour ministry.

Placing an increased emphasis on sending skilled workers abroad, the ministry processed applications of 4,250 specialist doctors, 710 teachers and 62 computer personnel for employment in Saudi Arabia. The ministry also said around 0.15 million people were to get jobs in foreign countries during 2003-04, with talks on to persuade Saudi Arabia, Muscat, Malaysia, the UAE and other countries to accept Pakistani workers.

It was clear however that the demand for jobs overseas greatly exceeded the availability, especially in cases of unskilled workers. The lack of jobs at home, the failure of many educated persons to obtain suitable employment and the deteriorating social and economic environment meanwhile led to thousands more attempting to escape the country. As such, the human smuggling racket continued to expand, with arrested traffickers hinting that officials at the senior level could also be involved in this hugely profitable trade.

Recommendations

1. *The mounting problem of unemployment needs to be seen as a national crisis. Merely ignoring the realities and putting forward figures that show the*

state of the economy in a positive light will do nothing to alleviate the suffering of citizens.

The state must recognise that economic growth, generation of employment and social sector development are top priority areas. Apart from longer-term economic growth and the promotion of investment as a means to boost employment and the setting up of effective employment exchanges, urgent measures such as some relief for the jobless are essential. The rising toll of deaths due to suicide signifies the extent of the desperation that exists. Employment exchanges also need to be set up and regulated to ensure their effective working.

2. Downsizing in both the public and private sector needs to be reassessed. Mass redundancies created by such policies including measures linked to the privatisation of public sector concerns, are only aggravating the unemployment situation. A means to readjust workers within public sector departments needs to be found.

3. The Bonded Labour Abolition Act (1992) must be consistently upheld, and the government must clarify that it holds precedence over previous laws on tenants and other forms of bonded labour whenever there is confusion over the interpretation of the law. The repeal of sections of earlier laws, in conflict with the Bonded Labour Abolition Act, should also be considered. The evidence that bonded labour is on the increase is disturbing, and points to the need for a more vigorous enforcement of existing laws.

4. Education, including vocational schemes, must be designed to meet needs in the employment market. Simply promoting education in IT can, for instance, have an adverse impact as many graduates are already finding that limited vacancies exist for those with such qualifications.

5. The many ILO conventions not ratified by Pakistan, including those protecting the rights of women at the workplace, need to be signed without delay. Implementation of those already ratified needs to be ensured.

6. The new IRO needs to be reviewed and workers' rights accommodated. Restrictions on trade union activities and the rights of workers to bargain for their rights must be lifted immediately. By failing to do so Pakistan is violating ILO conventions it has already ratified.

7. Laws in the Punjab that end labour inspections of work places, in violation of ILO Convention 81 ratified by Pakistan, also require amendment in consultation with labour representatives, who confront a greater threat to their rights following the abolition of inspections.

8. The minimum wage for workers, and other legislation protecting their rights, must also be enforced. Implementation of such laws is often extremely poor.

9. Where retrenchments do take place, they must be followed by a period of training for personnel found to be surplus, so that they are equipped to handle

new, alternative jobs.

10. Workers who have already been downsized must be paid the golden handshake amounts or other sums pledged to them.

11. The standards of safety at workplaces need to be updated and implemented to avert the many needless deaths that take place as a consequence of a failure to follow precautions or provide workers with protective gear.

12. The rights of women within the workplace need to be protected. These include their rights as mothers, as laid down under international conventions.

13. Reports on the conditions of work at mines indicate a need to urgently review the situation, and take steps to ensure laws intended to protect workers are strictly enforced.

14. Self-employment and micro-credit schemes, aimed at expanding employment must be expanded and improved. Attempts to guide credit seekers towards areas where there is a potential for growth need to be stepped up. These sectors must be identified and training and technical support provided to help income seekers move into them.

15. Domestic workers need to be granted the legal protection they lack at present, leading to the frequent violation of their rights and a threat to their welfare.

FRG

State of Human Rights in 2003

VI



Social and economic rights

Education

The state shall remove illiteracy and provide free and compulsory secondary education within minimum possible period; make technical and professional education generally available and higher education equally accessible to all on the basis of merit...

Constitution of Pakistan

Article 37 (b) and (c)

Everyone has the right to education. Education shall be free at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

Universal Declaration of Human Rights

Article 26(1)

Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

Article (27)

During a year in which neighbouring India and Bangladesh rose to the category of countries with medium human development on the UNDP's Human Development Index for 2003, Pakistan remained among nations with low human development and in fact fell from 138 to 144 in the UNDP's ranking of 175 countries on the basis of development levels attained.

This placed Pakistan among the 34 countries in the world with the lowest human development, including war-torn Rwanda, Niger, Congo and Haiti. In South Asia, Pakistan's ranking in terms of human development was the lowest, with the Maldives placed by the UNDP at 86, Sri Lanka at 99, India at 127, Bhutan at 136, Bangladesh at 139 and Nepal at 143, all ranked above Pakistan at 144. The country's poor educational performance was a key factor in this.

According to the UNDP, public expenditure on education as a percentage of total government expenditure was a mere 7.8 percent. India spent 12.7 percent of government expenditure on education and Bangladesh 15.7 percent. Pakistan's

educational expenditure as a percentage of GDP was 2.2 percent and as percentage of GNP 2.7 percent.

The literacy rate for 2003 stood at 51.6 percent as per the UNDP, showing a marginal improvement compared to 2002. The Economic Survey for the year also put literacy at 51.6 percent. Unofficially, organisations active in the educational sector believed functional literacy was around 35 percent or even lower. During the year, Unesco stressed the need to modify the definition of literacy in Pakistan to align it with international standards, pointing out that according to some definitions, even those merely able to write their own names were being included among the literate.

Both India and Bangladesh had a higher number of literate adults as compared to Pakistan. The youth literacy rate in the country was 58 percent, as compared to over 73 percent in India.

The combined primary, secondary and tertiary enrollment ratio for Pakistan was 36 percent while net primary enrollment was 66 percent. Again, Pakistan finished behind all its neighbours in the region in this respect, with the low rate of enrollment suggesting it would fail to catch up with educational progress in other developing countries in the near future.

Gender inequalities in education persisted. The female adult literacy rate as a percentage of the male rate stood at 49 percent. The ratio of literate females to males between the age of 15 and 24 was 0.60. Only Nepal had a lower ratio in Asia. The enrollment ratio of girls to boys at the primary and secondary levels remained the lowest in South Asia at 0.48 and 0.63, respectively.

Impact of low literacy

While the UNDP reported Pakistan stood at 16th place among the countries with the lowest literacy in the world, education was held by various international organisations to be the key to overcoming problems such as poverty, disease, crime and social unrest.

Experts at several seminars during the year also agreed that low poverty accounted for the poor prevalence of birth control, and the continuing population expansion, which placed increased strains on limited resources.

The Economic Survey for 2002-03 noted that education helped reduce poverty by increasing the productivity of the poor, reducing fertility and improving health. Lack of education of parents and illiteracy of mothers led to high infant mortality rates of children and more gender difference in the enrollment of children.

At a conference in Peshawar in June, attended among others by representatives of HRCP, it was pointed out that promoting education was a key to eradicating child labour and poverty.

Reports by the ADB, WB, USAID and other donor organisations also pointed out that education and a high literacy rate were crucial to attracting investment and employment, two key factors in escaping the cycle of poverty the country found itself caught up in. USAID identified education as the most vital sector for overall development in the country, while noting that the promotion of education

for girls was especially vital to bring about an improvement in the health of women and children. The wide disparity in literacy between different parts of the country, with most literate people concentrated in urban centres, was seen too as a factor holding back development in rural areas. Female literacy, in Islamabad for instance, was 62.4 percent compared to only 14 percent in rural Balochistan.

Expenditures and educational policies: A matter of priority

Widespread international attention continued to focus on Pakistan's educational plight, its inability over the last four decades to keep pace with other countries at a similar level of development which had moved far ahead in this sphere, gender and regional disparities in education and the impact of low literacy on economic and social development.

The government too, facing increased pressure from both within and outside the country, pressed ahead with its Educational Sector Reforms (ESR) Plan, under which literacy was to expand to at least 60 percent by 2004, as well as a number of other initiatives. However, despite the declarations of an all out commitment to expanding literacy and education across the country, real change on the ground was slow. A crucial factor in this was that once more, Pakistan spent less than three percent of GNP on education, while over the last decade spending averaged 2.7 percent – lower than every other country in the region, and far below Unesco's recommendation that 20 percent of GNP be spent on education. This factor in itself went a long way to indicate the priority given to education by government policy-makers, and the reasons for the state of educational crisis the country faced.

During the year, the government approved several programmes on the basis of the National Education Policy 1998-2010. These programmes were aimed at addressing the issues of low literacy and participation rates at all levels of education. They also addressed the issues of quality of education, options available for technical and vocational education and the low participation rate of the private sector. They proposed the opening of primary and secondary schools, training of teachers and initiatives for enhancing the literacy rate. The total budget for these programmes was estimated at Rs 192 billion.

The continuing ESR programme, for improving quality of education at all levels, originally scheduled to run to 2004 was extended to 2005. The policy of bringing madarassahs into mainstream of education was cited as the reason for extending the programme.

As part of the ESR plan, the government had pledged the opening of 270,000 adult literacy centers, but only 6,000 were setup in 2002 and 2003.

The continuing Education For All (EFA) programme was designed to ensure that by 2015 all children in the country could complete a quality primary education, and was part of an ongoing global campaign being run by Unesco. While educational officials had made multiple pledges of ensuring the programme succeeded, it was announced in April by Unesco that Pakistan was one of 28 countries unlikely to meet EFA goals by 2015.

In March, the NWFP government formed an 11-member task force to devise

a new education strategy covering infrastructure, syllabi and teacher training.

Efforts to establish 11,250 primary schools including 2,500 mosque schools in Islamabad under the National Plan of Action 2001-15 besides upgrading 12,800 existing primary schools continued, but there were indications targets were not being met. As in the past, the poor management of educational projects and often ill-planned utilisation of funds contributed to these difficulties.

A grant of Rs 640 million was provided by the federal government to uplift 377 government schools. In Islamabad, the National Commission for Human Development (NCHD) opened 119 non-formal education centers in Mardan with the support of the World Bank, as part of a massive educational initiative undertaken by the NCHD to bring all children across the country into the educational network.

Rs 4.47 billion were approved for the Higher Education Commission (HEC), to continue its programme of reform, in the federal budget 2003-04. This allocation for higher education was 20 percent higher compared to the previous year.

The Distance Education Program (DEP) launched during the year through Paksat-I, Pakistan's first communication satellite, which was to be utilised to promote literacy in remote areas, continued to face setbacks, and remained unutilised.

Acknowledging some of the difficulties that confronted the educational sector, the Sindh education minister in July said that corruption, and not a lack of funds, was the main reason for the steady economic decline seen in the country. He said that a huge education budget of Rs 20 billion was being wasted in the province because of the dismal performance of the education department. He also asserted that out of 34,000 primary schools, 14,000 didn't have buildings.

In July, in the Vehari education department, it was found that three district education office employees had misappropriated Rs 2 million by preparing fake documents using original stamps of education department higher-ups.

It was also reported at the end of 2003 that there was non-utilisation of Rs 1,540 million meant for public sector schools in Sindh.

Despite allocating Rs 146.5 million in 2002-2003 for the task of re-opening 1,800 'ghost' schools in the province, the Sindh government failed to do so during the year. The WB again showed concern over the over 1,200 ghost schools in the Punjab, which exist only on paper. Millions of rupees continued to be squandered in the name of expenses of these schools every year.

There was no immediate indication that the devolution of education to district governments had brought any improvements. While in select districts, notably in Sindh, the new district governments did appear to be making a genuine effort to expand the number of schools, provide free textbooks and resolve other educational difficulties, in many other parts of the country mismanagement, a lack of coordination and indifference continued to prevail.

A lack of teachers and teaching facilities remained a major issue. The Punjab education department was to recruit 13,000 elementary and secondary school educators on a five-year contract basis to end the problem of the lack of teachers, but the pace of this recruitment was slow. The lack of teachers also held back

education in primary schools across Sindh.

However, despite these multiple difficulties, the indication of a greater interest in education at both the federal and provincial level was encouraging, with the need to improve the existing situation emphasised by officials on numerous occasions through the year.

Children in schools: primary and secondary education

According to the official Pakistan Education and School Atlas for the year, there were 182,636 schools in the country, with 149,280 in the public sector and 33,356 in the private sector. Of these, 142,308 were primary schools, 25,461 middle schools and 14,867 higher and secondary schools. According to the Economic Survey 2002-03, the number of primary schools increased from about 8,000 in 1947 to around 170,000 in 2003.

Government documents stated 20 million children were enrolled at public-sector schools across the country.

Figures compiled by USAID indicated that the drop-out rate for the first five years of primary education was over 50 percent, while fewer than 30 percent of children enrolling at the age of five completed secondary education. Across the country, boys, on the average, attended school for 1.9 years and girls for less than 0.7 months.

While primary education, by the start of 2003, had been declared compulsory in Sindh, the Punjab and the NWFP, there was no indication that this was being implemented. Indeed, as had been the case in the past, with Punjab also having declared education compulsory in the mid-1990s, such actions went unheeded at the ground level, with tens of thousands of children remaining out of school.

During the year, the WB announced it would assist the Punjab in providing buildings, libraries, electricity and drinking water to schools. Early in the year, the Punjab

chief minister had pledged furniture would be provided to all schools and the *tat* system ended. A grant of Rs 10 million was provided for this to



For many children, the walk away from school was a permanent one.

all educational institutions in Gujrat district, the chief minister's home area, a few months later.

Similar assurances of educational reform and free education for the poorest segments of society were also made in the NWFP, Balochistan and Sindh.

A programme at the federal level to provide meals to school children in 28 Punjab districts was initiated in April, but later abandoned -- apparently due to misuse of funds, food supplies and a failure to implement the scheme.

The Sindh Government reported an increase of 0.1 million in primary school enrollment in towns selected for implementation of the compulsory primary education ordinance. This translated into a total increase of 17.23 percent across the province.

However, somewhat alarmingly, the number of school-going children across the country continued to decline -- a finding that had first surfaced in 2002. Follow-ups to the study conducted by the Multi Donor Support Unit backed findings that enrollment was on the decline, mainly due to conditions prevailing within schools and the poverty of families. A report by the Sindh Education Management Information System (SEMIS), in March, had also shown a decline in enrollment at government schools in Karachi.

A survey conducted by several NGOs in May showed that only 65-70 percent of children under the age of 12 across the country were enrolled at schools, and that less than half of these completed primary school. Unicef figures meanwhile revealed that only 33 percent of children could read with comprehension while only 17 percent of those who completed five years of primary education were able to write a simple letter.

The studies conducted over the past few years by international agencies, NGOs and individual educationists also confirmed earlier findings that the attitudes of teachers, corporal punishment, teacher absenteeism and poor conditions at many schools were the primary reasons for children dropping out of school or for parents deciding not to enroll them. Another factor was the perception among parents that once children had completed their matriculation, they would not adopt the trades traditionally practiced by their fathers -- and would in fact remain jobless, given the overall employment scenario in the country. For instance, parents among the fishing communities on Baba Island off Karachi and other areas around the Karachi coast chose not to educate children beyond primary school due to these factors.

A report in March by the Sindh Education Management Information System (SEMIS) meanwhile stated that about 1,554 government primary schools in Karachi, or about 67 percent of the total number of schools in the city, were without electricity, 1,098 lacked toilets, 1,314 had no drinking water supply and 836 were functioning without a boundary wall. The situation in other smaller cities was reported to be even worse.

In May, the education minister told the Punjab Assembly that 604 middle and primary schools in Lahore were working without electricity and fans. Thousands others were believed to be functioning under similar deprivations across the

province.

At least 800 schools across Sindh were operating without buildings, while in several cases, buildings allocated to schools had been 'seized' by other groups, including police.

The administration of harsh beatings by teachers, with corporal punishment using rods, leather straps, iron chains or shoes in place in an estimated 80 percent of schools, further added to the hardships faced by school-going children. *[See also chapter on Children].*

In other cases, shortages of staff, teacher absenteeism and related difficulties meant even children attending school were not receiving an education.

The location of schools at a distance of over one kilometre from villages, a common factor across rural areas in all provinces, was seen as a problem seriously affecting the education of girls in particular, while efforts by the government to remedy this situation remained generally slow with plans devised in Islamabad often failing to take into account ground realities

Children out of classrooms

According to an official survey of public sector schools in the Punjab, the results of which were released early in the year, the participatory ratio for classes 1 through 5 was 56.5 percent, for classes 6 through 8 was 24.6 percent and for classes 9 through 10 19.5 percent. The dropout ratio for classes 1 through 5 was 57.9 percent, for classes 1 through 8 72.9 percent and for classes 1 through 10, 87 percent.

The number of children who had never enrolled at school remained high, and was estimated by international agencies to be over 37 percent for boys and 55 percent for girls. Even the 65 percent of children who entered school, in over 20 percent cases had dropped out within the first year. Attendance at schools was often erratic, particularly for girls burdened with chores at home. Nearly 30 percent of children attending primary schools were unable to come to school for over 40



A brighter life just yards away.

Danger at school

In one case reported during the year, a child nearly lost his life due to actions taken by his teachers

Corporal punishment remained prevalent at the vast majority of schools, and students reported being violently beaten with rods, rulers, shoes, iron bars and shoes. In a number of cases, students suffered serious injury as a result of such beatings – meted out for offences such as failing to complete homework, giving an incorrect answer to a question or not having the right textbook.

For 11-year-old Mohammad Amir, a student of Class 5 in a school at Kamilpur village, Haripur, the infliction of physical abuse almost resulted in the loss of life. Amir was accused of stealing a teacher's muffler. When he denied this, two of his teachers, Saeed Akhtar and Waseem locked him up in a classroom and beat him with a wooden rod for over an hour. Even though he suffered severe injuries, he was not allowed to go home. Amir reportedly repeatedly warned the teachers he would commit suicide – and after he was eventually released, he set fire to a stack of hay and then jumped onto it. He suffered serious burns and had to be rushed to the district hospital after other students dragged him out.

Astonishingly, as news of the incident began to spread, police lodged a case for attempted suicide against Amir, but despite the pleas of his grief-stricken parents, who were given an account of what had happened by other students, no action was taken against the teachers.

Within a week, the Rural Development Project (RDP), an NGO based in the area, took up the case and organised a demonstration that was joined in by several child right organisations. Students of Nurpur Shahan School, the only academic institution represented in the demonstration, also joined in.

The RDP tried to register a case against the two teachers, but were thwarted by police. NGOs formed a joint action committee in Kamilpur, and after six days of protests, an FIR was lodged and the teachers finally arrested.

Meanwhile, Amir had to be moved to the Rawalpindi General Hospital as local medical facilities did not have adequate burn treatment facilities. The two teachers were granted bail by the judicial magistrate and continued teaching.

The incident drew widespread attention to the kind of abuse suffered by children at schools. In the absence of steps to punish those responsible for such abuse, it was feared that children at other schools were suffering similar treatment, inflicting both severe physical and psychological damage.

Indeed, at least six other incidents were reported during the year of physical abuse at other schools in which children had suffered fractures or other serious injury. In one case, Shaheena, student at a government school near Kohat, was apparently so badly beaten on the hand by a female teacher that doctors treating her for multiple fractures of the fingers warned she could lose partial use of the damaged hand.

percent of working days in the year. The high truancy rate also meant many did not turn up at school, or left early.

The result of these realities was that tens of thousands of children in the country remained out of schools and on the streets, or at work. The problem was aggravated by the fact that in the NWFP, for instance, there were no schools available for over 700,000 children. Even in urban centres like Karachi and Lahore, thousands of children did not attend school, and it was estimated that across the country, most children aged between five and 15 years were in fact not enrolled at schools.

Lack of facilities and the absence of teachers kept many children away from schools in addition to poverty. Poverty was believed to be the key factor in the low enrollment and high dropout rate, with parents unable to pay fees or foot the bills for uniforms, shoes and textbooks.

The presence of 'ghost schools' also contributed to the low enrollment rate, since in many cases, schools that existed on paper were not functioning. Over 4,000 such schools were thought to exist in the Punjab alone.

It was apparent that more attention towards meeting the needs of children in classrooms could play a huge role in preventing them from dropping out of school. The ILO and Unicef reported in June that at selected primary schools in the Sialkot district, where the two organisations had conducted a joint programme, the dropout rate had fallen from over 45 percent to 0.7 percent within a year, mainly due to improvements in classroom facilities and the training of teachers.

In Karachi a significant increase in the dropout rate of children from classes 1 to 6 was observed, with reports suggesting that this was a pattern being seen across the country. While in some cases, children dropping out of public-sector schools were being sent to private institutions or madrassahs, in other cases there were joining the labour force, with increased adult unemployment adding to the number of child labourers in the country. *[See also chapter on Children].*

In Sindh, more than two million girls aged between four and nine years were reported to be out of school, according to findings presented at a workshop in July organised by Unicef and the Sindh education department.

The Punjab government meanwhile maintained that its policy of ensuring cost-free education would within a year bring another three million children into schools.

The NCHD launched a campaign to re-enroll school dropouts as well as educating children who had never been to school. In September, 17,590 children including 9,037 females were enrolled in 147 formal schools in Narowal, from among over 18,000 children who had dropped out during the past two years.

The National Literacy Campaign, which aimed at making 13.5 million people literate to enhance literacy rate to 60 percent by the year 2005 was also launched across the country during the year.

Public-private cooperation

The government policy of handing over a greater and greater proportion of

public-sector schools to NGOs and other private sector organisations continued.

While such steps, over the short-term, did in many cases bring about an improvement in teaching standards and facilities at schools, there was growing concern about the impact the moves towards an abdication by State from responsibility for education, health and other vital social sectors would have. It was also pointed out by experts that the government needed to take steps to ensure the public-sector school system, functioning in extremely grim conditions, was revived and made capable of meeting the educational needs of children in the country.

Despite these reservations, it was clear that schools run by NGOs and private educational initiatives taken by groups of citizens in many parts of the country were playing an extremely positive role in the lives of children.

An estimated 80,000 children in the Punjab continued to be educated at the 'second shifts' run by NGOs at government schools, under a scheme initiated three years previously to allow NGOs to utilise these premises. Students from these 'second shifts' also appeared in matriculation examinations for the first time during the year.

In the NWFP too, the 'second shift' system was introduced with NGO cooperation, and 10,000 children enrolled at such schools.

In the Punjab, more and more government-run schools were also handed over to NGOs, such as CARE, in a bid to improve conditions within them. The handing over and the induction of new teachers under NGO supervision did bring some changes, while in other cases it was found teachers already at the schools resisted any kind of change in teaching methodology. In March, around 220 government schools in Lahore were handed over to CARE by the city district government of Ravi Town. CARE was empowered under the agreement to monitor and manage the schools and make recommendations to improve standards.

Meanwhile, parents of children enrolled at schools run by the railways department, which had the previous year been handed over to a group operating chain schools in the private sector to manage, complained of rising costs in the form of new books, computer fees and so on.

The Punjab government also announced it was putting in place a strategy to encourage elite private schools to retain a quota of around two percent within the institution for non-fee paying students.

During the year, the NCHD announced it had raised US \$48 million from the private sector to develop primary education, while donations for education continued to come in, often from Pakistanis based overseas.

Private sector schooling

The growing disparity in the amount spent on education for children at public-sector and private schools indicated the growing dichotomy, both in fees and often in standards, between these two streams of education. In government schools, around Rs 1,675 were spent annually on the education of a child, while

at private schools this amount was Rs 4,477 on the average.

The continuing decline in the state of public-sector schools also meant that parents who could afford to pay the fees increasingly enrolled children at private institutions. Sadly, in many cases these schools, given the lack of regulation, exploited people desperate to give their children an education, offering standards that were only marginally better than those at government schools.

Even more elite private schools, in many cases, failed to deliver the facilities parents had been promised, while less than 10 percent of all private schools, according to some press reports, employed a full staff of qualified teachers.

On the other hand, private schools filled a crucial educational space, and some at least seemed able to provide both quality education and a feasible fee structure.

According to official figures, there was a 30 percent increase in private sector schools in rural areas over the year, indicating the growing demand for quality education.

Attempts to register and regulate private schools, despite the recommendations of the



These private school pupils appear to have few complaints.

1998-2010 educational policy to put bodies in place to monitor private schools, continued to flounder. In Sindh, a law introduced in 2001 to register all private schools remained widely unheeded, despite efforts by parents, who repeatedly called for a mechanism to look into allegations of overcharging, inflated fee structures and sudden fee increases at schools. The school managements ignored district government orders to register their schools and more than 7,500 continued to function in total violation of rules

According to a press survey in June, over 85 percent of private schools in Punjab were substandard, in terms of teaching and facilities, and were found to be operating only to earn profits..

According to the Punjab education department, out of the 32,000 private schools in the Punjab, 20,000 had failed to register fearing the imposition of taxes.

At least 721 schools in Lahore faced a threat of closure due to a failure to follow laid down rules, while in Islamabad, 86 were forced to close down in

September.

The Sindh government, in March, pledged a new, effective law to regulate the mushrooming private sector, while acknowledging it met the needs of many families. Private schools meanwhile also noted a rapid increase in the demand for education in English, with parents seeing this as the key to a brighter future for their children.

Textbooks and syllabi

The interest seen in 2002 in updating curriculums and devising syllabi better able to creatively encourage learning continued.

Efforts to include environmental protection, human rights and other issues in textbooks were also seen.

According to an official report released in June, dealing with the subject of gender biases and stereotypes in school texts, women who had played a key role in history were being ignored. The report also stressed the need to eliminate gender stereotyping in books used by children at schools.

While these were encouraging steps, as in so many other areas, implementation remained a problem. In many cases, those hired to re-write school books failed to make any significant improvement on those that had existed before. In other cases it seemed that material on health and on gender issues had been introduced only as a 'token' to satisfy foreign donors. In the Punjab, for instance, a draft text on human rights for secondary school students seemed to emphasise the stringent practice of religion, rather than making children aware about key social issues or the rights of others.

A newspaper article in August, by a noted educationist, meanwhile observed that books being taught at most schools, including some of those under the revised curricula scheme, continued to encourage distrust for Indians and promote many other biases already present in society. At seminars, it was also pointed out by experts that syllabi at schools, along with the limitations of teachers, failed to encourage children to think creatively. In many cases, teachers at all levels promoted the use of 'guidebooks' as a means to pass exams, despite the emphasis such books placed on rote learning.

Implementation of the revised curriculum was delayed, and in March the Sindh Textbook announced that these books could only be available for the academic session 2004-05.

The federal education minister in June announced that changes would be made in textbooks every five years, but not sooner than that, so that second-hand books and so on were easily available to poor students.

At the higher educational level, the HEC announced it would revise the curricula of 16 engineering and 23 other disciplines including social sciences and engineering sciences being taught in public sector universities. It was noted that many of these books contained serious technical errors. The poor English in books taught at various levels was also pointed out, and the need to re-write such texts stressed.

All four provincial textbook boards once again failed to ensure availability of

books on time, at the start of the new academic session. Complaints of shortages of school-books came in from across the country in April. Almost 80 percent books including those for Class 9 and 10 were not available in the market, creating acute problems for both children and teachers.

Retailers maintained they hadn't received books from the board. The Punjab textbook board claimed in April that the shortage occurred because a bulk of books had been sent to Balochistan, since it had also been asked to publish texts for the province. The shortage was aggravated as new books had been introduced in many subjects, which meant secondhand books could not be used, as had been the case in the past.

The NWFP and Sindh boards changed all the books but were unable to publish the new ones on time, with Sindh announcing a delay in introducing the altered curriculum. The problem of the shortage of textbooks continued into June in the Punjab. In June, the task of printing textbooks for the Punjab and NWFP, as well as those texts still not available in other provinces, was handed over by the federal government to the Printing Corporation of Pakistan.

