

# State of Human Rights in 2005



Human Rights Commission  
of Pakistan

# **State of Human Rights in 2005**



**Human Rights Commission  
of Pakistan**

## **Sources**

The sources, where not quoted in the text, were HRCP surveys, fact finding reports, and communications from its correspondents and private citizens; official gazettes, economic and legal documents and other public releases and statements; reports in the national and regional press; and publications of international agencies like the UNDP, ILO, WHO, UNICEF and the World Bank. Considering the limitation of the official reports, press accounts and sample surveys conducted by NGOs, figures and assessments offered here may not always represent the full or the exact picture. They should be taken as a reflection of the trend during the year.

---

Pictures are by courtesy of The Herald, Karachi;  
The News, Lahore; The Dawn, Lahore,  
HRCP Special Task Forces at Hyderabad  
and Multan and other HRCP offices.  
The Commission is also thankful to its correspondents  
for some pictures.

**Published by**

Human Rights Commission of Pakistan  
Aiwan-i-Jamhoor, 107-Tipu Block, New Garden Town, Lahore-54600  
**Tel:** +92-42-5864994 **Fax:** +92-42-5883582  
**E-mail:** [hrcp@hrcp-web.org](mailto:hrcp@hrcp-web.org)  
**URL:** [www.hrcp-web.org](http://www.hrcp-web.org)

**Printed by**

Rashid Ahmed Chaudhry  
Maktaba Jadeed Press  
14-Empress Road, Lahore  
**Tel:** +92-42-6307639-40

**January 2006**

**Price:** Rs. 250/-  
\$ 11/-  
□ 7/-  
(Postage extra)

**ISBN- 969-8324-21-6**

**Cover design:** Visionaries, Lahore  
**Controller computers:** Rehan Latif Khan

# Contents

*Abbreviations*

*Glossary*

*Introduction* ... 1

*Highlights* ... 5

## **I Rule of law**

Laws and law-making ... 15

Administration of justice ... 29

## **II Enforcement of law**

Law and order ... 71

Jails and prisoners ... 83

## **III Fundamental freedoms**

Freedom of movement ... 107

Freedom of thought, conscience and religion ... 113

Freedom of expression ... 127

Freedom of assembly ... 139

Freedom of association ... 145

## **IV Democratic development**

Political participation ... 155

## **V Rights of the disadvantaged**

Women ... 173

Children ... 201

Labour ... 215

## **VI Social and economic rights**

Education ... 239

Health ... 255

Housing ... 269

Environment ... 277

Refugees ... 291

## **Appendices**

HRCP activities ... 301

HRCP stands ... 309



# Abbreviations

<b><i>ADB</i></b>	Asian Development Bank	<b><i>CIA</i></b>	Criminal Investigation Agency
<b><i>ANP</i></b>	Awami National Party	<b><i>CI</i></b>	Council of Islamic Ideology
<b><i>APP</i></b>	Associated Press of Pakistan	<b><i>CJ</i></b>	Chief Justice
<b><i>ARD</i></b>	Alliance for the Restoration of Democracy. Formed late in 2000 to include the PML and PPP within a single broad alliance.	<b><i>COAS</i></b>	Chief of Army Staff
<b><i>ASI</i></b>	Assistant Sub-Inspector [of Police]	<b><i>CoP</i></b>	Constitution of Pakistan
<b><i>ASJ</i></b>	Additional Sessions Judge	<b><i>CrPC</i></b>	Criminal Procedure Code
<b><i>ASSP</i></b>	Anjuman Sipah Sahaba, Pakistan	<b><i>CRC</i></b>	Convention on the Rights of the Child
<b><i>ATA</i></b>	Anti-Terrorism Act	<b><i>DCO</i></b>	District Coordination Officer
<b><i>ATC</i></b>	Anti-Terrorism Court	<b><i>DGK</i></b>	Dera Ghazi Khan, a district in Punjab
<b><i>BHC</i></b>	Balochistan High Court	<b><i>DIG</i></b>	Deputy Inspector General [of Police]
<b><i>BHU</i></b>	Basic Health Unit	<b><i>DIK</i></b>	Dera Ismail Khan in NWFP
<b><i>CDA</i></b>	Capital Development Authority — Karachi's is KDA, Lahore's LDA, etc.	<b><i>DPO</i></b>	District Police Officer
<b><i>CEC</i></b>	Chief Election Commissioner	<b><i>DSJ</i></b>	District and Sessions Judge
<b><i>CEDAW</i></b>	Convention on Elimination of all forms of Discrimination Against Women	<b><i>DSP</i></b>	Deputy Superintendent of Police
		<b><i>ECL</i></b>	Exit Control List
		<b><i>EIA</i></b>	Environment Impact Assessment
		<b><i>EPA</i></b>	Environment Protection Agency
		<b><i>FATA</i></b>	Federally-Administered Tribal Areas

<b>FCR</b>	Frontier Crimes Regulations	<b>NCCWD</b>	National Commission for Child Welfare and Development
<b>FIA</b>	Federal Investigation Agency	<b>NEQS</b>	National Environment Quality Standards
<b>FIR</b>	First Information Report	<b>NGO</b>	Non-government organisation
<b>HRCP</b>	Human Rights Commission of Pakistan	<b>NIC</b>	National Identity Card
<b>IEE</b>	Initial Environment Examination	<b>NIRC</b>	National Industrial Relations Commission
<b>IG</b>	Inspector General [of Police]	<b>NSC</b>	National Security Council
<b>IMF</b>	International Monetary Fund	<b>NWFP</b>	North-West Frontier Province
<b>ISI</b>	Inter-Services Intelligence	<b>PAEC</b>	Pakistan Atomic Energy Commission
<b>IUCN</b>	International Union for the Conservation of Nature	<b>PATA</b>	Provincially Administered Tribal Areas
<b>Jl</b>	Jamaat-e-Islami	<b>PFUJ</b>	Pakistan Federal Union of Journalists
<b>JUI (F)</b>	Jamiat-e-Ulema-e-Islam (Fazlur Rahman Group)	<b>PHA</b>	Pakistan Housing Authority
<b>LHC</b>	Lahore High Court (SHC is Sindh High Court, PHC Peshawar High Court etc)	<b>PHC</b>	Peshawar High Court
<b>LHV</b>	Lady Health Visitor	<b>PML(N)</b>	Pakistan Muslim League (Nawaz group). PML-QA is Pakistan Muslim League, Quaid-e-Azam.
<b>LITE</b>	Landhi Industrial Trading Estate	<b>PONM</b>	Pakistan Oppressed Nations Movement. The PONM platform brings together the nationalist organisations of the smaller provinces complaining of the predominance of Punjab
<b>MCL</b>	Metropolitan Corporation of Lahore	<b>PPC</b>	Pakistan Penal Code
<b>MNA</b>	Member of the National Assembly	<b>PPP</b>	Pakistan People's Party
<b>MPA</b>	Member of the Provincial Assembly	<b>PS</b>	Police Station
<b>MQM</b>	Muttahida (former) Mohajir) Qaumi Movement	<b>PTI</b>	Pakistan Tehrik-e-Insaf
<b>MSF</b>	Muslim Students Federation		
<b>NA</b>	National Assembly		
<b>NAB</b>	National Accountability Bureau		



<b>RHC</b>	Rural Health Centre	<b>UDHR</b>	Universal Declaration of Human Rights
<b>SC</b>	Supreme Court	<b>UGC</b>	University Grants Commission
<b>SAARC</b>	South Asian Association for Regional Cooperation	<b>UNDCP</b>	United Nations Drug Control Programme
<b>SCARP</b>	Salinity Control and Reclamation Project	<b>UNDP</b>	United Nations Development Programme
<b>SCBA</b>	Supreme Court Bar Association	<b>UNESCO</b>	United Nations Educational Scientific and Cultural Organization
<b>SHC</b>	Sindh High Court	<b>UNHCR</b>	United Nations High Commission for Refugees
<b>SHO</b>	Station House Officer	<b>UNICEF</b>	United Nations International Childrens Education Fund
<b>SI</b>	Sub-Inspector [of Police]	<b>WAPDA</b>	Water and Power Development Authority
<b>SITE</b>	Sindh Industrial Trading Estate	<b>WASA</b>	Water and Sewerage Authority
<b>SMP</b>	Sipah Mohammadi, Pakistan	<b>WB</b>	World Bank
<b>SP</b>	Superintendent of Police	<b>WHO</b>	World Health Organization
<b>SSP</b>	Senior Superintendent of Police	<b>WTO:</b>	World Trade Organization
<b>STN</b>	Shalimar Television Network	<b>WWF:</b>	Worldwide Fund for Nature
<b>TB</b>	Tuberculosis		
<b>TJP</b>	Tehrik Jafria, Pakistan		
<b>TNSM</b>	Tehrik Nifaz-e-Shariah Mohammadi		

# 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

*Baraat:* 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.

*Charpai*: String bed

*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

*Fiqah*: 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 or outhouse

*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).

*Murgha*: Literally, a rooster. Often used to describe a common punishment, in which a person is asked to bend over, and grasp both ears after taking his hands between his legs.

*Naib Qasid*: Peon

*Najis*: Something religiously regarded as impure, impermissible.

*Nazim*: Mayor - *Naib Nazim*: Deputy Mayor

*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

*Pucca*: Literally solid. Generally refers to houses made of baked brick etc.

*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.

*Tonga*: Horse drawn carriage used as transport.

*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 Karbaia

*Ziarat*: Devout travel to and from prayers at the holiest shrines. A special Shia observance

*Zina*: Adultery. Rape is zina-bil-jabr

# Introduction

Lack of respect for basic democratic rights; increased ruthlessness in crushing dissent; a disturbing determination to keep governance secret and the emergence of dangerous new trends, such as the 'disappearances' of more and more people across the country marked the human rights environment during the first eight months of 2005 and the last two of 2004.

But, against this bleak backdrop, some positive developments offered a glimpse of hope. Under government-led initiatives, hundreds of child camel jockeys returned to the country, the issue of violence against women was taken up at a national conference, more efforts than before were made to prevent curbs on women casting ballots and issues such as child labour were discussed at more forums than in the past.

Encouragingly for HRCP, and all other organizations working for rights in the country over the past many years, the increased official attention to the issues facing children and women came as a response to the demands repeatedly highlighted by civil sector groups.

Paradoxically however, there were renewed moves to restrict such organizations. Threats were voiced by rulers and other government members, accusing leaders of Non-Governmental Organizations of immorality and corruption. There were reports of new laws to monitor and regulate their funding and activities. Much of this came amid claims that the work of civil society groups damaged the 'national interest'.

The official focus on what leaders saw as the 'national interest' seemed to be a part of the growing militarization of society, with security issues taking priority over concern for the welfare of citizens. This militarization was

represented by the deployment of troops in many parts of the country, the increased appointment of military men to jobs previously held by civilians and of course, the massive expenditures on the country's military, only a small percentage of which was reflected in the annual budget tabled before parliament. Studies conducted in recent years suggested military and business interests were more closely linked than ever before, while there was one soldier for every teacher and six for every doctor in the country.

The results of this were evidenced in the socio-economic plight of people. Less than half the country's population of 152 million was literate, according to official figures. The literacy rate for women, who made up half this population, was markedly lower than that for men. Pakistan's educational attainments remained among the lowest in the world. Access to healthcare was unavailable to most people in the country. Unemployment continued unchecked placing immense financial burdens on tens of thousands of families, and taking a growing toll of lives in the form of suicides, often motivated by financial factors, that were reported almost daily in the media.

Despite this evidence of the growing sense of helplessness and frustration among people, they were prevented from even voicing their concerns. Rallies staged by citizens to draw attention to inflation, power cuts or other issues were brutally crushed by baton-wielding goons who wore police uniforms. Efforts by political activists to stage assemblies were equally ruthlessly crushed, with thousands arrested during the year as part of official efforts to prevent political gatherings.

The draconian anti-terrorism laws were misused to harass political opponents, many were pressurized to change loyalties and in some cases, physical attacks were staged to coerce them to do so.

Further evidence of the determination to prevent people from exercising basic democratic rights came in the blatant pre-poll rigging and manipulation of the local government election in August. HRCP found that tampering with constituency delimitations prior to the polls, harassment of opposition candidates, the misuse of administrative machinery and the chaotic conduct of polls on voting days made the exercise almost entirely meaningless.

While such actions proved the lack of respect for democratic norms, the failure to permit democracy led to a worsening of the crisis in various parts of the country. The province of Balochistan saw violence early in the year as tribal militants clashed with troops. There was no attempt to address the acute concerns of the Baloch people over the new cantonments being built in the province and the use of Balochistan's natural resources, or to change their



perception of acute discrimination and neglect by the State.

An HRCP fact-finding mission, that visited the Northern Areas in August, found amongst people deep-rooted frustration over the failure for the past five and a half decades to offer them any guarantee of fundamental rights or a say in determining their own affairs. The grossly inadequate healthcare, educational infrastructure and other facilities available to people added to their suffering, while sectarian violence had further aggravated the situation.

Sectarian tensions also continued to flare up in other parts of the country, claiming over a 100 lives in 2005 alone, as suicide bombers attacked places of worship and Shia professionals were gunned down in Quetta and other cities. The militant attacks demonstrated official policies to tackle the deep-rooted issue had remained ineffective. A widespread abuse of rights under the guise of the 'war on terror' made matters worse, with people across the country 'picked up' by intelligence agency personnel, and often kept for long periods at undisclosed locations. Operations against militants in all parts of the country, including the Waziristan agency, were kept secret and political leaders, activists and journalists denied access to the area of fighting as well as to other parts of the country where tensions persisted.

This was not the only means used to deny citizens information. The harassment of media professionals increased dramatically during the period under review, while under controversial press laws, the declarations of several publications were cancelled. In other cases, offices were sealed and equipment of media organizations seized. New efforts to restrict the freedoms of the private electronic media took the form of raids by police on offices of radio stations and attempts to introduce sweeping amendments to laws that would allow the Pakistan Electronic Media Regulatory Authority (PEMRA) to arbitrarily restrict the content aired by channels, arrest journalists and close down networks.

The growing obsession with secrecy meant that access to jails was denied to citizens, while despite the presence of a freedom of information law, more difficulties were faced than at any previous time in acquiring even the most basic information on many issues.

The rulers' attitudes towards women were reflected in remarks made by President Pervez Musharraf during a visit to the US in September that rape victims gained monetary benefits and visas to Canada. These words, met with angry protests in Pakistan, also underscored the lack of official willingness to tackle the growing rate of violent crime against women. As in previous years, hundreds once more fell victim to 'honour' killings, burnings, rape, abductions and other crimes. Discriminatory laws, including the Hudood ordinances, stayed

on the statute books.

The worsening climate of intolerance aggravated the situation for non-Muslim citizens. Ahmadis faced the worst discrimination and remained effectively disenfranchised. HRCP continued to demand the joint electorate be fully restored. There was also an increase in attacks on minority places of worship, with the impunity available to culprits encouraging only more such outrages across the country. The misuse of blasphemy laws, and in at least one instance the murder of an accused man by a frenzied mob, highlighted the dangers presented by the growing bigotry and hatred in society.