It was also noted that although the shortage of textbooks had been continuing for years, the government had failed to take steps to resolve the problem. While some improvement in the quality of new books was noted, in other cases poor quality paper, use of substandard ink and unattractive designs meant many books were not suitable for use by young children.

Corruption and mismanagement within textbook boards was said to be rampant, as had been the case in the past, and no improvement was seen in their performance.

Issues of teachers

The grievances of teachers, who of course played a key role within any educational institution, remained unresolved through the year, with salary structures, postings and other issues cropping up again and again.

Indeed, the lack of motivation and the poor attitude of teachers, especially those at public-sector institutions, were seen as possibly the most acute problem plaguing the educational system.

While teachers, early in the year, continued to protest plans to denationalise schools and the Model University Ordinance (MUO), promulgated late in 2002, in a repetition of the rallies seen in 2002, the Punjab government began a process of dialogue with teachers and doctors, who formed a part of the Joint Action Committee (JAC) constituted the previous year. The JAC in particular opposed the provision under the MUO that a board of governors run the affairs of educational institutions, including medical colleges, with control over the setting of fees. A commission, to look into the affairs of the health sector and autonomy within it, headed by Justice (retd) Mujadid Mirza was set up by the Punjab Government and by early 2002 had made recommendations that largely supported the stance taken by the doctors and teachers. A commission under Justice (retd) Ijaz Nisar, set up following the Mujadid Mirza commissions findings, also looked into whether the recommendations made by it should be implemented. The Punjab government

meanwhile promised representatives of doctors and teachers during meetings that those sacked during the angry protest rallies of 2002 would be restored to their posts.

While the JAC continued to make demands through the year for the full implementation of the Mirza Commission's recommendations, not only in the Punjab but across the country, the initiation of a dialogue, the reinstatement of persons sacked and changes in the health sector made by the Punjab government resulted in the row cooling down considerably.

The MUO however continued to be opposed, with the minor alterations proposed by the federal government in May dismissed by the JAC as mere tinkering. In September, President Pervez Musharraf once again reiterated the MUO would be enforced across the country.

In December, the JAC announced it was launching a protest against a decision taken by the Lahore district nazim to appoint union council nazims to school councils. The JAC stated this decision violated previous court orders on the matter, while also opposing the handing over of schools to NGOs.

At the Foreman Christian College (FCC) in Lahore, teachers meanwhile continued to protest plans to transfer at least some amongst them as the new management of the institution, following denationalisation in 2002, continued a process of assessing the qualifications of those on the staff. The denationalisation took place amid fierce protests by student groups, led by the IJT, and also teachers. The college was handed over to missionary management early in the year.

Other problems also remained in place. Many of the teachers that were available at educational institutions remained unpaid. In other cases there were acute shortages of staff.

In May, it was reported in Rawalpindi that around 1,200 teachers had not been paid for four months. Similar reports came in from Dera Ghazi Khan. These teachers had been appointed on a contract basis by the district governments in 2002 and the district education officers claimed the delays in payment were due to a process of verification of certificates and because of bureaucratic red-tapism.

In a drive to make the education system more transparent, 123 teachers were sacked for having fake education documents in Quetta in March, aggravating staff shortages at schools.

In September, the Sindh education minister informed the Sindh Assembly that 3,700 schools in Sindh remained non-operational due to the shortage of teaching staff, and promised recruitment would soon be begun.

In October, reports from Mirpurkhas stated that 92 schools in the district remained closed due to a lack of staff.

In January, it was found that 187 primary schools were lying closed in seven talukas of Dadu, in most cases because teachers failed to attend the schools. In some cases they were still drawing salaries despite this.

At least 28 primary schools in Landi Kotal were reported in November to have been without teaching staff for the last five years. 150 schools in the Attock

district were forced to close down due to acute staff shortages in the middle of the year. There had been no recruitment of teachers in the past five years in the district.

Similar reports came in from Malakand, where there was a shortage of female teachers, with many girls not attending school due to this.

In Okara, classes couldn't start because of the non-completion of buildings of 98 schools and because of non-availability of teachers, with no evidence that this issue was moving towards resolution..

Higher education - the college years

Official documents acknowledged that with a few notable exceptions, Pakistan's public and private sector universities suffered from a lack of resources, ineffective governance and institutional weaknesses.

In addition, problems of discipline, violence on campus and difficulties with the administration of examinations compounded these issues.

The Higher Education Commission (HEC), set up in 2002, meanwhile began the task of devising strategies and putting in place policies to improve the higher education sector and the quality of students it produced. It also stated one of its main objectives was to make higher education more widely available, with only 2.6 percent of people in the country at present having access to college or university education.

As a step towards this, an Ordinance was promulgated in April for establishment of a federal Urdu University of Arts, Science and Technology. This was to facilitate researchers and scholars who used Urdu as their medium. The dearth of such a facility had been pointed out as a key reason for the extremely limited research taking place in the country.

The Pakistan Organization of Collaborative Research (POCR) programme was initiated by HEC in Karachi in January to provide linkages with foreign universities and scientists in order to foster more research and interaction.

The HEC also laid down a detailed set of conditions under which new institutions would be opened. It focussed on assessing financial needs of public-sector universities and devising guidelines aimed at improving the standard of post-graduate research. The HEC continued to advocate the implementation of the controversial Model University Ordinance (MUO), promulgated late last year. The MUO had led to a huge controversy through much of 2002, with teachers and



Research in all spheres was very limited.

students fearing greater autonomy for colleges would lead to job losses and higher fees. Despite this, President Musharraf in late September announced plans to enforce the MUO early in 2004.

The government began funding performance-based incentives to universities to implement a modernisation programme devised by the HEC. Access to higher education was to be based on entrance tests under new 'fair policies', while plans to develop a testing system that could curtail cheating also began.

The HEC listed 95 chartered universities in the country, out of which 53 were in the public sector and 42 in the private sector, and stressed the need to focus on technical and vocational education. The figure indicated an increase in the number of universities from the 42 in the public sector in 2002.

Rs 4.47 billion were approved for HEC in the federal budget for 2003-04. This allocation was to be spent on 186 projects for strengthening higher education under public sector development programmes.

However, despite this renewed focus on higher education and efforts to uplift standards, the problems faced remained acute. Reports early in the year stated that around 900 posts of teachers remained vacant in colleges in Karachi. There were also numerous complaints from across the country by students and parents of poor teaching at colleges and universities, of teacher absenteeism and of a failure to provide students with access to libraries, laboratories and other facilities.

Mismanagement in the administrative affairs of universities also remained commonplace. Reports in June indicated frequent use of 'emergency powers' by the vice chancellors of universities in the Punjab. The Punjab University vice-chancellor spent Rs 75 million from January to June in the unprecedented use of emergency powers. He took 134 emergency decisions and the cost involved was almost 15 percent of the total six-month budget of the university, with the spending not approved by the university syndicate.

The Punjab University spent Rs 1.4 million on the purchase of eight Mercedes vans for its administrative staff and heads of various departments, which were apparently mainly used for personal transport by senior staff. Earlier, a number of research proposals had not been funded because all the university departments were short of funds to carry out research.

In July, noting the mushrooming of private universities, HEC stressed to federal and provincial governments the need to adhere to the criteria set for the establishment and affiliation of institutions of higher learning. It also warned illegally set up universities would be held responsible for damaging the careers of students.

Following this, in September, the Punjab University issued notices to six chartered universities, asking them to close their 50 illegal campuses operating in the Punjab University's jurisdiction without legal authority. By October, most of these universities had been forced to close down. The Punjab education minister stated all illegal universities across the province would be closed, and asked

government members not to attend functions arranged by such institutions.

The minister said a study of university expenditures and results had been completed, with the help of the Institute of Education and Research as well as private companies hired for the purpose. He promised the publication of results, starting with those for private universities, and asserted these findings would be used to improve educational standards in the future.

In July, the coordinator of Orient University was arrested in Peshawar after the FIA recovered bogus foreign university degrees and stamps from him.

Despite these steps, hundreds of illegal private colleges continued to operate across the country, in many cases claiming affiliation with institutions abroad. The HEC, and foreign universities, several times during the year warned students against such institutions. Standards of education at many private colleges also continued to come under attack, although a select few offered standards that were comparable to those in place elsewhere across the world.

Several cases of use of unfair means to seek admissions were reported once more. In May, the Pakistan Medical Association (PMA) in Karachi called for action against all faculty members, doctors and administrative staff of medical colleges who knowingly indulged in wrongdoing, after students who did not qualify on merit were granted admission to Sindh Medical College. The students and six college staff members involved were expelled in September. A student refused admission at the International Islamic University, Islamabad (IIUI) also complained in April that places had been allocated on the basis of nepotism rather than merit.

A shortage of seats at colleges prevented many from seeking further education, with over 2000 students, making up 13 percent of the total number of boys who passed the pre-engineering intermediate examination in Karachi declined admission due to a lack of seats. Similar problems were also faced in other cities.

Violence at campuses continued, as had been the case in previous years. In October, a student was shot dead at the prestigious Quaid-e-Azam University in Islamabad, apparently as the result of a long-running feud between Punjabi and Pushtoon students.

In January, students of Islamia College, Karachi, protested the non-availability of rooms in hostels and ban on study tours. They resorted to pelting stones at college buildings, including the principal's office, as part of a protest organised by the Muttahida Tulaba Mahaz. 23 were arrested, as police baton-charged the students and used tear-gas canisters to disperse them.

In April, at least 10 students were injured when two student groups clashed over the distribution of stickers at the Sir Syed University of Engineering and Technology, Karachi. The unrest started after a group of students belonging to the All Pakistan Mohajir Students Organization (APMSO) objected to a sticker campaign organised by the Islami Jamiat Tulaba (IJT) students, apparently to promote candidates contesting general elections.

The incident triggered off clashes between the APMSO and the IJT at

campuses across Karachi, with the political tension between the political parties to which these groups were allied fuelling the unrest between them. Indeed, the violence was at its most acute ahead of by-election contests in Sindh pitting Jamaat-e-Islami candidates against those of the Muttahida Qaumi Movement (MQM).

In April and May, academic activities at about a dozen educational institutions in Karachi were disrupted as the rival students groups clashed. The groups mobilised hundreds of activists, and scenes of primitive warfare, involving the use of crude clubs, broken bottle, home made explosives and hockey sticks were seen at many campuses. Around 30 activists from both the sides suffered serious injuries and around 70 were detained by the police. These institutions affected by the violence included Karachi University, Jinnah College, Premier College, City College, Science and Arts campuses of the Federal Urdu University of Science, Arts and Technology, NED University of Science and Technology, Saify Polytechnic, Jamia Millia College and Government College for Men, with several of the colleges closing down briefly.

The clashes finally tapered off towards the end of May, as political leaders began an effort to promote negotiations between the two groups and mediate a ceasefire.

In another incident in 2003, the student wing of a religious party terrorised the members of the Progressive Youth Front (PYF) at the Karachi University campus. They were beaten up on two successive days and were prevented from attending their classes. The incident took place even as large contingents of Rangers, deployed at Karachi University in 2002 amid protests against administrative steps at the college and government policies, remained present on the campus, but failed to protect the PYF members, despite their complaints.

In August, the Principal of Government College of Commerce and Economics, Karachi was wounded in a shoot-out between students of IJT and APMSO over a dispute about the setting up of admission camps. The students and teachers of the institution boycotted classes and stopped examinations being held to protest the incident.

In May, a group of around 35 students linked to the IJT beat up six Punjab University students, including an Iranian, after they had organised a cultural show featuring both men and women. Two of the IJT students were arrested and charged, but despite this, students linked to the group continued to disrupt activities on campus organised without their 'consent'. Other similar attacks by IJT students were reported from campuses in Karachi, Peshawar and other cities. In May, IJT activists forced a Gujranwala-based NGO to wind up its one-day training programme on campus, despite the fact that the NGO had the formal permission of the vice-chancellor. IJT activists said that the NGO was spreading objectionable literature.

In an alarming increase in such incidents, at least 12 complaints were made to heads of department at Punjab University against harassment by IJT activists. In many cases, male and female students spotted talking to each other were threatened or harassed. Women students at the campus meanwhile also complained

of increased incidents involving teasing and harassment from men on the campus.

In August, Government Degree College, Loralai was closed for three days following clash between two student groups. Several people were injured. The Pukhtunkhwa Students Organisation alleged that supporters of religious forces tried to suspend classes to hold a function, and when they refused, they attacked other students.

On campuses in Peshawar, following the swearing in of the Muttahida Majlis-e-Amal (MMA) government late the previous year, women students complained of increased pressure to don head coverings, and follow a strict dress code, while all musical functions and other events were stopped as a result of pressure from pro-MMA student groups.

The examination circus

Flaws in the administration of examinations, rampant cheating and corruption on the part of officials, as well as huge inaccuracies in the announcement of results continued to cast doubts on the reliability of the existing system as a means to determine merit or ability.

In addition, educationists also pointed out that the manner in which examination questions were set encouraged learning by rote rather than the ability to think. Increased criticism of domestic examinations also explained the trend towards 'O' and 'A' level examinations, seen across the country.

In September, the Punjab education department reintroduced examinations for classes I to X. A five-member committee had earlier been set up to make recommendations on the decision to abolish all examinations at school level. Parents and teachers however complained the new internal assessment system that replaced examinations was confusing and standards were suffering due to the lack of testing. The decision indicated the chaos caused by hastily devised changes in existing systems.

The HEC formed a high-powered committee in September, comprising vice-chancellors of all public sector varsities, to review the examination system and suggest improvements. The committee was to initiate a detailed study to detect flaws in the existing examination system and to ensure uniformity in the examination system at universities.

With results of most examinations continuing to produce an extremely low pass rate, the Punjab education department in September constituted a three-member committee to look into the poor BA and B.Sc results. The pass percentage in the final examinations held in April-May 2003 was 35.19, which was three percent lower than the previous year. Out of a total of 120,167 candidates, 40,182 passed the examination. Girls again outshined boys, and 54.39 percent girls cleared the examination. Six out of the eight top positions were claimed by candidates from smaller towns, while in a pattern that showed up in examinations at almost every level, girls consistently outperformed boys.

The Board of Intermediate and Secondary Education (BISE) Lahore declared the result of the annual matriculation examinations 2003 in June. Out of 160,084

candidates, 84,912 were declared successful with a pass percentage of just over 53 percent.

The overall pass percentage for intermediate examinations in the Punjab hovered at around 50 percent, with girls doing better than boys in all areas except the pre-engineering examination.

Students meanwhile continued to protest what they saw as 'unfair' examination papers – with papers failing to reflect the standard pattern frequently included among these. Students at three colleges in Faisalabad boycotted the B.com part II accounting paper in April, maintaining it was 'out of syllabus'. Students at six out of 46 examination centres in Lahore also boycotted the paper, and staged a protest that soon assumed the shape of a riot as Punjab University buildings were attacked and attempts made to disrupt other ongoing examinations. Over 200 B.Com candidates were arrested, with at least 17 booked under the anti-terrorism act. The Lahore High Court (LHC) began hearing an appeal by the students in the middle of the year.

Students launched another protest after they declared the Punjab University's Bachelor of Law (LLB) part-III paper to be 'out of course', and demanded the award of 'grace marks'. Similar complaints were made about papers in other subjects in various cities.

The administration of examinations and the compiling of results also created difficulties. LLB students complained about the Punjab University's disorganisation in issuing roll numbers, intermediate examinations in Karachi were badly organised with centres and dates changed several times while in at least two cases reported during the year, the Punjab University was found to have made a major mistake in the announcement of results,

Cheating, and organised gangs that played a part in it, remained a major menace. In Sindh, teachers involved in giving tuitions were said to form a part of groups engaged in acquiring question papers before examinations and then selling the answers.

Cheating at examination centres of Intermediate and Secondary Education in Lahore was reported to have declined during the year, mainly as a result of heavy police deployment. Monitoring teams detected 29 incidents of unfair means, less than half of those discovered the previous year.

In one case, an examination invigilator in Lahore was found to be facilitating two candidates in cheating in the English paper of Intermediate annual examinations, 2003. In September, four law students were arrested in Lahore on charges of leaking out a paper. In Kohat the controller of examinations was terminated by the Chancellor of Secondary Board of Education for taking bribes from teachers who wished to be appointed as examiners.

In Dera Ghazi Khan, education authorities tracked down a person who had appeared for matriculation exams at least 22 times using different names. He stated that he had appeared on behalf of 16 candidates since 1996.

While the government continued to call for still tougher policing at examination centres, it was also pointed out that the issue of cheating should not be treated as

merely one of tough law enforcement – since issues of ethics, educational standards and the entire system of admissions and appointments formed a part of the whole problem. Its scale was also evidenced by the fact that according to a newspaper survey in the Punjab, over 80 percent of students at all levels, including those still in primary school, openly said they would be willing to cheat or assist a friend in doing so.

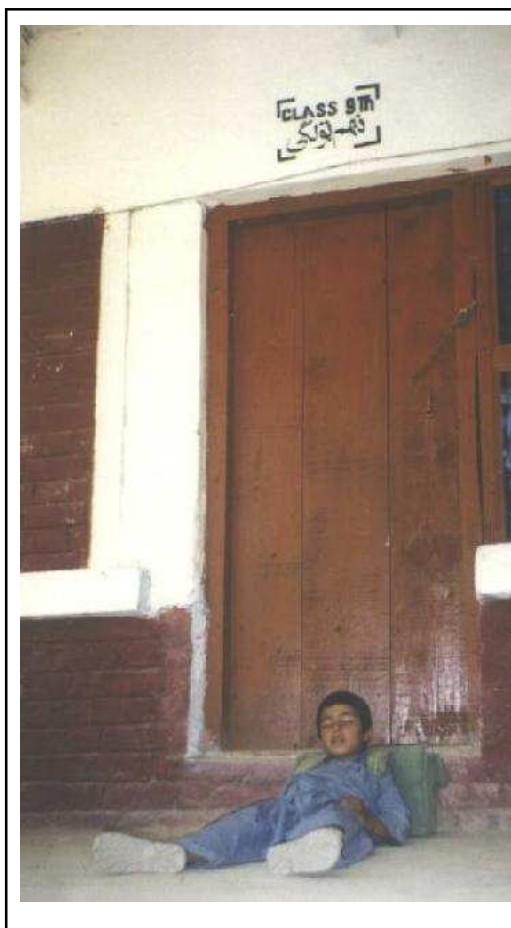
Standards of learning

While international organisations such as Unesco found that poor teaching standards at schools meant many children who had completed five years of education lacked basic numerical and literacy skills, educationists within the country repeatedly pointed out that students churned out by the education system lacked the ability to reason, had extremely narrow views on many issues and had poor knowledge about current issues.

The fate of the federal government's National Education Assessment, which had begun in 32 districts in 2002 was meanwhile unknown. The assessment had been announced after a group of independent educationists had found 37 percent of students who completed primary education could not read or write with comprehension, and over 80 percent could not write a letter. These findings cast serious doubts on existing literacy figures and the manner in which these were determined.

It was agreed that with a few exceptions, the vast majority of private institutions and government schools were imparting an extremely poor education to children.

Some of the reasons behind the situation were identified by the NWFP Governor, when he pointed out early in the year that Pakistan had allocated extremely low resources for the educational sector, and that teachers hired at such poor salaries could not be expected



Bored into slumber?

to impart quality education.

Other government officials too during the year continued to stress the need to uplift educational standards, especially in science subjects, and to provide updated curriculums in all fields. Little was however done to actually implement steps that could help achieve this.

The declining standards of education were also highlighted by the increased reluctance of foreign universities to accept Pakistani degrees. In many cases, Pakistani students needed to clear stringent testing prescribed by these institutions to enter colleges in the UK, the USA or other countries.

The Federal Public Services Commission (FPSC) noted the declining standards of candidates applying for posts, with over 400 vacancies lying open in Grade 11 and above as no applicant was able to qualify for the job. Poor standards of English at all levels was pointed out as a particular problem by the FPSC, while other institutions interviewing job seekers stated that the knowledge of candidates holding economics, mathematics or business degrees was often extremely poor, as was their ability to write out a simple report or analyze a text given to them for this purpose.

Gender discrimination

Despite the increased emphasis placed on education for girls, with many international organisations strongly stressing the need for this, the literacy gap between males and females continued to widen.

The Pakistan Education School Atlas for the year showed male literacy at 60 percent and female literacy at 36 percent. Even this however indicated a rapid change in the situation since 1980, when the female literacy rate was only 16 percent. Despite growing awareness and willingness to provide girls with at least a basic education, in the tribal areas of the NWFP, only 0.5 percent of girls were literate – the lowest rates in the world – while in many parts of Balochistan, female literacy stood at just under four percent.

According to the Economic Survey for the year, out of the 6,249 schools up-graded in the Punjab and NWFP, 60.76 percent were girls' schools. In addition to this, 50 percent development allocations were provided to girls' schools. Education for girls remained a focal point for the 'Education for All' and other programmes of the government. But even while such plans continued to be drawn up, ground realities meant that in many areas, girls could not attend schools because they were located at too great a distance from their homes. In many rural areas, parents were unwilling to allow girls to attend schools located more than three kilometers away from the village. Steps that could help overcome such difficulties, such as a school transport system for girls and women teachers, were not put in place.

In its latest report, the UNDP placed Pakistan at 120th place among 146 countries in terms of female literacy, and estimated that only around 27 percent of adult women had even basic literacy skills. All other countries in South Asia, and most of those around the world, fared better than Pakistan in terms of their ability to educate girls. This was also true of Muslim countries, with Bangladesh,

Iran, Kuwait, Bahrain, Egypt and Saudi Arabia among the countries boasting far superior levels of female enrollment and literacy.

NGOs working in the sector pointed out the need to offer girls more flexible hours at school to fit in with their heavy domestic and agricultural responsibilities, and an education more relevant to their needs. Surveys showed that many parents were reluctant to send girls to school because the curriculum was seen as 'meaningless' for them.

Increased poverty and unemployment meanwhile took a heavy toll on the education of girls, as schooling for female family members was often the first expenditure to be stricken off the list as financial stresses on families grew.

To strengthen the on-going process of gender empowerment, the Norwegian government financed a large-scale project for education in the Federally Administered Tribal Areas in August. Around 200 gender-mixed community schools were set up, with another 150 to be set in place as part of plan.

Schooling at madrassahs

The madrassah education sector, which met the educational needs of tens of thousands of impoverished families, remained the fastest growing segment within the educational sector, with around 29,000 madrassahs estimated to be functioning in the country. Less than 9,000 among these were registered.

The failure to resurrect the public education sector, or to save it from the state of collapse into which it had slumped, meant madrassahs increasingly moved into the huge educational vacuum left behind by the sharp decline in standards at government schools,

Despite the fact that there was some improvement in registration of madrassahs by their administrations, dozens of new, unregistered madrassahs were reported to be cropping up around the country. This mushrooming of madrassahs, which had previously remained most conspicuous in the NWFP and Punjab, was also seen in rural Sindh.

According to newspaper reports, Karachi was unofficially reported to have some



Boys at a madrassah take a brief break from their books.

264,169 students in around 1,248 madrassahs. In Lahore, there were nearly 15,000 students in 266 madrassahs. The madarassah administrations meanwhile stated that they had registered a total of 16,000 students in Karachi during the year, while an upsurge in admissions at madrassahs was reported in February, as preparations began for a US-led attack on Iraq.

Foreign students, including those from Malaysia, Indonesia, Thailand, Afghanistan, Central Asia and Africa continued seek religious education at madrassahs in the country. A report by the Sindh government in August stated that more than 10,000 foreign students were studying in 1,248 madrassahs in the province with 869 in Karachi alone. Following these findings, a raid on madrassahs was carried out in September, with dozens of Malaysian and some Indonesian students among those held. Authorities also stated some of those arrested included militant elements linked to the al-Qaeda.

Both before and after the raid, foreign students continued to leave the country, though it was believed a relatively small number remained at madrassahs in more remote areas of the country.

While almost no headway was made in enforcing laws under which madrassahs were to register themselves and provide details of staff, students and finances, the government pressed ahead with its attempts to implement the Madaris Ordinance, 2002. The Ordinance was aimed at integrating the madrassah system into the mainstream education system, with Rs 1 billion allocated for this task. The main aim behind the policy was to offer modern education at madrassahs, including mathematics, English, science and other subjects, and as such open up more employment opportunities for the 1.5 million madrassah pupils spread out across the country.

Efforts to implement this policy and to upgrade facilities at madrassahs continued in all the provinces and in Azad Jammu and Kashmir. Non-government observers however questioned whether introducing such steps in the 8,000 or so registered madrassahs would have any marked impact while over 20,000 other, unregistered institutions continued to operate. It was also argued that introducing additional subjects, apart from a study of the Holy Quran, would do little to end the intolerance and hatred often imparted to madrassah students, who successive studies by academics suggested held views sharply different to those of children in mainstream educational institutions on women, minorities and 'jihad'. In a setback to government plans, in late October, the Wifaqul Madaris, or central controlling body for madrassahs, linked to the orthodox deobandi school of Islamic thought which runs the largest number of madrassahs in the country, decided after a meeting in Multan not to accept government funding or regulation by authorities. The madrassah heads decided they would take steps independently to modernise curriculums. The deal with the MMA on the Legal Framework Order (LFO) reached at the end of the year was believed to include an agreement on the status of madrassahs, creating still more doubt over whether the government would continue with steps to regulate these institutions.

Educational experts also argued that rather than recognising madrassahs as a part of the mainstream system, the government would be better advised to devote

resources and attention on improving government schools and turning these into viable educational options for families.

Meanwhile, conditions at many madrassahs remained extremely grim. Corporal punishment was common, and reports from Multan, Attock, Peshawar and other areas stated children were subjected to torture, sexual abuse and had been kept in fetters. A teacher at a madrassah in Kohat was arrested in June for brutally beating a boy aged 8, and causing internal injuries. In October, a teacher at a seminary in Islamabad allegedly sodomised a ten-year-old pupil, and then threatened him with death if he told anyone about the incident. The abuse came to light only after the child fell ill, and was admitted to the Pakistan Institute of Medical Sciences (PIMS), where staff suspected sexual trauma. The boy finally told his mother about the sodomy, after which his maternal grandfather lodged a FIR against the teacher. The accused however managed to flee, while the boy was removed from the school. Hundreds of other cases of abuse and ill-treatment are thought to go unreported.

The federal government announced in March it was preparing a report on madrassahs and compiling data on their numbers, students enlisted at them and their sources of funding. Provincial governments and the police were meanwhile urged to check the expansion of madrassahs, but it was unclear what steps they were to follow for this purpose.

During the year, reports also came in of raids by police, agency personnel and in some cases other authorities on madrassahs in Peshawar, Islamabad, Miran Shah, South Waziristan and other areas – apparently as part of the campaign against militant elements.

Meanwhile, government functionaries continued to encourage tours to ‘selected’ madrassahs by foreign visitors, in an effort to demonstrate that madrassahs were in fact offering a valuable educational service.

A political battle over educational qualifications meanwhile broke out, after the Muttahida Majlis-e-Amal MNA from Kohat, Mufti Ibrar Sultan was unseated by the Peshawar election tribunal in June because his Wifaqul Madaris certificate was not seen as being the equivalent to a university graduation degree. *[See also chapter on Political participation]*

Technical and vocational education: entering the IT age

During the year, there was a sharp increase in the number of students seeking admissions in technical institutions.

Technical education and Information Technology (IT) received increased attention from the government, and was stated to be the top priority in order to open up job opportunities and to give a boost to the economy. However, somewhat paradoxically, it was seen that even as the government stressed the need to expand the IT sector, the number of students seeking admission to IT colleges slumped to only eight percent of those hoping to pursue technical education – in recognition of the fact that few jobs were not available any longer in this sphere.

The HEC and government ministries meanwhile continued to stress the need to expand technical and scientific education, with grants made to several

universities for this purpose.

As part of the drive to expand the IT sector, new centres were set up across the country. The Pakistan Software Export Board decided to establish its own libraries and information centres in September. The process of giving computers worth Rs 10 million to government schools in the Punjab also started.

In addition to this, some 30,000 teachers were to receive IT training on how to incorporate technology in education.

However, according to IT industry experts, only two percent of 16,000 IT graduates qualifying in the country every year found employment because of the obsolete curriculums being taught at almost all local universities.

It was also noted that despite the great emphasis placed by the government on the IT sector over the past three years, Pakistan's name still did not appear on international lists, on which India ranked at 37, Bangladesh at 77 and Sri Lanka at 54 as far as achievements in the IT sector were concerned.

Vocational and technical education at the secondary level was introduced. However, vocational institutions run in the public-sector remained badly managed, with charges of corruption, inefficiency and indifference made throughout the year against them.

Recommendations

1. Given the fact that Pakistan now lags behind almost every other country in the world in terms of its ability to educate its citizens, an educational emergency needs to be declared. This must be linked not only to the lack of literacy but also to falling standards at all levels. Innovative teaching methods, improved teacher training, flexible school hours and a revision of curriculums, alongside all other possible means, must be used to address this crisis before it worsens.

2. Far greater priority must be devoted to education if Pakistan is to catch up with the rest of the developing world. As an initial step, funding must be enhanced to at least the minimum of 20 percent of GNP as recommended by UNESCO.

The close links between development and education need to be acknowledged by accepting that education is a responsibility of State. More funds must be diverted to this sector cutting down on others that have a lesser impact on human welfare and future growth within the country.

3. By studying examples from other countries, Pakistan must assess the reasons why it now trails almost every country in the world in terms of educational attainment.

In many nations, commitment to education and innovative schemes aimed at combatting illiteracy at all levels have made up for shortages of funds.

4. When introducing drastic changes in policy, all stake-holders, including students and teachers, must be taken into confidence and a consensus built keeping in view their concerns. A failure to discuss matters before announcing major

policy revisions can only lead to the kind of chaos caused by badly planned changes seen over the year, with textbooks for revised syllabi unavailable and teachers uncertain how to deal with alterations in courses.

5. Consistency in policy regarding language of instruction, examination systems, years of schooling and so on are essential to move ahead in this sphere.

6. Laws, such as those on compulsory education, must be effectively enforced while at the same time putting in place policies that encourage parents to educate children by making courses more relevant, improving public sector schools and addressing logistical problems such as transport to schools. Primary education must be made compulsory across the country.

7. Complaints from international donors that vast sums of funds provided for education have been ineffectively utilised need to be studied. This would allow for greater benefit to be drawn from financial aid for education.

8. The conditions within schools, including the state of buildings and the provision of basic facilities, need to be ensured given the terrible impact these have on children seeking education. In some cases, children have died as a direct consequence of the dangerous conditions at schools.

9. The need for an improvement in teacher training and classroom methodology is essential. To be truly effective, this needs to be combined with incentives for teachers.

The fact that the high dropout rate at schools is closely linked to poor teaching, the use of corporal punishment at schools and related factors point to a need for urgent improvements.

10. The text-book situation needs to be addressed. The shortages of books must be prevented by better planning and the provision of subsidised or free books ensured for children unable to purchase them. The quality of books too needs to be improved.

11. As with the books themselves, the curriculums too are in need of urgent revision that goes beyond the cosmetic. Numerous experts have pointed out that the structuring of curriculums and the examination system promote rote learning rather than a true understanding of concepts or a promotion of the ability to reason. Changes in curriculums must be made keeping this in view, rather than as a mere cosmetic exercise aimed to please international donors. In addition, curriculums need to ensure relevance to the lives of children. The numerous problems in curriculum design at all levels must be addressed by qualified experts and civil society representatives.

12. Mere policing cannot end the menace of cheating. Instead, curriculums need to be planned and examinations set to make cheating more difficult – for example by setting examination questions that draw less on the ability to memorise and more on creative thinking and the display of initiative. The building of moral, ethical and civic values too must be a part of the educational system.

13. The continuing gender disparity in education must be ended. Factors preventing girls from attending schools, whether practical, cultural or religious,

also need to be identified and problems resolved.

14. The task force set up to address the decline in standards of higher education needs also to consult students and teachers before finalising policies, to avoid conflict and confrontation over proposed changes. The proposals must also address ground realities, such as the mismanagement at institutions of higher learning related to funds, degrees and discipline on campus. The decayed structure holding up the teetering education system in the country is close to collapse, and must be rebuilt. This can most effectively be done by devoting most attention to the foundations of the system, or education at the primary level.

15. Education in the private sector, at both school and college level, needs to be regulated to ensure students and their parents do not fall into traps by those seeking mere profit.

16. Vocational education and education in the sphere of IT must also be linked to workplace needs, to make it more attractive an option and provide a greater chance of employment to those graduating from it.

17. The dangerous situation where seminaries continue to impart an education that frequently promotes militancy and extreme intolerance must be checked. Such institutions need to be monitored and courses for children at all schools made more uniform. Laws on the regulation of madrassahs must be enforced and the process of introducing legislation and then back-tracking on it ended. Madrassahs must also not be seen as a replacement of public sector schools, the standards of which need to be improved and the network expanded to cover all children in the country.

Health

The state shall secure the well-being of the people, irrespective of sex, caste, creed and race ... provide basic necessities of life, such as ... medical relief, for all such citizens, irrespective of sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment. ...

Constitution of Pakistan

Article 38(a) and (d)

Everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including ... medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Universal Declaration of Human Rights

Article 25(1)

According to the health indicators included in reports by the UNDP, WHO and other international organisations, Pakistan continued to rank below every other country in the region in terms of the health cover it was able to provide to its citizens.

Indeed, the fact that Pakistan slipped from 138th to 144th place on the Human Development Index (HDI) determined as per a detailed set of parameters in the UNDP's Human Development Report for 2003, alone signified the problems caused by the immense socio-economic problems most people suffered, including deprivation from access to healthcare.

People continued to suffer from a wide range of problems including unhygienic living conditions, lack of health facilities, dearth of drinking water, drug abuse and the rapid spread of diseases such as malaria, hepatitis and AIDS.

The government meanwhile remained unsuccessful in ensuring access to



Hospitals often added to the miseries of people.

basic health facilities, especially to low-income groups. Expenditure on health remained the lowest among SAARC countries, and stood at 0.7 percent of GNP for the year, as was the case in 2002. This figure also remained indicative of the low priority given to healthcare by the government.

Spending on healthcare had in fact remained at a continual decline since 1997, sliding from 0.8 percent of GNP to 0.7 percent. As problems continued to mount, it was estimated that in 2003 a sum of Rs 20 billion would be needed to cure all patients in the country suffering from hepatitis alone. As such, the health budget of Rs 4.4 billion

was grossly inadequate to meet even the basic health needs of people.

The conflict between doctors and the government that had begun last year over healthcare policies lingered on despite efforts to resolve the differences, while the public sector healthcare system remained unable to meet the needs of citizens. Private sector health care remained beyond the reach of most citizens.

According to the Economic Survey for 2003, the high correlation between expenditure on health and national productivity in developing countries indicated the need to direct more attention towards resolving basic health issues in order to aid growth.

State of the nation's health

The social indicators linked to health reflected the impact of the deprivation from access to medical care most citizens suffered.

Rates for maternal mortality, infant mortality, nutritional deficiencies and malnutrition were among highest in the region.

The infant mortality rate for children under-five was 85 for every 1,000 live births — the highest among South Asian countries. The slight improvement shown in 2002, when the mortality rate fell from 91 to 83 could not be sustained, and rose to 85 per every 1,000 live births. UNDP figures put India's infant mortality

rate at 69.2, Sri Lanka at 15, Bangladesh at 60 and Nepal at 73.6, indicating Pakistan had fallen well behind its neighbours in this crucial area of human welfare.

The maternal mortality rate was 500 for every 100,000 births, the highest in the region.

The under-five mortality rate was 110 per 1000 children, again the highest amongst South Asian countries. Nepal's under-five mortality rates was 105 per 1000, while other countries had, over the last decade, shown even greater improvement.

According to the World Development Report, the average life expectancy for people, at 63 years, remained one of the lowest in the region. The population growth rate was estimated at 2.1 percent, a slight decrease from 2002. However, despite this marginal improvement, the growth rate remained among the highest in the world, placing grave strains on the already over-taxed healthcare system.

The Economic Survey for 2003 stressed a need to rethink national health priorities and devote more attention to preventive services. However, there was no evidence such a re-think was taking place or that any effort was being made at the official level to ensure healthcare for citizens attained higher place on the list of priorities for the government.

Existing services

The limited expansion in health facilities was not enough to meet the needs of people. While the existence of facilities on paper compared favorably with other developing countries, ground realities showed that often the Basic Health Units (BHU), Rural Health Centres (RHCs) or even clinics and hospitals lacked the staff, drugs and equipment required to provide any real benefit to people.

According to the Economic Survey for the year, there was one doctor for every 1,466 people, one dentist for every 29,405 people and one nurse for every 3,347 people. There were a total of 906 hospitals and 4,590 dispensaries across the country. A shortage of 100,000 nurses in public sector hospitals was experienced, aggravated by the fact that a huge proportion of the trained nurses continued to migrate to the Middle East, in search of better wages and conditions.

There were a total of 550 RHCs and 5,308 BHCs, and while more continued to be set up, press reports highlighted that many of those that existed had no staff or drug supplies. In June, the Punjab government claimed that 70 percent of non-operational BHCs had become operational in the province. However, while there was an initial improvement in the situation, with doctors appointed to many BHCs, by the end of the year there were indications that some had again begun to fall vacant, or that attendance by staff was poor.

As part of an effort to improve access to health in rural areas, the government handed over loans worth Rs. 140 trillion to various doctors to set up clinics in rural areas in May. In February, the Karachi City government set up 37 dispensaries. It was also stated that the dispensaries would be upgraded to the level of hospitals.

According to official statistics, 47 percent of the total blood being transfused

in the country was unscreened, with voluntary donors providing only 16 percent of the blood stored at banks.

Official figures showed that around 70 percent of the population in rural areas had access to only three percent of the hospital facilities in the country, while the remaining facilities were all located in urban centres, placing them effectively beyond the reach of most people in the country.

Public sector care

Public sector care, sought out by the majority of people in the country, failed to meet even their most basic needs.

Administrative difficulties appeared to aggravate the problem. In January, lack of medicines at the civil and government hospitals in Mirpurkhas meant many patients were turned away. A dispute between the nazim and district administration officials was reported to have led to a situation where the district government refused to purchase medicines. At other hospitals, a lack of resources hindered the purchase of drugs while patients complained these were often very expensive.

Lack of facilities also remained a huge concern. In many cases, beds at BHCs, RHCs or district hospitals were under-utilised, mainly because patients were aware of the limited medical care they would receive at such centres. As a result, there was a shortage of beds at major hospitals, with patients in some cases forced to lie on the floor. Acute overcrowding was reported at the Ganga Ram Hospital in Lahore during the year.

At Peshawar hospitals, the restriction placed on private practice by doctors



It's no picnic for patients and their attendants at public hospitals.

meant that many had opted to quit their hospital jobs, leaving behind a dearth of specialists. In other centres around the country too, the lack of specialists

remained a problem, with hospitals in Tharparkar suffering an acute shortage of female doctors.

Dialysis and other equipment at the Lyari General Hospital lay in a state of disrepair due to a lack of funding. The same situation prevailed at other hospitals.

Dangers within the wards

Conditions within hospitals, and negligence by doctors, continued to take a huge toll on health, as had been the case in previous years. Some of the instances that came to light were as follows:

- ◆ At the Gujrat district hospital, in March, the medical superintendent ordered a probe after a doctor apparently amputated the healthy right leg of a patient, instead of the left one, that had been badly crushed and fractured.
- ◆ In Peshawar, early in the year, the negligence of a doctor cost a woman her eyes. An operation to remove what the doctor believed was a cancerous growth led the patient to lose her sight, while a biopsy later showed the growth was in fact benign.
- ◆ In February, in Nawabshah, at the district hospital, a pregnant woman, Fehmida Jutt, died after doctors failed to attend to her after delivery, despite the fact that she suffered serious complications from some injections she had received during labour.
- ◆ In Karachi in April, a pregnant woman died of excessive bleeding and severe pain after a doctor operated on her without having given her a general anaesthesia, at a clinic in Quaidabad. The family members registered an FIR.
- ◆ In May, a 40-year-old woman died, after a surgical operation, at a Karachi clinic, as the doctor forgot to remove a sponge that was left inside the abdomen during surgery.
- ◆ In September, a girl, 8, died at the Mayo Hospital in Lahore, apparently as a result of the anaesthesia given to her prior to minor surgery.
- ◆ In October, Fahim, 22, died at a clinic in Peshawar, after being given an injection to counter the severe abdominal pain he had been suffering.

Other reports of similar incidents came in through the year, with medical staff responsible often not held accountable for the loss of life or injury their actions caused.

The dialysis machine at the Civil Hospital in Mirpurkhas had never been switched on since it was bought at a cost of Rs 10 million two years ago, due to the lack of trained operators. Other expensive diagnostic equipment at public sector hospitals also remained non-functional, forcing patients to turn to expensive private facilities.

According to a press report in September, the malfunctioning of incubators at public hospitals in Lahore caused 2,000 deaths, adding to the rate of child mortality. It was reported that almost 90 percent of the incubators at government run hospitals were not working.

Reports of untrained doctors operating on patients came in from Nawabshah,

while acute shortages of any medical staff were reported from district hospital in Pasrur, Chitral and other locations. Even in Lahore, it was reported in May that no doctor was present at various dispensaries, with confusions over transfers and postings sometimes contributing to the problem.

There were some indications that under the district governments, funding to hospitals had been cut down. The Children's Hospital in Lahore, which had received Rs 6 million in the past, received only Rs 3 million for 2003, creating acute difficulties in meeting the needs of patients. In hospitals in various parts of the NWFP, acute resource constraints were noted, while the lack of treatment facilities for children meant that in some hospitals three children were forced to share a single bed.

In April it was reported that 450 health facilities in Sindh were either non-functional or under-utilised. At five teaching hospitals in Lahore, including Mayo Hospital, Ganga Ram Hospital, General Hospital and Jinnah Hospital, surgical Intensive Care Units (ICUs) were found not to be fully functional in July.

Negligence continued to cost people their lives. In January, a judicial inquiry into the death of a patient at the Spencer Eye Hospital in Karachi was demanded, after the administration of local anaesthesia.

Strikes by doctors also affected patients badly. In Karachi, doctors at the Jinnah Postgraduate Medical Centre (JPMC) went on strike in January over issues with the administration, leaving patients untreated in hospital corridors.

Most public sector hospitals remained reluctant to treat patients involved in medico-legal cases, creating immense difficulties for victims of crime, domestic violence and at times even road accident victims. Emergency wards at most hospitals lacked equipment and were poorly staffed, while the lack of hygiene, poor facilities and the indifference of staff also contributed greatly to the difficulties faced by people.

Private sector care

The declining state of public sector care meant there was increased reliance on private sector facilities by all those who could manage to pay the amounts charged.

A continued failure to regulate private sector care meant that there was no check on fees or the quality of care they offered.

In Lahore, at least 150 private hospitals, including the charitable Shaukat Khanum Memorial Trust Hospital, continued to function. It was estimated that the private sector was contributing towards the health care needs of more than 70 percent of the population. 77 percent of the average health care expenditure of citizens went to private medical institutes. In June, the government announced it planned to offer under-utilised BHUs to the private sector under the public-private partnership, to boost their utilisation.

Corruption and negligence were rampant in the private sector as well, with no law in place to check the running of medical centres by unqualified practitioners.

Privately established blood banks were identified as the main cause for the spread of Hepatitis and AIDS. Though 25 percent of all blood donations in the

country were handled at private medical care centres, these often lacked the equipment required to screen blood and ensure safety.

Early in the year, the Punjab health department finalised a draft bill to regulate private medical colleges, hospitals, clinics and laboratories. The draft bill stated that No Objection Certificates (NOCs) would be handed out only to centres meeting the minimum standards.

According to official statistics, over 40,000 quacks were operating in Karachi as the year closed. An estimated 600,000 quacks operated across the country, meeting the needs of most people in need of medical or dental attention, at a tiny percentage of the costs charged by registered, allopathic practitioners. In fact, homeopathic practitioners and quacks met the healthcare needs of the vast majority of people in the country, unable to pay the costs of conventional care.

In September, the federal government announced it had readied an anti-quackery bill, given the risks of infectious diseases and other dangers posed by quack dentists and doctors. However, the bill had not been converted into law as the year closed.

Epidemics and preventive medicine

The incidence of preventable diseases, which in many cases took the form of epidemics, was high.

Pakistan's efforts to combat disease by taking preventive measures remained less effective than many other developing countries, and vaccination programmes had only limited success.

Even the renewed effort to eradicate polio ran into difficulties. While Pakistan, under a WHO-assisted programme, had hoped it could be declared polio-free in 2002, this was not possible even as 2003 closed. Polio cases cropped up in Rajanpur, Lahore, and in various parts of Sindh and the NWFP through the year, indicating all children had not been covered, even under the intensified immunisation drives. According to a Unicef report in September, 25 percent of the children below the age of six missed every round of the polio vaccination campaign. There were also some indications that while the same children were receiving polio drops again and again, others were not being reached.

Unicef, the Japanese government and others continued to make donations to fund the anti-polio drive.

Lack of awareness, inaccessibility to certain areas and reluctance of parents were identified as the key reasons why polio could not be completely eradicated. The fact that vaccination teams came under attack in parts of the NWFP from militant elements, added to the difficulties faced. An infant and a small girl, aged 5, died in October while over 15 other children fell unconscious after they were administered a dose of expired vaccine, against six diseases, by a team of local health department at Allo Chak village in Sialkot. Such tragic incidents discouraged parents further from getting their children vaccinated.

With the immunisation programmes meeting only limited success, measles and tetanus remained amongst the major causes of child mortality. Only 50 to 60

percent of infants were immunised against the diseases, and only 54 percent of one-year-olds were fully immunised against measles.

As reports came in of an increased incidence of tuberculosis in Sindh, an anti-TB drive in Badin was begun in January. 88,000 new patients of TB had been discovered in the Sindh province, and the WHO too expanded its anti-TB programme in the area. While 78 percent of infants in the country were routinely immunised against TB, the emergence of new, drug-resistant strains of the disease continued to emerge. Over 250,000 new victims of TB were discovered in the country each year, and according to WHO figures, Pakistan had the sixth highest number of TB cases among 22 countries – with the number continuing to climb. 17 percent of all TB cases occurred among children under the age of five.

With figures compiled by international agencies showing 70,000 to 80,000 HIV carriers resided in the country, out of which only 2,000 were registered carriers, the National AIDS Control Programme was initiated in Islamabad during the year with Rs 2.85 billion allocated for it. An ordinance on safe blood transfusion was also promulgated. It was observed that 40 percent blood transfusions were not screened for HIV. The government received help from the World Bank (WB) to eradicate the menace of transmission of unsafe blood, with the WB observing that Pakistan remained at huge risk of a rapid expansion in AIDS cases, due to poor awareness, lack of blood screening, high rate of drug addiction and other factors. AIDS was also seen to be increasing among women, often because husbands who had returned from countries abroad transmitted it to them. The male to female ratio of the disease was 7:1, while 42 percent of women across the country remained unaware of the risk posed by AIDS.

The spread of Hepatitis B and C continued. 23 million citizens were estimated to be infected by the virus, which was the highest rate of prevalence of any disease in the country. Every three people out of 10 were infected, while seven to ten percent children were reported to be carriers of the Hepatitis B virus.

It was estimated by health organisations that hepatitis B and C would triple in the country within the next 10 years, if not controlled.

The continued spread of the disfiguring skin disease, leishmaniasis, which had assumed the proportions of a full blown epidemic in Sindh in 2002, took an increased toll on health. It was reported that two people died as a result of the disease in the Nara Thar village in April. The drugs for the skin disease remained to be included on the list of essential medicines. The provincial health department failed to register anti-leishmaniasis drugs in the medical coordination committee's list despite repeated requests by WHO, while the lack of access to medical care or diagnostic facilities contributed to the rapid spread of the disease.

The leprosy rate too remained high, especially in Sindh. 35 among every 1000 people in Mathelo in Sukkur, suffered from leprosy.

Dog bite cases continued to rise during the year. According to the National Rabies Prevention and Control Programme director, 50,000 people died in 2002 due to dog bites. In August, doctors urged the government and health departments to declare Rabies as a reportable disease as the death toll continued to mount. The

non-availability of vaccinations at many centres contributed to the fatalities caused by rabies.

A measles epidemic was reported early in the year, with 3,000 patients at hospital in February. The actual number of cases was feared to be much larger, ranging from 6000 to 10,000, with most victims in the Karachi area. In May, 10 children died of measles in Nawabshah.

Malaria continued to kill many children and the number of malaria patients in Pakistan was the second highest in the world, after African countries. According to the UNDP report for 2003, the malaria-related mortality rate in the country for all ages was four per 100,000 and for children under four was 11 per 100,000.

More than 1.3 million children in the country suffered from thalassaemia, with marriages among close relatives adding to the number of cases. Asthma and childhood allergies also appeared to be on the rise. Ten percent of people in the country were believed to be diabetic, with the rate of childhood diabetes also on the increase.

Congo fever created renewed panic after two children died of the disease at Holy Family Hospital, Rawalpindi. Doctors and medical staff remained highly vulnerable to this virus that spread through infected blood. Two doctors were reported to have died in Islamabad in March. Despite repeated outbreaks over the past few years, the National Institute of Health failed to provide laboratory services for the test for the virus and testing had to be carried out in South Africa, delaying diagnosis and preventive measures.

Water borne diseases remained a major health issue. Over 20,000 children died in 2003 due to diarrhoea or gastroenteritis according to the Health and Nutrition Development Society (HANDS), while in other cases, contaminated water also led to other health problems. *[See chapter on Environment].*

Health-care policies

A new bill introduced in the Punjab in June resolved some of the grievances of doctors over a plan to grant autonomy to medical colleges and hospitals. The issue had seen doctors clash with authorities through much of 2002. A Commission set up by the Punjab Chief Minister early in the year, and headed by Justice Mujadid Mirza ruled largely in favour of the point of view presented by the doctors, after hearings conducted over several months. The Joint Action Committee (JAC) of teachers, doctors and students agreed that the commission report would be implemented fully, no educational institution would be denationalised and no more schools would be given under the control of NGOs.

The 'Punjab Medical and Health Institutions Bill, 2003' replaced the 'Punjab Medical Health Institutions Ordinance, 2002'. This law replaced the controversial board of governors at autonomous health institutions with boards of management. Clauses were included to ensure the autonomy of the health institutions and the provision of modern health facilities to the people. Junior doctors and nurses were granted the power to deal with day to day medical affairs on their own.

While this issue moved towards settlement, in the NWFP the provincial government in August stated it had decided to amend the rules for reinstating

doctors who had resigned after the introduction of the Institution Based Practice (IBP) law in the province in 2002. Under this law, doctors were prevented from carrying out private practice at centres outside the hospitals where they worked. Amid widespread protests, many doctors had resigned from hospitals, leading to serious problems at such public-sector institutions. The proposed amendment, the NWFP Medical Health Institutions and Regulations of Health Care Services (first amendment) Act, 2003, was drafted after a 15-member parliamentary committee appointed by NWFP assembly examined the issues in detail and in its report favoured lifting of the ban on private practice.

Meanwhile, the lack of facilities at public sector health centres, the continued increase in the numbers suffering from preventable disease and the many reported cases of negligence at hospitals leading to deaths all indicated that health remained low on the list of government priorities.

The under-staffing of BHUs and RHCs, and the problems associated with ensuring the availability of life-saving drugs at hospitals, indicated that even the policies that existed were poorly implemented.

An 'action plan' was finalised to improve the system of health care, and in September, the WHO announced it would assist the government in establishing a unit for the development of a national health policy.

The continued problems in administrating the healthcare system also created problems. The promotion of 1,000 doctors in Grade 17 was blocked early in the year. Similarly, 1,200 doctors were without jobs in Balochistan, while 450 posts of medical doctors remained vacant. The government failed to implement the four-tier system for promotions, promised the previous year, that would create new jobs automatically.

Major awareness campaigns were launched during the year to prevent hepatitis



Is the syringe he is using safe?

and other diseases. The national blood policy and a strategic framework for national blood transfusion services were approved at a meeting at the National Institute of

Health in March. Provision of safe blood at time of need was recognised as a right of every citizen under the new policy.

Rs 2.8 billion were allocated during the year for expenditure on AIDS awareness, while the WB, WHO, Unicef and other organisations continued to assist with preventive medicine campaigns.

Drug abuse and addiction

The number of drug addicts in the country continued to rise, with figures showing that each year more fell victim to this menace as compared to those who were rehabilitated.

According to the Anti-Narcotics Force (ANF) the country had almost 4.98 million users of heroin, hashish and morphine. As such, almost one-third of the population was addicted to some illegal substance. 95 percent of these addicts belonged to poor families. Most male adults were between the ages of 14 and 40 while most female addicts were between 17 and 30. Half the addicts resided in Karachi. There were almost 150,000 female addicts in the country, and this put at risk children born to them.

Out of the over four million drug-addicts in the country, two million were heroin addicts, with the figure continuing to rise. Of these, 12 percent used drugs by injection. Drugs continued to be openly sold in many regions. In January, it was reported that drugs were openly sold in three talukas of Nawabshah district and were smuggled in from Quetta, while the easy availability of heroin was also reported from Peshawar, Kohat and the Murree area.

The increased heroin inflow from Afghanistan continued to pose a serious health threat. In January it was observed that drug smuggling from Afghanistan was increasing. According to the UNDCP reports, poppy cultivation in Afghanistan crossed the figure of 4,000 tons during the year.

Lung cancer was identified by the WHO as the single largest preventable cause of death in the country. It was estimated that 40 percent male adults and eight percent female adults smoked cigarettes. According to the UNDP report for 2003, the average consumption of cigarettes was 635 per adult. A resolution was passed in January that urged the government to stop tobacco industry advertisement campaigns from being aired, broadcast or published. The 'Prohibition of Smoking and Protection of Non-smokers Health Ordinance', which was promulgated in 2002 remained largely unimplemented. A law passed by the Punjab Assembly in March, to ban sales of tobacco to juveniles under 18, also remained largely unimplemented, with the numbers of children smoking tobacco reported to be on the increase across the country.

Efforts to eradicate poppy cultivation in the country were hampered by scarcity of electricity and water in many northern areas, which placed added pressure on the residents to earn their livelihood through poppy cultivation.

According to statistics from the law enforcement agencies, between July 2002 and March 2003, the ANF seized 1,644 kilograms of opium, 11,608 kilograms

of heroin and 4,784 kilograms of hashish.

Rehabilitation of addicts also remained a huge problem, with limited treatment centres in place. In Peshawar, a rehabilitation centre for drug addicts was established at the Blinds Institute in June, with plans to convert it into a hospital. In May, the government once more promised a massive campaign for the rehabilitation of drug addicts under which centres would be set up on an emergency basis. By the end of the year, there were however no indications that this programme was set to fare any better than previous attempts made to set up centres, with the number of such facilities remaining extremely limited.

Drug prices and policies

The imposition of General Sales Tax (GST) on medications in 2001, even after its subsequent removal in 2002, remained an issue, with retailers still demanding the refund of GST on existing stocks.

The disappearance of drugs from the market, shortages and over-pricing were frequently blamed by pharmacists on the GST and the confusion that followed the reversal of the policy to impose it.

The plan for the deregulation of pharmaceutical industries also persisted as a pending issue, with NGOs maintaining this could result in sharp rises in the prices of medicines, as had happened in 1993. It was also pointed out that essential drugs were more expensive in the country than in all neighbouring nations, and were in fact beyond the reach of most citizens. Pharmacists meanwhile favoured deregulation.

There was no progress on setting up an autonomous body to examine issues of drug pricing and registration, despite approval by the Economic Coordination Committee late in 2002.