Despite the difficulties, it was however apparent that people and activists were more willing than ever before to combat the repression and discrimination they faced. HRCP received complaints from even the most remote parts of the country regarding injustices, intolerance and oppression -- suggesting that awareness on such issues was continuing to grow, and people were more determined than ever before to assert their fundamental rights.

**NOTE:**

*HRCP's annual report has been finalised a few months earlier than usual, in response to requests made to HRCP from various organizations and individuals within and outside the country. It covers the period between November 1<sup>st</sup>, 2004 and August 31<sup>st</sup> 2005. Our next report will cover events that took place during the remaining period of 2005 and upto August 31, 2006.*

**-- Kamila Hyat**

# Highlights

## ■ Laws

- ▶ The legislation enacted emphasized measures the State apparatus considered necessary for more effective governance or to further its own interest, while public welfare remained low on the priority list.
- ▶ The MMA government in the Frontier Province pushed its Hasba Bill through the provincial assembly. Soon afterwards, hearing a reference against the bill filed by the federal government, the Supreme Court declared several provisions of the bill to be contrary to the constitution, and directed the Frontier Governor not to assent to it.
- ▶ The Punjab Consumer Protection Act, adopted by the provincial assembly in January 2005, was another significant piece of provincial legislation.
- ▶ The Council for Islamic Ideology (CII) endorsed a review of the Hudood laws, which remained in force in the country.
- ▶ The salaries of superior court judges were raised through a order of the President.

## ■ Judiciary

- ▶ A government proposal to set up a federal court to decide cases related to commerce, industry, banking, labour, environment etc was rejected by the Law and Justice Commission. The project had been widely criticized as another attempt to create a parallel judiciary.
- ▶ Indications of Executive's decisive interference in appointments/

promotion of judges of superior courts were criticised by lawyers.

- ▶ The Supreme court ruled several provisions of the NWFP government's Hasba Bill violative of the Constitution and thus blocked the measure.

- ▶ The Chief Justice of Pakistan ordered the compulsory retirement of the Supreme Court registrar who had been found guilty of corruption and misconduct.

- ▶ The Supreme Court ruled that candidates holding certificates from religious seminaries could contest elections for the posts of nazims or naib nazims only if they had passed examinations in English, Urdu and Pakistan Studies.

- ▶ The Ministry of Kashmir Affairs and Northern Areas constituted a separate court of appeals for the Northern Areas.

- ▶ The demolition of lawyers' chambers at Gujjar Khan on the orders of the District and Sessions Judge, sparked a bitter clash between lawyers on one side and the administration and judiciary on the other.

- ▶ The Lahore High Court (LHC) acquitted five of the six accused who had been awarded death sentence in the case of Mukhtar Mai. The matter came in appeal before the Supreme Court which ordered the arrest of all the accused.

- ▶ Activists of political parties continued to be accused under anti-terrorism laws.

#### ■ Law and order

- ▶ The State agencies' alleged involvement in cases of disappearance focused attention on a new form of criminal assault on citizens' rights to liberty and due protection of the law.

- ▶ Growing discontent in Balochistan, caused not only by political and economic but also cultural reasons, aggravated the state of lawlessness and disorder in the province.

- ▶ The administration's handling of the allegations by Dr. Shazia Khalid of rape at a highly guarded hospital premises brought fresh and dangerous evidence of women's vulnerability to denial of justice after abuse.

- ▶ The delay in completing the scheme of checks in the Police Order gave the police force possibilities of resisting efforts to discipline them and make their accountability more effective.

- ▶ The military campaign to flush out 'terrorists' resulted in serious cases

of denial of the South Waziristan people's basic rights.

- ▶ The Northern Areas remained in the grip of sectarian rioting for long spells.

- ▶ There was little change in the factors that contribute to a high rate of crime against women and children.

### ■ Jails and prisoners

- ▶ Riots at several jails, most notably the periodic unrest at Sukkur Jail, highlighted problems at prisons and the criminal activities that often continued behind bars.

- ▶ Children continued to be detained despite the JJSC of 2000. At least two faced the death penalty.

- ▶ More people than ever before went 'missing' across the country.

- ▶ Over 86,000 prisoners were held at 81 jails across the country, against an official capacity of 36,825.

- ▶ Torture was endemic, with many deaths caused by brutality apparently passed off as suicides.

### ■ Freedom of movement

- ▶ The name of gang-rape victim Mukhtaran Mai was placed on the ECL to prevent her travelling overseas.

- ▶ Restrictions on free movement were used to curb political assembly.

- ▶ Activists, political workers and journalists were prevented from travelling to various parts of the country where military operations continued.

- ▶ HRCF received complaints that Bengali and Bihari-speaking citizens were being denied passports and identity cards, purely on the basis of their language.

### ■ Freedom of thought, conscience and religion

- ▶ Attacks on non-Muslim citizens across the country increased. Such attacks came in the form of 'fatwas', attempts to burn down places of worship and the abduction or harassment of members of minority communities.

- ▶ Ahmadis remained effectively disfranchised and faced continuing violence and discrimination.

- ▶ Over 100 people died in sectarian violence across the country, including

unrest that persisted for months in the Gilgit and Skardu areas.

- ▶ Expanded intolerance in society was demonstrated by the continued accusations under blasphemy laws, and the murder of an accused person in Nowshera by a frenzied mob.

- ▶ There were some positive developments, including the decision to allocate land in Lahore as a funeral site for the city's Hindu community.

### ■ Freedom of expression

- ▶ The declarations of at least three newspapers were cancelled.

- ▶ HRCP received a growing number of complaints from journalists of intimidation and an attempt to influence what they wrote. Media professionals also faced violence from State agencies and arrests under restrictive press laws.

- ▶ Amendments proposed in the PEMRA law aimed to impose tough controls on the electronic media.

- ▶ There was an easing of restrictions on the performing arts, including dance.

### ■ Freedom of assembly

- ▶ The right to assembly was curbed more brutally than ever before, with police bludgeoning political activists, journalists, rights activists and other citizens who attempted to stage gatherings with unprecedented brutality.

In contrast, assembly by religious groups was frequently permitted.

Section 144, restricting public gathering by more than four people, remained in place through much of the year in the Punjab.

### ■ Freedom of association

- ▶ Members of government attacked NGOs and NGO leaders in offensive language through the year, and accused them of working against what rulers defined as the 'national interest'.

- ▶ There was a threat of new laws that NGO activists feared could be used to restrict and monitor their activities in various spheres.

- ▶ Militants posed a growing threat to NGOs, with a woman activist and her daughter shot dead in Dir.

### ■ Political participation

- ▶ Blatant manipulation of local government polls underscored the

continued determination to deny people their most basic democratic rights.

- ▶ Political opponents faced an increase in harassment and in some cases physical threats to their welfare.

- ▶ Anti-terrorism laws were used against political leaders and activists opposing government policies, as a means of intimidation. An increased number of members of opposition parties were lured over to pro-government groups.

- ▶ Militarization in all spheres of society increased, while the working of government became increasingly secretive. There were six soldiers for every doctor in the country.

- ▶ There was no attempt to address the grievances of the people of Balochistan, where a state of political and social crisis persisted.

## ■ Women

- ▶ There was no change in official statistics that showed an average of 1,000 women died each year in 'honour' killings.

- ▶ Stories of grotesque abuse of women, including Dr Shahzia Khalid and Sonia Naz, shocked people across the world. The culprits in many cases were not penalized.

- ▶ Controversial laws, such as the Hasba Bill in the NWFP, threatened to add to the discrimination against women in the province. Other discriminatory laws remained in place.

- ▶ A symbolic marathon race organized by HRCP in May 2005 to draw attention to the rights of women was brutally crushed by police and leaders arrested. Another token race staged a short while later met with unprecedented success, with people within and outside the country extending overwhelming support.

- ▶ 366 women in the country suffered gang-rape or rape between November 2004 and August 2005.

- ▶ Far fewer women were registered as voters than men, while many in the Northern Areas continued to be denied their right to balloting by traditional elements.

## ■ Children

- ▶ Many laws intended to protect children went largely unimplemented. Growing awareness about the rights of children and the introduction of some protection measures by government pointed towards a slight improvement in the situation.

- ▶ 10 million children were estimated to form a part of the labour force,

while at least 70,000 remained on streets across the country.

- ▶ During the first six months of 2005, 71 children were murdered after sexual abuse.

- ▶ At least nine small girls fell victim to a serial rapist in Gujranwala.

- ▶ The physical abuse of children remained widespread, while due to the conditions in which they lived, many children across the country suffered malnutrition, illness and death.

## ■ Labour

- ▶ The manner in which the privatization of PTCL was managed caused enormous distress to employees. The tactics of intimidation and harassment used against striking workers, and the arrest of union leaders, added to this.

- ▶ Official documents showed an increase in unemployment levels in rural Sindh.

- ▶ The controversial Industrial Relations Ordinance (IRO) 2002 remained in force, restricting the right of workers to create unions.

- ▶ More cases were reported of the abuse of domestic workers.

- ▶ Over 1.7 million haris remained in bondage across Sindh. Bonded labour increased in other sectors.

- ▶ There was an increase in reported cases of bonded labourers selling organs in a desperate bid to pay off debts.

## ■ Education

- ▶ Spending on education remained well below Unesco recommendations.

- ▶ Only 39 percent of women in the country were literate, according to official figures.

- ▶ 50 percent of school-age children in Sindh were reported to be outside classrooms.

- ▶ The government failed to register madrassahs in the country.

- ▶ Concern over falling standards of higher education and examinations continued to be expressed at all levels.

## ■ Health

- ▶ The unofficial infant and child mortality rates were stated by international agencies to exceed averages for low income countries by 60 and 36 percent respectively.

- ▶ Spending on health was under one percent of GDP, among the lowest



in the world.

- ▶ Cases of death due to medical negligence increased.
- ▶ No legislation was tabled to control the growing issue of organ donation.
- ▶ The issue of private medical colleges, the recognition of degrees awarded by them and of the standards of training they imparted remained unsettled, with the row placing the futures of at least 1,000 students at stake.

## ■ Housing

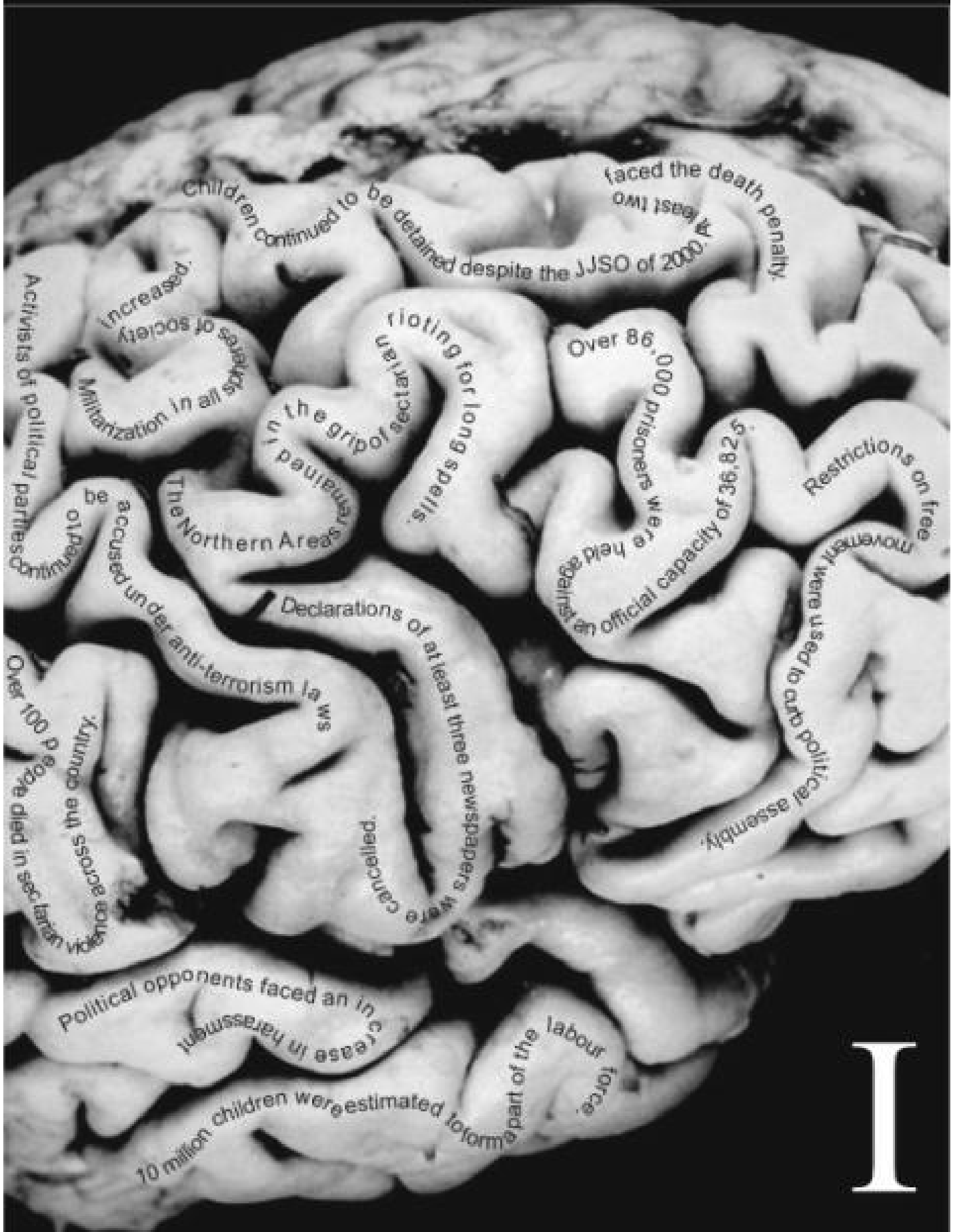
- ▶ 500,000 new housing units were required annually to meet the severe shortage in the country.
- ▶ Over 70 people died between November 2004 and August 2005 when their houses collapsed.
- ▶ Authorities expressed continued determination to construct the controversial Lyari Expressway in Karachi, with 250,000 people affected by the project facing forced evictions.

## ■ Environment

- ▶ Outbreaks of epidemic disease, caused by unsafe drinking water, caused the loss of at least 100 lives.
- ▶ Worsening air pollution in all major cities took a growing toll on health.
- ▶ Poor disaster management contributed to the death caused by natural calamities.
- ▶ The Punjab government's New Murree Project threatened at least 11,000 trees.

## ■ Refugees

- ▶ The one million or so Afghan refugees still in camps suffered increased risks as international aid dwindled away. An estimated 400,000 refugees returned to Afghanistan from Pakistan in 2005.
- ▶ The number of internally displaced persons in the country expanded. International organizations estimated at least 50,000 had been displaced since 2004 in the Waziristan tribal areas, as a result of operations against alleged militants.
- ▶ Development projects threatened other communities across the country.



I

# Rule of law

HRCP

# 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)

## **Lower priority**

Law- making appeared to have slid down on the priority list of the government during November 2004-August 2005. It seemed that after producing an exceptionally

heavy crop of legislation in 2002 the law –making establishment believed it had earned the facility of light duty – for some time at least.