In August, a committee for drug quality control was formed by the health ministry in collaboration with the WHO.

The lack of drugs remained an issue at many hospitals. In January, patients demanded the availability of drugs at the prestigious Pakistan Institute of Medical Sciences (PIMS) in Islamabad.

According to a survey conducted by The Network for Consumer Protection, in June, out of 455 drugs listed in the National Essential Drugs list, 115 different brands of 32 essential medicines were missing from the market. Chemists continued to charge 15 percent GST on drugs, even though this had been removed.

Chemists in many cases sold smuggled medicines at exorbitant prices to asthma patients and others suffering chronic conditions that required regular medication.

The National Assembly passed a resolution in March to bring down the prices of drugs, especially of those drugs that were being supplied by the multi-national companies, and make these closer to the prices that prevailed in neighboring countries. In September, the prices of 60 essential drugs were reduced by 10 to

Sale of kidneys: Matters of ethics and exploitation

The sale of kidneys assumed increasingly widespread proportions, with no legislation in place to prevent the exploitation of impoverished persons.

Reports during the year stated that the sale of kidneys was widespread in the Sultanpur Mela area and adjoining villages of tehsils Bhalwal and Sargodha. No measures were put in place during the year to check the practice, which had assumed the shape of a lucrative business for an increased number of middlemen.

With an estimated 13 million people in Pakistan suffering from kidney related ailments, as many as 6,500 kidneys were required ever year for transplant purposes.

To meet this need, dozens of villagers in Sultanpur Mela and over two dozen men and women, including teenagers in tehsil Bhalwal, sold their kidneys during the year. Middlemen or kidney salesmen appeared to have played a central part in persuading them to do so, usually to meet acute financial difficulties.

Mohammad Siddiq, a father of three, worked on the fields of a local landlord and had taken a loan from him. Over the years, the principal and interest on this rose to over Rs. 80,000. To clear his debt, he sold a kidney for Rs 105,000. Due to post operative expenses and the Rs. 15,000 retained by the agent, he was unable to pay the landlord back. Instead he had to borrow more money from another landlord and in fact slipped further into the trap of debt.

Others sold their kidneys in a desperate effort to resolve similar difficulties, with many unaware of the long-term consequences the loss of a kidney could have in terms of health. This lack of awareness was also exhibited in the fact that some young people sold their kidneys for apparently frivolous reasons.

After the Punjab Governor, in May, ordered an investigation into kidney sales in the Sargodha area, a team led by the local DCO reported that in most cases sales were motivated by accumulating debt and poverty. Local philanthropists also sought government assistance to provide employment and medical aid to those who had sold their kidneys, and were consequently unable to undertake demanding physical work. It was estimated that at least 3,500 people in the Sargodha area had over the past few years sold their kidneys. Following this finding, the local nazim set up several committees to monitor the practice and dissuade villagers from selling organs.

It was also reported that middlemen in the Sargodha area had close ties with the Mukhtar Urological Dialysis and Transplant Center (MUDTC) in Rawalpindi which bought most of the kidneys.

The organ trade was not however restricted to the smaller cities. Kidney donors were also located in low-income areas around the Lahore General Hospital, with a healthy kidney fetching up to Rs 100,000. The sale of

kidneys was also widespread in the Jauhanabad area of Lahore, a predominantly Christian locality. Several private hospitals in the area were the main buyers of these organs. As a result of acute poverty and unemployment, several members of a single household were found in 2003 to have sold their kidneys in the area.

The lack of legislation to regulate organ donations remained an issue in controlling organ sales, with a law still not in place 15 years after it was first proposed in the National Assembly. In January, the federal health minister presented a draft law intended to regulate organ transplantation, donation and sale. It was however not passed during the year. Reports also suggested that more and more people in developed countries were seeking to buy organs in Pakistan, while drug addicts within the country had increasingly turned to the practice as a means to fund their habit.

was 28 percent, among the lowest in the world. The fertility rate was 5.1 children per woman, according to the UNDP report and the expanding population placed further strains on available resources

The high infant and maternal mortality rate also drew attention to the need for improved care. *[See also section on State of health].*

Skilled healthcare providers attended only 20 percent of all births in the country. It was reported in August, that out of 43 maternity homes only three were operating in Karachi, while some reports suggested that the maternal mortality rate could be over 600 per every 1,000 live births – the highest in the region.

Maternal malnutrition affected 34 percent of pregnant women. 40 percent women suffered from anaemia and iron deficiency, which also affected children born to them. Iodine deficiency in women resulted in still births, birth defects, mental retardation and generally reduced intelligence. 38 percent of children born in the country were underweight. *[See also chapters on Children and Women].*

Mental health

The implementation of the Mental Health Ordinance, promulgated in 2001, remained poor. Figures showed an increased number of people continued to suffer from mental stress, depression and other mental health problems. Facilities available to treat them were limited.

A new mental hospital in Peshawar was planned at a cost of R 50 million as per an announcement in July. Facilities to treat victims of mental illness across the country remained extremely poor, with even existing centres often acting only as places of detention.

It was reported that one tenth of the population in Pakistan suffered from mental illness, while 30 percent suffered from various kinds of psychological problems. The rate of mental illness among women and children was rising especially sharply.

At various seminars during the year, it was noted that the prevailing social economic conditions were adding to mental disturbances and having an adverse

impact on psychological well being.

Medical education

Issues in medical education revolved mainly around the mushrooming of dozens of new private-sector institutions and their affiliation with recognised, degree awarding institutions.

In more and more cases, students enrolled at such institutions discovered there would receive no recognised medical qualification after completing their studies, sometimes over a five-year period. In some cases students were charged fees of over Rs 400,000 a year by these institutions. The failure to regulate their working meant that standards of the education they offered remained under doubt, with bodies representing doctors calling for immediate steps to monitor education at these institutions and close down those failing to maintain standards.

Efforts to set up a large new medical facility, the Sialkot Medical College, continued. The public-sector project was to be completed within a period of three years at a cost of Rs 1 billion.

After 28 years, the Punjab University launched a revised curriculum for medicine and dentistry in August. The curriculum was said to be in line with international standards. 46 courses of MD, MS, MDS and M.Phil were revised. It was also announced by the education ministry that medical curriculums would now be revised every five years. Complaints of poor teaching standards at medical institutions and irregularities in examinations continued to come in.

The shortage of facilities to train nurses remained a problem. Against a need for at least 80 teachers, only 48 positions were sanctioned at nursing schools in Karachi, out of which only 38 attended the institution regularly. Thus there was one teacher for every 53 students. In June, it was observed that many posts of professors were lying vacant in hospitals, and there was a shortage of professors at the Quaid-e-Azam and Bahawal Victoria hospitals. The Punjab government also established three medical colleges in the province, in Lahore, Sialkot and Rahim Yar Khan, to overcome the shortage of doctors in teaching hospitals.

Through the year, the Pakistan Medical and Dental Council (PMDC), which regulates medical education, sought action against illegal colleges. However, a dispute about the powers of the PMDC to inspect colleges and other medical institutions persisted.

In September, the PMDC sought powers to inspect and certify colleges and requested the government to amend the 1962 ordinance accordingly, in view of the need to regulate new colleges in the private sector.

In August, the PMDC had refused to provide a charter to 13 medical colleges, maintaining they did not meet required standards. Six colleges belonged to the public sector and seven belonged to the private sector.

In July the Lahore High Court ruled all medical colleges in the public and private sectors must apply for affiliation with the University of Health Sciences

(UHS), set up in 2002 at Lahore, under the UHS Ordinance 2002. The LHC also ruled the PMDC had no authority to inspect colleges.

Students protested and held demonstrations against their college affiliations with UHS as many in the medical profession believed that the facility, set up in what seemed like great haste the previous year, was not a competent authority since it had never held MBBS examinations. PMDC-affiliated students protested against the government decisions to affiliate their institution with UHS. The Pakistan Medical Association (PMA), representing medical professionals, during the last months of 2003, drew repeated attention to errors in the compiling of MBBS results by the UHS, and flaws in their conduct. Many students also refused to enroll with UHS for the MBBS examinations, leaving the situation of medical education in considerable chaos as the year closed.

Recommendations

1. *The lack of access to healthcare for most people in the country is having an extremely adverse impact on health. As such, innovative methods need to be used to provide at least basic aid close to homes. So far, the provision in the latest health policy that all medical graduates serve in a rural setting, has had limited impact and led to no perceptible improvement. Efforts to train paramedics and midwives selected from within communities, train local high school children in basic healthcare and so on are all means that can be adopted. Examples from a range of countries suggest that training people living within communities can be highly successful in meeting basic medical needs and ensuring more expert care is provided in time.*

2. *The inadequacy of resources allocated for healthcare remains a major obstacle in the improvement of services available and in expanding health cover. This also indicates the low priority attached to the welfare of citizens. The fact that Pakistan is not even able to match allocations made by some of the most impoverished countries in the world suggests that there is a need to redirect priorities towards the provision of better health cover.*

3. *Essential medical care must be free for every citizen. The indications that the government may be attempting to divert more and more responsibility for health onto the private sector is a highly disturbing one given the grave cost implications, placing medical attention beyond the reach of the majority. The apparent moves towards privatising hospitals is disturbing in this regard. Free healthcare must be acknowledged as a fundamental right of every citizen.*

4. *In this context, the complaints of rising costs at public sector hospitals that have been granted autonomy also need to be addressed. While an improvement in the facilities and services at such hospitals is vital, it should not come at the price of placing medical attention beyond the reach of the poorest citizens, for whom government hospitals are still the most commonly used source of urgent attention.*

5. *A process of discussion must be take place with all stake-holders before putting in place new policies, to avoid rallies and protest such as those seen in*

2002, and the consequent amending of the law to address the concerns of the doctors. Such hasty measures can only add to the confusion already prevailing within the healthcare sector.

6. The calamities arising as a consequence of a failure to take preventive measures are alarming. The growth in TB, hepatitis, malaria, AIDS and a range of other diseases are all linked to this factor. Given the lower costs and higher success rates, preventive medicine must be given priority and problem areas identified as soon as possible so that remedial action can be taken.

7. In this context, the evidence of major problems in the vaccination programme for children is alarming. Improvements must be made in the management of all inoculation programmes to ensure cover against fatal disease, while the safety of vaccinations must be ensured.

8. The worsening malnutrition situation is closely linked to growing poverty. Given the severe impact on the health of children and women in particular, the issue of malnutrition needs to be given top priority as part of overall policy-making aimed at catering to the most pressing needs of citizens. Laws brought in to help battle poor nutrition and food adulteration must be enforced.

9. Environmental factors, including unsafe drinking water, continue to take a huge toll on health. Safe water must be available to all citizens.

10. Cases of gross medical negligence appear to be on the rise. A mechanism must be devised to ensure all such incidents are reported and those responsible penalised. Human life must be treated as equally precious regardless of the social standing of the victim and trauma care improved given the high number of road accidents in the country.

11. Private medical centres and private medical colleges are both in urgent need of regularization, both to prevent unethical practices and to ensure a set standard of quality. The dispute between the PMDC and the newly established University of Health Sciences (UHS) over control and affiliation of colleges highlights the need to think out policies carefully before making changes and ensuring unnecessary confusion is avoided.

12. The training of nurses, Lady Health Visitors and other paramedical staff must be improved, given frequent reports that they are ill-informed and unable to provide any useful service.

13. The issue of drug pricing and supply is an increasingly urgent one, with access to vital medicines denied to an increasing number of people as a result of mismanagement and misguided policies. An independent drug price regulatory authority must be established without further delay and planning improved to avoid the acute shortages of drugs seen repeatedly.

14. The misuse of medications must be curbed. A check on the manufacture and sale of spurious drugs is crucial in this respect, while laws governing the manufacture and sale of medicines must be enforced.

15. A control on population growth and better healthcare for mothers and children is essential not only to health, but to all spheres of development. The indications that existing initiatives have achieved little to promote family planning

or to offer health services to mothers and infants means a new strategy is urgently needed. The blatant and unethical promotion of breast milk substitutes, often targeting the least educated families, must be stopped.

16. Unsafe blood transfusions, the reuse of syringes and the question of organ sales all need to be addressed and resolved. The increased sale of kidneys in the country by impoverished people, who often fall victim to unethical middlemen, is an alarming development. Laws to regulate organ donations have as such become an urgent need.

17. The practice of medicine by unqualified persons, including roadside doctors, must be checked given the damage inflicted on public health.

18. Shortages of medical staff, caused by inadequate salary structures for doctors and other factors, must be addressed by making necessary revisions.

19. The electronic media and school textbooks can both be innovatively used to promote awareness about health and health issues.

20. Drug addicts need to be treated not as criminals but as patients in need of specialised attention, while increasing drug use amongst women needs to be assessed and strategies devised to tackle the issue by increasing awareness and access to treatment.

21. While, deficiencies in the mental health law need to be removed and implementation facilitated in consultation with psychiatrists and public representatives, the factors that contribute to mental disorders, such as political oppression, economic hardships, insecurity, and discrimination, need to be vigorously tackled. The views of mental health experts should be sought while drawing up social policies.

Housing

The state shall secure the well-being of the people, irrespective of sex, caste, creed and race, by raising their standard of living .

Constitution of Pakistan

Article 38(a)

Everyone has the right to a standard of living adequate for the health and well being of himself and his family, including ... housing ...

Universal Declaration of Human Rights

Article 25 (1)

A growing number of people in the country remained deprived of shelter as a result of the acute shortage of housing in the country. Evictions from katchi abadis across the country continued, leaving still more without shelter.

The worst example of this came in the case of the Lyari Expressway project, as authorities continued with plans to build the controversial expressway despite a rising outcry over the failure to provide any alternative housing for most of the over 200,000 families affected by the demolition.

The process of granting land rights to residents of katchi abadis continued, but at a painfully slow pace. The matter of recognising katchi abadis not covered by the 1985 law meanwhile remained unresolved, with limited progress made over the year in granting rights to the residents of these settlements.

The conditions in which most residents of katchi abadis lived remained extremely poor. With heavy monsoon rains experienced during the year, the collapse of houses, most of them poor quality constructions, caused hundreds of deaths. Failure to implement incentives such as the waiver of duties and registration fees also held back implementation of the 2001 National Housing Policy. Despite a rapid growth in the commercial housing finance sector, the prohibitive costs of construction material and the failure of public sector housing schemes meant

that the vast majority of the urban population, making up over 32 percent of the country's total population, remained deprived of a home they could call their own.

Shortage of housing

According to official estimates, 24.8 million housing units would be required in the country by the end of 2003, based on the existing population of 149 million people. With 19.3 million housing units in the country in 1998, according to the Population and Housing Census of 1998, and an estimated 300,000 added each year since then, the existing shortfall meant that at least 570,000 units needed to be added each year to house all the country's people. The continuing shortfall of at least 270,000 units per year meant that the housing backlog continued to grow, while at least ten percent of the existing units were depleted, diminished or demolished each year.

Unofficial estimates suggested another seven million new housing units would be required to cater to the needs of a population that continued to grow at 2.1 percent, still one of the highest growth rates in the world.

In Lahore, a backlog of 200,000 housing units existed at the start of the year. According to a survey conducted in 1998 for the completion of an Integrated Master Plan for the city, around 85,000 housing units existed against a demand for over 243,000. This demand, and the subsequent backlog, increased by 30,000 units each year, mainly due to the population influx from smaller towns and villages.

An average of at least 6.6 people occupied every housing unit in the country, most of them single-room structures lacking basic amenities.

The failure to develop low-cost construction materials also meant that almost 35 percent of people in the country lived in structures made of unbaked brick, which could offer them only the most limited protection.

Life under open skies

By the year 2010, it was estimated that Pakistan's urban population would grow from 32.5 percent to over 45 percent. This rapid urbanisation, taking place at one of the fastest rates in the world, also accounted for the growing numbers of the homeless in major cities.

At least 50,000 people were estimated to be sleeping in open spaces through the year in Lahore, a figure that represented one of the highest numbers of pavement dwellers in any city in the world. In Karachi, where the population had grown by at least 4.8 percent over the previous five years, but where cheap housing was somewhat more readily available, this figure was estimated at around 60,000.

The lack of infrastructure, employment opportunities and other services in rural areas largely accounted for the migration to cities each year of thousands desperate to earn a livelihood. As newspaper interviews and other accounts suggested, many failed to find work, and in a large number of cases were too embarrassed to return home and inform their families of their plight.

Large communities of the shelterless continued to be based around locations

such as the Data Darbar in Lahore. Reports of an increase in pavement dwellers also came in from other cities, including Multan, Faisalabad, Gujranwala, Peshawar, Rawalpindi and Quetta, though it



Homeless, but not idle.

was often hard to establish how many voluntarily chose to sleep away from overcrowded homes for a part of the year and how many in fact did so on a permanent basis.

Evictions

The relentless eviction from katchi abadis, particularly by railway authorities, seen during the previous two years slowed down considerably in 2003. However, evictions by other authorities, most notably the Capital Development Authority (CDA) in Islamabad, seemed to gain pace with thousands once more forced out of their homes. In many cases no adequate alternative place of shelter was provided to such families. These evictions came despite a provision in the national policy on katchi abadis, approved by the federal cabinet in 2001, which prohibited any kind of summary eviction.

A fact-finding mission from the Asian Coalition of Housing Rights, which visited Islamabad in March 2003, expressed alarm over the continued use of force to evict people, particularly in the case of the colonies in the Alipur Farash area from where over 700 had been evicted. The team added that the resettlement site for people from these abadis was “half-baked” with no water lines in place and power installed only a day before the teams visit.

The alliance of katchi abadi dwellers staged a rally in Islamabad in January to draw attention to the continuing violation of official policy on evictions. During the same month, the residents of the Regi Lelma village near Peshawar called a ‘jirga’ at which it was decided to resist the City and Municipal Department (CDMD) move to evict them in order to build a new road.

The Islamabad Capital Territory Administration in February was asked by the CDA to raze three katchi abadis in the federal capital within 15 days. The CDA maintained these settlements had been built in violation of laws and presented

Lyari Expressway: Continued evictions and greater controversy

The Lyari Expressway project continued to inflict immense suffering on affected families.

The process of demolishing over 25,000 housing units and around 3,000 commercial enterprises to make way for the building of the Lyari Expressway by the National Highway Authority (NHA) continued, despite rising controversy and protest.

An international fact-finding mission that visited Karachi in March 2003 at the request of the Asian Coalition for Housing Rights found that the resettlement attempt being carried out was a gross violation of internationally accepted norms. The mission, in its report, completed after detailed interviews, fieldwork and analysis, also pointed out a disturbing discrepancy in the basic statistics for the affected families. While the Karachi district government functionaries claimed 16,000 houses would be demolished, various research organisations put this figure at 25,000 homes, affecting at least 200,000 people. In addition, government departments failed to produce full lists of the affectees, while the fact-finding mission noted that a sizeable number of the communities facing eviction in fact possessed duly validated leases to their land and had acquired gas, telephone and water lines through their own efforts, spread over decades. It was also observed that the uniform compensation package on offer, amounting to a mere Rs 50,000,



Demolished homes - ruined lives.

was neither commensurate with the actual cost or price of houses nor took into account the huge locational disadvantage people would have to bear.

Press reports through the year also pointed out that against 4,000 families awaiting resettlement after the demolition of 3,000 homes and 2,200 commercial units the previous year, only 500 houses on land located on Karachi's outskirts were under construction. Infrastructure was yet to be provided. Education, health and social facilities did not exist. According to one newspaper report in April, a sick child died because his family could not take him to a hospital due to scanty transport arrangements and lack of accessible medical care.

By the middle of the year, affected communities had stepped up legal action. In May 2003, over 700 cases challenging the evictions of people from the leased houses and the blatant violations of the Land Acquisition Act of 1894 were pending before the Sindh High Court. The SHC decided to hear all the cases together, and in June the Sindh Advocate General told the court that all those seeking more compensation or challenging eviction were in fact encroachers who had never been granted propriety rights.

By July 2003 there were indications that some 49 communities were preparing to resist the construction of the expressway without 'sound compensation'. A resistance committee was set up, with all major political parties in opposition expressing support for the affected people. The process was continuing as the year closed.

Speakers at workshops and seminars held on the Lyari Expressway project through the year also continued to condemn its construction and challenged government claims that it was essential to the future development of the city. Political parties organised several meetings on the issue at which the NHA came under severe criticism for bypassing all rules of land acquisition and revising the project scheme without consulting the people or attempting to find a way to spare tens of thousands of people the calamity of having their houses demolished and being forced off land they had lived on for generations.

a security threat to foreign missions in the capital.

In February, residents of one of these colonies, Muslim Colony, along with those of three other settlements in the Alipur Farash area, the removal of which were required to build a new road, were served notices by the CDA asking them

to apply for plots in the new Alipur Farash Urban Shelter Housing Scheme. Most residents of the affected katchi abadis had the previous year refused the resettlement deal, under which they were required to pay Rs 8,000 as down payment for plots and a further Rs. 21,000 in installments. The CDA warned it had received over 800 completed application forms and cheques for the plots, and would forcibly evict the nearly 800 other residents who had declined to apply for resettlement.

In April, the CDA applied to the federal government for permission to demolish three of these colonies. It said that Muslim Colony represented a security hazard, while the Dhoke Najju and Isangari colonies needed to be removed to construct the new IJ Principal dual road. Most of Haq Bahu Colony had already been demolished the previous year, amid fierce resistance from residents.

In Lahore, a special squad of the district government in May knocked down 42 houses that it said were illegally constructed in the Sikandria Colony area on Bund Road. Residents were left quite literally without a roof over their heads in searing heat. The houses of several police officers, a police station and a school put up by a sitting MPA, which were also illegally built, were however not included in this operation.

A threat to housing came from a slightly different quarter for the residents of Muhammad Ali Lashari village in Mirpurkhas. At the end of May, residents of the 100-year old settlement moved a sessions court against plans to demolish the village by a local landlord, who claimed it was a part of his lands. Villagers disputed this claim.

As part of an operation to capture persons who the police termed 'bandits', 65 houses lying in the Sukkur area, along the Sindh-Balochistan border, were bulldozed in June. Press reports said that as a result of this 'security drive', nearly 200 women and children were left shelterless.

In early July, the Joint Action Committee, a coalition of NGOs including HRCF, drew attention to the fact that the military Station Commander in Lahore had ordered the razing of a katchi abadi at Ghausia Colony, despite the fact that the Punjab government had decided to allow the mainly Christian residents ownership rights. The families had been living in the colony for over 40 years.

The residents and office-bearers of the Lahore Cantonment Board Joint Action Committee and Christian Councillors Ittehad Committee also held a rally outside the Lahore Press Club to protest ejection notices served to hundreds of katchi abadi residents. A spokesman for the Cantonment Board a few days later termed their demand for alternative land in lieu of their eviction as baseless, saying that they were illegal occupants of government land.

The CDA in Islamabad, in August, meanwhile claimed that most residents of the Alipur Farash area had moved away voluntarily from katchi abadis due to be demolished, and they were awaiting permission to raze the two dozen or so houses whose residents had declined to accept the resettlement deal.

Overall, the number of evictions in most cities were far fewer than those

seen during previous years, with a greater will shown by the political government to settle matters through negotiation rather than through the use of brute force against defenceless people. The Lyari Expressway issue in Karachi however continued to grow more grave by the day, with tens of thousands remaining at risk of forcible eviction. *[See box].*

Katchi abadis and ownership rights

The process initiated the previous year of granting ownership rights to residents of katchi abadis under the 1985 law continued. The recognition of katchi abadis established after 1985, which were not covered by this law, also moved ahead, although at an extremely slow pace.

In January, the Punjab government announced it had decided to grant ownership rights to residents of 33 katchi abadis located on railways land. The Lahore Development Authority (LDA) would assume control of these abadis immediately after ownership was granted. The handing over of papers for this began during the year, but the process remained slow.

The federal minister for railways stated a few days later that it had been decided to grant ownership rights to people based at katchi abadis on Railway land across the country, and that in the case of abadis established after 1985, steps were being taken to regularise these settlements and obtain NoCs (No Objection Certificates) from provincial governments. He also explained that this decision had been made on the basis of a federal cabinet decision in 1965, under which it had been decided to grant proprietary rights to residents of katchi abadis



Residents of these Lahore houses still await ownership rights.

on railways land. The decision had not been implemented over the period of almost four decades that followed. The railways minister at the end of January rebuked the Sukkur district government for failing to come up with a plan for katchi abadis on Railway land, stating that in other cities this process had been completed and land was being handed over by railways.

The Sindh government announced that a more uniform policy on rates for the lease of land in katchi abadis would be established and strictly followed in assessing cases for ownership rights in abadis located in the province. In July, the Karachi city government reduced lease rates for land in katchi abadis to encourage residents to seek ownership rights.

By February, the city district government in Lahore announced it had granted ownership rights to 15,000 residents of 55 katchi abadis. In November, the nazim for the district announced that ownership rights to the resident of 49 katchi abadis would be handed over within a fortnight. This had however not been done till the end of December.

However, even as the year drew towards an end, the fate of at least 117 katchi abadis in the city remained uncertain. These abadis, forming a part of the 308 katchi abadis in Lahore, had been deleted from the list maintained by the Directorate General of Katchi Abadis, either because they were established after 1985 or had less than 40 dwelling units each – the formula set under the 1985 law for ownership rights to be granted. No decision had apparently been taken on these settlements during the year.

More unauthorised settlements were reported to be cropping up on the beds of 'dry' rivers and other locations in the province, with their long-term future also uncertain.

Matters of life and death

For people living in katchi abadis, and other poorly maintained, low income settlements, the quality of life remained extremely poor.

According to the Urban Resource Center, 40 percent of katchi abadi residents in Karachi lacked access to clean water and adequate sanitation. The fact-finding mission from the Asian Coalition for Housing Rights, which visited the country in March 2003, reported after a visit to katchi abadis in Islamabad that the standard of living was dismal. The mission noted after visiting a settlement at Miskinabad that houses were made of mud and had been ruined by rains in many cases, roads were unpaved, there was no sewerage and sanitation was poor. Only around three percent of children went to school, as schools located in the area were full.

The same held true for most katchi abadis across the country, with the poor living conditions contributing to health problems in these areas. While the Punjab government promised during the year, as the process of granting ownership rights continued, that facilities in katchi abadis would be upgraded, there was no evidence that this promise was being fulfilled as the year ended.

In Hyderabad, after rains in July, stagnant water, contaminated by leaking sewage, was reported to have stood in katchi abadis for over a week, before

civic authorities began efforts to pump it out.

In Islamabad, power supply to several katchi abadis, suspended for over five months, was eventually restored in late July after a local philanthropist took pity on the plight of residents and cleared their bills. Residents had claimed over-billing by Wapda. In support of the katchi abadi residents, Christian public representative J. Salik had had power to his own house in Islamabad disconnected in May.

The UNDP also offered financial aid during the year to upgrade katchi abadis and improve the dismal quality of life for residents. However, little visible progress on this front was seen, with only schemes like the Orangi Pilot Project or the Sukkur-based Urban Basic Services Project bringing any real improvement in the living conditions in abadis.

People living in such conditions, particularly those inhabiting mud houses, remained under constant peril. The worst risks were brought with the rains, with roof collapses and deaths reported from around the country on a daily basis during the monsoon season. In July alone, according to newspaper reports, at least 70 people across the country had died as a result of collapsing structures.

While the heavy monsoon downpour in July contributed to this countrywide toll of at least 170 dead in house collapse incidents over the year, similar reports also came in at other times of the year. It was estimated that in fact the actual toll from such deaths could be much higher, with many going unreported.

The civic authorities notified residents of over 400 buildings in Lahore and Rawalpindi ahead of the monsoon that the structures were in danger of collapse. However in almost all such cases, owners in most cases lacked both the will and the means to carry out necessary repairs or to vacate the premises.

Even where the means did exist, failure to implement laws led to loss of life, with eight people killed in Rawalpindi in April after an under-construction plaza collapsed. Subsequent inquiries indicated the use of poor building materials had led to the disaster.

In a similar incident in October, eight people, all of them women and children, died after a dilapidated residential building on Multan Road collapsed. The disaster occurred after work was begun to build a shop on the ground floor, by a businessman who had recently purchased the premises. Digging and the demolition of a supporting wall, despite warnings from those living in the building, apparently led to its collapse.

In November, the collapse of the roof of a fertilizer warehouse in Arifwala, at a time when nearly 200 women were gathered on it for a reading of the Holy Quran in the month of Ramazan, led to the death of seven women and injuries to 150 others. A day later, the collapse of the roof of the home of the family of mill worker at Barki, on Lahore's outskirts, led to four members of the family, including three small children, being buried alive. Two other children were severely injured.

Housing sector problems

The fate of the much publicised 'Mera Ghar' scheme, launched by the Nawaz

Sharif government in 1999 to provide low cost housing in urban centres, the failure to implement policies announced and the rising cost of construction materials despite official announcements to the contrary all highlighted some of the problems plaguing the housing sector.

The steep decline in public sector spending on housing since the 1950s in turn reflected the reasons behind some of these problems.

The desolate structures and abandoned construction sites standing in various cities, making up what was the 'Mera Ghar' scheme, symbolised the difficulties the housing sector faced. As with the housing schemes launched by the Junejo government in the 1980s, the 'Mera Ghar' scheme seemed doomed for similar disaster.

The scheme ran into difficulties after the military take-over of 1999, when the Pakistan Housing Authority (PHA), entrusted with the task of continuing the scheme after the fall of the Nawaz Sharif government, increased the prices of the apartments being built in four major cities. The number of apartments was also reduced.

The price increase in fact meant the flats were more expensive than housing available in the market. Not surprisingly, people showed almost no interest in purchasing apartments. The one exception came in Islamabad, due mainly to the city's acute shortage of affordable housing. However, in Lahore, Karachi and Peshawar, the 4,500 apartments remained unfinished. Contractors claimed they had not been paid, and as such were not completing the work on the half-built structures. Some had already begun to fall apart, as it seemed had the scheme itself with this latest experiment in providing cheap urban housing ending once more in failure.

Implementation of the National Housing Policy of 2001 also remained sketchy. In many cases, despite incentives given to provide a boost to the construction sector, the real costs of items such as cement, brick, steel and timber soared sharply. In July, cement and steel prices in Karachi were said to have risen by up to 25 percent. It was also claimed by building contractors that cement cartels were ensuring the benefit of price reductions announced in the budget were not passed on to the end consumers,

The revival of the process of granting loans by the House Building Finance Corporation (HBFC) and the huge expansion in the housing finance or mortgage sector by banks, marked the best hope for many urban dwellers in terms of meeting housing needs. However, such loan opportunities, often requiring detailed documentation and involving lengthy verification procedures, were accessible only to the more affluent citizens.

There was as such no effective policy in place to address the expanding need for housing the poorer sections of the urban population, the segment of the population in most urgent need of cheap accommodation.

Scams and schemes

The reports of desperate home-seekers being fleeced by individuals or groups

involved in private housing scheme scams continued to pour in. In January, it was reported from Rawalpindi that several such concerns were fleecing people of money, offering them plots in schemes that in some cases did not exist at all.

In October, a major probe began in Islamabad against at least nine private housing agencies, amid accusations that due to a lack of regulation, millions of rupees had been fleeced by such groups from innocent home-seekers. The Federal Investigation Agency (FIA) was called in to conduct the probe. In December, the federal government acknowledged the need to protect the tens of thousands who fell victim each year to such schemes.

The members of the Park View Cooperative Housing Society addressed a press conference in Lahore in October to complain about the sudden cancellation of plots, even in cases where payment had been made.

In the wake of continuing complaints, the district nazim of Rawalpindi in May ordered an inquiry into fake housing societies and their operations. The Punjab government announced the initiation of a similar inquiry in Lahore in July.

In Karachi too, new cases of attempts to fleece people by fake societies continued to crop up. The Sindh Ombudsman in August ordered the director of the Malir Development Project to submit remaining cheques for reimbursing thousands of victims of the defunct housing scheme.

Fake housing societies also appeared to be attempting business in smaller towns, including Hyderabad, Sialkot and Sheikhpura,

In Faisalabad, the district police chief was reported by the Press to be involved in a housing scam in which he extracted money from his subordinates on the pretext of providing a housing facility for them. It was alleged he had in fact illegally used money from the Police Welfare fund to purchase land.

Complaints about a failure by civic authorities to carry out promised development work in schemes set up by them also continued to come in, as did reports of corruption within these bodies.

Land mafias or 'qabza groups' continued operations in all major cities, while multiple accounts of involvement of government officials or the police in such gangs also came in from across the country.

Recommendations

1. *Forced evictions from katchi abadis and demolition of houses by various government agencies have inflicted unbearable suffering on thousands. All such evictions must be immediately stopped. Where such evictions are taking place to build major infrastructure projects, the need for these must be reviewed in consultation with experts from the private sector, keeping in view the immense human suffering evictions cause and the need to devise strategies to avoid the razing of homes and the displacement of their owners.*

2. *People who have legally leased or bought land must not be summarily evicted from it without fulfilling the due legal procedure, including adequate*

compensation.

3. *If the shifting of a community is necessary to safeguard them from floods or other hazards, community leaders must be consulted and a consensus built on the best means to ensure safety. Re-housing must take place in a streamlined and planned manner, rather than by moving unwilling people to deserted land where no facilities exist.*

4. *The process of granting ownership rights to katchi abadi residents must be speeded up and streamlined in all parts of the country. The question of katchi abadis established after 1925 also needs to be urgently settled under a uniform policy..*

5. *The grave housing shortage must be given urgent attention. The huge shortfall of units that has accumulated since the 1950s, as the government cut back spending on this sector, will continue to mount still further unless immediate steps are taken.*

6. *The urban poor, who remain most urgently in need of housing, must be given special attention. This includes the thousands currently living without any shelter at all and who have no means to secure credit for house building. Credit policies need to be revamped to make money available to the poor for the purchase of land. Special encouragement needs to be given to small groups of credit seekers. The reasons for the failure of successive public sector housing schemes to meet urban needs must also be assessed and existing schemes amended to take into account these difficulties..*

7. *Low-cost hostels to cater for the many moving into cities to seek work could offer one immediate solution to the crisis of homelessness affecting all major cities.*

8. *Provision of infrastructure, including sewerage, lighting, schools, health centres and transport links must form a part of all housing projects and must be extended to all katchi abadis..*

9. *A holistic approach must be taken to the issue of housing and this must be considered alongside other policies in the interests of the poor. With housing now having devolved to district governments, the resources available to them to tackle problems in this sector must be provided.*

10. *More research is required into local technologies to build low- cost houses and advantage taken of the considerable progress made in this sphere by other countries in the region. The availability of low-cost building materials can also play a part in ensuring the repair of dilapidated houses or those built from sub-standard materials, which pose a threat to inhabitants.*

11. *Serving notices demanding that people move out of houses that have been deemed dangerous serves no purpose. In most cases, those who own or rent the house are either unable to make repairs or have no desire to do so. Alternative accommodation is not an option for the inhabitants of most such buildings. Given the threat to human life this situation presents, public sector intervention is essential.*

12. *There is a need for stricter regulation of the costs of building materials,*

especially cement, to encourage house building and bring it within the reach of more people. The indications that the creation of monopolies is playing a part in pushing up prices is a worrying factor and if true, must be checked by implementing laws preventing the creation of monopolies.

13. The increased activities of land mafias or 'qabza' groups must be halted.

14. Successful initiatives in the housing sector, such as 'Khuda ki Basti' or the Orangi Pilot Project need to be emulated and the necessary human resources developed to make this possible.

15. Housing policies must be based on the realisation that housing is a basic human right and that the homeless should have a say in their formulation. Allotment of land to the poor on long-term credit, where they can raise structures according to their inclinations and preferences, should be preferred to inviting people to purchase uniformly ugly looking dwellings.

Environment

All human beings have the fundamental right to an environment adequate for their health and well-being.

States shall conserve and use the environment and natural resources for the benefit of present and future generations.

States shall establish adequate environmental protection standards and monitor changes in and publish relevant data on environmental quality and resource use.

Proposed Legal Principles for Environmental Protection and Sustainable Development

Article 1,2,4

Two major disasters during the year once more drew attention to the dismal situation regarding disaster preparedness in the country.

The heaviest monsoons in Sindh for over a decade began in early July, and flooded a region of over 1,000 kilometres. Around one million were reported to have been killed, made homeless or stricken by disease as a result of the calamity.

An oil spill from a grounded Greek tanker off the Karachi coast meanwhile began blackening the beaches as the vessel cracked and crude oil began leaking from it on July 27. The spill, classified by international agencies as a major disaster, had by early September caused huge environmental damage, threatening mangrove swamps and marine life. Toxic fumes from the oil also affected thousands in the city, with authorities poorly equipped to handle the worst oil spill in the country's history.

Aside from these two major calamities, water scarcity, the polluting of waterways, poor air quality mainly as a result of unregulated vehicular and industrial emissions and the failure to safely dispose of solid waste, including that generated by hospitals, remained major concerns. The rapid depletion of forests and wildlife habitats was a still more pressing issue.

Evidence emerged, particularly from the Participatory Poverty Assessment

(PPA) in the Punjab, the results of which were made public in September, to suggest that the rapid environmental degradation being suffered as a result of population growth and poor planning was in fact an issue of huge concern to ordinary people. Many realised that it affected both their economic lives and their health adversely, with land productivity declining due to over-cultivation, lack of new plantations and other hazards affecting day to day life.

Yet, despite the realisation that the environmental degradation was causing the national economy a loss of at least US \$ 1.8 billion annually, official policies failed to address the scale of the damage, to devise plans to halt it or to set in place a better disaster management strategy, aimed at reducing human suffering as a result of environmental crisis.

The wrath of the rains

While drought had been a major disaster in southern areas of the country during previous years, in 2003, somewhat ironically, it was flooding that caused huge losses, most of them in Sindh

At least 350 people died across the country as a result of the flooding, caused by heavy rains, that began on July 4. A second, more intense round of flooding began at the end of the month and continued into August.

As the rains began in early July, at least 10,000 villages in Sindh were reported to have been hit, with over a million people affected. An estimated 900,000 people were in the middle of July believed to be stranded in their homes across Sindh and also neighbouring areas of Balochistan, while agriculture was severely hit

with over 450,000 acres of cropped land destroyed.

Nearly 20,000 heads of cattle were believed killed –with such losses also meaning long-term implications for families with

who depended on them as a source of livelihood.

Outbreaks of hepatitis, malaria, typhoid and other water borne diseases followed the flooding, causing further deaths and suffering.

The worst hit area in Sindh was Badin, one of the poorest districts in the country. A breached canal compounded the problems caused by heavy rains in early August, with many people forced to spend days on rooftops. Others are



Lack of preparedness meant rains brought immense hardship.

said to have climbed trees to await rescue. Many survived without food for up to three days, drinking sips of contaminated water to ward off dehydration and death.

Humanitarian agencies that rushed to the area saw the situation as one of the worst human disasters in Pakistan's history. Political parties, relief agencies and the victims themselves were highly critical of government efforts to provide aid, as well as the lack of warnings given to them. The delays in providing food aid even as severe shortages left thousands of households with no supplies of basic items and the slow pace at which operations in the stricken area were started also added hugely to the suffering. Indeed, in early August, the 90 or so relief camps set up in Badin were deserted within days with people preferring to return to their flooded homes rather than suffer at the camps where food was in short supply, arrangements for shelter poor, medications not available and staff unable or unwilling to resolve problems. More rains at the end of August claimed at least another 12 lives in Badin, while causing still further damage to property and crops.

Indeed the relief operation was so haphazardly conducted that authorities were unable to safely supply food to desperate people. In Badin on August 4, one person was killed after constables tried to control desperate people attempting to unload supplies from a truck. Hassan, 35, died as a result of the severe beating with batons, while at least one other person was badly injured. Even by the end of August, press reports from the stricken area suggested that up to 60 percent of affected people had in fact not received any aid at all due to inefficiency, corruption and mishandling of the rescue operation. An investigation into the illegal sale of relief aid in the Jati Taluka in Thatta district was opened on August 18.

The Sindhi-language press meanwhile noted that the Badin-disaster was in fact a man made one. They attributed the scale of the havoc to the flooding of drains at the tail-end district, rather than to the rains themselves. They also pointed out that the people of the area had in fact warned of looming ecological disaster after government planners began replacing the age-old drainage system in the area with new projects, the engineering of which did not allow rain water to drain into the sea.

Badin was not the only area in the country hit by floods. Heavy rains in August affected 16 districts in Balochistan, causing at least 46 deaths, the destruction of over 29,000 houses and a massive loss of crops and cattle. The Jafferabad, Nasirabad, Bolan, Jhal Magsi and Lasbela districts were the most severely affected.

The high water level in the Indus and Chenab rivers led to floods in the Dera Ghazi Khan and Multan areas in the Punjab. 100 villages in D.G. Khan were reported in early August to have been inundated by flood-water, while the cotton and rice crop was also badly hit in a 160-kilometre belt stretching across the Muzaffargarh, D.G.Khan and Rajanpur districts.

On August 8, 100 villages in the Pasrur area were declared calamity hit by the Punjab chief minister. A few days later, 13 villages in the Sheikhpura district

were reported to have been submerged after heavy rains, while rising flood waters in the Chenab River inundated at least 60 villages in the Multan and Muzzafargarh districts, affecting over 10,000 people, and causing large scale agricultural damage. 70 people were reported killed in the Punjab as a direct result of floods. Others died due to disease or the collapse of houses in the days after the rains.

Even major cities were unable to withstand the wrath of the rains, with Karachi suffering the worst damage. With 47 percent of the city's population living in katchi abadis, the rain wreaked havoc on lives, leaving areas flooded for days and contributing to the multiple house collapses reported in the city. At least 20 lives were lost as a result of such mishaps, with the poor the worst sufferers of such disasters.

Poor planning and coordination among civic agencies contributed to the situation, while power suspension across Sindh due to rains, in some cases for up to 72 hours at a time even in cities like Karachi and Hyderabad, worsened the plight of people. In Karachi riot-like situations broke out on several occasions as people protested the long power cuts outside the offices of civic agencies.

Air pollution

Official documents and reports released in 2003 noted that air pollution levels in the country's most populated cities were among the highest in the world and were continuing to rise, with serious health repercussions. The levels of suspended particles were notably higher than WHO safety standards.

Levels of smoke particles and dust in the air were according to the Economic Survey for 2002-2003 five times higher than average levels in industrialised countries and in Latin America.

Vehicular and industrial emissions were the major factor in this, with the number of vehicles on the roads increasing by 12 per cent each year. Since 1983, the number of vehicles had expanded from 0.8 million to 4.0 million – an increase of over 500 percent, according to statistics released by the ministry for environment. It was also noted that motorcycles and scooters, with two-stroke engines, were among the worst polluters and their number had increased seven fold in the last two decades.

Around 28 percent of the vehicles on the roads were reported to be using Compressed Natural Gas (CNG), but the government plan to convert the maximum possible number of vehicle to this cleaner fuel lagged far behind the targets originally set. The sale of lead-free petrol since 2002 was officially cited as another of the steps taken to encourage the use of cleaner fuel. It was however noted that very few vehicle users purchased the lead-free petrol, both due to its higher cost and their own lack of awareness. The environment ministry maintained efforts were on to remove sulphur, a major pollutant, from all fuel sold in the country.

The use of coal remained another major contributor to air pollution, with the power sector and brick-kilns major industrial users of the fuel. Press reports from Rawalpindi, Lahore, Peshawar, Sheikhpura and other areas noted that the location of brick-kilns close to cities was having an extremely negative impact on

pollution levels.

A report from Peshawar in June stated that air pollutant levels were at least double the permissible levels set by international agencies in many busy city areas, and were continuing to rise as a result of the rapid growth in the number of vehicles and the unchecked existence of industries close to the city.

In January, the Punjab Environmental Protection Agency (EPA) sent a mobile team to investigate complaints of increased air pollution by thermal power producing units in Muzzafargarh. The results of the survey carried out by a mobile team remained unclear, but throughout the year local people continued to complain of increased respiratory ailments, which they attributed to the power plants set up in the area.

In July, the environment ministry announced it would launch a drive against smoky vehicles in five major cities. The move followed suo motu notice taken by the Supreme Court of increased environmental degradation, notably in the Punjab, and ordered that departments dealing with traffic, the environment and transport launch efforts to prevent a worsening of the situation.

Lahore was believed to be the most heavily polluted city in the country, after a survey of urban centres in the Punjab completed in 2002. The over 700,000 vehicles plying roads in Karachi were also a major factor in polluting air in the city, though it was noted that pollutants in coastal areas were carried away over the sea, and not 'locked in' to create the kind of heavy smog encountered in the Punjab each year.

Leakages of ammonia, chlorine and other toxic gases also continued to be reported from cities including Multan and Sheikhpura, with the failure to implement laws banning the industrial use of such gases in residential areas contributing to the problem.

Not a drop to drink

A report released by the UNDP at the end of August stated that Pakistan lacked sufficient water resources to meet its present and future demands, and was fast approaching the 'critical threshold' or chronic water stress mark, generally put by experts at 1,000 cubic metres per capita per annum.

The report, titled 'Water: A Vital Source of Life' also pointed out that there was not only over-exploitation of available ground water resources, but also a great deal of wastage. It was emphasised that unless the situation was brought to a halt and reversed, Pakistan would face an extremely grave situation in the future. The UNDP called for access to clean water for all people, pointing out that it was the poor who suffered the most as a result of water scarcity and water pollution.

The UNDP finding was backed by a series of other reports and studies over the year, highlighting the gravity of Pakistan's water scarcity problem. The economic survey for the year pointed out that safe, fresh water supplies were at risk in many areas of the country, and Pakistan exceeded the threshold of 'high water stress' conditions, which occurred when the ratio of use to availability

Battle over water: The Greater Thal Canal

While the issue of the building of the Greater Thal Canal in Punjab had seen protests in Sindh since construction work began in 2001, the issue came into greater national and international focus after the Sindh Assembly passed a unanimous resolution on February 28, 2003, demanding stoppage of ongoing construction work on the controversial canal.

Politicians, parliamentarians, rights activists, environmental experts and farmers across Sindh had expressed the fear that after construction of the Greater Thal Canal, there would be no water in the River Indus downstream from the Kotri Barrage. This would aggravate the chronic shortage of water in the country, and Sindh, being a downstream province would bear most of the brunt.

The Sindh Assembly also claimed the construction of the Greater Thal Canal was in violation of Article 155 of the Constitution. The said article states that if the interests of a province, another territory or any of the inhabitants thereof, "in water from any natural source or supply are likely to be affected prejudicially by either an act of legislation or by the failure of any authority to exercise its powers with respect to the distribution or control of water from that source", the Council of Common Interests (CCI) should settle the matter. The Sindh Assembly called for the CCI, consisting of the provincial chief ministers and an equal number of representatives from the federal government, to meet on the matter, with this demand reiterated several times during the year.

The Greater Thal Canal, located between the Indus and Jehlum rivers, close to Multan, was one of the projects consistently demanded at meetings of various forums by the Punjab for over a decade. However, owing to its deleterious impact on Sindh, the 'go ahead' for construction was not given. According to groups in Sindh opposing the canal, in 2001, the Greater Thal Canal project was commenced after the project was 'slipped' onto documents by the Punjab government among others that had been approved. Connivance with the centre was claimed. The Punjab government has maintained that the project was in fact approved, and would benefit 1.55 million acres of land located in Bhakkar, Leiah, Khushab and Jhang districts – resolving acute water shortage problems in these areas.

Protesters in Sindh, who with the support of political parties including the PPP, JSQM and MQM held rallies all through the year to stop what they call the "covert" canal building, also maintain that the ECNEC (Executive Committee of the National Economic Council) meeting called in 2001 for ceremonial 'approval' of the project, was convened without the Sindh Government being informed.

The Sindh Government lodged a fourteen-point protest at the next

ECNEC meeting. However, by this stage construction was well underway and the Punjab government claimed it had been formally approved. Anti-canal protesters in Sindh meanwhile held that the meeting of CDWP (Central Development Working Party) at which the Greater Thal Canal project was approved, was held on February 8, 2002. The Government of Sindh however received a letter of invitation, issued on February 4, 2002 to participate in the meeting, only on February 11. Subsequent complaints have since been ignored or quickly over-ridden, while groups representing Sindhi farmers, traders, citizens and political parties have continued to maintain the canal is a blatant violation of the 1991 Provincial Water Accord and construction work on it was started without following laid down procedures.

Experts opposing the canal construction also drew attention through the year to a complicated jugglery of figures used by the Punjab to justify the canal. It was further pointed out that this canal had in fact been rejected even in colonial days, on the basis that it would benefit a small number of people in the Punjab, but damage the interests of a far larger number in Sindh.

According to the most recent statistics, the regions that would benefit in the Punjab house some 570,000 people of which a mere 50,000 are engaged in agriculture. Some reports also suggested it was highly likely that the land in the Thal area benefitting from the canal would be allocated to retired military and civil bureaucracy officials.

Work on the canal was continuing despite the uproar in Sindh as the year closed. The announcement during the year by President Pervez Musharraf that he was determined to build the still more controversial Kalabagh Dam, opposed by Sindh as well as the other smaller provinces, added to the disquiet over the issue.

exceeded 40 percent.

There were also warnings from experts that even though rain had brought a respite from drought, this could be merely temporary. Agencies linked to the UN continued work in areas of Balochistan that remained affected by the impact of the drought experienced over the previous five years. It was believed that around a million people were still suffering the impact of displacement or the loss of livestock, leaving them with no means to earn a livelihood.

The World Bank also stressed the need to improve water management. In July, it reallocated US \$130 million support for drought assistance and preparedness, and also announced continued support for several major water management and drought relief programmes in the country.

Apart from the need to conserve water more effectively and ensure improved management of resources, the safety of water also remained a major issue. The Economic Survey for the year stated that while the water was safe on most counts when compared against NEQS, the suspended solids present in water in

many parts of the country far exceeded limits set by the NEQS. The presence of disease-causing contaminants in the water, including human wastes, were also found to be far higher than acceptable limits.

Domestic sewage, polluting industrial effluents and agro-chemical pollution from agricultural lands using fertilisers and pesticides were found to be the main sources of water pollution. Tube-wells and pumps in many cases drew up water contaminated by toxic materials that had leached into the soil after the use of chemicals on farmed lands.

According to experts interviewed in August, the continued pumping of untreated effluents into the country's waterways was creating a situation that could result in all water in the country becoming toxic. The experts pointed out that the poisoning of ground water in Kasur, as a result of effluents from tanneries, had resulted in health impacts on 62 percent of residents. Figures showed that between January 1998 and December 2002, at least 253 people in Kasur had died as a direct result of pollution-related conditions.

The number of industries producing dangerous effluents remained unchecked. According to a study carried out during the year by the Sindh Environmental Protection Agency (EPA), the effluents discharged into water from major industries including chemical plants, tanneries, textile mills, sugar mills and fertiliser producing units were far higher than the set NEQS.

Efforts to persuade industries to treat wastes and avoid the wide-spread poisoning of not only water but also the land into which chemicals leached remained largely unsuccessful. A press report from Lahore early in the year stated out of at least 5,500 industrial units in the city, only 14 had working treatment plants for effluents. This was in fact a decline in the figure of 15 late last year, with plants that went out of order often not repaired. The high cost of treatment plants meant that industries were extremely reluctant to install them. There was no evidence that the Pollution Charges and Regulation Ordinance of 2002, making a provision for polluting units to be fined in phases for allowing untreated wastes to enter water or the soil was being implemented. Almost two years after the Ordinance was enforced in February 2002, records with the Punjab EPA suggested no unit had been acted against under it.

This was despite the evidence that thousands of units were discharging wastes, poisoning not only surface water but also ground water. Over 259 cusecs of untreated waste water from 110 industrial units was being dumped in Faisalabad district, with most of the polluted water coming from textile units.

The federal environment minister, early in the year, appealed to industrialists to abide by laws and help curb pollution. There was no indication that factory owners were following this advice, with most water supplied to Karachi and surrounding areas containing dangerous levels of toxins as a result of the dumping of factory effluents in canals. A plan announced in 2002 by the city district government to treat waste-water from the Korangi Industrial Estate had still not been implemented as the year closed.

Health statistics meanwhile continued to highlight the dangers of unsafe water. Official statistics estimated that 60 percent of infant deaths and 40 percent of all

deaths were caused by water borne diseases. A major portion of the health budget was in fact spent on treating illnesses resulting from polluted water and air.

A more direct impact of drinking poisoned water was visible in communities at Shamke Bhattian and Kalalanwala, both based close to Lahore, where hundreds of people, especially children, had suffered a bone deforming condition – apparently as a result of water contaminated by factory wastes. The attention the victims had received as a result of newspaper interest in the cases during the past four years had faded almost entirely away. There was no indication that a soil and water survey ordered by the Punjab government in 2000 to ascertain the safety risks across the province had been completed, or what its results were. Press reports meanwhile continued to suggest that much of the groundwater in and around Lahore was poisoned by toxins from industrial, agricultural and domestic waste.

The unchecked dumping of sewage and effluents into waterways also continued to poison rivers in many parts of the country, with one detailed newspaper report in July suggesting that cattle drinking water from rivers near both Lahore and Rawalpindi were taking in poisons that could also enter the milk supply.

The use of the Ravi as a dumping ground for waste had resulted in oxygen levels in the water falling to dangerously low levels, and the death of most marine life in the murky waters, with reports stating even fish caught further up the river contained dangerous toxins that could enter the food chain.

Noise pollution

The increased level of hearing impairment among people across the country was largely attributed to the unchecked noise pollution, especially in major cities. One out of every six persons was thought to suffer some degree of hearing loss. The rate was highest among people living in congested areas with a high level of



The deafening din on city roads caused a growing number to suffer hearing loss.

vehicular traffic.

The lack of an NEQS for noise pollution remained a difficulty, with no standard laid down when NEQS were enforced in 1993. This error was not remedied at any later

stage.

Reports from Lahore throughout the year suggested that noise levels at many busy intersections in the city far exceeded the internationally set safety level of 65 decibels.

According to a survey completed in January by the Environmental Protection Agency, Bhatti Chowk, where 90 decibels of noise was recorded, was the noisiest place in the city. Levels rose even higher during peak traffic hours. Azadi Chowk and Lohari Gate recorded noise levels at almost the same mark. Other studies during the year also found noise levels to be dangerously high.

Even the less congested parts of the city fared only marginally better on the noise scale. 85 decibels of noise were the average for Kalina Chowk and Main Boulevard.

Noise levels in Multan, Muzzafargarh and Khanewal were also found dangerously high.

In Karachi's Lea Market, it was estimated that decibel levels at times exceeded the 100 mark – endangering the hearing of shopkeepers, traders, traffic policemen and others who spent long hours there.

A study carried out in Peshawar in March by the EPA also found noise exceeded the 85 decibel mark in many busy places. Rickshaws were found to be making a major contribution to noise pollution.

In an indication of how enterprise and effort could lead to an improvement in the situation, a new silencer, produced easily and inexpensively by an illiterate rickshaw driver in Lahore, was in September approved by a committee of Punjab traffic and environment officials to be installed on all rickshaws. The government departments had themselves failed to come up with any similar device to cut noise pollution caused by rickshaws.

While traffic appeared to be the main cause of noise pollution, industries located in residential areas, saw mills, iron welding plants and so on also contributed significantly. The lack of safety equipment available to factory workers resulted in hearing impairment over a period of time, with a lack of awareness on the issue adding to the problem.

Solid waste

Despite some evidence of increased attention to the problem, the over 100,000 lakh tonnes of solid waste generated by major cities in the country continued to be disposed of inadequately. It was estimated that only around 25 percent of this mountain of garbage was properly disposed off.