The emphasis in legislation remained on measures the state apparatus considered necessary for more effective governance or in its own interest while public welfare remained at a low priority. The only notable enactments in the latter category were the Injured Persons (Medical Aid) Act, which should, if properly implemented, improve the survival prospects for those injured in accidents/ armed clashes, and the Federal Employees Benevolent Fund and Group Insurance (Amendment) Act, that offered federal government employees some relief. It is not clear whether the law which guaranteed parliamentarians equality with civil servants in the matter of increase in wages and perks would be considered in the interest of the people.

The tendency to legislate through the exercise of the special powers of the head of state, instead of going through the parliament, persisted. The establishment saw nothing amiss in issuing an ordinance a day or two before the National Assembly or the Senate was due to meet.

## **Acts**

The following legislative measures were enacted during November 2004 – August 2005:

*(Legislation done during 2004 up to Act VII and Ordinance IV was covered in State of Human Rights in 2004.)*

- 1. Act VIII of 2004. Code of Civil Procedure (Amendment) Act, 2004.** Gazetted Nov 30, 2004; with immediate effect; Section 102 of Act V of 1908 replaced: putting a bar to second appeal in certain cases.
- 2. Act IX of 2004. The Defamation (Amendment) Act, 2004.** Gazetted Nov 30, 2004; with immediate effect; amendment of sections 9,13,14 and 15 of the ordinance of 2002, replacement of sec 500 of PPC and addition of sec 502 to it: and amendment of Schedule II of the CrPC.
- 3. Act X of 2004. The Anti-Terrorism (Amendment) Act, 2004.** Gazetted Nov 30, 2004; with immediate effect. Sub-sections 4-A and 4-B added to sec 25 of the Act of 1997; victim and heir get right to appeal against acquittal of accused by an anti-terrorist court.
- 4. Act XI of 2004. The Federal Public Service Commission (Amendment) Act 2004.** Gazetted Dec 16, 2004; with immediate effect. New clause (ia) added to section 7(2); D-G, ISI exempted from FPSC control.
- 5. Act XII of 2004. The Injured Persons (Medical Aid) Act, 2004.** Gazetted Dec 16, 2004; with immediate effect. New law to ensure medical aid to injured persons

before completion of medico-legal formalities.

**6. Act 1 of 2005. Criminal Law (Amendment) Act, 2004.** Gazetted Jan 11, 2005, with immediate effect. Amendment to sections 299, 302, 305, 308, 310 (and addition of 310-A), 311, 316, 324, 337-N and 338-E of the PPC and sections 156 (addition of 156-A), 345, 401 and Schedule II of CrPC. Law supposed to curb 'honour killings'. (*See State of Human Rights in 2004*)

**7. Act II of 2005. Anti-Terrorism (Second Amendment) Act, 2004.** Gazetted Jan 11, 2005, with immediate effect. Amendment of sections 7, IIG, IIN, IIV, IIW, IIX, 19, 21G, 21L, 25, 38 (addition of 38-A), and Schedule III of the Act of 1997.

**8. Act III of 2005. Corporate and Industrial Restructuring Corporation (Amendment) Act, 2005.** Gazetted April 7, with immediate effect. To amend ordinance of 2000.

**9. Act IV of 2005. Federal Employees Benevolent Fund and Group Insurance (Amendment) Act, 2005.** Gazetted May 14, with immediate effect and deemed effective since Dec 1, 2003. To regularize ordinance of same title.

**10. Act V of 2005. Members of Parliament (Salaries and Allowances) (Amendment) Act, 2005.** Gazetted May 17, with immediate effect. For automatic increase in members' salaries, allowances and privileges in proportion to increase in emoluments of civil servants.

**11. Act VI of 2005. The Fiscal Responsibility and Debt Limitation Act, 2005.** To provide for elimination of revenue deficit and reduction of public debt to a prudent level. Gazetted 18 June 2005: with immediate effect.

**12. Act VII of 2005. The Finance Act 2005;** the federal budget. Gazetted 1 July 2005; unless otherwise provided with effect from 1 July 2005.

**13. Act VIII of 2005. The Export Development Fund (Amendment) Act, 2005;** Gazetted 6 July 2005, to amend the Act of 1999, with immediate effect.

**14. Act IX of 2005. The Pakistan Navy (Amendment) Act 2005;** to amend the ordinance of 1961 and add a provision for fine as additional punishment in sections 53, 54, 56, 63, 64, and 65 of the Pakistan Navy Ordinance XXXV of 1961. Gazetted 6 July 2005; with immediate effect.

**15. Act X of 2005. The Federal Public Service Commission ( Second Amendment) Act 2005;** to further amend the ordinance (XLV) of 1977. Gazetted 6 July 2005; with immediate effect and deemed to have taken effect on and from 28 May 2003.

**16. Act XI of 2005. The illegal Dispossession Act 2005;** to curb the activities of

property grabbers (qabza groups). Gazetted 7 July 2005; with immediate effect.

## Ordinances

The following ordinances were issued during the period under review:

**1. Ordinance I of 2005: Federal Employees' Benevolent Fund and Group Insurance (Amendment) Ordinance.** Gazetted Jan 29, 2005, deemed to be effective since Dec 1, 2003. Amendment of sections 2, 12, 13 and addition of Schedule III to the Act of 1969.

**2. Ordinance II of 2005. Defence Housing Authority Islamabad Ordinance, 2005.** Gazetted Feb 22, 2005; with immediate effect. To provide for the establishment of the Defence Housing Authority, Islamabad.

**3. Ordinance III of 2005. Police Order (Amendment) Ordinance, 2005.** Gazetted March 31, 2005, with immediate effect. Amendment of Articles 2, 10, 11, 12, 15, 18, 21, 32, 33, 34, 35, 36, title of chapter V, 40, 41, 43, 45, 46, 48, 65, title Chapter VIII, 73, 74, 75, 76, 78, 79, 80, 81, 82, 84, 89, 92, title ch x, 100, 112, 134, 135, 152, 155, 168, 169, substitution of Articles 37, 38, 39, 42, 44, addition of Articles 186-A and Fourth schedule, and omission of Chapter VI and Articles 103 to 108 of the CEO 22 of 2002.

**4. Ordinance IV of 2005. Pakistan Engineering Council (Amendment) Ordinance, 2005.** Gazetted April 1, 2005.

**5. Ordinance V of 2005. Pakistan Intellectual Property Rights Organization Ordinance, 2005.** Gazetted April 8, with immediate effect. To create the organization mentioned in the title.

**6. Ordinance VI of 2005. Legal Practitioners and Bar Councils (Amendment) Ordinance, 2005;** Gazetted April 11; with immediate effect "and shall be deemed to have taken effect from the 3<sup>rd</sup> day of March 2005"

**7. Ordinance VII of 2005. Alternative Energy Development Board Ordinance, 2005** Gazetted April 30.

**8. The Recognition and Enforcement (Arbitration, Agreement and Foreign Awards) Ordinance.**

**9. Ordinance IX of 2005. The Police Order (Second Amendment) Ordinance, 2005.** Gazetted July 23, 2005, with immediate effect.

**10. Ordinance X of 2005. The Pakistan Engineering Council (Second Amendment) Ordinance, 2005.** Gazetted August 5.

**11. Ordinance XI of 2005. The Societies Registration (Amendment) Ordinance, 2005.** Gazetted August 15, with immediate effect. To provide for registration of *madrassas*.

**12. Ordinance XII of 2005. The National Database and Registration Authority**

(Amendment) Ordinance, 2005. Gazetted August 23, with immediate effect.

**13. Ordinance XIII of 2005. The Public Investments (Financial Safeguards) (Amendment) Ordinance 2005,** Gazetted August 23, 2005; with immediate effect.

**14. Ordinance XV of 2005. The Federal Public Service Commission (Amendment) Ordinance, 2005.** Gazetted August 27, 2005, with immediate effect. To reduce the term of FPSC members from five to three years.

## **Provincial enactments**

### *Local government laws changed*

The most important, and also the most controversial, pieces of legislation were the amendments to provincial laws on local government and the adoption of the Hasba Bill by the Frontier assembly.

Since the local government is theoretically a provincial subject a new scheme of local bodies came into being with the promulgation of Local Government Ordinances by the provincial governments in 2001. Elections to local bodies were held under these enactments the same year. Before the 2005 local government elections were held wide-ranging amendments to all the four provincial ordinances were made, following consultations under federal aegis. The more significant amendments were:

1. The strength of the Union Council was reduced from 21 to 13.
2. The provincial Chief Ministers could suspend any Nazim subject to endorsement of this action by the provincial commissions.
3. The Chief Minister of the province was given the powers to set aside the orders of any Nazim (district, tehsil, town, union council).
4. The Chief Minister also acquired powers to set aside the resolution of a council (Zila, tehsil, town, union council).
5. The transfer of a district coordination officer if the Zila Nazim was not satisfied with his performance was made subject to the discretion of provincial government.
6. All levies desired by a local government were made subject to the approval of the provincial government.
7. The Zila Nazim was divested of the power to initiate the performance and evaluation reports of the officer heading the district police.
8. A provision made specifically for 2005 elections empowered the chief secretaries to appoint government officials as caretakers of local bodies.

### *Hasba Bill*

The government of religious parties' alliance (MMA) in the Frontier province finally pushed its Hasba Bill through the provincial assembly in July 2005. Most of the



controversial provisions to which exception had been taken since the day the bill was drafted remained unchanged in the text presented before the assembly. The bill envisaged the creation of what could be called a parallel administration/judiciary presided over by a Provincial Mohtasib enjoying immense powers. Ombudsmen were also proposed at district and tehsil levels. The ombudsmen were to be authorized to monitor adherence to moral values of Islam at public places, eliminate honour killings, swara and beggary, move against ostentatious and wasteful expenses in marriage and against child labour and hoarding and corruption, or any other matter suggested by the advisory councils headed by the ombudsmen themselves. No court could interfere with the working of the Mohtasib system. The ombudsmen were to be provided with police force required to enable them to achieve their purpose.

Soon after the bill was passed the Federal Government filed a reference in the Supreme Court seeking its opinion as to whether the provincial assembly had the power to adopt the measure. The Supreme Court while giving its opinion declared several provisions of the bill to be contrary to the constitution. The court also directed the Frontier Governor not to assent to the bill. The MMA announced its decision to respect the Supreme Court finding and also to modify the proposal but nothing of the kind happened till the end of the period under review. *[See also important cases in the chapter Administration of Justice].*

#### ***Consumer courts in Punjab***

Another significant piece of provincial legislation, and this one pregnant with public welfare ideas, was the adoption of the Punjab Consumer Protection Act by the provincial assembly in January 2005. (It became Punjab Act II of 2005.)

The Punjab government later on proposed the setting up of 11 consumer courts (two in Lahore, and one each at Faisalabad, Gujranwala, Rawalpindi, Sargodha, Multan, D.G. Khan, Bahawalpur, and two at other cities). A sum of Rs 100 million was earmarked for the purpose in the Development Budget announced in June.

The project is part of the Access to Justice Programme sponsored by the Asian Development Bank which has provided 300 million dollars in credit. (A consumer protection law was made for the federal capital some years ago.)

#### ***Islamic council proposals***

The Council of Islamic ideology approved a draft bill to punish with imprisonment anyone who became a party to a woman's marriage to the Quran (June 2005).

The practice is believed to be widely favoured by landlords, especially in Sindh, who want to prevent their sisters/daughters/other wards from getting married and thus save their lands from passing into the hands of people outside their families. The

council said the inhuman practice amounted to defiling the Holy Quran, desecrating the Islamic institution of marriage, denying a woman her inheritance as well as her right to choose her spouse in accordance with Islamic injunctions.

The draft bill to amend section 285-B of the Penal Code (which already prescribes life term for anyone who desecrates the Holy Quran) envisages rewording of the provision as follows:

“295-B. Defiling of and marriage with the Holy Quran: Whosoever wilfully defiles, damages or desecrates a copy of the Holy Quran or an extract therefrom or directly or indirectly allows the Holy Quran to be used for purpose of its marriage with a female or fraudulently or dishonestly induces any person to swear on the Holy Quran never to marry anyone in her lifetime or knowingly uses it in any derogatory manner or for any unlawful purpose, shall be punishable with imprisonment for life.”

The bill said the so-called marriage of a female with the Holy Book bore no legal consequences as per Shariah and the act of solemnizing such a marriage constituted an offence punishable under the Shariah law.

### ***Hudood ordinances***

Official spokesmen continued to drop hints that the Hudood ordinances, quite arbitrarily devised and enforced by Gen. Zia-ul-Haq, could be reviewed. These ideas received support when they were endorsed by the Council of Islamic Ideology.

In addition the ordinances promulgated by General Zia-ul-Haq came under some well directed criticism. First Professor Shaheen Sardar Ali, former minister in NWFP and Chairperson of National Commission on the Status of Women and at present teaching at a university in England, disclosed that her research over a period of 12 months had revealed that 95% of the cases under Hudood laws amounted to exploitation of the vulnerable and were a result of personal vengeance. She had found out that most of the lower courts gave decisions against the victims but these decisions were reversed by superior courts. Criticizing the Hudood laws for putting rape and consensual sexual intercourse as equivalent crimes, she called upon the superior judiciary to monitor the working of the lower courts more effectively and rectify the flaws in procedures and in the interpretation of statutes.

Some time later, Dr Mohammad Tufail Hashmi, consultant to Federal Shariat Court, declared that many clauses in the Hudood ordinances were against the Quran and Sunnah. He pointed out that out of the 101 clauses in the Hudood ordinances, 47 offered definitions, 54 were about *tazir* punishments and only 18 envisaged Hudd punishments. The *tazir* clauses were man-made laws but conservative elements, who blindly defended the ordinances, described their entire content as divine law. He said society had a responsibility to repeal and amend any man-made laws in order to provide

relief to the people.

Although the abovementioned criticism of the Hudood ordinances reached only a small section of newspaper readers the matter was raised in the Frontier provincial assembly through an adjournment motion and several members of the ruling MMA party demanded that Dr. Hashmi should be sacked, “as he refused to accept hudood and Quran with regard to liquor and zina”. One member also demanded Dr. Hashmi be punished under a penal law.

***President’s order; judges’ salaries.***

President’s order 3 of 2004. Salary of Judges of Superior Courts Order 2004. Gazetted Dec 14, 2004, with immediate effect. Salaries fixed by P0 1 of 2003 raised. New scales of salary per month:

CJ of Pakistan: Rs. 77, 220 ; SC judge: Rs. 73, 008: CJ of High Court: Rs. 71, 604;  
High court judge: Rs. 68, 796.

***Notification: JJSO in FATA***

S.R.Q 928 (1)/2004, dated Nov 6, 2004. Under Article 247 (3) of the Constitution, the President extended the Juvenile Justice System Ordinance, 2000, to the Federally Administered Tribal Areas (FATA) adjoining the NWFP. With immediate effect.

**Other developments**

- ◆ The NA Standing Committee on Law, Justice and Human Rights unanimously approved the Illegal Dispossession Bill 2003. The proposed measure is designed to deal with *qabza* groups. ( Dec 04)
- ◆ The NA Standing Committee on Commerce approved the Export Development Fund (Amendment) Bill 2004 and the Safeguard Measures (Amendment) Bill 2002. (Dec 04)
- ◆ Senator Rukhsana Zuberi (PPPP) moved a private member’s bill in the Senate for the establishment of a Pakistan portal on contracts, procurement of all services and purchases for public sector organizations. ( For transparency) (Dec 04)
- ◆ The federal cabinet approved the draft bill for setting up the Pakistan National Commission for Human Rights. (Dec 04).
- ◆ Following the finalization of the draft bill on Pakistan National Commission on Human Rights, the government decided to withdraw the Council for Awareness and Enforcement of Human Rights Bill 2003. ( Dec 04)
- ◆ The federal law ministry announced finalisation of a law reform package designed to amend seven basic laws — the PPC, the CrPC, the CPC, the Zina ordinance, the Specific Relief Act, the Power of Attorney Act, and the Registration Act.