The inability of the mechanisms available in cities to tackle the amounts of waste generated, the continued use of plastic bags across the country and the unsafe disposal of hospital waste remained the three biggest issues as far as the disposal of solid waste was concerned. Despite an increase in funding to deal with the waste disposal issues, and the emergence in Karachi, Lahore and other cities of NGOs willing to make an effort to tackle the problem, such measures

amounted to little more than a drop in the ocean of waste.

Of the over 8,000 tonnes of waste produced daily by Karachi, only around 50 percent was being collected and disposed of properly. A sum of around 800 million per year was spent on solid waste disposal. There was no evidence that



Heaps of garbage appeared along more roadsides during the year.

the city district government had been able to make any improvement in the situation.

The nearly 5,000 tonnes of waste generated in Lahore could often not be disposed

off adequately due to the small number of Solid Waste Management workers in the city, with only one worker available to every 100 citizens. The city district government introduced a new garbage collection scheme in July, as part of its plans to privatise collection, but this remained limited to posher areas of the city – with the worst collection and disposal problems seen in poorer areas.

The lack of sufficient land refill sites added to the problem, with a new site at Babu Sabu still not completed. Most of Lahore's garbage was as such disposed on open ground or in water channels.

The finding early in the year that 981 manufacturing units in the city were producing 40 metric tons of plastic bags daily, indicated the scale of this problem. The non-biodegradable bags contributed considerably to the problem of waste disposal across the country. The bags manufactured in the Punjab were also widely sold in the NWFP, where the local manufacturing industry had been largely closed down. Even black bags, banned under laws that remained poorly implemented, continued to be manufactured and sold.

Over the year, even the solid waste generated by Islamabad had risen from 300 tonnes to 450 tonnes a day. A similar increase was seen in other cities.

In the absence of proper disposal facilities, the burning of waste was commonplace, with the resulting toxic fumes adding to air pollution.

Hospital waste and its unsafe disposal remained a still bigger concern. Reports from Lahore, Peshawar, Karachi, Multan and Rawalpindi also suggested that

Blackened beaches: Oil spill off Karachi coast

By the end of August, the 'Tasman Spirit', a Greek tanker grounded outside the channel leading to the Karachi Port on July 27, had spilled more than 15,000 tons of crude oil into the sea, killing all marine life in the area and leaving the once-sandy beaches of the city blackened by a heavy slick of oil.

International environmental watch-dog bodies, including 'Green Peace', termed the spill "one of the worst in recent years". They also observed that Pakistan's lack of expertise in managing the disaster, and an initial failure to react as the tanker lay grounded off the coast, threatening to release its cargo of oil into the sea, contributed to the scale of the environmental tragedy. The agencies estimated it could take "up to three years" for the ecological balance in the area to be restored and the beaches to be cleaned up.

As the oil slick continued to spread, a joint committee of the health ministry and the World Health Organization (WHO) at the end of August declared the incident an environmental catastrophe of immense scale, with massive health implications. While short-term effects from the oil fumes included skin and eye irritation, breathlessness, numbness and headaches, the committee was more concerned about the long-term impact of toxins in the sea. On the recommendations of the report, fishing in the area was banned early in September and the use of seafood for chicken feed discontinued.

These reports contrasted sharply with the claims made by the Sindh government. The provincial chief minister indeed insisted



Fumes from Karachi's blackened sands added to citizens' woes.

days after the spill that the beaches would be returned to normal “within ten days”. Other politicians and bureaucrats repeated similarly unrealistic forecasts, and even maintained the city’s people had “not been affected at all”. This was despite the fact that toxic fumes from the spilled oil were continuing to affect residents of coastal areas even as August ended, with new spills aggravating breathing problems, eye conditions and other health difficulties.

Authorities issued public warnings soon after the spill that people should wear masks in the areas around the beach. The beaches themselves were entirely closed off to the general public..

The attitude adopted by the Sindh government officials also accounted for the lack of planning as the disaster loomed. Press reports suggested that the ‘rescue operation’ should have been chalked out before cracks appeared in the tanker’s body, as it lay grounded off the harbour area. Karachi Port Trust (KPT) authorities were blamed for a failure to undertake such planning while it was also claimed that confusion between agencies delayed an aerial survey of the seas where the tanker lay, contributing to the slow pace of the operation to drain away the oil which began after the tanker split apart. The air of secrecy maintained initially by authorities over ownership of the tanker and the purpose of its visit to the Karachi Port also added to the mystery surrounding the episode and led to rumours suggesting influential persons within the country in fact had shares in the company owning the tanker. In September, KPT officials said the tanker owners, a Greek company, would be asked to pay Rs one billion as compensation for the immense damage caused by the spill. Negotiations for paying compensation were continuing as the year closed, with Karachi beaches still stained by oil.

An inquiry was also opened into the incident, but by the end of November had failed to make any headway. Some newspaper reports suggested this was a result of government pressure to cover up many facts related to the incident.

In early September, the tanker split into two, spilling more crude into surrounding waters. The vessel was known to carry a total cargo of a massive 67,500 tons of crude oil. 32,000 of this was reported by the end of August to have been drained away.

The draining operation was delayed in the middle of August when a salvage tanker developed a hole in its hull. Towards the end of September, it was reported in the press that the clean-up operation was proceeding at a slower pace than anticipated. Even

by December, oil remained visible in the sea and on the beach, while the Karachi Port Trust (KPT) stated a deal had been struck to remove the wreckage of the tanker.

The disaster amounted to a tragedy on a huge scale for fisherfolk in the area. Press reports stated that they had been almost completely deprived of their ability to earn a livelihood, with no prospect of an early restoration of marine life in the area.

At a press conference in Karachi in August, the Pakistan Fisherfolk Forum (PFF) demanded an impartial probe into the incident and criticised the role played by the KPT. The KPT was also accused of negligence by the fisherfolk, who said it had delayed action for too long. The PFF denied official claims that the oil spill would not affect key fishing areas, and stated that fishing towns such as Keamari, Baba, Bhit, Shamsipir islands, Kak village and other areas had been badly hit.

There were no reports as to what measures had been taken to assist the fisherfolk of Karachi or to enable them to survive the many months until the effects of the oil spill were overcome and the ecological balance of the seas and the beaches restored. Green Peace predicted this would take at least three years.

Even aside from the oil disaster, the continued dumping of wastes in the sea, especially in the area around the Karachi harbour, had resulted in a significant decline in fish. Estimates by environmental protection groups suggested the coastline around Karachi was among the most polluted in the world, with 90,000 tons of oily discharges pumped in by five industrial estates located in the area.

Over 330 gallons of industrial effluents generated in the city were also dumped daily in the sea, along with sewage from the city. The PFF's calls to check such pollution, and protect those who earned their livelihood through fishing, continued to fall on deaf ears.

organised gangs were engaged in retrieving syringes, needles, blades, lances, intravenous bags and other items from dumped waste at hospitals, and re-selling these — at huge risk to public health.

In Islamabad and Rawalpindi, over 3,000 kilograms of solid waste was produced daily by hospitals, and another 2,000 kilograms each day by the over 4,000 private clinics in the twin cities. Almost all this waste was simply dumped along roadsides, where scavengers frequently picked out items that could be re-sold.

The improper disposal of hospital waste was seen as a major cause for the

spread of infectious diseases, including hepatitis.

Official figures suggested that hospitals across the country were producing at least 25 tonnes of highly toxic waste daily. Less than 25 percent of hospital waste was properly disposed off, and even incinerators installed at hospitals in major cities often remained out of order or had been improperly installed.

An example came at the Children's Hospital in Lahore, where an incinerator ordered in 1998 had reached the hospital in January 2002. However, procedural problems meant it had not been installed even as the year 2003 ended, with letters written by the hospital management pointing out that the incinerator could in fact tackle waste from all city hospitals ignored by the health department, whose permission was required to install it. As a result of such delays, waste continued to be disposed off as ordinary garbage.

Forests, wildlife and natural habitats

While international standards recommended that at least 11 percent of land consist of forests, in Pakistan only 3.81 percent of the land was forested. The ruthless cutting of trees, particularly in the three decades since 1960, had largely contributed to this.

Greater attention to the issue, frequently under international pressure, had resulted in a 10 percent increase in forest cover since 1990. It was however noted that this was an extremely nominal expansion.

While 11.25 percent of total land in the country was protected as national parks, wildlife or sanctuaries, compared to an internationally recommended percentage of 12 percent, it was noted that this distribution was not equitable. For instance, the Sustainable Development Policy Institute pointed out that in Balochistan and the NWFP, only six percent of land was protected, as compared to over 16 percent in the Punjab. This was despite the fact that both the smaller provinces had larger resources of natural habitats and wildlife.

The poor management of protected areas was also a major issue. In many cases, even within areas reserved as national parks, tree-felling activities continued.

The Margalla Hills National Park, for instance, remained under threat due to frequent forest fires, water contamination, illegal hunting, a proposed chair lift project, road construction and other factors.

The UNDP in February arranged a funding facility of 2.2 million Euros to expand tropical forest cover over the next five years. This added to significant World Bank funding for the forestry sector.

In February, Pakistan identified three new areas as new wetlands, given their importance to promoting bio-diversity. The three areas in Sindh were the Indus Delta, the Rann of Katch and Deh Akro. The Worldwide Fund for Nature (WWF) noted that with this, Ramsar wetland sites in Pakistan had expanded to 19.

At a public hearing early in the year on the impact of ongoing and upcoming gas exploration projects at the Kirthar National Park, participants representing NGOs stated the drilling would cause considerable overall environmental damage. The hearing was organised by the Sindh Environmental Protection Agency.

Representatives of international firms carrying out the exploration held the work would provide jobs to local people and also promised to work on water and health facilities, as demanded by the local communities.

In May, the Punjab government declared the 576 acre area around the Kallar Kahar Lake a protected area and wildlife sanctuary, to protect it from encroachment by land mafias.

Environmentalists at a seminar organised in Islamabad in July pointed out that Manchar Lake in Sindh, Pakistan's largest freshwater lake, had become an agricultural dumping ground. Its sources of fresh water were declining and were badly polluted as a result of waste dumping upstream in the central Punjab. Increased salinity and sedimentation also threatened the lake, endangering the survival of 100,000 fishermen who earned their livelihood by fishing the lake waters. The experts pointed out that indeed all lakes in the country were turning into cesspools, including those in the northern areas, while flora and fauna continued to vanish at an alarming pace.

Mangrove forests, vital to the ecosystems of coastal areas, continued to decline, with reports during the year stating that development work carried out by the Karachi Port Trust (KPT) had in some cases caused damage. The oil spill in Karachi seriously damaged young mangroves, threatening a calamity of still greater magnitude in the future. *[See box].*

The felling of trees in Islamabad, in Lahore and in other cities continued to draw protests from citizens – who pointed out that the ruthless cutting, to make way for road projects, resulted in a further reduction in the greenery of major cities, where it was most needed.

Actions to protect environment

While the failure to implement existing environmental protection laws, enforce set NEQS or persuade industries to curb pollution contributed widely to the problem, the under-funding of government agencies tackling pollution also remained a pressing issue.

Corruption, inefficiency and neglect within public sector agencies added to the difficulties.

A seminar in Lahore in April stressed that if environmental laws were to be implemented more effectively, more powers and resources needed to be delegated to the EPAs in all the provinces.

In May, the Punjab government notified new NEQS for the eradication of toxic industrial waste. However, as the year closed, there was no indication that enforcement of these NEQS was any more effective than in the past.

In this situation, the evidence that courts were increasingly willing to intervene in environmental matters appeared to be a positive development. This was especially true given the example from India, where court action played a huge part in improving air quality in New Delhi and ensuring safer drinking water for residents.

In June, the ministry of environment presented a detailed report to the Chief Justice of Pakistan on measures taken to combat environmental pollution. The

CJ had taken suo motu notice of increased environmental degradation, especially in the Punjab, and issued notices to federal and provincial agencies. The CJ also ordered that a report on the effectiveness of the measures taken be presented to the court before the end of the year. In response to the CJ's action, a detailed plan was chalked out by the federal government to clean up air pollution. *[See also section on air pollution].*

Earlier in the year, the Lahore High Court, hearing a petition filed by residents of the Mahmood Booti area against a presence of a garbage refill site in the locality, appointed a commission including leading environmental experts to gauge the gravity of complaints about environmental degradation and health hazards to residents. The court also sought the experts views on the best future plan of action, with the case hearings continuing as the year closed.

In July, a group of citizens filed a petition before the Rawalpindi Bench of the LHC, seeking action to save the Murree Hill Tracts from damage caused by landslides. The petition stated that the landslides, caused by roadworks and blasting of the hillsides for this purpose, were causing immense environmental damage, threatening the lives of local people, causing soil erosion on a vast scale and resulting in the destruction of forests. In the same petition, the unplanned building in Murree, the establishment of large housing schemes illegally and the failure of agencies to check the destruction of the hill station were also brought up. The court was continuing hearings as the year closed.

While the superior courts also took up a number of other petitions moved on environmental issues, the environmental tribunals set up in 1997 remained largely non-functional. In Balochistan and Sindh, no judges had been appointed to head the tribunals, while in the other provinces too they failed to make any impact in checking the immense problem of environmental degradation.

Recommendations

1. *The failure to implement laws, as in previous years, remains a huge issue. The reasons for the poor functioning of provincial EPDs needs to be assessed. The environmental tribunals handling cases involving the environment must be made more effective and their running streamlined by appointing full time judges to hear cases. During the year these tribunals failed almost entirely to play any effective role, with judges not appointed to at least three out of four provincial tribunals. Agencies must be empowered to act against industrial polluters when they present a hazard of any kind.*
2. *New legislation is required in some areas to tackle threats presented by expanding industry and accelerated development work.*
3. *Projects such as the Greater Thal Canal, have broader political implications, including those on federal unity, which must be kept in mind before initiating them.*
4. *Despite the growing evidence that environmental degradation is a huge concern for many communities in both rural and urban areas, the government*

routinely allocates a mere 0.4 percent of the public sector development budget for environment. Given that estimated expenditure on removing pollution and the massive totals for healthcare on diseases caused by pollution, this sum needs to be increased and far greater priority given to environmental issues. Indeed, environment needs to be placed high up on the list of priorities, given the negative impact of degradation on economic welfare, health and related issues.

5. A disaster readiness plan is vital to tackle situations arising from natural calamities. Rather than underplaying the extent of the damage inflicted by floods, heavy rains, drought, storms or earthquakes, as is the norm, the problems need to be acknowledged as events that present a very real threat and can be expected to occur from time to time given the geographic location and climate of the country. Systems to predict such hazards, warn people in advance, carry out evacuations when necessary and minimise loss of life or damage must however be put in place. A plan for a coordinated effort after any calamity to avert unnecessary deaths and reduce the suffering of victims is also urgently needed.

6. The disastrous oil spill at the Karachi harbour indicates both the need to more carefully regulate shipping in the area and to put in place a plan to tackle a major disaster.

7. Management of water resources must be improved to avert drought and tackle its effects. A long-term plan is needed for this, along with urgent relief measures for affected families, including those who continue to be displaced.

8. NEQS already in place must be implemented. When this is not possible because of the inability of industrial units to comply, targets must be set in place within which treatment plants and other equipment can be installed. Unrealistic standards set by NEQS should be reviewed and revised.

9. The continued pollution of ground water presents a huge threat to populations. Strict controls must be set in place to prevent a further seepage of poisons into ground water supplies. The surveys reportedly ordered to assess water quality must be completed, and where water is found unsafe, alternative supplies piped into meet the needs of populations.

10. The dumping of waste in fresh water channels and the sea presents an increased threat to fishermen who depend on their catches to earn a livelihood, as well as to those who consume the fish. A comprehensive policy on the fisheries sector is required to safeguard their interests and develop the industry further. At the same time, the dumping of waste in open water must be halted by strictly implementing existing legislation and new laws framed if this is found lacking.

11. Air pollution levels are now extremely alarming and present a huge health hazard. Apart from steps to accelerate conversion to CNG engines, a ban on heavily leaded fuels must be imposed. In addition, an effective public transport system is required to control traffic volume, while imposing checks on industry also takes on greater urgency given the dangers air pollution presents in all major cities.

12. Hospital waste must be disposed of only in properly installed incinerators

and punitive action taken against those who fail to ensure this.

13. Awareness about environmental pollution must be raised, especially among children. School textbooks and the electronic media can both play a part in this. Only community involvement can control the use of plastic bags, the burning of garbage or the indiscriminate dumping of household waste on open ground.

14. An effective solid waste collection and disposal plan is required for all major cities. Sanitary staff and vehicles for waste collection need to be increased and more disposal sites created given the mounting volume of waste.

15. Tree felling must be banned and communities dependent on timber for fuel provided alternative means to meet domestic needs.

16. Corruption within government departments, which often enables polluting industries or those engaged in illegal tree felling to escape must be checked and the working of these departments streamlined to improve planning and implementation.

17. More research on the state of the environment and practical solutions to problems needs to be encouraged in both the public and private sector. Government departments already involved in this need to be properly staffed and equipped.

18. Wildlife habitats and individual species must be protected. Illegal hunting must be stopped and greater attention given to the need to properly manage existing game reserves and sanctuaries, which often suffer degradation due to neglect.

19. Tree felling in cities must be banned to help combat air pollution and provide greenery for citizens.

Refugees

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Universal Declaration of Human Rights

Article 1

The repatriation of Afghan refugees by the UNHCR started in 2002 resumed in March 2003, after a three-month halt. UNHCR officials were confident conditions inside Afghanistan had improved sufficiently after the winter months for refugees to return safely. Over the year, nearly 400,000 Afghans returned home, the largest number in many years.

However, it became clear that a sizeable number among the over two million Afghan refugees, still estimated to be in Pakistan at the start of the year, remained apprehensive about any return to their home country, given the economic chaos and instability prevailing there. A resumption in fighting in some parts of Afghanistan added to their concerns. The UNHCR also noted on several occasions during the year that ethnic Pashtuns were especially unwilling to return, fearing persecution due to their perceived affiliation with the Taliban.

While the UNHCR remained optimistic it could repeat the success seen the previous year in repatriating refugees, with 1.5 million estimated to have returned from Pakistan alone in 2002, and send back at least 600,000 refugees from Pakistan in 2003, there were indications by the middle of the year that the pace of return had slowed down. Skirmishes between armed groups and overall instability acted to deter refugees from going back, while other refugee families maintained that even with UNHCR assistance, they were too poor to manage the journey home and survive until they were able to begin economic activities inside Afghanistan.

Despite these problems, the UNHCR, which continued to work in cooperation with the Pakistan government, stated that the return of refugees to Afghanistan seen in 2002 and 2003 was the largest such repatriation in three decades – since

the 10 million people who had fled fighting in the territory then known as East Pakistan had left for India in 1970 and returned to the newly created state of Bangladesh.

Return of refugees

As the process of repatriating refugees began in March, the UNHCR announced it was cutting the funds available for the return of refugees from Pakistan by 20 per cent, mainly due to a slowing down of donor financing. Despite these difficulties, the repatriation process was well underway by the middle of March, with around 1,500 refugees from the Katcha Garhi camp in Peshawar leaving on March 13

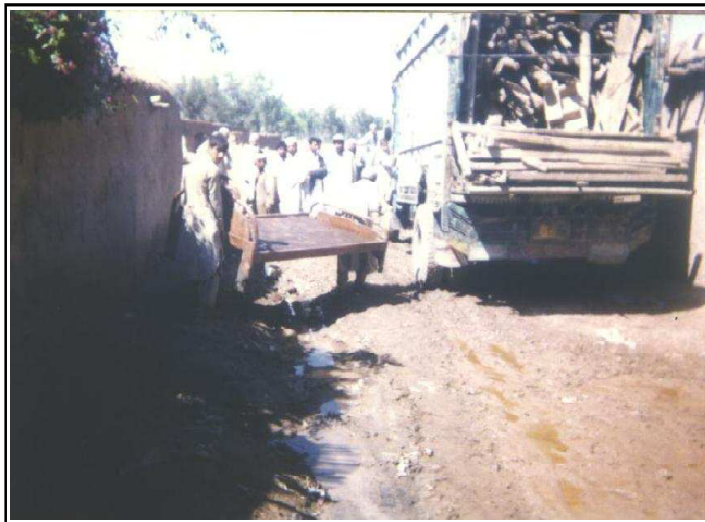
The US-led attack on Iraq and the increased security fears in the run up to this, however led to the repatriation process being suspended on March 20, as the UNHCR closed offices in tribal areas and foreign staff left the country.

The programme resumed by April, with over 500 Afghan refugees leaving Quetta by the middle of the month. NGOs and charitable organisations also assisted in the repatriation of refugee families living in extremely poor conditions in Lahore. Refugees in other cities, including Karachi, began returning in June as a part of the UNHCR programme, with 390,000 refugees having left the country by August.

At a press conference in Quetta on April 17, UNHCR country representative Hasim Utkan said that under a tripartite agreement signed by Pakistan, Afghanistan and the UNHCR in Brussels, all Afghan refugees in Pakistan would be repatriated by 2005. The agreement was to have been signed by the end of January, but was held up for several months due to a number of technical hitches.

By September, at least 400,000 Afghans had left the country, with the UNHCR stating it hoped to send at least another 200,000 back in 2003. However, continued instability, and reports of grim economic conditions from refugee families who had returned earlier, held back voluntary repatriation, which is concentrated each

year in the period between May and August due to climatic factors. As such, the UNHCR target of sending home 600,000 refugees during the year could not be met. However, the return of nearly



Many refugees returned home during the year.

400,000 refugees was seen as a huge success by the UNHCR. Despite pressure from the Pakistan government, the UNHCR maintained it would not take measures to send back unwilling Afghans.

The UNHCR also announced in September it would conduct a detailed survey of refugees still in Pakistan, starting later in the year, to determine how many remained and to settle the conflicting claims regarding their number.

In June, the Afghan government, through its Ambassador in Islamabad, lodged a complaint with the Pakistan government against the harsh treatment of refugees and their forced dislodging from camps. The Pakistan government in response gave an assurance that no refugees would be forced out of camps.

The UNHCR clarified in early July that it was not asking Afghan refugees in Pakistan cities to leave, and either return to Afghanistan or settle in other parts of the country. The UNHCR reiterated that all repatriation was voluntary and under the agreement signed by Pakistan, Afghanistan and the UNHCR earlier in the year.

Problems with repatriation

While at least 3,000 refugees were returning from Pakistan each day according to the UNHCR in the months of May and June, security problems inside Afghanistan continued to create difficulties. A UNHCR spokesman said in June that renewed fighting, particularly in the southern provinces of Afghanistan, was holding up repatriation and preventing still more people from returning home.

It was also estimated at least 7,000 people, nearly 4,000 of them in Kabul alone, remained displaced inside Afghanistan and were living in makeshift camps. With these camps unable to cater to the needs of the large number of refugees returning, food, water, clothing and shelter shortages were reported during the early months of the year. UNHCR efforts to persuade and assist people in moving back to their places of origin had eased the situation by the middle of the year, though there were still problems due to the economic devastation suffered by huge tracts of Afghanistan, with people reluctant to return to these areas.

The evacuation of UN staff from the country ahead of the US-led attack on Iraq in March led to a brief halt in the repatriation process. Another halt lasting almost a week came in late July, as UNHCR staff stopped all operations following an incident in the Mohmand Agency in which one of its vehicles was fired upon during a polio vaccination drive. Repatriation and other activities were resumed after official assurance that UN staff would be protected.

At the end of June, somewhat different security concerns had arisen due to renewed fighting along the Pak-Afghan border. The government in Kabul claimed former Taliban fighters were staging strikes from inside Afghanistan, a charge repeatedly denied by the Pakistan government. By early July, the UNHCR had decided to abandon the Killi Faizo camp on the Pak-Afghan border at Chaman, declaring it “precarious”, and send most of the 19,500 Afghans based there to a camp in Kandahar. About 3,500 refugees from the camp were relocated at safer areas inside Pakistan. The decision came after the bodies of 21 people, apparently killed in fighting in the Spin Boldak area of Afghanistan’s Kandahar province,

were found lying close to the camp. Press reports suggested Afghan guards had pushed the bodies over to the Pakistan side of the border, claiming that the men killed were not Afghan. Pakistani authorities refused to accept the bodies, stating they were not Pakistanis. The camp in the Chaman area was officially closed down in July.

Other problems arose within camps themselves. At the end of June, the Afghan Commissioner terminated the services of all the staff of the Afghan Commissionerate for Refugees at the Jallozai Camp in Peshawar. The action came after refugees complained of rampant corruption amongst the staff, and the deliberate creation of hurdles in the repatriation process, in a quest for bribes.

In March, with reports coming in of increasing fraud by refugees, with over 30,000 Afghans who were repatriated the previous year having apparently forged documents and returned to Pakistan mainly to benefit once more from the US\$ 200 humanitarian aid given to repatriating refugees, the UNHCR set up sophisticated iris scanning facilities at all repatriation centres. The facility enabled the iris of the eye of each refugee to be scanned as a photograph was taken, allowing an identity record to be made swiftly and accurately, with experts stating the system was an improvement on finger-printing. The UNHCR reported that the scanning had hugely brought down the rate of fraud, attributed by the organisation to the desperate poverty of Afghans. The scanning operation was halted by October, with the UNHCR stating the flow of refugees leaving Pakistan had slowed down and the checks were no longer required.

The UNHCR decided early in the year to delay the repatriation of Afghans living outside camps, mainly because of the poor response from such displaced persons. A spokesperson said the vacating of refugee camps would discourage refugees from drifting back across the border.

It was reported in April that about 120,000 Afghan families working as bonded labourers, mainly in the Peshawar area, were facing difficulties in returning as at least 60,000 children from these families were being held in debt bondage.

Conditions at camps

As refugees continued to leave the country, the population at many refugee camps fell and the UNHCR prepared to close down some of them.

The efforts made by Pakistan to force refugees out of the country at a faster pace, and the continued official indifference to their plight, however contributed greatly to the suffering of refugees still at camps. The situation at the Katcha Garhi Camp in Peshawar highlighted this. Early in the year, the 60,000 refugees at this camp were served eviction notices, asking them to vacate the camp by the end of June, and either return to their country or live outside the camp. Authorities said the eviction was necessary to permit a colony for army officers to be built.

Refugees at the camp who had in many cases lived there for over 20 years, began a process of complaint to the governments both in Kabul and Islamabad. In June, the Afghan ambassador in Islamabad delivered a strong complaint from his government to the Pakistan administration about the forced dislodging of

refugees from the Katcha Garhi camp and harsh treatment of refugees in other parts of the country.

With the matter also reportedly taken up by President Karzai during his visit to Pakistan in April, the Pakistani government late in June decided to grant an extension of another year to the refugees at the Katcha Garhi Camp. Press reports suggested this decision was made in lieu of the release of 65 Pakistani prisoners from Afghan Jails.

Other problems at refugee camps continued. A team from the HRCP Afghan Desk, which surveyed refugee camps in various locations during the year, found on a visit to camps in the Hazara area in June that many of them lacked basic amenities. Refugees residing there maintained that even with UNHCR assistance, they were too poor to make the return journey home. Many camps lacked basic health facilities, water was in short supply and educational facilities often grossly inadequate.

Early in the year, bitter cold led to the deaths of at least a dozen refugees, most of them children, in several refugee camps. At the Bajaur Camp in February, nine children were reported to have died within two months, mainly because they were suffering from tuberculosis and general ill-health.

The Unesco representative on Refugee education told a function on June 20 in Islamabad, held to mark World Refugee Day, that 50 percent of Afghan refugee children at camps in Pakistan did not attend school. Only one-third of the children going to school were girls. In March, the UNHCR and Unesco had signed a Letter of Understanding (LoU) to promote technical education for Afghan refugee children and to expand cooperation with other NGOs for this purpose.

Reports about health issues and law and order problems also continued to come in from camps. A study by an international organisation working at refugee camps, the results of which were reported at the end of June, found that child sexual abuse was rampant at camps. No counselling was available to the victims.