(Dec 04)

- ◆ Senator Farhatullah Babar (PPPP) submitted a resolution in the Senate seeking a declaration that the “punishments prescribed under the Enforcement of Hudood (Punishment for Zina) Ordinance 1979 are un-Islamic”.

- ◆ The Senate rejected Farhatullah Babar’s bill that sought to amend the Pakistan Commission of Inquiry Act 1956 so as to enable citizens to get copies of reports and findings of inquiry commissions. The law minister opposed the bill on the ground that publication of inquiry reports would compromise national security. (Feb 05).

- ◆ The Senate rejected two bills moved by Senator Raza Rabbani — one seeking to amend the Banking Companies Ordinance, 1962, and the other seeking repeal of the Removal from Service (Special Powers) Ordinance 2000. (Feb 05).

- ◆ February 7, 2005, was private members day in the Senate. When the house rejected its three bills the opposition walked out and the ruling party decided to kill all the bills and motions standing in the name of protesting Senators. The five bills thus killed included one moved by Prof Ghafoor Ahmad and four other MMA Senators which sought an amendment to the National Security Council Act of 2004, the Constitution (18<sup>th</sup> Amendment) Bill, moved by Maulana Naseeb Gul and nine other MMA Senators, and Senator Farhatullah Babar’s (PPPP) amendment to the Exit from Pakistan (Control) Ordinance 1961.

- ◆ The treasury benches and MMA in the NA joined hands to defeat Ms Kashmala Tariq’s (PML-Q) bill proposing an amendment to the CrPC to the effect that the state should act as ‘wali’ in case of *karō kari* murder and for treatment of such offences as intentional murder, (March 05)

- ◆ The ruling party changed its stance a few days later when Ms Kashmala Tariq moved another bill similar to the one rejected by the NA. Mr. Bhandara also moved a bill to amend the *Karō Kari* law. The two bills were clubbed together. Subsequently, the law minister objected to the bills, saying that the movers should have sought their party’s consent, a position that was repudiated by the two MNAs. Both the bills were eventually rejected by the NA in April.

- ◆ PPPP’s Ms Sherry Rehman tabled three bills in the NA, all three dealing with women’s concerns. One of the bills sought repeal of the Zina ordinance, another sought reservation of 10 percent of the jobs in government institutions for women, and the third addressed violence against women. (March 05)

- ◆ PPPP moved Constitution (19<sup>th</sup> amendment) bill in the Senate aimed at strengthening the independence of the judiciary. Senator Raza Rabbani said the bill sought amendments in Articles 177, 178, 181, 182, 185, 193, 194, 196, 197, and 203 (C), deletion of Article 200 and substitution of Article 209 of the constitution.

- ◆ The NA denied Kanwar Khalid Yunis (MQM) leave to introduce a bill to

amend sec 9 of the Prohibition Ordinance of 1979. (April 05)

◆ PML-N's Parvez Malik and five other MNAs were denied leave by the NA to move a bill to amend Article 101 of the Constitution.

◆ The NA standing committee on science and technology approved three bills: The National Institute of Oceanography Bill, Pakistan Council of Science and Technology Bill, and Pakistan Council of Research on Water Resources, all of 2004. (April 05)

### ***Bills in NA***

The following bills were introduced in the National Assembly in 2005 (upto August 31)

1. NA Bill 1 of 2005: Industrial Development Bank Pakistan (Reorganization and Conversion) Act, 2005; for reorganization of IDBP and its conversion into a public limited company. ( Feb 24).

2. NA Bill 2 of 2005. Pakistan Tobacco Board (Amendment) Act, 2005. For reconstitution of the board and other amendments to the ordinance of 1968. (Feb 25)

3. NA Bill 3 of 2005. Tibb-e-Unani, Ayurvedic, Homoeopathic, Herbal and other Non- allopathic Medicine Act, 2005. To regulate the manufacture, import, export, storage and sale of non- allopathic medicines. ( Feb 25)

4. NA Bill 4 of 2005. National Institute of Oceanography Bill, 2005. To set up the said institute. (Feb 28)

5. NA Bill 5 of 2005. Pakistan Council for Science and Technology Bill , 2005. To establish the said council. ( Feb 28)

6. NA Bill 6 of 2005 Pakistan Council of Research on Water Resources Bill, 2005. To establish the council (Feb 28).

7. NA Bill 7 of 2005. Foreign Private Investment (Promotion and protection) (Amendment) Bill ,2005 ( March 3)

8. NA Bill 8 of 2005. The Illegal Dispossession Bill.

9. NA Bill 9 of 2005. The Federal Public Service (Amendment) Bill.

10. NA Bill 10 of 2005. Pakistan Intellectual Property Rights Organization Bill 2005. To set up the said organization. (March 18)

11. NA Bill 11 of 2005. Law Reforms Bill, 2005. To amend several laws. (April 18)

12. NA Bill 12 of 2005. National Commission for Human Rights Bill 2005. To set up the NCHR. (May 12)

13. NA Bill 13 of 2005. Finance Bill 2005. (June 6)

14. NA Bill 14 of 2005. Banking Companies (Amendment) Bill, 2005; to amend the

ordinance of 1962. (August 29).

### ***Bills in Senate***

The following Bills were introduced in the Senate:

1. Senate Bill 1 of 2005. The Income Tax (Amendment) Bill 2004. To ensure that the CBR publishes a directory of all income –tax payers every year. (Feb 7)
2. Senate Bill 2 of 2005. Pakistan Penal Code (Amendment) Bill, 2004. To amend sections 482, 485, 486 and 487 of the PPC, to enhance punishment for false trade marks and counterfeiting trade / property marks. (Feb 7)
3. Senate Bill 3 of 2005. Pakistan Penal Code (Amendment) Bill 2004. To amend sec 331 of the PPC, to extend relief to prisoners who cannot be released because of inability to pay Diyat. (Feb 7)
4. Senate Bill 4 2005. Publication of the Holy Quran (Elimination of Printing Errors) (Amendment) Bill 2004. To provide for proper disposal of shaheed/ damaged pages of the Holy Quran (Feb 7)
5. Senate Bill 5 of 2005. Contempt of Court Bill 2005. To replace the Act of 1976. (Feb 10)

### **Law Commission proposals**

The Law and Justice Commission held two regular meetings during the period under review and proposed changes in a number of enactments. These proposals envisaged timely registration of FIRs, enhancement of amounts of fine, higher penalty for *qabza* groups, compensation for false cases, flexible prison term under the Zina ordinance, and streamlining of family laws.

At its March 2005 meeting, the Law and Justice Commission (L&JC) recommended the addition of a provision to sec 154 of the CrPC to the effect that “if the police refuses to register an FIR, the complainant or informer may lay such information before the area magistrate, so that no undue delay is caused in the registration of FIRs.” The commission was of the view that the proposed provision would offer urgent relief to the people aggrieved by police refusal to register FIRs.

The commission also approved a proposal to amend sec 514 of the CrPC for abolishing “the court’s discretion to remit any portion of penalty on forfeiture of bond of a person standing surety for the accused”. This was expected to be an effective pressure on the surety to ensure appearance of the accused.

Vide another recommendation the Law and Justice Commission proposed enhancement of the amount of fine in some 242 federal Acts that had been in existence for 150 years. The commission was of the view that the amounts of fine no longer had

the desired impact. They did not discourage criminals from repeating their crimes and could not act as deterrent. Therefore the amount of fines needed to be enhanced. The enhancement formula worked out by the commission was as follows:-

1. Statutes made in 1851- 1900: 5- fold increase in fine
2. Statutes made in 1900- 1950: 4- fold increase
3. Statutes made in 1950- 1975: 3- fold increase
4. Statutes made in 1975- 1995: 2- fold increase

No increase in fines was suggested in the case of laws amended from time to time or statutes made since 1995.

The commission also approved the following proposals prepared by the law ministry for amendments to existing laws:

i) Sec 379 of the Penal Code may be amended to raise the punishment for theft from imprisonment for three years to five years.

ii) Sections 441 and 447 of the PPC may be amended to make “illegal dispossession from property” an offence punishable with imprisonment for up to ten years as well as fine. (Move against qabza groups.)

iii) Sec 468 of the PPC may be amended to increase the punishment for “forgery for the purpose of cheating” from 7 years to 10 years in prison.

iv) Sec 35 of the Code of Civil Procedure (CPC) should be amended to empower and obligate courts to determine and award the cost of litigation as a measure to prevent false and vexatious litigation.

v) Sec 35-A of the CPC should be amended to provide for compensatory costs (up to Rs. 100,000) to the other party for false or vexatious claims or defence.

vi) Sec 89 (A) may be substituted in the CPC to provide for the use of alternative methods of dispute resolution, such as mediation, conciliation or arbitration, in suits for partition or rendition of accounts or in any other dispute. The trial judge may refer the matter for settlement to mediator, conciliator or arbitrator for decision within a period of three months.

vii) Sec 95 of the CPC should be substituted to empower the court to order the party at fault, that obtained arrest or attachment or an injunction on insufficient grounds, to pay punitive compensation to the aggrieved party. The court may further direct the party at fault to pay penalty for wasting the court’s time and for abusing the process of law.

viii) An additional clause be added to section 17 of the Registration Act to make “agreement to sell relating to immovable property” and “power of attorney when

authorizing the attorney to sell any immovable property” compulsorily registerable. This will operate as a check against forged documents being relied upon in trial and to prevent false/ fictitious claims being filed in courts.

At its meeting in August 2005, the L&JC examined the provisions of sections 11, 13 and 14 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979, and concluded that the single punishment of ‘life imprisonment’ left no discretion with courts to award a lesser punishment where circumstances warranted this. The commission recommended that the punishment of ‘life imprisonment’ may be substituted with “imprisonment which may extend to 25 years.”

The commission also took notice of violation of the provisions of Section 7 of the Muslim Family Laws Ordinance 1961 when a man does not forward notice of ‘talaq’ to the Chairman of the Union Council. This puts the wife in difficulty if she contracts marriage on the expiry of the period of ‘iddat’ and the husband reports against her for contracting marriage.

To avoid this eventuality, the commission recommended that in case a husband fails to send notice to the chairman the wife may give notice in this regard to the chairman and send a copy thereof to the husband. The chairman will initiate conciliation proceedings upon such notice.

Further, in case of a woman exercising ‘Talaq Tafveez’ (delegated divorce), she must send a notice to the chairman and send a copy of it to the husband, and if she fails the husband can also send such a notice to the chairman of the union council. The commission recommended that the law should be amended accordingly.

The commission found that the punishment of fine of Rs one thousand on non-registration of Nikah under section 5 of the Muslim Family Ordinance had lost its deterrent effect in view of devaluation of the rupee and inflation. The amount of fine should be raised Rs 10,000.

The commission further recommended a suitable amendment to section 10 of the Family Courts Act 1964 to the effect that in a suit by a wife on the sole ground of ‘Khula’ there should be no trial and the court should issue decree of dissolution subject to return of ‘mehr’ by the wife to the husband.

The commission also took notice of service charges being deducted from small deposit holders whose balance in the account fell below Rs. 5000. The banks also arbitrarily deduct amount from the account holders who close their accounts. Furthermore the banks arbitrarily fix rates of profits after deduction of administrative and other charges and thereby pass on very small profits to account holders.

The commission noted that such practices were arbitrary and unfair to the general



public and in particular the low income groups and poor sections of the society. It therefore asked for a report on this issue from the State Bank of Pakistan.

### ***Recommendations***

1. *The government's continued emphasis on legislative proposals that it considers necessary for removal of its administrative difficulties and the long delays that public welfare proposals are subject to cannot but cause frustration to the people. It is necessary to ensure a balance between matters of convenience to the rulers and those that affect the well-being of the ruled.*

2. *Now that legislative organs of the state are at least trying to meet the prescribed target of sessions per year the practice of issuing ordinances, especially on the eve of parliamentary sessions, must be given up. Even when ordinances are approved by parliament this method of legislation is open to criticism because ordinances do not invite the same kind of discussion as is generated by fresh bills.*

3. *Laws made without affording the oppositions due opportunity for debate and amendments will always remain controversial. Every effort must be made to ensure not only opposition participation in law making but all legislative proposals must be fully publicized in the media so that they can be debated at civil society forums.*

4. *The complaint that private members' bills do not receive from the treasury benches the respect they deserve betrays the ruling group's lack of respect for democratic conventions. Attempts to push through official legislation or to kill private members' motions in the absence of opposition members cannot contribute to development of healthy parliamentary traditions.*

5. *Lack of care in drafting legislative proposals explains why enactments are frequently amended, sometimes more than once within a few months. Inadequacies in this area are not irremovable provided the establishment has the inclination and the will to rise to minimum acceptable standards of efficiency.*

6. *The task of reviewing laws enacted during periods of deviation from democratic rule cannot be postponed.*

# 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

#### **Judicial appointments**

Appointments on the Supreme Court were made twice during the period under review and many eye-brows were raised on each occasion. In the first instance, Chief Justices of high courts were elevated to the apex court, except for the CJ of the LHC. Instead, two LHC senior judges were sent to the SC. On the second occasion too, the LHC CJ was not disturbed. Nor was the SHC CJ elevated to the SC. The reasons for not shifting the two CJs were said to be different. The lawyers protested against what they believed was an encroachment on the judiciary's independence. The second batch of SC appointees included two judges who were appointed on ad-hoc basis. The practice of not confirming all additional judges of high courts continued.

#### **Move for a new court**

One of the projects actively pursued by the government envisaged the creation of a federal court to decide cases related to commerce, industry, banking, labour, environment, etc. The proposal ran into stiff opposition from lawyers and members of the judiciary and the government made some minor changes in the draft bill. The revised bill fared no better and the government was unable to give effect to its plan.

The move was criticized as another attempt to raise a parallel judiciary and it received a near-fatal blow when it was rejected by the Law and Justice Commission

headed by the country's Chief Justice.

Explaining the project, the federal law minister once said the federal court was being set up under Article 175 of the Constitution, which allowed the government to constitute such courts. The federal court would deal with tax and commerce cases and all civil and criminal cases would remain under the jurisdiction of the high courts. The federal court would function under the administrative control of the Supreme Court and judges for it would be appointed on the recommendation of the country's Chief Justice, he said.

According to the law minister, the country's judicial system needed radical reforms and the federal court proposal was part of a wide-ranging reform package.

On another occasion he claimed that "this is the first time the government has introduced reforms in public interest". The federal court would satisfy the WTO and many other international agreements and treaties besides encouraging and attracting local and foreign investment by providing for a forum for expeditious disposal of cases, he said.