In April, an orphanage was opened for 200 Afghan children at the Shamshatu Camp in Peshawar. A US-based Pakistani doctor had collected money for the setting up of the centre.

In January, Wapda cut off power supply to about a dozen Afghan refugee camps in the Bajaur area, on the grounds that dues were outstanding. Power remained suspended for over a month in the bitter cold, and was finally restored in February, after the refugees collected enough funds to clear outstanding bills.

NGOs, both local and international, as well as foreign governments began programmes for the mental and physical welfare of refugees and to offer entertainment for refugee children by putting up plays, fun-fairs and so on.

The World Food Programme (WFP) which in January took over from the UNHCR the task of distributing food to over 288,000 Afghan refugees in the country as a 'test project', announced in February that it had run out of funds. A lack of assistance from international donors was cited as the cause, with the

UNHCR once more stepping in to ensure wheat, oil and other essentials continued to reach refugees.

A dispute with land owners in the Chaman area that briefly prevented supplies from being distributed among refugees in March was resolved after the UNHCR and Pakistani government officials entered into mediation. The dispute revolved around the dismissal by the Balochistan government of a number of watchmen at the camps, due to funding constraints.

Businessmen in the Kohat area also stepped up pressure in July on the UNHCR to shift refugees out of camps in the area, maintaining that they disrupted the economic balance of the region by purchasing real estate.

In May, the UNHCR decided to relocate the refugees at the Shalman Camp in the Khyber Agency due to continuing problems with drinking water supplies. Most of the 20,000 refugees at the camp, one of the nine new camps along border areas opened in 2001 following the US-led war on Afghanistan, were shifted to the Katcha Garhi camp in Peshawar.

Actions against refugees

Authorities continued to harass and detain Afghan refugees. At least twice during the year, strongly worded complaints were made by Kabul about the manner in which refugees were treated in Pakistan.

In February, HRCP strongly criticised the arbitrary arrest of hundreds of Afghan refugees in Islamabad and urged the authorities not to ignore the demands of law in pursuit of security. The HRCP said the application of the Foreigner's Act to nearly 350 Afghans, who had been in the country for over 20 years, amounted to a mockery of law.

In a measure that the Interior Ministry insisted was aimed at facilitating the repatriation of refugees, orders were issued to police in February to start registering refugees, confine them to their camps and to close down any businesses, especially Public Call Offices (PCOs) being operated by refugees. Unsurprisingly, this gave the police an open licence to harass Afghans, including those who were married to Pakistanis and settled in the country. Reports of police intimidation and efforts at extortion came in from Peshawar, Rawalpindi, Taxila, Gujrat and Murree.

At the end of February, the UNHCR set up several legal aid centres for refugees in the NWFP. It was reported that many refugees seeking help at these centres wished to make complaints about administrative bodies. The establishment of the legal aid centres came in response to increased harassment and intimidation of refugees.

A letter sent to Afghan President Hamid Karzai in April by refugee leaders in Pakistan sought the help of the Kabul government in the release of jailed Afghan refugees. In the letter, complaints were also made of routine harassment by police and the targetting of Afghans in any case of crime, ranging from murder to petty theft.

In May, police in Peshawar launched yet another sweeping crackdown against Afghans living outside camps, with several hundred detained. Police claimed

they had asked the Peshawar administration to restrict Afghans to camps, as law and order could not otherwise be maintained. Action was also taken to close down PCOs operating at camps, on the grounds that refugees were providing the Indian Embassy in Kabul with information from Pakistan. It was not explained why it was believed refugees housed in camps had access to any information damaging to Pakistan's interests.

The government in Kabul expressed grave concern over the crackdown in Peshawar and other parts of the NWFP.

The process of police intimidation however continued. In May, three Afghan nationals in Chakwal were booked after they failed to produce documents required for their stay in Pakistan. Dozens others faced similar treatment in other parts of the country.

In response to the continuing complaints from Kabul, the Pakistan government in June announced it had set up special cells at Peshawar, Quetta, Karachi and Islamabad for the quick redressal of refugees' grievances. The cells were to work in coordination with the Afghan Embassy and consulates.

In July, the UNHCR denied media reports that claimed it had asked refugees in Islamabad and Rawalpindi to repatriate or move out of these cities. The reports appeared to have been based on remarks by police who had begun a crackdown on refugees in the twin cities a few days earlier.

At the end of July, the Kabul government lodged yet another complaint against the extortion of money from refugees at the Hayatabad Repatriation Centre in Peshawar by police assigned to check their baggage. The release of detained refugees was also called for.

At the end of November, police in the Quetta and Chaman areas had taken some 500 Afghans into custody, and begun deporting them to Afghanistan. At least 300 had been sent back by December. Police said the operation was aimed against pro-Taliban Afghans present in the country, following complaints from Kabul. Some press reports however suggested many of those picked up had no militant links, and in fact faced various risks after being forced back across the border against their will.

Displaced people

The issue of persons displaced internally as a result of various development projects seemed to be growing in scale, with apparently little heed paid to the opinions and welfare of local people in the planning of new reservoirs or water channels.

The Chotiari Dam project in the Makhi area of Sanghar district threatened to displace 6,000 people and inundate 47 villages. Local groups continued through the year to protest the planned project to store 2.24 Million Acre Feet of water by increasing the storage capacity of the lakes dotted across the ecologically rich Makhi area. The HRCP screened a documentary film in Lahore in January to highlight the threat the project posed both to people in the area and the ecosystem. The Sindh government meanwhile insisted the affected people would be

compensated and given Rs 50,000 and new land. In January it was reported that at least 327 displaced families were yet to be compensated, while the issue continued to linger on through much of the year.

The planned building of an industrial zone and other development projects in the Gwadar area threatened at least 70,000 people with displacement. In October, people in the areas complained to an HRCP fact-finding mission that they had not been consulted or even informed about the projects planned, and many, including fishermen, feared about the impact of the new developments on their livelihood.

In February it was reported that over 4,000 people who had moved out of their homes in the Cholistan desert area the previous year due to drought had moved back after rains.

The problems of people displaced over three decades ago by the building of the Tarbela Dam remained unresolved. In March, the Tehsil nazim of the Haripur area rejected the compensation package announced the previous year, and demanded the 8,000 victims who had still to be allotted agricultural land or residential plots be compensated as per World Bank (WB) recommendations. He also pointed out that a commission set up in 1998 to settle Tarbela Dam compensation claims had rejected many genuine cases, while in other instances those allocated land in Punjab or Sindh had failed to gain possession of it due to a lack of official support.

In April it was announced that WAPDA and the Azad Jammu and Kashmir government had reached an agreement under which at least 7,707 families affected by the building of the Mangla Dam nearly 40 years ago would be compensated.

Villagers in the Sialkot and Narowal areas complained in April that they had still to be paid the promised compensation after they were displaced from their villages the previous year as a result of tensions between Pakistan and India. They maintained that although they had in most cases since moved back, they were unable to sow seasonal crops due to severe financial constraints.

The federal government decided in April that over 14,000 displaced people in the Astore Valley area, affected by earthquakes and flash floods the previous year would be rehabilitated on their own lands after measures to repair damaged houses, roads and other infrastructure.

Other refugees

In May, the National Authority for the Registration of Aliens (NARA) and the UNHCR signed an agreement under which non-Afghan refugees would be able to obtain legal rights, including permission to work. Such persons would need to register as refugees and obtain work permits. It was also agreed that such refugees would not be harassed or detained arbitrarily by police.

The UNHCR representative in Pakistan, Hasim Utkan, said that in March 2003 the UNHCR had extended recognition as refugees and financial aid to 212 non-Afghans. The UNHCR believed at least 1,000 such persons were based in Pakistan, and included 37 percent Somalis, 24 percent Iranians and 23 percent Iraqis. Most were living in the Islamabad area.

Several Iraqi families in May demanded that the UNHCR help them return to

their own country, after the removal of the Saddam Hussein regime.

Press reports in April also stated that around 20,000 Kashmiri refugees were living in 15 camps in Azad Jammu and Kashmir. 764 of these refugees were based at the Manikpan-I camp on the outskirts of Muzaffarabad. At least 25,000 other Kashmiris were believed to be living with relatives, while reports suggested that several hundred had entered Pakistan-controlled Kashmir within the previous six months alone.

Foreign nationals and Biharis

The issue of the nearly 300,000 people (called Biharis) based in Bangladesh, who claimed Pakistani nationality under the Citizenship Act, continued. On several occasions during the year, the Biharis demanded they be allowed into Pakistan and threatened self-immolation if this was denied. The Pakistan Foreign Office, in response to a decision by Bangladesh to eject 3,000 'Pakistanis' based at a camp near Dhaka maintained all 'Pakistanis' had in fact been repatriated from Bangladesh and it was now up to Bangladesh to resettle the Biharis in their own country.

In May, a ruling by the high court in Dhaka which allowed voting rights to 10 'Pakistanis' who had moved a petition gave new hope to the nearly 300,000 Biharis in the country that they would not be living in limbo for much longer.

At least eight Biharis were arrested during the year after attempting to enter Pakistan across the border with India.

NARA meanwhile continued its task of registering foreign nationals present in the country. It also announced in July that it would set in place a mechanism to allow aliens living illegally in Pakistan to return to their countries of origin. In December, the body warned employers that hiring unregistered aliens was illegal, and asked authorities at Karachi harbour to issue fishery permits only to those who had registered.

The continued policy of arbitrarily rounding-up and detaining foreign nationals however meant few were willing to come forward and register voluntarily due to the lack of trust generated by such measures. The issue of Bangladeshi, Biharis and Bengali-speaking Pakistanis based mainly in and around Karachi continued to figure in the Press, with doubt persisting over their citizenship and status, in some cases merely on the basis of the language they spoke.

Recommendations

1. *Afghan refugees still in the country must not be pushed into an unsafe situation or repatriation forced on those unwilling to return because of the possible dangers they face as a result of devastation caused by war or drought. The concerns of refugees who fear ill-treatment due to ethnic, religious or ideological factors must also be fully respected.*
2. *Pakistan must adhere to international instruments in its treatment of refugees and adopt appropriate legislation about them. Humanitarian concerns must be placed upper-most on the agenda when devising policies for refugees.*
3. *The essential needs of refugees still housed at camps, including the*

provision of adequate food, water, health care and shelter must be met. The grim conditions still prevailing at many camps must be improved. The indications that the ongoing repatriation process may take time to complete means that steps are urgently required to resolve acute problems at camps keeping in view the fact that refugees may continue to be based there for long periods.

4. Refugees must not be made to pay the penalty for the poor security situation on the Pak-Afghan border. The suffering caused to refugees based at border camps either due to skirmishes at the frontier or man hunts aimed to capture militants during which they have been victimised only adds to their multiple difficulties.

5. Pakistani border guards or government officials found guilty of harassing refugees attempting to return, extracting bribes from them or conniving in the re-entry of returned Afghans into the country to collect aid must be penalised under the relevant laws.

6. Pressure on the international community to safeguard the welfare of refugees must be maintained, so that there is no increase in their suffering as a result of declining levels of aid and support.

7. The flow of aid to refugees must be organised to ensure it is transparent and efficient, to avoid a repetition of past experiences.

8. The arbitrary arrest of Afghan nationals, the harassment of refugees by police or other forces and their forcible return across the border without court orders must be stopped. Camps in which refugees are still living must not be demolished.

9. Steps must be taken to streamline the procedure for the grant of visas to Afghans and Pakistanis seeking to cross the border. Grave difficulties have been caused because of the problems being faced in obtaining visas for nationals of both countries.

10. Measures to regulate and register aliens must be undertaken by seeking their cooperation and eliciting their trust, so that such persons come forward voluntarily. The threat of coercive action has so far prevented many from registering themselves.

11. Foreign nationals, including Afghans, working in the country need to be brought within the tax net and their status regulated as required. The working of the Aliens Registration Authority and the departments granting identity documents to Pakistani nationals need to be streamlined.

12. Refugees from Kashmir require greater attention, the recognition of their status as refugees and an improvement in the conditions at camps where they live.

13. Bengali-speakers living mainly in and around Karachi and settled in the area before 1971 need to be granted nationality so that their status is clear. They cannot be treated as foreigners simply on the basis of the language they speak.

14. The concerns of the increasing number of people displaced within the country, whether due to conflict, drought or other factors, need to be addressed.

A proper survey is required to assess the precise numbers of those displaced by development schemes or natural disasters so that a strategy to rehabilitate them can be finalised. Those displaced as a result of the construction of water reservoirs, must be adequately compensated and provided with alternative places of residence and development policies structured to cause minimum suffering to communities or damage to the environment.

15. Pakistan needs to sign UN conventions on refugees to which it is at present not a signatory, resulting at times in difficulties with the UNHCR and other international agencies, the help of which is essential to tackle the issue of refugees in the country.



State of Human Rights in 2003

Appendices

Appendix - I

HRCP activities

After a year in which few developments took place as a result of the stalemate created by the controversy over the LFO, the passing of the controversial order after a deal between the MMA and the government at the end of the year marked the most significant event of the year in political terms.

The situation of democracy in the country indicated a more urgent need to create greater awareness about political and democratic rights. HRCP's Center for Democratic Development, set up in Islamabad during the year and formally launched in November 2003, played a part in this by organising seminars, consultations and workshops on the LFO, violence against women, the Hudood Ordinance and other issues, in which parliamentarians also participated.

Labour laws that restricted the rights and freedoms of workers, particularly the Industrial Relations Ordinance (IRO) of 2002 remained a focus of HRCP's activities, with seminars and discussions held on the issue.

The increased evidence of the expansion of the 'jirga' system, with many such tribal gatherings meting out verdicts that placed the rights of citizens under huge threat, also came under HRCP's attention, with a project begun to examine the system, its working and its impact.

Issues such as the rights of vulnerable groups in society including women, children, minorities and prisoners continued to be taken up by HRCP through publications and seminars. Bonded labour, freedom of expression, torture, access to justice, the growth of intolerance and the right to assembly were also taken up.

Workshops, seminars, training activities and fact-findings that continued throughout the year focussed on these issues.

The Afghan Desk, which began work at HRCP's Peshawar Office in January 2002, continued to arrange visits to centres for refugees, carry out surveys on

the problems of refugees still based in the country and conduct a series of seminars and discussions, attended by participants from both Afghanistan and Pakistan, on the issues faced in re-building Afghan society.

Regional peace also remained a centre of HRCP's activities, with the resumption in ties with India coming as a welcome step.

HRCP's chapter offices in Karachi, Peshawar and Quetta continued their diverse range of activities, as did the special task force Hyderabad and the special task force, Multan.

The complaints cell received queries, complaints and other communications from both within and outside the country, and wrote a number of letters to authorities to bring to their attention the complaints received.

The reference section facilitated hundreds of students, researchers, academicians and professionals, with the large number of visitors to the office reflecting the invaluable services offered by the section and the high quality of the information database maintained by it.

Publications in Urdu, English, Sindhi, Pushto and Brahui continued to be produced. Newsletters in each of these languages were published regularly, while posters, reports, pamphlets and handouts attempted to draw attention to some of the issues taken up by HRCP. The Afghan Desk also produced its letter in Pushto, Dari and English, providing information on refugees still in the country and current developments inside Afghanistan.

Some of the important activities that took place in 2003 are as follows:

LFO, democracy and government policies:

June 1-6: Lahore: Six-day workshop on 'Media, democracy and human rights'.

December 10: Islamabad: Seminar on 'LFO: Which way forward'.

December 12: Islamabad: Seminar on present government policies on education

December 23, Islamabad: Seminar on 'Truth about the economy'.

Rights of women

March: Dir. A complaint made to HRCP Lahore by Shazia who had been tortured by her family over a dispute stemming from her engagement was investigated by the HRCP core group in the area.

April 1, 11 and May 9: Karachi: Discussion on violence against women. Similar meetings and discussions were also held in Multan.

March 8: Hyderabad, Multan: To coincide with International Women's Day, a discussion was held in Hyderabad on the 'Role of elected representatives in strengthening democracy', while in Multan female field workers participated in a discussion. Activities were also organised in other offices.

April, 2: Vehari: Seminar on status of women, violence against women and

police role

May-December: Hyderabad: The HRCP Special Task Force Sindh (STFS), Hyderabad, arranged for several women facing violence to be handed over to the 'Panah' shelter in Karachi. The case before the Sukkur Bench of the Sindh High Court, of Shaista Almani, was also monitored by the STFS

September 8: Islamabad: Consultation with parliamentarians on Hudood Ordinance

November 11: Multan: Discussion on Hudood Ordinance and its impact on the status of women

Socio-economic rights and violence against tenants

Okara, Pirowal, Khanewal: Property rights seminars organised for landless tenants by HRCP.

January to April: Karachi and Multan: Consultations on the Industrial Relations Ordinance 2002.

February 23: Karachi: Seminar on human rights education in schools.

April 12: Karachi: Consultation on minority rights

May 17: Karachi: Seminar on Sindh Tenancy Act

September 13: Karachi: Survey on contaminated water and oil spill, followed by a press conference

October 4: Karachi: Discussion on Mental Health Ordinance, 2001.

November 29: Islamabad: Group discussion with parliamentarians on child labour

December 7: Karachi: Discussion on housing policy and implementation.

Jirga system:

October 24: Quetta: Workshop for district coordinators on jirga system.

December 6: Multan: Workshop on jirga system/panchayat attended by participants from across southern Punjab. Similar workshops were also held in Karachi and Peshawar on the same day.

Jails, police and juvenile justice

June 16: Vehari: Seminar on International day against torture

September 1-8: Peshawar: Two training workshops arranged in collaboration with Prison Reforms International (PRI) and AGHS for police officials, magistrates, probation officers and NGO workers on the Juvenile Justice System Ordinance, 2000 and its implementation. Similar workshops were organised in each of the four provinces during September and October 2003.

September 30: Rajanpur: Discussion on law and order and impact on human rights

October, 20: Multan: Discussion on legal rights of citizens and police

responsibilities, with special focus on the role of public safety commissions to protect citizens from police excesses

Training activities

March 29: Quetta: Lecture during the IP/SHO Training Course at Police Training School, Quetta, on basic human rights

April 16: Bahawalpur: Awareness raising programme with students of Bahauddin Zikriya University on human rights

April 18: Rahimyar Khan: Awareness programme on environment

July 1-3: Multan: Three-day workshop on human rights education

August 20: Dera Ghazi Khan: Awareness programme on human rights work

Balochistan mission

October 2003: Different teams made up of HRCP council members visited Quetta, Gwader, Turbat, Khuzdar and Loralai districts. The fact finding missions visited the district jails and held meetings with district administration, police, local body members' lawyers, and HRCP activists in an effort to ascertain ground realities and the problems faced by people in the province.

The team visiting Quetta met with a prisoner in civil hospital Quetta who was on hanger strike against the behavior of Superintendent District Jail Khuzdar, while the team in Khuzdar also met activist Rashid Azam, who had been imprisoned in a sedition case.

Fact-findings and surveys:

March 1: Multan: Fact-finding into the case of a 13-year-old girl, Marrium, who left her father's house with a cousin a night before her marriage. An FIR was lodged by the girl's brother against her cousin and his two sisters. Marrium later died and police registered a case of rape and murder against her cousin. The HRCP fact-finding showed the girl had died due to illness and her mother had facilitated her escape to avoid forced marriage.

March 6: Jhang: Fact-finding into the stripping naked of Zainab, 26, by six persons over a land dispute. All the six accused were arrested and a case registered.

March 10: Faisalabad: Fact-finding in the abduction and torture of deputy opposition leader in the Punjab Assembly, Rana Sanullah.

March 23: Hyderabad: Fact-finding into kidnapping of HRCP activist, Akhtar Baloch

May 10: Multan: Fact-finding into a case in which military men targetted police and traders, after an army officer was stopped by a policeman for violating traffic rules.

May 28: Lahore: Fact-finding in the illegal detention of opposition workers and members of the Punjab Assembly, protesting against the LFO.

June 15: Lahore: Fact-finding in the deportation of the family members of

former chief minister, Shahbaz Sharif.

June 26: Mailsi: Fact-finding in the gang-rape of Uzma Majeed, 20, by five persons and police handling of the case. Four persons were arrested.

August 9: Multan: Fact-finding in the case of Mukhtiar Hussain, who died in police custody. It was found the victim had died due to severe torture. No case was registered against the police officials involved. HRCP sent its findings to the session's judge, Multan, who ordered a case be registered against police.

August 12: Badin: Inquiry into flood devastation and management

September 23: Bhawalpur: Investigation into complaints by Hindu women of rape and harassment by Muslims. Criminal cases were registered

October: Fact-finding by HRCP council members in various districts of Balochistan to ascertain the factors behind the multiple grievances of people. The fact-finding teams came across many problems linked to the increased militarisation of society, failure to build consensus or take people into confidence when planning development projects such as the Gwadar Port, fears of large-scale displacement as a result of these projects and other concerns linked to education, health and lack of development.

October 17: Lahore: Fact-finding in the arrest of a police constable and suspension of a senior police officer after an argument with an army driver over tinted glass on the vehicle.

November 4: Tando Adam: Fact-finding in the arrest of Muzzafar Alam of Karachi by Tando Adam police in a blasphemy case.

November 14: Multan: Fact-finding in the case of Afsheen Mussarat, killed by her father and close relatives after marrying of her free will.

December 15: Dera Bugti/Sui: An HRCP Quetta team visited Dera Bugti and Sui where fighting is continuing between the Bugti and Mazari tribes.

Other fact-findings also took place in cases of honour-killings, rape, incest and other forms of violence against women and children, as well as other issues of concern to HRCP.

Special Task Force, Sindh (STFS)

Bonded labour and the issues of haris remained central to the work of the STFS, at Hyderabad, which also remained engaged in cases involving the rights of women and other issues.

The first election of the Azad Hari Union for the year 2003-4 was arranged by the HRCP at the offices of the Daily 'Safeer', Hyderabad on February, 22, 2003. In the elections, which saw wide participation, Master Lalji was elected as President. 2,472 haris cast their votes at four polling stations in Hyderabad, Mirpurkhas, Badin and Khai. The Azad Hari Union also decided to continue its membership drive.

Hari Munnu Bheel on January 19, with HRCP support, began a token hunger strike in front of the Hyderabad Press Club. The six-hour daily hunger strike continued even as the year closed. Members of parliament, including MNAs and MPAs of the PPP, MMA and MQM attended the programme and joined Munnu Bheel, demanding that family members kidnapped in 1988 apparently by a powerful

landlord be recovered.

The governor of Sindh was among those who have visited Munnu Bheel during the year.

HRCP arranged protests to draw attention to the plight of Munnu Bheel while haris who had been released from the private jails of the zamindars demonstrated before Hyderabad Press Club in support of his hunger strike and demanded the immediate recovery of his family.

Data on bonded labour in Sindh

Number of released haris 2,178

[Break-up of released haris: Mirpurkhas 568; Sanghar 584; Badin 338; Hyderabad 417; Thatta 49; Mithi 22; Shikarpur 30; Khairpur 34; Nawabshah 60; Dadu 56]

Special Task Force, Multan

The Special Task Force (STF) at Multan continued its monitoring of the human rights situation in southern Punjab, and also carried out a number of detailed fact-findings in cases of violence against women, police excesses, crimes against children and other abuses of rights.

The STF was actively involved in the case of the honour-killing of Afsheen Mussrat in November 2003, which came to public light largely because of HRCP's efforts.

Seminars and consultations on a range of issues, as well as meetings of members also continued to be organised by the Multan office.

Establishment of new core groups:

Gilgit, Chitral, Mardan, Khanewal and Vehari

Joint activities

March 26: Quetta: Peace Seminar at Press Club Quetta with other NGOs.

July 8: Okara: A delegation from the Joint Action Committee (JAC), Karachi visited the Okara farms to assess the situation of tenants.

February 18: Lahore: Pakistan Women's Day observed.

September 14: Sanghar: Seminar on 'Forced labour and the requirements of the modern world' was held by the HRCP in collaboration with Church World Service, Pakistan .

October 5: Lahore: Seminar on Hudood Ordinances

HRCP participated in rallies and protests staged across the country against aggression in Iraq. It took an active part in protests calling for a repeal of discriminatory laws, as well as those drawing attention to the rights of landless tenants, alongside other issues of significance to citizens.

Complaints cell

The complaints cell of HRCP continued to receive complaints from inside Pakistan and from people living outside the country. The number of complaints received about excesses committed by the powerful individuals and excesses

committed by the law enforcement agencies or the administration was almost equal in number, indicating how widespread rights violations are from multiple quarters in society.

Complaints about bonded labour formed the bulk of correspondence received from Sindh.

The break up of these complaints and the action taken is as follows:

Total complaints received	779
Letters written to the authorities:	282
Responses:	45

Nature of complaints:

Bonded labour:	
211	
Political victimisation	
52	
Police or administrative excesses	
52	
Excesses by influential individuals	
45	
Complaints from abroad:	
66	
Family matters/domestic violence:	35
Miscellaneous:	309

Caption ????

Reference section

The reference section met the varied needs of 246 people who visited it during the year, to consult files kept on a range of issues. This also made the HRCP reference department the most frequently visited section of the office. Guests from France, Canada and other nations were among those who consulted files on newspaper clippings maintained by the reference section staff.

Publications

Regular publications:

- * HRCP annual report: State of Human Rights in 2002; in English and Urdu
- * HRCP Newsletter: quarterly (4 issues) in English
- * Jehd-e-Haq: monthly (12) issues in Urdu
- * Jehd-e-Haq: monthly (12) issues in Sindhi
- * Jehd-e-Haq: monthly (12) issues in Pushto
- * Jehd-e-Haq: monthly (12) issues in Balochi/Brahui

Special publications:

- * Law of bail for juveniles: the need for reform
- * Sectarian violence in Karachi 1994-2002
- * Insani haqooq ka nizaam

Re-issued publications:

- * Nifaz-e-qanoon kay liye huqooq-i-insani kay bainulqawami miyaar(Urdu)
- * Qaidion kay haqooq aur zamandarian(Urdu)

Posters:

- * Prison is not the place for mental patients (English/Urdu)
- * Death preceding death (English/Urdu)
- * Children's upbringing behind prison bars? (English/Urdu)
- * Away from home and imprisoned (English/Urdu)
- * Prisoners belonging to minority groups (English/Urdu)
- * Zulm kay khalaaf kharay na hoona zalam ka sath dena hai (Urdu)
- * Kiya aap kay bachay ko sahi taleem mil rehai hai? (Urdu)

Leaflets

- * Prison is not the place for mental patients (English/Urdu)
- * Death preceding death (English/Urdu)
- * Children's upbringing behind prison bars? (English/Urdu)
- * Away from home and imprisoned (English/Urdu)
- * Prisoners belonging to minority groups (English/Urdu)
- * Munno Bheel's cry for justice (English/Urdu)

Flip-charts

- * Khawateen ka leadership kirdar? (Urdu)

Appendix - II

HRCP stands

Through a number of statements issued throughout the year, HRCP attempted to draw attention to incidents in which the rights of citizens were violated, and to broader national and international concerns having an impact on these rights.

Some of the stands taken by HRCP over the year are as follows:

State of crisis: global and national

March 23:

After a day-long debate at its Annual General Meeting (AGM), held on March 23rd at Hyderabad, and two-days of discussion by its governing council, the HRCP issued a detailed statement on issues raised at the meetings. Excerpts follow:

Stop the war: The US-led invasion of Iraq is in gross violation of reason, justice and morality as well as the UN Charter and must immediately be halted. Apart from causing death and misery to the long-suffering people of Iraq this abominable adventure has grievously undermined the United Nations and threatens peace and human rights across the globe. The perpetrators of this crime against humanity must not go unchallenged and unpunished. The AGM calls upon the government and the people of Pakistan to consider boycotting the US establishment while maintaining solidarity with the peaceful American people. The Iraqi people's struggle for freedom and democracy is their internal matter and the objective cannot be achieved by killing them, starving their sick children and making their land desolate.