The bill drafted to provide for the creation of a federal court has the following features:

- ◆ The federal court will have the status of a high court.
- ◆ The court shall decide disputes, appeals and references within a period of three months.
- ◆ The new court will have exclusive and original jurisdiction to hear cases falling under 29 laws.
- ◆ The Supreme Court will not be an appellate forum in commercial/financial matters.
- ◆ Besides the laws which regulate banking, insurance, customs and excise, exports and imports, insurance, taxation, foreign exchange and companies, the federal court shall also have jurisdiction over labour disputes, matters relating to the House Building Finance Corporation, emigration, the PTCL, charitable and religious trusts, environmental protection and privatization of state organizations.
- ◆ Special courts, such as banking and drugs courts, will be wound up.
- ◆ The court shall comprise a chief judge and other judges to be appointed by the President after inviting a panel of names from the Chief Justice of Pakistan, besides professional bodies and public organizations.
- ◆ The oath to be made by the chief justice of the court says that he "will abide by the code of conduct issued by the President."
- ◆ The principal seat of the proposed court shall be in Islamabad. The federal government may establish registries and branches at other places, including provincial headquarters, at a later stage.
- ◆ A judge shall be a person eligible to be a judge of a high court, or one serving in a public organization in BPS-21 or above, or one who has experience in commercial

or financial matters for not less than 15 years, or a retired judge of high court, tribunal or a court under federal laws.

The laws under which all matters will be placed under the exclusive jurisdiction of the federal court are:

1. The Works of Defence Act, 1903.
2. The Charitable and Religious Trusts Act, 1920.
3. The Cantonments (House Accommodation) Act, 1923.
4. The Foreign Exchange Regulation Act, 1947.
5. The Imports and Exports (Control) Act, 1950.
6. The HBFC Act, 1952.
7. The Chartered Accountants Ordinance 1961.
8. The Copyrights Ordinance, 1962.
9. The Customs Act, 1969.
10. The Monopolies and Restrictive Trade Practices (Control and Prevention) Ordinance , 1970.
11. The Drugs Act, 1976.
12. The Emigration Ordinance, 1979.
13. The Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980.
14. The Companies Ordinance, 1984.
15. The Sales Tax Act , 1990.
16. The Islamabad Consumers Protection Act, 1995.
17. The Pakistan Telecommunication (Reorganization) Act, 1996.
18. The Pakistan Environmental Protection Act, 1997.
19. The Insurance Ordinance, 2000.
20. The Registered Designs Ordinance 2000.
21. The Registered Layout- Designs Integrated Circuits Ordinance, 2000.
22. The Privatization Commission Ordinance 2000.
23. The Non- performing Assets and Rehabilitation of Industrial units (Legal Proceedings) Ordinance, 2000.
24. The Patents Ordinance 2000.
25. The Financial Institutions (Recovery of Finances) Ordinance, 2001.
26. The Income Tax Ordinance, 2001.
27. The Oil and Gas Regulators Authority Ordinance.
28. The Electronic Transmissions Ordinance, 2002.
29. The Industrial Relations Ordinance, 2002.

A national convention of lawyers held in Karachi (January) strongly condemned the move and said it was the considered view of the legal fraternity that the “malicious move” behind establishing the federal court was to curtail and limit the jurisdiction of

the high courts, particularly their powers of judicial review.

The convention took exception to the proposal to have as judges bureaucrats in grade 21 as this militated against the concept of independence of the judiciary.

The proposed oath (to obey the directions of the President instead of pledge to uphold the Constitution) was also strongly assailed.

The Supreme Court of Pakistan Bar Association (SCPBA), through its president, sent detailed comments on the proposed measure to the government in which it said:

- ◆ Multiplication of courts and tribunals that encroached on the jurisdiction of ordinary courts constituted a negation of rule of law.

- ◆ The proposals relating to the appointment and removal of the judges of the federal court attracted serious objections.

The Lahore High Court Bar also rejected the federal court move and said the proposed courts were not provided in the Constitution.

The Pakistan Bar Council also strongly attacked the federal court proposal. At its meeting in Islamabad on 2 March 2005, the PBC made the following points:

- ◆ The federal courts will be a parallel judiciary.

- ◆ The federal courts will be “tribunals” and their members will include bureaucrats and professionals.

- ◆ Nine posts of judges were vacant on the SHC, eight on the LHC, and one on the BHC. These vacancies needed to be filled.

- ◆ The federal courts will render Art 199 of the Constitution ineffective.

The Law and Justice Commission said the objectives of the Federal Court Bill 2005 could be achieved by strengthening the existing judicial system.

According to a commission press release, the Chief Justice, who presided, appreciated the government initiative for helping increased foreign investment in Pakistan. However, the commission recommended that the objective could be achieved by increasing the strength of the high courts and creating division benches to deal with commercial and economic cases. The members of the commission were of the view the challenges and issues confronting the justice system needed to be addressed on a long-term basis and there was ample scope within the existing framework to achieve the desired objective.

#### ***Court of appeal for Northern Areas***

The Ministry of Kashmir Affairs and Northern Areas constituted a separate court of appeals for the Northern Areas. (May 2005) A former judge of the Peshawar High Court was named Chief Justice of the new court while the posts of the two judges of the court were given to two former chairmen of the Northern Areas’ Chief Court. The new court will be the apex court for the Northern Areas and it will hear appeals against orders of the Chief Court.

Although the Northern Areas Court of Appeals Establishment Order was issued in

1999 it was not implemented till the summer of 2005.

The creation of the appellate court had a mixed reception in the Northern Areas. The president of the Northern Areas High Court Bar Association said that although the judicial hierarchy in the Northern Areas had been formally completed the fact that the appellate court depended on the crutches of Kashmir and Northern Areas Division could not appeal to any man of common prudence.

### *Law secretary and judiciary*

A statement attributed to the federal law secretary briefly revived memories of the case in the fifties in which Sir Edward Snelson, the then law secretary had been convicted of contempt of court.

According to a report appearing in the press on 29 April 2005, the law secretary told the parliamentary Public Accounts Committee that the SC CJ had rejected the names of persons recommended by the CJ of the SHC for appointment on the apex and the high court because they did not include his favourites. He was reported to have added: “the CJ is eager to exercise the President’s powers for appointing judges at court himself, notwithstanding (the fact) that he can only recommend names of his choice under the law.”

Two extraordinary developments followed the publication of this report. One, a spokesman of the law ministry issued a clarification to the effect that the law secretary had explained to the PAC the constitutional process for selection of judges. According to a press report, “the spokesman stated that a list was sent by the SHC which was sent back to the SHC from the Chief Justice of Pakistan for reconsideration. The spokesman asserted that (the) Chief Justice of Pakistan and (the) Chief Justice of the high court are working within the constitutional process.”

Secondly, a national daily carried a report, under a reporter’s byline, to the effect that the law secretary had asked the PAC to stop the press from reporting certain portions of his speech before the committee. It was said that despite PAC chairman’s plea for heeding the law secretary’s request, the committee had chosen to uphold the freedom of the press and its constitutional right to know and inform the public.” Further, it was reported, media persons had walked out of the PAC meeting when they were asked not to report the law secretary’s remarks about the conduct of the judges of superior courts. They ended their boycott of the meeting after being assured by its members that nothing said at the meeting would be off- the- record and that journalists would be free to report everything.

Subsequently, the law secretary explained his position in a letter to the editor of an Urdu daily who had commented on the matter in his column.

The Lahore High Court Bar Association (LHCBA) joined the fray by adopting a resolution in which the law secretary’s removal was demanded. His statement before the PAC was termed by the LHCBA as “not only insulting but also aimed at undermining the institution’s ( judiciary’s) independence”.

The remarks attributed to the law secretary were also condemned by some

members of the Punjab Bar Council. Finally the SC Chief Justice summoned the law secretary to brief him and the latter reiterated that he had appeared before the PAC to explain accounts in his capacity as the ministry's principal accounts officer, that some PAC members had put him loaded questions, that the ensuing exchanges had not been properly reported, and that the SC CJ enjoyed a spotless record.

The matter ended there, leaving the people perhaps free to draw their own conclusions.

#### ***SC Registrar relieved and prosecuted***

The Chief Justice of Pakistan ordered the compulsory retirement of the SC Registrar, M. Amin Farooqi, on the ground that he had been found guilty of corruption and misconduct. He had been charged with misappropriating court fees amounting to Rs. 20 million. He had returned an amount of Rs. 10,588,588 that he had kept with himself but the CJ said he had to pay interest on the amount embezzled. The fraud was detected by the auditors who examined the accounts of three years (2001-2004). The CJ ordered the audit of accounts of two preceding years also. Mr. Farooqi was said to have been helped by an accomplice—the court cashier.

Hailing the CJ's action, the Lahore High Court Bar Association said: "This action will go a long way to improve the judiciary's image and inspire public confidence in this institution".

Mr. Farooqi appealed to the SC against his sacking. Denying the charge of misappropriation of court fee he asserted that the money he had taken was commission to which he was entitled.

Subsequently Mr. Farooqi was arrested, along with 13 others, on the orders of the SC CJ for misappropriating government money through a bank favoured by him.

The SC had received Rs. 493 million in 2002 from the Central Board of Revenue as security in the Fecto-Belarus Tractors case and the amount was deposited in Islamic Investment Bank Ltd.

The court decided the case on May 11, 2005 and asked the Registrar to return the security amount to the CBR along with the mark-up, which raised the amount to 600 million rupees. It was discovered that the Islamic Investment Bank could not return the money as it had gone bankrupt. The Chief Justice was informed that the former Registrar had deposited the security with IIBL in violation of the instructions of the Finance Ministry which had designated three scheduled banks for depositing securities.

Those arrested along with Mr. Farooqi included directors and senior executive of IIBL.

#### ***Judge paid ransom***

The ADSJ Shikarpur, Abdul Wahab Abbasi, who was one of the three judges kidnapped on 4 December 2004 while driving from Larkana to Shikarpur and who returned home after several weeks, said he had secured his release by paying the kidnappers two million rupees in ransom. He had raised this amount by selling his



property.

Regretting that the police did not help him at all, he was quoted as saying, “when people like us are left helpless, how would the common people survive?”

### ***Small claims law***

The problems faced in the course of implementation of the Small Claims and Minor Offences Ordinance 2002 were examined by the National Judicial (Policy-making) Committee at its meeting in August 2005. The committee observed that instead of assigning cases under the ordinance to the sitting judges to try them along with other cases, some judges might be designated to solely perform work under the ordinance or provincial governments might create some fresh vacancies, at least one in each district, for the purpose.

The committee also sought feed-back on the performance of the existing courts and observed that if High Courts agreed judges of these courts could be offered training in Alternative Dispute Resolution. It constituted a committee headed by SC Justice Tassaduq Hussain Jilani and including a judge each from provincial high courts to propose guidelines for imparting training in alternative resolution of disputes.

The committee resolved that all high courts may direct the lower courts to hear the cases of imprisoned women and children on priority basis and if there was any problem of prisoners’ transportation to the courts the cases may be transferred to courts where there was no such problem and the woman and child prisoners may be released on parole frequently.

### **Important cases**

#### ***Hasba Bill reference***

Soon after the adoption of the Hasba Bill by the Frontier Assembly, the President sought the Supreme Court’s opinion on the validity of the measure. A reference was filed by the Attorney-General under Article 186 of the Constitution. The questions raised in the reference were:

(i) Whether the Hasba Bill or any of its provisions would be constitutionally invalid if enacted?

(ii) Whether the Hasba Bill or any of its provisions would, if enacted, violate the fundamental rights guaranteed in Part-II, Chapter I of the Constitution, including but not limited to Articles 9,14,16 to 20, 22 and 25 thereof?

(iii) Whether the Hasba Bill or any of its provisions would, if enacted, violate Articles 2A,4, 203 G, 212,229 and 230 of the Constitution?

(iv) Whether the enactment of the Hasba Bill would encroach on an occupied field, violate the Constitution by creating a parallel judicial system, undermine judicial independence and deny citizens their right of access to justice?

(v) Whether the enactment of the Hasba Bill would violate the principle of the

separation of powers enshrined in the Constitution?

(vi) Whether the Hasba Bill, and in particular Sections 10 and 23 thereof, is unconstitutional overboard and vague and suffers from excessive delegation?

(vii) If the answer of any one or more of the above questions is in the affirmative, whether the Governor, NWFP is obliged to sign into law the Hasba Bill passed by the NWFP Assembly?

Proceedings on the reference were held before a 9-member bench of the Supreme Court headed by the Chief Justice.

On behalf of the President the Attorney-General made the following points:

- ◆ “In essence this reference seeks to decide whether the private lives, the personal thoughts and the individual beliefs of citizens can be abandoned to the whims of unelected, unaccountable policemen.”

- ◆ The Bill was filled with a great assortment of crimes and a *mohtasib* could, when he wanted, find a technical violation of some sort on the part of almost anyone.

- ◆ The Bill was unconstitutional as it sought to create a parallel judicial system.

- ◆ The measure violated the citizens’ fundamental rights.

- ◆ The Council of Islamic Ideology had advised the Frontier government against the proposed law.

- ◆ The Bill was dangerously vague.

- ◆ The Hasba Bill was incorrectly submitted as a money bill with malafide intention in a bid to avoid public debate and to trim the provincial governor’s constitutional rights.

The counsel for the Frontier government argued:

- ◆ The Hasba Bill might appear to be duplicating some existing laws but it came with a solid enforcement mechanism while the other laws existed only in files.

- ◆ The *mohtasib* would not intrude into citizens’ private lives. Instead the law would improve governance, ensure enforcement of law, and protect the rights of women and minorities.

- ◆ The reference was not maintainable as the President had no power to seek the SC opinion on provincial matters.

- ◆ The Bill was based on CII proposals made in its 1996 report.

- ◆ The Bill was not in conflict with existing laws.

- ◆ The provinces had the constitutional right to protect the citizens’ fundamental rights.

After hearing the Frontier government’s counsel the court announced a short order and declared a number of the Hasba Bill provisions to be ultra vires of the Constitution.

The order said:

“ For the reasons to be recorded later, in our considered opinion, sections 10 (a) (b), (c), (d); 12 (1) (a), (b), (c); 23, (1),(2), (3),(5), (6), (7), (12), (14), (25), (27) (1),

(2); and 28 of the Hasba Bill 2005 passed by the provincial assembly of NWFP, are ultra vires of the Constitution of Islamic Republic of Pakistan 1973. Therefore, the Governor of NWFP may not assent to the Hasba Bill in its present form.”

The Court released its detailed order, written by the CJ, three weeks later, which said the Hasba Bill violated the rights to personal freedoms. After arguing that Islam did not countenance state’s interference with a Muslim’s obligations such as *salat* (offering of prayers), the judgment said the impugned bill conferred judicial powers on the *mohtasib* not only to inquire into cases of maladministration but also religious and personal affairs of individuals and blocked judicial review by civil and criminal courts.

The judgment also said the Frontier government should have carefully studied the C11 reports before rushing to devise a measure that conferred discretionary powers on the *mohtasib* to create a new offence

The court stated it was not correct “to suggest that the Hasba Bill is in accordance with Islam and if the legislation is accepted and made into law, then a citizen who is held responsible for dereliction will be liable to six months imprisonment on the *hukmnama* (order) of the *mohtasib* when *Sharia* does not mandate imposition of penalties on vague offences.”

The only objective behind making available Hasba police to *mohtasib* was to strengthen the arms of *mohtasib*, to implement his *hukmnama* by force, if need be, the court said.

Under the law, *mohtasib* would also have direct interference/access in the family functions in the garb of discouraging extravagance at the time of marriages and other family functions, thus interfering in personal life, freedom of assembly, liberty, dignity and privacy, which is strictly prohibited in Islam.

A significant clarification made in the judgment was that declaration of some sections of the bill as unconstitutional did not mean that the other sections had been declared in accordance with the Constitution. Their constitutionality remained open to be questioned, which could be upheld or struck down as or when challenged before a competent forum.

Justice Sardar Mohammad Raza Khan wrote a separate note in which he expressed reservations on the definition of *aalim* (scholar) in the Hasba Bill and held that the definition was discriminatory and restricted to only one school of thought.

### ***Madrassah sanads***

The Supreme Court declared that candidates holding *sanads* (certificates) from religious seminaries could contest election to the posts of Nazims and Naib Nazims only if they had also passed examinations in English, Urdu and Pakistan studies.

The judgment removed the confusion and doubts created when the Lahore and Peshawar High Courts gave contradictory judgments on the subject.

To meet the requirement of the law that candidate for the offices of the Nazim and Naib Nazim at all tiers should be matriculates, a large number of candidates sought election on the strength of certificates secured from religious seminaries. The LHC

ruled the seminary certificates were not equivalent to matriculation while the PHC decided to the contrary.

A full bench of the SC eventually laid down the criteria for the acceptance of seminaries' sanads for the purpose of local government elections. The court held that these sanads should be from a recognized religious institution with an equivalence certificate stating that the certificate holder had passed three compulsory subjects—English, Urdu and Pakistan Studies. Earlier, the LHC had expressed the same view.

During the course of hearing, the Attorney-General had argued that the certificates issued by the seminaries were good for teaching at the same seminaries but their holders were not qualified to contest local government elections. He also referred to a meeting of the Inter Board Committee of Chairmen (IBCC) of Boards of Secondary Education in July 2005 that had decided the issue of equivalence of sanads to matriculation. The IBCC had decided that the *sanad* of *shahadatul sanvia aama* from a recognized institution could be considered equivalent to matriculation /FA if a candidate had passed the board examination in English, Urdu, and Pakistan Studies of matric/FA level.

The A-G rejected the plea on behalf of some sanad-holders that their certificates were at a par with BA and MA degrees. He said that if such candidates had not secured a qualification at par with matriculation, their degrees could not legally be considered equivalent to BA and MA.

The SC decision in relation to local government elections drew attention to an identical matter that had been pending before the apex court since 2003 and in which the election of 68 MMA parliamentarians on the strength of seminary sanads in 2002 had been challenged. In that case also the Attorney-General had advanced the same argument that was accepted by the SC while examining sanad-holders' eligibility to contest local government elections.

Nobody was thus surprised when a couple of days later the advocate who had challenged the sanad-holders' election after the 2002 general election moved the SC for an early hearing of the petition.

### ***17<sup>th</sup> amendment upheld***

The Supreme Court rejected a challenge to the 17th amendment.

The government had taken the position that the SC lacked jurisdiction to examine the validity of the 17<sup>th</sup> amendment. The measure had been passed by parliament. Two-thirds of the members of the National Assembly and the Senate had voted for it and not even a single member in either house had voted against.

The Attorney-General who filed the government reply to the petitions had also argued that since 1973, when the Constitution was adopted, the SC had consistently declined to interfere with amendments, and thus the principle of *stare decisis* had been set in a long line of cases.

The government had rejected the view that the amendment which allowed the

President to stay in uniform for two years had destroyed or mutilated the Constitution.

The chairman of the executive committee of the Pakistan Bar Council said the case had presented the judiciary with a test and it had failed, and added: "We decided three years ago not to file any constitutional petition before the Supreme Court unless there is an independent judiciary. The recent decision of the larger bench has substantiated our decision."

### ***SC cautions high courts***

The Supreme Court took exception to the language of an LHC judgment and cautioned the high courts to be careful while commenting on judgments of the country's highest court "in order to avoid the possibility of suo motu action by the Supreme Judicial Council and initiation of proceedings under the contempt laws."

The matter before the SC related to an LHC order for transfer of a case from a Faisalabad special court to the court of a sessions judge.

The SC ruled that the interpretation of sec 6 of the Anti-terrorism Act in the impugned judgment of the LHC "had no nexus with the provisions contained in section 6 of the Act, the ground realities, objects and reasons, the dictums laid down by the Supreme Court, and was also not in consonance with the well-entrenched principles of interpretation of criminal statutes."

The apex court further observed that the learned division bench of the LHC had "ignored the case law enunciated in different judgments pronounced by this court on the grounds which are not tenable and by ignoring the fact that the judgments of this court being apex court are binding upon the learned High Court in view of the provisions as enumerated in Article 189 of the Constitution of Islamic Republic of Pakistan which, inter alia, provides that any decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or initiates a principle of law, shall be binding on all other courts in Pakistan and the learned Lahore High Court is no exception to it."

"Apart from the constitutional obligation imposed upon the courts," the SC added, "even the propriety demands that the courts must follow such a law without any hesitation. Unless the law so declared is altered or overruled by the Supreme Court itself, the High Court has no option but to follow it."

"We have also noted that the language as used in paragraphs 14, 15, 16, and 17 in the judgment impugned appears to be derogatory and contemptuous, which cannot be ignored lightly, and it is directed that care and caution must be observed while offering comments on any judgment delivered by this court in order to avoid the possibility of suo motu action by the Supreme Judicial Council and initiation of proceedings under the contempt laws."

### ***Juvenile justice law***

In February 2005, The Supreme Court (a three-member bench presided over by CJ Nazim Husain Siddiqui) suspended the Lahore High Court order of Dec 6, 2004, whereby the Juvenile Justice System Ordinance (JJSO) had been struck down. Appeals

against the LHC verdict, filed by the federation and an NGO, Sparc, were admitted to regular hearing. One of the respondents, Farooq Ahmad, who had challenged the JJSO before the LHC, was directed to submit comments on the two petitions within three weeks. Hearing did not begin till August 31.

On behalf of the federation, Attorney-General Makhdoom Ali Khan argued that the reasons listed by the LHC while striking down the ordinance were derived from extralegal considerations and hence were not sustainable in law. Advocate Anis Jillani (Sparc) attacked the withdrawal of the bar to death penalty for children and argued that as a signatory to the CRC Pakistan had a duty to protect the rights of children.

#### ***Retired judges' case***

The petition filed in the Supreme Court by former judges of high courts for the grant of pension and other retirement benefits, which had been withheld on the ground that they had not served on the bench for five years, remained undecided.

The petitioners in the beginning were seven former judges of the LHC. They were joined by a former PHC judge and later on by a former judge of the Balochistan High Court (who had been squeezed out after he resigned from the Election Commission).

The petitioners argue that they are entitled to pension regardless of length of service etc, as they have served on high courts as permanent judges. They have also pointed out that former judges face certain disability.

#### ***Challenge to election law***

Another significant case pending in the Supreme Court that could not be disposed of during 2004-05 too relates to a 15- year-old Federal Shariat Court verdict against the election system.

The FSC had asked the federation to amend sections 13, 14, 49, 50, 52, and 38 (4)(C-II) of the Representation of the People Act, 1976, by December 31, 1989, failing which these provisions would cease to have effect. The court had also called for amendment to the Houses of Parliament and Provincial Assemblies (Election) Order 1977.

The impugned provisions of the Representation of the People Act had been challenged by several petitioners on the ground of repugnancy to Islamic injunctions. The federation had appealed to the Supreme Court.

The case came up before a five- member SC Shariat Appellate Bench on November 01, 2004. Hearing was adjourned till the next session. It was not resumed till August 31, 2005.

#### ***Sacked for writing to a minister***

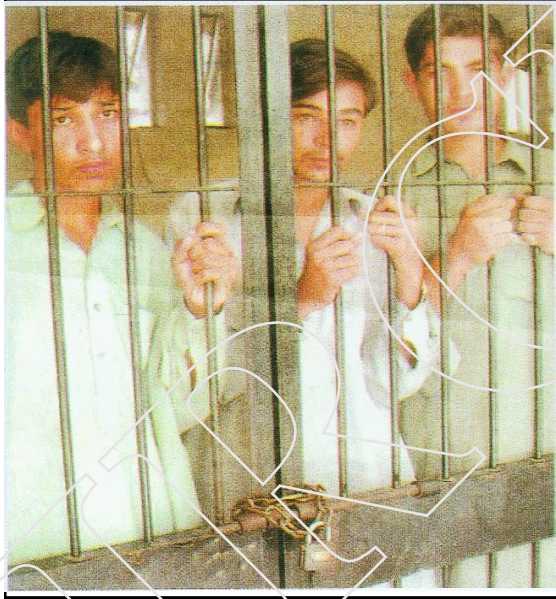
The Supreme Court came to the rescue of a person who had been sacked for writing to his minister.

Mohammad Idrees Khan was working for the Pakistan railways as an assistant law officer. He was dismissed for writing a letter to the railway minister. The services tribunal declined to offer him relief. The SC declared that sacking an employee on the

charge of violation of departmental rules of business could not be justified.

### ***Relief to juvenile***

The Peshawar High Court declined to interfere with the order of a jail superintendent whereby the sentence of death awarded to one Alhamdulillah had been commuted to life imprisonment (in accordance with the decision to abolish death penalty for anyone who was under 18 at the time he had committed an offence) while his appeal was pending in the high court.



Some relief to juveniles.

Alhamdulillah was arrested in January 1995 for killing a boy. An ADSJ sentenced him to death in July 2000. An appeal was filed in the PHC. While this appeal was pending a presidential order in 2001 abolished death penalty for minors. Accordingly the superintendent of the Peshawar central prison converted Alhamdulillah's sentence to life imprisonment as his date of birth on a school certificate was March 1, 1979, that is, he was less than 15 years old at the time of occurrence (although the trial court had recorded his age at 35 years). He had also been certified as a schizophrenic.

The PHC dismissed his appeal and upheld the sentence of death awarded by the trial court, while the jail chief had already commuted it to life imprisonment. The jail superintendent now sought the court's direction in the matter.

The PHC ruled that it had no power under the CrPC to entertain the matter. If anybody was aggrieved by the jail executive's order the only course open to him was to challenge the presidential notification.

### ***No by FSC***

The Federal Shariat Court (FSC) held that a person guilty of sexual abuse was not entitled to leniency on the ground of being a minor. Ashfaq was accused of molesting a 10 year- old girl in February 1997. Since he was a minor at the time of occurrence, the trial court awarded him 12 years' imprisonment. In 2003 the FSC suspended his sentence and admitted him to bail. In May 2005 the court cancelled his bail and sent him to prison.

The Peshawar High Court released Khan-i-Zaman on bail for three years so that he

could arrange for payment of Diyat due from him. Failure to pay Diyat had prevented his release on completion of the prison term awarded to him. He was one of the six prisoners who had moved the PHC for relief because they lacked the resources to pay the Diyat. Hearing of the five other petitions was put off.

#### ***MMA MPA disqualified***

The Balochistan High Court set aside the election to the provincial assembly of the health minister, Hafiz Hamidullah. The issue against the MMA minister was raised by one Saifullah Khan who had argued that Hafiz Hamidullah had contested election to the provincial assembly before two years had elapsed since his quitting the position of a teacher in a government school.

Reacting to the high court's verdict Hafiz Husain Ahmad, deputy parliamentary leader of the MMA, said the court decision applied to the assumption of power by Gen. Pervez Musharraf.

***Nigerians released:*** The LHC ordered the release of two Nigerians who had been in prison for about a year on the ground that a man held for possessing drugs had named them as accomplices but there was no material evidence against them. The drugs court had dismissed their petition for acquittal. The police pleaded that they had to take the petitioners to jail before releasing them, but the court rejected this plea and ordered the two Nigerians' immediate release.

#### ***DNA test as evidence***

In May 2005 the Lahore High Court was called upon to determine the value of DNA test findings as evidence in two criminal proceedings.

In one case the court ruled that a DNA test finding was not admissible as evidence in a Hudood case. Bail was granted to M.A. who had been arrested for adultery with I.S., mother of five children before he allegedly sired a sixth.

The case began on the complaint of a man who alleged that during his absence from the country his wife of 13 years formed an intimate liaison with M.A. and the DNA test on his wife's 6<sup>th</sup> child showed that he was not its father. M.A. was arrested and he pleaded before the LHC that the DNA test could not be relied upon in a Hudood case.

Before deciding the bail matter the court invited an advocate known for his religious fervour and, according to a press report, agreement was reached on Islam not being opposed to science and its achievements. "Rather it encourages pursuit of knowledge and research and the DNA test, which forms an important basis for determining a biological father, has a place in evidence."

However, according to the press report, Justice Allah Nawaz Chowhan observed that the DNA test might be an important piece of evidence for a husband to establish an allegation of zina against his wife and he could use this to justify taking an oath that could lead to the break-up of a marriage. The DNA test might further help establish the legitimacy of a child for several other purposes. Therefore, its utility and value was acceptable, but not in a case falling under the penal provisions for zina punishable



under the Hudood Ordinance with its own standard of proof.

The judge observed, “ The offence of *zina* is specific in the Islamic jurisprudence and it lays down the standard of proof, the rationale behind the standard of proof and the punishment. Its purpose is to check licentiousness, lewdness, adultery or vulgarity committed at public places where four or more persons could witness the crime. It is then that the state comes forward to punish those involved because it is a crime against the society and not compoundable”.

In another case the court allowed a DNA test to trace a man who had raped a girl. Justice Sheikh Abdul Rashid of the Lahore High Court observed that the story of the gang-rape of a 12- year- old girl, resulting in making her mother of an illegitimate child, had deeply saddened the court.

The court also observed that the culprits were pressurising the girl against implicating them and she had already changed her statement twice regarding the identity of the criminals. The girl, S.A, had first said she had been ravaged by Ahmad Din and Shahid Riaz but later on shifted the blame to Sajjad and Babar.

The court asked the Kasur DPO to pay full attention to the case and treat it as a state case. The DPO’s request for DNA tests on the accused was granted.

### ***Court martial of civilians***

The Peshawar High Court held (May 2005) that the civilians working for military farms were subject to the Army Act and could be court- martialled.

Eight employees of the Peshawar military farms had challenged the move to court martial them in a case of discrepancies in the record of supply of milk from the farms. They had also challenged a 1999 circular of the army that authorized court martial proceedings against any civilians attached to the army.

The counsel for the petitioners had argued that the circular was not only in violation of the Constitution, it was also not in accord with the Army Act. He rebutted the state counsel’s argument that the circular in question had been issued in the light of a Supreme Court verdict. He said the SC judgment in the State vs Khursheed Khan was being erroneously interpreted. In that case, the civilian employee was functioning in the GHQ. He had further claimed that the employees of military farms did not fall in the categories of civilian employees of the army who could be court martialled (that is, people attached with active service, any camp, in any frontier post or on the march with the army).

The petition was dismissed.