People's rights: The people's suffering as a result of galloping poverty, unemployment, exploitation, discrimination and frustration at lack of opportunity and hope is increasing at an alarming rate. It is time that the state system to guarantee all citizens without any distinction the basic rights to liberty, security and equal opportunity was reviewed, redefined and scrupulously respected.

Political system: The AGM is of the considered view that the October 2002 election was blatantly manipulated by the regime to cheat the people out of their fundamental rights to self-government. As a result the people are witnessing the

rise of new forms of political corruption. These problems will continue to aggravate until the dispensation envisaged in the 1973 Constitution is revived, attempts to change the character of the basic law are given up, and the process of destroying the judiciary's status and its independence is stopped.

Arbitrary legislation: This meeting categorically rejects the Legal Framework Order, changes in the judicial structure and the ordinances issued to curtail the rights of workers and the freedom of expression. These measures lack due sanction and manifestly offend against constitutional propriety and the interests of the people.

Thar Canal: The AGM notes with concern the regime's stubbornness in pursuing the Greater Thar Canal project despite its strong and unanimous rejection by the representatives of Sindh and its people. The Thar canal project apart, issues related to the use and distribution of water resources need to be resolved in accordance with the principles of justice and equity.

Violence against women: Violence against women in various forms continues to show a rising graph. This meeting therefore calls upon the state authorities to pay immediate heed to women's right to freedom from the oppressive Hudood ordinances and other forms of discrimination in law and in social practice, and calls upon all elements of the civil society to redouble their efforts to secure fullest possible respect for the human rights of women, especially their freedom of choice in personal life, and their right to social and economic independence.

Peace: This meeting expresses serious concern at the persisting tension and confrontation between India and Pakistan and the grist this situation is providing to the mills of intolerance and violence in the name of belief and creed. The need for a full-fledged campaign for peace and amity in South Asia is much greater than ever.

Balochistan gas: The claim that matters related to exploitation of Balochistan resources of gas, its transmission and distribution has been resolved enjoys little credibility. The AGM demands a complete review of the existing agreements on this subject with a view to ensuring due benefit to the disadvantaged people of the area and the establishment of an arrangement based on justice and equity.

Fazal Wahab: This AGM condemns the dastardly murder of Mr. Fazal Wahab on the grounds of his writings, the failure of the administration to act on his repeated pleas for security of life, and its inability and lack of interest in apprehending those responsible for the ghastly crime.

Religious codes: The efforts launched in some parts of the country to enforce what is described as shariah are causing increasing anxiety. This drift will extend the area of abuse of belief, undermine the message of Islam, and cause further distortions in official policies and conduct to the disadvantage of the people, especially the under-privileged.

Informal justice: This meeting views with alarm the growing trend to invoke informal forums of justice such as jirgas, panchayats and congregations of local communities' elites. These forums are increasingly deciding serious issues, including matters of life and death and basic rights. The remedies do not lie only

in revamping the law and order machinery or restoring the judicial system to its due status.

Tenancy issues: No words are strong enough to condemn the oppression and harassment of tenants on state lands, particularly in the Okara and Khanewal districts of the Punjab and some parts of the Frontier, and the use of violence and abuse of law and authority to deprive them of their rights. This meeting also expresses its disapproval of the so-called corporate farming project. The rights of tenants and cultivators of land must be fully recognized and respected.

Local government: It is much to be regretted that the new system of local government has already started showing effects of flaws and deficiencies in its concept and the ill-advised manner of its introduction. While meaningful decentralization of authority is an essential objective it is necessary to place the system of local government within the context of a democratic framework at the federal and provincial levels and make sustained efforts towards the local communities' empowerment and participation in their affairs.

Kumar Bheel: HRCP invites the nation's attention to the crimes committed against Kumar Bheel and his protracted ordeal. As a punishment for his breaking out of bondage his family members were abducted in 1998 and an FIR was duly lodged. They have not been recovered despite Bheel's and HRCP's efforts at various levels, and Bheel has been driven to a daily hunger strike as a last resort. In the meantime the abducted women and children have been sold and resold to new masters. They are as precious members of the Pakistan family as anyone else and denial of freedom to them is a guilt the people of Pakistan must not be made to bear -- even for a day.

FATA and Northern Areas: Despite several promises of redress and reform the people of federally Administered Tribal Areas and the Northern Areas continue to be denied their basic rights, especially their right to self-rule and the due protection of law. The principle of equality among all citizens of the state demands that the creation of representative institutions and the necessary judicial forums in these areas must be pursued with clarity of purpose, sincerity and the speed that this task merits.

October 13:

The rhetorical response by the government to a detailed report released by the New York-based Human Rights Watch on the fourth anniversary of the military coup that brought General Pervez Musharraf to power illustrates the nature of State in the country today.

It is significant too that official spokesman has chosen to defend only General Pervez Musharraf, rather than the so-called democratic government that holds power. This alone indicates where the real locus of power lies.

HRCP would like to assert, while sharing many of the concerns voiced by Human Rights Watch, that this failure to acknowledge abuses in the country is a key reason for the increasingly brazen manner in which such violations are carried out.

HRCP remains deeply concerned about the failure by the present government

to improve its human rights record. No change for the better will be seen as long as the tendency to deny the very existence of rights violations continues.

Governance, democracy and victimisation of opposition politicians

February 9:

A joint consultation among lawyers, politicians and human rights activists, organized by Human Rights Commission of Pakistan (HRCP) rejected the constitutional amendments made by decree and called for a truly democratic basic law and an effective system of justice.

At the consultation meeting held in Islamabad on Saturday (February 8, 2003) representatives of the country's highest bar associations and bar councils, political leaders, and human rights activists shared their perceptions of the crises facing Pakistan, especially those related to the Legal Framework Order, independence of the judiciary and rule of law. The meeting analyzed the harmful consequences of extra-democratic and illegal steps to achieve predetermined results in the general election of October 2002, fill the presidency through an unconstitutional process, create governments through blatant manipulation, compromise the independence of the judiciary, and make laws that lack both legitimacy and rationale and which are imposing unprecedented strains on the people's basic rights and their foremost interests.

March 10:

The kidnapping, beating and torture of Rana Sanaullah, deputy opposition leader in the Punjab Assembly, amounts to a shocking attempt to silence the voices of political opponents and send out a clear signal to all those daring to defy the regime.

The case follows a distinct pattern seen all through the previous three years, with accusations of kidnapping, harassment, physical violence and torture made by at least 10 other persons, mainly politicians and newsmen, as punishment for criticizing the regime.

Until a democratic system of governance is restored in its true spirit, more such events will continue to take place. If they are to be prevented, it is vital that a full inquiry be ordered and action taken under the law against those responsible for the kidnapping and torture of Mr. Sanaullah, so that a clear cut warning is delivered to anyone contemplating further abuse of rights or showing such utter disdain for democratic practices and indeed the norms of civilized behaviour.

May 28:

The arrest of at least 30 members of the Punjab Assembly by police comes as a huge blow to democratic working and democratic institutions.

In a statement issued today, HRCP's secretary-general, Hina Jilani has said:

The brutal action taken against the public representatives bears out fears that the country is being converted into a police state, within which there is no respect for human rights or human dignity. It also adds to the growing evidence that despite the claims made by rulers, democracy has yet to be restored. The action

against public representatives proves once more that the authorities remain unwilling to abide by law or respect fundamental rights. The sequence of events witnessed Wednesday can only add to the crises being faced in the country and create yet greater polarization between the State and its citizens.

June 30:

The decision by the Election Tribunal of the Peshawar High Court (PHC) today disqualifying a Mutthida Majlis-e-Amal (MMAs) MNA and ordering a re-election to the seat he won at Kohat has huge implications for the wider political scenario in the country.

The decision confirms fears expressed by HRCP ahead of the general election last year concerning the motives underpinning the election process and the attempts made to manipulate this process in order to achieve certain results. It would also seem that even after the ushering in of elected governments, the attempts to interfere with and manipulate the system are continuing. This can only augur ill for the future of democracy within the country and proves once more that the will of common people has little meaning for those still placed at the helm of national affairs.

October 26:

Expressing concern at the continued political impasse and growing militarization of the policy-making institutions, Human Rights Commission of Pakistan (HRCP) has called for the earliest possible restoration of democratic, responsible and transparent governance in the country.

The HRCP Council issued the following statement at the conclusion of its two-day session in the Balochistan capital:

Rashid Azam case: The increase in cases of illegal detention and harassment by state agencies poses a serious threat to the safety of citizens. One of the most alarming cases that highlights this threat is that of Rashid Azam, a young journalist and activist in Khuzdar. Azam has been detained for over two months on a charge that cannot stand even elementary scrutiny. He was charged with distributing a calendar allegedly depicting military high-handedness. The real reason for his detention seems to be his political activism, daring journalism and refusal to toe the agency line. Other persons owning responsibility for what is alleged against him have been left untouched. This abuse of law must end and Rashid Azam released forthwith.

Bonded labour: There is evidence that the incidence of bonded labour has increased. The administration's indifference to its responsibilities under the law has emboldened the exploiters of indigent workers to persist in their criminal activities. The matter needs to be addressed on priority basis at the highest level, so that the evil of slavery-like practices can be eradicated in the shortest possible time.

Religious extremism: The renewed efforts to pass the Hisba Act and the enforcement of segregation and a dress code on women is having a hugely negative impact on the rights of women and minorities in the NWFP. The enforcement of

Taliban-like restrictions is also having an adverse impact on the provision of healthcare for women, with male technicians and doctors prevented from attending to them. There is alarming evidence of the expansion of such extremism in other provinces as well, including university campuses in the Punjab.

Militarization of society: The domination of civil society by the military is increasing. The role of the Frontier Constabulary in policing various parts of the country, the taking over of water delivery services in Karachi and the occupation of schools, hostels and other buildings in Sindh by Rangers and the many recent incidents in which military men violating the law have received protection at the highest level are all proof of the manner in which civil society is being overwhelmed and made subservient to the military. This wholesale militarization of administration and public life must end.

Hudood laws: There should be no further delay in the repeal of the Hudood laws, under which thousands of women remain in jail. It is worth noting that retrogressive forces appear to have been able to hold back the government despite overwhelming evidence of injustices as a result of this law. Not only the Hudood Ordinance but also other laws that have an adverse impact on human rights, such as the Qisas and Diyat laws, must be set aside.

International concerns: The failures of Pakistan's foreign policy are visible in the fact that the government's credibility has further declined within and outside the country. The secrecy and lack of transparency regarding policies on Afghanistan, Kashmir and other countries also add to negative perceptions about Pakistan while contributing to growing tension in the region.

Role of political parties: In the current scenario, political parties need to play a leading role in guiding people out of the crisis they face today. Sadly, most political parties in the country remain caught up between retrogressive forces and the increasingly assertive military, and have been unable to perform this function. This situation can only be remedied with the active efforts of all sectors of civil society.

Mental health: The despondency, helplessness and sense of fear among people as a result of the socio-economic conditions they confront, and their own sense of powerlessness, is increasing. This is having a hugely negative impact on mental health - with the rising suicides across the country one manifestation of this. There is a need to focus on the mental health of people as an issue that deserves priority attention.

October 31:

HRCP has said that the arrest of Alliance for the Restoration of Democracy (ARD) president and acting PML-N chief Javed Hashmi, and the levelling of an extraordinary set of charges against him, falls in line with the increasingly obvious official policy of harassing opposition politicians, political activists and other dissidents.

In a statement issued Friday, HRCP Chairperson Tahir Mohammad Khan and secretary-general Hina Jilani condemned the detention of Hashmi, and the charges of abetting mutiny within the army and sedition lodged against him, as evidence

of a stepped up campaign to crush political dissent and create an environment of terror.

November 24:

The reports that activists of the PML-N have been arrested on charges of speaking out against the government or the President of the country, negate official claims of democracy and respect for fundamental freedoms in the country. HRCP condemns the action against the leaders. Criticizing the government or the President, does not amount to a crime under any law of the land, and the charges against political activists suggest an expansion in the government's determination to quash all dissent by using the coercive powers of State against citizens.

Denial of right to assembly

November 14:

The shooting dead of four persons near Bahawalnagar by police, during a rally against rising crime, once again confirms that the authorities have no respect for the lives of citizens and that they need to learn the basics in the treatment of public gatherings. An impartial inquiry must also be held into the latest killings, so that those responsible can be penalized under the law and a message sent out warning others against taking similar measures to curb the right to assembly.

Excesses against newsmen

February 14:

The indication of a heightened threat to Sindhi language newspapers, because of government policies is worrying.

HRCP believes this is a manifestation of the wider official hostility to the media and betrays a desire to restrain free expression.

HRCP has received a complaint from the Sindh National Council about the difficulties being faced by the 'Daily Sindh', published in Hyderabad, as a consequence of government indifference. During the past few years, at least 14 Sindhi language newspapers have been forced to close down, with the denial of government advertising for these papers seen as a key factor in this. It is feared that unless immediate action is taken, the 'Daily Sindh' could follow these publications along the road to extinction.

August 30:

Describing the filing of a case against seven Hyderabad journalists as proof of the establishment's intolerance of media freedom, HRCP has called upon the authorities to desist from abusing their powers. In a statement issued here today, the commission's secretary-general Hina Jilani said:

The report that the Hyderabad police has charged without provocation seven local journalists with as serious offences as sedition and anti-state activities will shock the entire civil society of the country. The journalists are now reported to have been released. While that amounts to a welcome correction it is necessary

to call to account those responsible for their detention, however short its duration. The case must be withdrawn and all state functionaries firmly warned against subjecting journalists and, for that matter, any citizens to excesses.

September 3:

HRCP has strongly condemned the detention of a Khuzdar journalist, Mr. Rasheed Azam, in flagrant violation of the due process and demanded his immediate release. In a statement issued here today, HRCP Secretary-General Hina Jilani said:

Mr. Rasheed Azam represents two daily newspapers in Khuzdar and is also a prominent activist of the Balochistan National Party (Mengal). His vulnerability in both capacities specially entitles him to the due protection of the law. He was picked up on the basis of a vague communication from the Quetta Crimes Branch which referred to a complaint by an undisclosed sensitive departments alleging the distribution of an anti-Army poster by Mr. Rasheed Azam and that the action amounted to sedition against Army, which is an offence of a grave nature. It seems necessary to reaffirm that liberty of a citizen is much too sacred to be trifled with by any authority. Arbitrary actions by the police, or any other branch of administration, cannot go unchallenged merely on the ground that such actions are taken at the behest of a sensitive department. Mr. Rasheed Azam must be released forthwith.

November 25:

The findings of a medical board set up on the orders of a civil judge in Faisalabad to look into a complaint by three newsmen and a shopkeeper of torture by police, provide a truly alarming indication of the expanded use of such means by authorities against citizens. The action came after the weekly had published an account of extortion of money by police from students, and urged the force not to harass members of the public.

Multiple accounts of torture by police, jail authorities and other agencies of State have come in during the year. In some cases, the victims have died. So far, no policeman or other official has, to the knowledge of HRCP, been penalized under the relevant laws. There is as an urgent need for Pakistan to ratify international conventions against the use of torture, which have not so far been signed by the country. Still more important is the need to ensure those responsible for inflicting torture and brutality on citizens are duly punished for their crimes.

December 24:

HRCP has called upon the government to release Pakistani journalist Khawar Mehdi Rizvi and to respect journalists' professional rights while prosecuting the two French journalists accused of violating the visa restrictions. In a statement issued today, HRCP Secretary-General Hina Jilani said:

HRCP strongly protests the arrest and detention of Mr. Khawar Mehdi Rizvi, a free-lance journalist, apparently without cause. The attempt at avoiding disclosure of Mr. Rizvi's status also is a clear violation of his basic rights under the national laws. He must be released forthwith and if the authorities holding him have a case

against him the facts should be presented before a court and the due process of law respected.

Crimes against women

March 15:

HRCP is shocked and appalled at the violation of Noor Khatoon's basic rights and threats to her life from people who uphold the most foul practice of karo-kari and the indefensible insensitivity of the state and the society to the plight of women that are threatened.

HRCP condemns the torture of Noor Khatoon, demands appropriate action against the culprits. Action on some of the publicized atrocities on woman and dispensation of charity to a few of the victims will not do.

Minorities under attack

April 12:

A day-long workshop on the rights of minorities in Pakistan, organized by the Human Rights Commission of Pakistan (HRCP) and attended by activists belonging to the various national entities and religious communities, called for a holistic approach to the rights of federating units and religious /linguistic groups. The participants were unanimously of the view that unity in a pluralist society such as Pakistan could be achieved only under a democratic dispensation in which belief was not allowed to interfere with the business of the state and the rights of citizens. The participants were of the view that the issues of minority rights, like any other question faced by the people, could not be isolated from the basic issue of the state structure.

Rights of workers and farmers

January 23:

The recent indications that the authorities are continuing the campaign of harassment, intimidation and violence that led last year to the death of at least twelve landless tenants on military farms in the Punjab is alarming.

A rally of tenants on the military farms in Okara was brutally baton-charged by police several days ago, resulting in injuries to men women and children.

The conditions at the military farms are deteriorating rapidly once more as the fundamental rights of tenants are violated. It is feared that even greater violence may follow in the weeks ahead, further jeopardizing the rights of people attempting to draw attention to their suffering and their legitimate demand.

April 13:

Representatives of the labour organizations, media and lawyers, at a meeting held here today, declared that in its present form the IRO 2002 was totally unacceptable as it would further undermine the trade union movement, reduce

the size of the organized labour force and have extremely adverse effects on the economy. It urged upon all elements of civil society to actively support the workers struggle for the restitution of their rights.

The meeting was reflecting HRCF's decision to form broader alliances for the promotion of human rights interests.

Increased militancy and illegal detentions

March 5:

The recent arrest of Khalid Sheikh Muhammad and his quick delivery into US custody indicates that the disturbing pattern of illegal detentions and disregard for the due process that continued throughout 2002 is growing more and more ominous.

HRCF vigorously condemns all forms of terrorism, but the principle of respect for the basic rights of all human beings cannot be sacrificed in any situation. No one must be deprived of liberty save in accordance with the law and the bar to torture of detainees must never be violated under any circumstances.

March 26:

The release of HRCF activist and journalist Akhtar Baloch after three days in illegal detention does not end the issue of the 'picking up' of people by intelligence agencies. In a statement issued today, the HRCF Council, the decision-making body of the organization, said:

While thanking all national and international organizations and individuals for raising their voice in defence of Mr. Baloch's rights, the HRCF Council expresses grave concern and dismay over the illegal arrest of a human rights activist by personnel of an intelligence agency and his illegal detention for three days in circumstances that clearly amount to torture.

HRCF demands accountability of the intelligence agencies that detained Mr. Baloch and action under the law against those responsible for this.

March 27:

HRCF has conducted a detailed investigation into the illegal arrest and arbitrary detention for three days of its prominent activist, Mr. Akhtar Baloch. We are convinced Mr. Baloch had nothing against him that could be used to justify his arrest. Attempts to link his arrest to some criminal activities amount to inventing a pretext for illegal actions.

HRCF is convinced after its inquiries that Mr. Baloch was arrested to target the HRCF leadership and to terrorize HRCF activists, especially those working in remote areas, and that Mr. Baloch was arbitrarily detained and subjected to what can only be described as torture.

In view of the above, it is vital that a thorough, independent inquiry into Mr. Baloch's illegal arrest be carried out. HRCF has reason to believe that Mr. Akhtar Baloch still faces a threat and it is the responsibility of the government to guarantee

his safety and ensure that he or his family does not come to any harm.

July 7:

While authorities have made much of the arrest of several suspects thought to be involved in the terrorist attack that killed at least 47 people at a Quetta mosque on July 4th, it obvious such limited measures will not solve the broader issue of worsening militancy.

HRCP has said in the past and would like to reiterate once more those horrible incidents, which have already devastated hundreds of families, are a symptom of a deeper malaise. The drift of the State towards greater totalitarianism can only aggravate the militant tendencies that lead to such killings and the social intolerance that underpins the violence unleashed on innocent people.

HRCP fears that until steps are taken towards tackling these basic issues, rather than treating militancy as a mere matter of law and order to be dealt with like a riot or some other similar incident, more attacks will continue to take place.

Rights of prisoners

July 28:

The recent tragic incident at the Sialkot Jail, in which three civil judges and five prisoners were killed, and the official response to it, bears testimony to the grave concern HRCP has repeatedly expressed about deplorable conditions in jails and official policy regarding the treatment of prisoners.

HRCP condemns the violence at the jail and condoles with the families of all those who so unnecessarily lost their lives.

Even more disturbing is the immediate official response to the tragedy. The dismissal of several officials at the jail is hardly likely to resolve the broader issues. These are rooted in a failure to adhere by the Jail Manual, the brutality inflicted on those held behind bars and the lack of training and motivation of jail staff. It is hoped that the judicial inquiry into the incident will examine the various underlying factors that have led to repeated outbreaks of violence at jails.

November 14:

The return today across the Wagah border of eight Pakistani boys held for the past many months at jails in India, is welcome news.

HRCP appreciates the efforts of the governments of India and Pakistan in arranging for the boys, all believed to be aged under-16, to be reunited with their families. It must however be noted that despite the recent releases, an unknown number of other Pakistani boys are still held in Indian jails, including seven or eight at Faridkot Jail. HRCP urges the administrations on both sides of the border to step up actions in this regard, so that the suffering of the children can be ended.

December 4:

The recent hanging of Qadeem Khan, aged 80, at Peshawar Jail highlights the cavalier manner in which the death penalty is awarded in the country.

Customary international law restricts the imposition of the death penalty in various situations, including the execution of old people.

HRCP condemns the hanging of the elderly prisoner, and reiterates its stand that the death penalty represents a grave violation of human rights.

Blasphemy law victims

February 7:

The gunning down of yet another person accused under blasphemy laws before courts could deliver a verdict in the case highlights the increased risk victims of this law face.

Mushtaq Zafar, on bail granted by the Lahore High Court, became the second blasphemy accused within the year to be murdered in cold blood.

The heightened threat to those charged under the flawed law once more underscores the increasingly urgent need to review the statute and take measures to prevent its widening misuse to settle petty scores and minor disputes.

August 26:

The death of Naseem Bibi at Kot Lakhpat Jail adds to the number of persons accused in blasphemy cases who have died in custody.

Such deaths can only add to the growing concern for the safety of persons accused under the country's blasphemy laws. The evidence that these laws are being increasingly misused makes the situation all the more alarming. There is as such an urgent need to ascertain the true facts in this latest case, so that efforts can be made to spare others a similar fate and their families the suffering that has been inflicted on so many as a result of accusations of blasphemy.

Misuse of influence

January 6:

In a letter dispatched to the governor of Sindh, Dr Ishrat-ul-Ibad, scientist, Dr Abdul Qadeer Khan and his accomplices were condemned for trying to acquire control of a mental health institution.

The letter, sent by HRCP Secretary-General, Hina Jilani, details the use of force against the Executive Director of the institute and the doctors working at it, and requests an independent inquiry into the incident after the registration of a criminal case under relevant laws against those responsible.

Refugees' problems

February 11:

HRCP has strongly criticised the arrest of hundreds of Afghan refugees in Islamabad under the Foreigners Act and urged the authorities not to ignore the demands of law in their pursuit of security. In a statement issued here today the Commission's Secretary-General and Punjab Vice-Chairperson said:

The reported arrest of nearly 350 refugees, mostly Afghans, in Islamabad

and their detention under the Foreigners Act appears to be a clear case of abuse of law and executive authority. There will be nothing wrong in asking the refugees to return to the places designated for their temporary stay in Pakistan and await repatriation but they must not be deprived of their liberty and exposed to severe hardships they do not deserve.

Official neglect

September 24:

While supporting the process of probe into the Malakwal rail accident of Sept. 20, 2003, Human Rights Commission of Pakistan (HRCP) has called upon the authorities to take action against all those responsible for not implementing the decision to install manned gates at the site for nearly a decade. In a statement issued here today, HRCP said:

The Malakwal railway accident of Sept 20, 2003, in which 30 precious lives were lost, has unraveled a story of years of criminal neglect. A decision to install a manned crossing at the site was taken in 1994 and the Railways are believed to have received for the purpose Rs 1.9 million from the Punjab Highway Dept that year. That this decision has remained unimplemented for nearly a decade betrays nothing but officialdom's contempt for the lives of innocent citizens.

Misuse of ECL

November 1:

The addition of the name of activist Shahbaz Bhatti to the Exit Control List is a dangerous omen, and indicates the extent to which authorities are willing to go to muffle dissent of all kinds.

HRCP condemns the misuse of the ECL as a weapon of harassment. It may be noted that the same list has also been used repeatedly in the past against political opponents, both by previous governments and the set-up now in place.

HRCP tributes

March 12:

HRCP mourns the passing away of Mrs Alys Faiz this morning and acknowledges her outstanding services to the cause of human rights as one of HRCP's founder members, as a member of its first executive, and as a leading figure on its editorial board for many years. Her commitment to the rights of the disadvantaged was as complete as possible and she inspired her colleagues at HRCP with unremitting devotion to peace, freedom and human dignity, an exemplary sense of duty, and boundless compassion for all human beings.

Earlier, she had devoted many years to the education and welfare of the sick and the special children and had taken an active part in the subcontinent's struggle for independence as a young volunteer in London. The HRCP Secretary-General and members of its secretariat have in a resolution expressed their solidarity with the bereaved family and renewed their pledge to continue fighting for human

rights as Mrs Faiz would have wished.

March 19:

HRCP expresses its deep shock and grief at the death of Maisoon Husain an outstanding journalist and a former member of HRCP's executive council.

Quiet, selfless and self-abnegating by nature, Maisoon Husain was a dedicated defender of the people's human rights.

HRCP shares the grief of Maisoon Husain's near and dear ones and expresses the confidence that her mission will not be allowed to fail. It shall certainly not be forgotten.

November 20:

HRCP is shocked and grieved at the passing away of eminent journalist, A. B. S. Jafri, a former member of the Commission. Mr. Jafri took active interest in the work of HRCP for several years. His commitment to human rights was also evident throughout his long journalistic career. HRCP conveys its heartfelt condolences to the bereaved family.

HRCP awards

March 21:

HRCP awarded the coveted Dorab Patel Award for Promotion of the Rule of Law to eminent lawyer and Supreme Court Bar Association (SCBA) President, Mr Hamid Khan, for his unflinching support to the movement for the restoration of democracy and rule of law in the country.

While handing over the award in Karachi, former HRCP chairperson Ms Asma Jahangir lauded Mr. Hamid Khan's struggle to uphold the Constitution. She also noted that as SCBA President, Mr Hamid Khan had also spearheaded the struggle against the Legal Framework Order (LFO).

The Dorab Patel award was instituted in 1998. Mr Hamid Khan was the first recipient of the award, that also carries a cash prize, as per a unanimous decision of the HRCP Council, it's governing body. The award was announced on December 10 last year, to coincide with World Human Rights Day.

New HRCP chairperson

October 25:

Mr. Tahir Mohammad Khan was unanimously elected as the new chairperson of the Human Rights Commission of Pakistan (HRCP) by the council of the organization, which is meeting here.

Khan replaces Mr. Afrasiab Khattak, who resigned from the post in August this year, after joining the Awami National Party (ANP). Explaining his decision to withdraw from the HRCP chair, he said that the head of HRCP must be free from any political partisanship. The new chairperson will complete Mr. Khattak's term, which ends in March 2005.

Khan, one of the senior most members of HRCP has earlier served as the

organisation's vice-chairperson at Quetta. A senior advocate, he also served as Deputy Chairman of the Senate and as a federal minister.

HRCP secretary-general Hina Jilani led the members of the Council in eulogising the meritorious services of the outgoing chairperson. Mr. Afrasiab Khattak led HRCP during a critical period of the country's history, Hina Jilani said, and paid tribute to his outstanding understanding of human rights issues as well as his willingness to join activists in their work throughout the country. The council welcomed the fact that Mr. Khattak will continue to function as an elected member of the organisation's governing body.