## **Bar-bench relations**

### ***Gujar Khan affair***

The demolition of lawyers’ chambers at Gujar Khan, a Tehsil town near Rawalpindi, in March 2005 on the orders of the District and Sessions Judge, sparked a bitter clash between lawyers on one side and the administration and the judiciary on the other side. The situation was aggravated when the police resorted to excessive violence to break

up a protest demonstration by Rawalpindi lawyers. The lawyers at Rawalpindi and Islamabad responded by observing a complete strike the next day and strike calls were issued by the Punjab Bar Council and the Lahore High Court Bar Association. The Sindh High Court Bar Association demanded probe by a high court judge. A demonstration was held outside the Supreme Court in Islamabad and lawyers observed strike at many places including Karachi.

The district judge whose removal was demanded by the protesting lawyers said he had ordered demolition of Gujar Khan lawyers' offices under instructions from the Lahore High Court. He had no personal hostility towards the lawyers. His spokesman was reported as saying that he was not going to hog down to any pressure tactics as he had the full support of fellow judicial officers in the district as well as of the judges of the high court and the Supreme Court.

The matter was resolved after a fortnight of agitation when the lawyers were assured by senior judges of the LHC that their demands would be accepted, their chambers would be rebuilt and that the district judge had been sent on leave.

A couple of months later the lawyers were reported to be dismayed at finding that the DSJ whose transfer had been promised was very much still there.

#### ***Varied grievances***

The District Bar Association of Dera Ghazi Khan observed a strike for three days in protest against the DPO's action in protecting a constable who had a scuffle with an advocate and then filing a case against 36 lawyers who had barged into his office in protest. The parties were persuaded to patch up.

The Hafizabad District bar observed a day-long strike to protest against the murder of a Pindi Bhattian advocate.

The D. I. Khan lawyers decided to boycott the courts for a day as a protest against the murder of a woman lawyer, who had been gunned down on court premises. The local bar chief pointed out that this was the second instance of a lawyer's murder within a few months.

The lawyers of Peshawar staged a demonstration to protest against the decision by an ADSJ to reject the bail confirmation plea of a lawyer. The latter along with another person had been booked on a criminal charge on the complaint of the Peshawar High Court Registrar for assaulting a PHC bailiff. The lawyer, Nasir Kamal Marwat disappeared from the court room when his pre-arrest bail was not confirmed. The lawyers who decided to boycott the court of the PHC CJ contended that bail had been refused in a case of bailable offence.

Another significant agitation by the lawyer community was launched by Balochistan lawyers in protest against security forces' operations in Dera Bugti ( March 2005).

### **Cases on religious grounds**

#### ***Accused killed***

The most reprehensible incident of religious intolerance and insane violence was

reported from Nowshera in Frontier province in April 2005.

A 40- years-old man, Ashiq Nabi, had a quarrel with his wife. The latter ran out into the street and proclaimed that Ashiq had thrown down and desecrated the Holy Quran. He was promptly shot dead. Nobody tried to verify the woman's allegation.

M. Saleem, of a village near Chichawatni in Punjab, was a bit luckier. In June 2005 he was accused of burning the Holy Quran and booked under section 295-B. An angry mob tried to burn him to death but his life was saved. His trial continues. [*See also chapter on Freedom of thought, conscience and religion*].

#### ***Sentenced***

M. Younis Shaikh of Kharadar, Karachi, was arrested on 3 February 2005 and tried by an Anti-terrorist Court under sections 153/A, 295/A, 295/B and 295/C of the PPC and sections 6 ( C ) and 8 (B) of the Anti-terrorism Act. He was charged under these laws for writing a book titled 'Shaitan Maulvi', and awarded imprisonment for life on 11 August 2005. No defence counsel was available to him during the trial.

(An unbiased assessment of the book at issue and an HRC team's conversation with Mr. Sheikh suggested that some personal crises and his grievance against clerics had probably affected his faculty for reasoning and he needed psychotherapy.)

Also awarded life imprisonment was M. Sharif of Gujarpura in Lahore. He had been arrested on 2 February, 2001. The trial court, which announced its verdict on 23 June 2005, also fined him Rs. 50,000.

#### ***Acquitted***

Anwar Masih; from Lahore, was acquitted by the trial court in January 2005.

***Died in prison:*** The ordeal of Idrees Rabbani, from Multan, who had been charged under sec 295-C in 2001 and sentenced to death in June 2002, ended in January 2005 with his death in prison. Case closed.

***Minors booked:*** Five children (Faisal-13, M. Shahbaz-12, Najaf Ali-12, Shahbaz-11, and Imran-9), belonging to the Shia community were among the 10 people who were booked under sec 298-A of the PPC in Kabirwala, Khanewal district in April 2005. They were accused of insulting the companions of the Holy Prophet (PBUH). They were soon released on bail.

The other cases reported during the period were:

#### ***Against Muslims***

***Under 295-C:*** Abdul Rahman of Multan was arrested in May 2005 and charged under sec 295-C of the PPC. He was accused of disseminating a questionnaire that contained blasphemous remarks about the Prophet (PBUH).

***Under 295-B:*** The following cases were registered under sec 295-B of the PPC

(defiling / desecration of the Holy Quran or a part thereof):

Sr.	Name /s	Distt. / City	FIR / dated	P. S.	Date of occurrence	Arrest/ Jail	Remarks
01	Daam Qad R/O Chak 63/D	Pakpattan Punjab		Chack Behdi	17-01-2005	Arrested	
02	Raees Ahmad, Shakeel, Sattar, Naeem	Hyderabad Sindh		Pinyari	21-02-2005	Arrested	One of the accused accused was a prayer leader; complainant Nasir Qadir belongs to another religious sect.
03	Tahir Mehmood	Sheikhupura Safdarabad		Safdarabad	March 2005		Two years back, he was accused of same act. He also murdered a women of 80 years but was acquitted on the ground that he was mentally deranged.
04	Shahzad @ Shada	Lahore / Sodiwal	42/05, 27-04-2005	Newankot	05-05-2005	Arrested	
05	M. Ramzan	Kasur, Punjab	June 2005	Mustafa Abadi	June 2005	Arrested	Mentally ill, 2 months back released from Mental Hospital.
06	Mazhar @ Gogi	Sheikhupura/ Ajnainwala				Arrested	Addicted, mentally sick.
07	M. Saleem	Chichawatni Chak 98/12-L	June 2005		June 2005	Arrested	The mob tried to burn the accused.
08	Sadiq Allah Ditta	D. G. Khan/ Kotla Nasar		Rajanpur	June 2005		
09	Nazir Ahmad	Sialkot / Daska	10/05	Satrah/ Mianwali / Bangla	10-09-2005	Arrested	
10	Anwar Adil	Tando Allahyar	26-05-2005			Arrested	

11-13, Three cases under 295-B were registered against unidentified persons.

One case was registered at PS Jhang Saddar in January 2005. A man was alleged to have thrown two copies of the Quran in a gutter.

In the second case, registered at P.S. Batapur in Lahore in February 2005, two motorcyclists were alleged to have burnt the Holy Quran. The third case also was filed at Lahore. An unidentified man was alleged to have put copies of the Quran on fire.

**Under 295-A:** Raza Abbas, a class 6 student belonging to Garh Maharaja, Jhang district, was booked under sec 295-A and 16 MPO in June 2005. He was accused of

writing derogatory remarks about the companions.

### *Against Ahmadis*

Sr.	Name /s	Distt. / City	U/S	P. S.	Date of occurrence	Allegation	Arrest/ Jail	Remarks
01	Ijaz Ahmad, Latif, Iqbal Ahmad, Yasin	Vehari/Chak No. 21-B	298/C	Machiwal	22-02-2005	Preaching	Arrested	
02	Akbar Ahmad	Multan	298/C	Seetal Mari	21-5-2005	Preaching	No	Living abroad
03	Razaq	Jhang / Shorekot	295/A 298/C	Shorekot City	29-03-2005	Preaching	No	Teacher suspended from job.
04	Rana M. Ashraf	Sialkot Pasrur	295/C	Kararwala	03-03-2005	Insulted the Holy Prophet (PBUH)		
05	Mubarik Ahmad	Umerkot	298/C	Shah di puli	10-3-2005	Preaching	No	Granted bail before arrest by H. C.
06	Sanaullah, Nasir Ahmad, Younas, Sultan, Javed Ahmed, Mushtaq Ahmed, Ishfaq Ahmad, Zafarullah M. Nawaz	Bahawalpur	295/C	Sadar Hasilpur	17-06-2005	Insulted the Holy Prophet (PBUH)		
07	Sultan Ahmad, A. Səmi Khan, Agha Saifullah, Khali Ahmad, Qamar, Khurshid Ahmad, Farced Ahmad, Naveed Qamar Ahmed, Mehmood, Aziz Ahmad, Mansoor Ahmad, Syed Mubashar Ahmad, A. Manan, Kauser	Jhang, Chanab Nagar	298/C 298/B 16 MPG	Chanab Nagar	15-08-2005	Preaching and used Islamic expressions.	Arrested	Accused person are publishers and printers of different magazines. Police sealed the press (later on the press was de-sealed).

### *Against Christians*

Sr.	Name /s	Distt. / City	U/S	P. S.	Date of occurrence	Allegation	Arrest/ Jail	Remarks
01	Younis Masih	Lahore/ Chungi Amer Sidhu	295/C	Factory Area	10-09-2005	Passed derogatory remarks about the Prophet (PBUH)		
02	Yousaf Masih	Swabi	295/B			Desecrated the Quran	Arrested	Petition for acquittal was dismissed on

Sr.	Name /s	Distt. / City	U/S	P. S.	Date of occurrence	Allegation	Arrest / Jail	Remarks
03	Bashir Masih	Chishtian Chak # 109	295/B			Insulting the Quran		30-08-2005 by the Peshawar High Court. Was sentenced to 7 years imprisonment by the trial court in Feb. 2005.

### *Against Hindus*

Sr.	Name /s	Distt. / City	U/S	Date of occurrence	Allegation	Arrest / Jail	Remarks
01	Krishna Chamanlal	Swabi	295/B		Insulted the Quran	Arrested	The couple lost their property after the accusation was made.
02	Tara Chand	Rawalpindi	295/A, 420	11-02-2005	Passed derogatory remarks about Islam and committed fraud.	Arrested	Accused persons are brothers. Bail granted on 21-02-2005.

## **Women and law**

### *Mukhtar Mai's ordeal*

The case of Mukhtar Mai, who had been subjected to gang-rape in 2002 on the orders of a *panchayat* at Meerwala in Muzafargarh district, took a new and unexpected turn in March 2005 when five of the six accused sentenced to death were acquitted by the LHC and the sentence of the sixth one was commuted to life imprisonment.

Of the 14 persons tried for the ghastly crime by an anti-terrorist court, six had been awarded capital punishment while the other eight had been acquitted.

The LHC judgment said the trial court verdict was not backed by sufficient evidence. It also said the complainant's statements about the convening of the *panchayat* and the decision taken by it were based on hearsay and hence inadmissible in evidence, and that the prosecution did not provide any independent evidence. "Due to delay in the lodging of FIR and the making of contradictory statements by the complainant, the prosecution story does not inspire confidence to the extent that the four appellants had committed gang-rape with the complainant on the direction of the *panchayat*," the court said, and called for action against the judge of the trial court.

The verdict sent shock waves throughout the country and beyond, generating great sympathy for Mukhtar Mai and concern for her safety. There were reports that threats to her life had already been issued.

A few days later, the Federal Shariat Court intervened and suspended the order of the LHC (Multan Bench) after declaring it without jurisdiction. The FSC said the appeals

against the trial court's judgment should be considered pending before it.

The Supreme Court reacted with unusual alacrity. Taking suo motu notice of the matter the SC Chief Justice suspended the orders of both the LHC and the FSC and announced hearing of the matter by the apex court itself. The CJ held that the suspension of the LHC order by the FSC was a course not visualized by the Constitution and the laws, and added: "Clearly, judgment of the high court can be challenged before this court under Article 185 of the Constitution and therefore proceedings initiated by the FSC prima facie are coram non-judice". Some days later Mukhtar Mai's lawyers filed an appeal in the SC. Another appeal was filed by the Punjab government.

The government reacted to the LHC decision by ordering the detention of all the accused who had been acquitted by the trial court or the LHC. The necessary orders under the MPO were issued by the Punjab Home Secretary, reportedly under instructions from the Prime Minister. The detainees challenged these orders before the LHC (Multan). In June the LHC Review Board ordered the release of 12 of these detainees as it could not recommend extension of their detention period.

When Mukhtar Mai's petition for leave to appeal came up before a three-member SC bench, the Attorney-General argued that the FSC was not justified in ruling on the LHC verdict as the only forum for appeal was the SC. He also took the plea that in rape cases delay in filing FIR could not be considered a decisive factor, and quoted several precedents. The LHC decision was untenable, he said, and prayed that the SC should itself hear the case.

Mukhtar Mai's counsel also pleaded for the case to be heard by the SC instead of its being referred to any other court.

The SC granted leave to appeal in all petitions, suspended the operation of the LHC order, and ordered the re-arrest of the 13 accused whose release had been ordered by the LHC or the ATC. All of them were to be kept in judicial custody as under-trial prisoners pending the final disposal of the appeals.

Mukhtar Mai also figured prominently in press dispatches when it was disclosed that her name had been put on the Exit Control List and she herself complained of being kept virtually in detention. Later on, the government was reported to be unhappy at Mukhtar Mai's plans to proceed to the United States to attend a conference planned by an organization of Pakistani physicians. She was literally forced to take her passport and visa application back from the US embassy. Eventually, reflection on the hazards of defying the Establishment persuaded her to prefer discretion to valour and foreign travel was dropped from her agenda. Few could believe the official explanation that Mukhtar Mai had been put on the ECL because the government did not want the court cases involving her delayed but it was still possible to entertain the idea that the decision to prevent Mukhtar Mai from going abroad was the brainchild of an overzealous low-level functionary. The country was stunned when President General Musharraf deemed it prudent to announce, of all places in women-led New Zealand, that it was he who

had vetoed the much oppressed woman's plan to travel overseas.

### ***Abducted and sold***

The SC took suo motu notice of the plight of a girl who was abducted and pushed into a brothel from where she could not escape for four years.

The girl, who belonged to a village near Nowshera, told her story at a press conference in Peshawar. A student of class six in 2001 she had gone to a polling station with her mother. She was abducted by a man and three women, drugged and driven off. When she regained consciousness she found herself in a brothel in Rawalpindi where she was forced into prostitution. She could escape from the brothel only after four years.

Her family had charged six persons with abducting her. They were discharged by the Nowshera DSJ in December 2004 for want of evidence. Now she had filed a petition in the PHC for reopening her case. The SC asked the IGP for detailed report.

♦ The Peshawar High Court took suo motu notice of an old man's complaint that he suspected his grand-daughter had been killed by a neighbour on resisting criminal assault.

Amanullah had told a news conference in Peshawar that his grand-daughter, H, an orphan child, had gone to the house of a neighbour, Ayub, to fetch water but did not return. He suspected that Ayub and his associates had strangled the girl when she resisted their attempts to molest her. Nobody had responded to his plea for justice and as a last resort he was urging the PHC CJ to take suo motu notice.

The CJ ordered the SHO of P.S. Chamkani to appear with the record.

### ***Rape***

The family of a young woman who complained of gang-rape and then of rape by two police officials came to the LHC for relief from their persecutors.

Asghar Ali Bhatti stated in his writ petition in the LHC that the Sialkot police were intimidating him and pressurizing him into withdrawing the FIR he had lodged relating to his daughter's abduction and rape. According to him three men had abducted his daughter and raped her for 37 days. After she had been recovered from her kidnappers she was kept at a police station in Sialkot. There she was raped by two police officials.

The LHC called for a report. Following the publication of this story in the press, an Islamabad lawyer filed an application in the Supreme Court praying for suo motu intervention by the Chief Justice.

♦ Another rape case which attracted intervention by the SC CJ involved an 8-year-old girl, S, from Sheikhpura. She was ravaged by the young son of the woman on whom the girl used to call for learning to study the holy book. The girl's father reported the matter to the police but obviously he had doubts about police's commitment to justice because he sent an application to the country's Chief Justice as well. The CJ summoned the DIG police and the DPO. They claimed that the culprit had been



apprehended and won a compliment from the apex court.

♦ A 13-year-old girl reported to the police that she had been raped by one Mukhtar Ahmad but the Bhalwal ASP, who claimed to have investigated the matter, ruled that she had consented to the intercourse. She came to the LHC with a prayer that the ASP's findings be declared illegal. The court asked the ASP for the grounds of his opinion and he said that the FIR proved that the girl had consented to her being assaulted: The LHC observed that he was unfit for the job he was holding. The case took a queer turn when it was found that the girl was living with the person accused of assaulting her and that the latter claimed to have married her. She was booked under the Zina ordinance but was discharged when she said she had married her husband of her free will. The court was also told that while the girl appeared to be 12/13 years old, in fact she was about 20.

**A woman's story:** Hidayat Bibi, an ordinary Pathan woman, killed her husband and an ASI in 1997 and claimed that she had resisted pressure to consent to immoral acts. In March 2005 she filed a petition in the court of the Peshawar DSJ praying for annulment of the order of the SHO of her locality whereby she had been told to quit the police station territory. The police officer said he had taken action against her on a complaint by the inhabitants of the area that she was involved in immoral activities.

Hidayat Bibi asserted that the police were harassing her because they had not forgiven her for killing a fellow officer and also because they were aligned with her rivals. She had earlier come to the court for the recovery of her daughter, Musarrat, who was said to have been abducted by her husband. Musarrat was eventually recovered and she chose to live with her mother. Then, a former husband had her arrested on the charge of adultery. But she could secure her release on bail.

**Property transfer vide nikahnama:** The LHC ruled (February 2005) that if a woman was pledged some property in the *nikahnama* she did not need any other document or order to establish her ownership of that property.

Jamila Begum's husband, Islamuddin, had transferred half of a shop in Bahawalnagar in her name at the time of their marriage and this fact had been mentioned in the *nikahnama*. In 1989 she moved a civil court for a declaration regarding her right to the property transferred to her vide the marriage deed. The suit was dismissed in 1993 on the ground that the petitioner should have gone to a family court. Jamila Begum lost the appeal also. However, a family court issued a decree in her favour in 1999 to the effect that she was entitled to get a half portion of the shop as dower. Meanwhile, Islamuddin had sold the shop and in 2001 an additional district judge set aside the family court decree on the ground that Jamila Begum's suit in that court was time-barred.

Jamila Begum appealed the LHC which upheld her claim and declared that when a property was promised by way of dower and this was recorded in the *nikahnama* no further documentation was needed. The beneficiary could take possession of the property and dispose it off even if the property was not registered in her name.

**Puberty decisive:** The LHC ruled that the marriage of a girl who has attained

puberty cannot be questioned even if she has not reached the marriageable age (16 years) prescribed in the Child Marriage Restraint Act.

Hajra Khatoon moved the court for quashment of an FIR lodged against her by her father under the Zina ordinance. Her father had alleged that she had been abducted by the family of Muhammad Naseer whom she was alleged to have married. He had produced the girl's birth certificate and the *nikahnama* in support of his contention that she was only 13 years and 11 months old when she contracted marriage. As such this marriage was not valid, he had argued.

Hajra Khatoon on the other hand, contended that she had married Naseer of her free will. The court accepted the girl's plea, quashed the FIR against her, and observed: "The nikah/marriage contracted by a girl, not having attained the age of majority but having attained puberty as defined in the Offence of Zina (Enforcement of Hudood) Ordinance 1979, is valid."

The State counsel had argued that Hajra Khatoon had not attained the age of majority in accordance with the Majority Act 1975. She was a child as defined in Sec 2 (a) of the Child Marriage Restraint Act, 1929.

The court recalled Mst Sughran Mai's case wherein it had been held that the marriage of a girl who had attained puberty could not be declared void on the ground that her guardian did not approve of it. Further, the Federal Shariat Court had held that a sui-juris Muslim girl could contract marriage of her own accord and the consent of her wali and other relations was not necessary.

In another case of similar nature, the LHC accepted the marriage of 12 and a half years old Zeenat with Babar Valid as the girl had attained puberty. Her parents had filed a case under the Zina ordinance as she had married a neighbour without seeking their approval. The court also ordered quashment of the FIR.

**Right to choose spouse:** The Peshawar High Court ruled that an adult girl had the legal and religious right to choose her spouse and that the petitioner, S.S., had done no wrong by declining to marry her cousin.

When S.S. refused to marry her cousin, the latter's father (her uncle) and his accomplices raided her father's house with a view to forcing her to change her mind. The raiders resorted to firing and S.S. received a bullet in her leg. The uncle was arrested and bailed out. S.S. came to PHC with a plea for cancellation of the bail. The court rejected her plea and advised her to go to her father's house. She did not want to go with her father as she apprehended attack on her life. The court asked her to go with her father and told the latter that he would be held responsible if anything happened to her.

**Single ? No :** The LHC declined a woman's plea to be allowed to live independently and by herself. S had made this plea to the court as she had separated from her husband and did not wish to go to her father's house. The court sent her to Darul Aman and granted her time to see her father for reconciliation.

♦ The LHC rejected the bail application of a man who had attacked his wife with a dagger and wounded her. Subsequently Shakeel Ahmad of Okara accused his wife

of loose morals. The court passed strictures on men who subjected their spouses to violence and then tried to justify their acts by maligning their victims.

**Wife's rights:** The LHC ruled (October 2004) that a woman had a right to take away goods from the home she shared with her husband. One Z.A. had come to the court in a writ petition with a prayer that the police be directed to register a case (for theft) against his wife. The petition was dismissed.

- ◆ The Peshawar High Court ruled (Dec 4) that *mehr* (dower) should not be returned to the husband on failure of pre-trial reconciliation effort if a wife sought dissolution of marriage on grounds other than *khula*

Ms S.I. had sought dissolution of her marriage to T.J. A family court in July 2003 granted her prayer but, invoking the new proviso to sec 10 (4) of the Family Court Act, it ruled that she had to return the *mehr*. Following the dismissal of her review petition by the court she came to the PHC. A division bench of the PHC also took suo motu notice of the amendment to sec 10(4) of the Act and requested the CJ to constitute a larger bench to hear the petition.

The full bench ruled that while interpreting the proviso to sec 10 the family courts had ignored the new proviso to sec 9 which had been added by the same amendment ordinance. The proviso to sec 9 stated: "provided that the proviso to sub-section 4 of section 10 shall apply where the decree for dissolution of marriage is to be passed on the ground of *khula*." If a wife sought dissolution on grounds other than *khula*, such as cruelty, etc, the court was required to ascertain, by collecting evidence, where did the fault lie and order accordingly.

The case was remanded back to the family court.

#### ***Leniency for 'honour' killing***

The LHC reduced the sentence of life imprisonment awarded to one Mohammad Rafique for killing Israel for 'honour' to imprisonment for 10 years and set aside the trial court's order regarding payment of compensation to the deceased's heirs.

The court declared:

- ◆ Life-term was much too harsh a punishment for a man who killed for honour and such a person deserved the lowest penalty prescribed by the law.
- ◆ The heirs of a person killed on account of immoral activity were not entitled to compensation.

Mohammad Rafiq had admitted killing Israel after he had been provoked on finding the latter with his wife. He said he had attacked his wife also but she proved to be too strong for him.

The court rejected the petition by the deceased's father for enhancement of the sentence awarded to M. Rafiq by the trial court.

#### ***Pearl murder case***

An Anti-terrorism Appellate Bench of the Sindh High Court heard the appeals of Daniel Pearl murder case convicts. One appeal had been filed by Ahmad Omar Sheikh

(against the awarding of capital punishment), another by Fahad Nasim, Adil Sheikh and Salman Saquib (against the sentence of imprisonment for life), and a third by the state (for enhancement of sentence to the latter three convicts).

On March 2, 2005 one of the counsel for appellants challenged the confessions of the accused and the evidence of some of the prosecution witnesses.

At the next date of hearing (March 15) proceedings were adjourned on the request of Ahmad Omer Sheikh's counsel on the ground that he wished to move for recording additional evidence at the appellate stage.

#### ***Abuse of anti-terrorism law***

Misuse of anti-terrorism law was apparent on record when the LHC (Multan bench) dealt with the writ petition of Abu Bakr Muhammad Reza who had been detained for 90 days under the Anti-terrorism Act (ATA).

The case against the petitioner was that as a member of a proscribed organisation, Hizb-ul-Tahrir, he had joined a group that was distributing pamphlets that could create hatred against the government. According to an FIR lodged by the SHO of a police station in Multan, 10 persons allegedly belonging to Hizb-ul-Tahrir were distributing objectionable material. A raid was conducted and four persons fled from the scene after throwing some pamphlets. The petitioner's post-arrest bail application was dismissed by an anti terrorism court on Oct 20, 2004 on the ground that since he had been detained under the MPO grant of bail would serve no useful purpose. Subsequently the LHC granted him bail on January 19, 2005, but orders for his detention for three months under sec 11-EEE of ATA had been passed on Jan 10, 2005.

It was argued on behalf of the petitioner that he was a professor of entomology, that he had no criminal history, that mere registration of a criminal case could not justify his description as a religious/ sectarian/ suspect/ militant/ terrorist, and that his detention amounted to double jeopardy as he had already been granted bail from the criminal case based on the same allegations.

The state contended the petition was not maintainable as the petitioner had not exhausted the alternative remedy (representation to the government). Further, the Home Secretary gave a number of reasons for ordering the petitioner's detention. These were: the petitioner's group comprised die-hard activists of Hizb-ul-Tahrir (banned organisation) and were involved in highly objectionable activities; they arranged rallies and violated the curbs placed on a banned organization; indulged in activities prejudicial to national security; distributed leaflets at public places; collected funds; were involved in writing, printing and publishing subversive propaganda; and were collaborating with foreign- based elements in waging a sinister campaign against government policies.

The court accepted the writ petition and made the following points in its order:

- ◆ The state did not offer any material to show how the petitioner was connected with activities mentioned in the grounds for detention. No record of the petitioner's conviction for such activities was produced.

- ◆ In the pamphlets allegedly published by Hizb-ul-Tahrir, the defunct organization

“has shown dissatisfaction on the policies of the government, which is the right of each and every citizen—I am unable to understand as to how distribution of these pamphlets in the general public was termed as terrorism or sectarianism.”

◆ The allegation against the petitioner is still to be proved in a court of law. Mere registration of a case is not sufficient to curtail the petitioner’s liberty. Articles 9, 10 (4) and 14 of the Constitution offer him protection. The liberty of citizens cannot be curtailed merely on presumptions.

◆ As for the objection to maintainability of the petition, the Home Secretary had expressed his opinion vide the detention order. A representation to him would be futile. Objection over-ruled.

**PPP activists:** A large number of People’s Party activists were arrested to prevent their participation in rallies planned to welcome Asif Ali Zardari on his return to Lahore from Dubai. (Soon after his release after eight years in prison he had gone to Dubai to meet his wife, former prime minister Benazir Bhutto.) Nine such activists from among those held in Lahore had their detention orders quashed by the LHC.

These nine activists were arrested on 14 May 2005 on charges of breach of peace, and on 18 May offences under Anti-terrorism Act were added to the FIR.

Their counsel argued before the LHC that the police official who filed the FIR was not competent to do so and that reference to the Anti-terrorism Act was malafide. The court held shouting anti-government slogans was not terrorism.

### ***ECL***

While ordering deletion of former Balochistan chief minister Akhtar Mengal’s name from the Exit Control List, the SHC observed that no citizen could be restrained from moving freely without any specific reason.

Akhtar Mengal had complained to the court that his name had been put on the ECL without reason and that he had wished to go abroad for business and health reasons. A federal law officer informed the court that Mr. Mengal’s name had been put on the ECL on the recommendation of the National Accountability Bureau (NAB) and produced a letter from the latter.

The court noted that the NAB letter made no reference to any case or other reason for denying Mr. Mengal’s rights travel out of the country. The court also ordered issuance of a passport to Mr. Mengal.

### ***Doctors sentenced***

Doctors Akmal Waheed and Arshad Waheed were sentenced to imprisonment totalling 18 years each by an anti-terrorist court in Karachi (March 2005). They were convicted of causing disappearance of evidence by harbouring Jundullah activists and undertaking their medical treatment. They were, however, acquitted of the two major charges against them—sheltering and training Al-Qaeda and Jundullah activists, and providing them funds and medical care.

The case, which attracted attention both at home and abroad, began on 17 June

2004 when the two brothers were picked up by security forces while they were driving homeward after their day's work. The fact of their arrest was denied by the state till 2 July when their arrest was admitted. They were given into police custody for investigation into their possible involvement with the attack on the Karachi Corps Commander's convoy.

Two developments gave the case unusual prominence. First, the charge sheet against the accused was changed by the police without any explanation. Secondly, the two doctors were allowed bail by the SHC (while their trial before an ATC was going on) but they were not released. Their petition against detention was heard over several weeks and no decision was possible till grant of relief or its denial became meaningless (the ATC was ready with its verdict).

### ***Accountability cases***

The National Accountability Bureau made headlines less frequently than in the past few years. The reason could be the belief that the Bureau had succeeded in controlling corruption to a great extent. Gen. Parvez Musharraf himself said this at a NAB function in July 2005.

Among the cases that concluded during the period under review, acquittals were more significant than convictions. Those acquitted included federal minister Faisal Saleh Hayat, former Punjab Chief Minister Manzoor Wattoo and former FIA chief Major (R) Mushtaq Ahmad. Some idea of the speed with which NAB references proceeded could be had from the last mentioned case. The reference against Major Mushtaq was made in July 2001 and he was acquitted in July 2005, and after 150 hearings the accountability court ruled that the charges against the defendant were not proved.

Meanwhile proceedings against several political leaders, including Benazir Bhutto, Javed Hashmi, Jahangir Badr and Ahmad Mukhtar, continued.

The NAB spokesman, however, managed to attract media attention with periodic announcements of the institution's achievements over the preceding 5- years.

### ***5- years record***

The Bureau also released in April 2005 its report for 2004. According to it, during 1999-2004:

- ◆ References filed
  - Against bureaucrats: 397
  - Against politicians: 171
  - Against businessmen: 99
  - Against ex-armed forces personnel: 12
  - Against others: 61
- ◆ Money recovered in 342 plea bargains: Rs 4.6 billion
- ◆ Plea bargains in 2004= 80; Amount to be paid: Rs 862 million; Amount paid: Rs

401 million.

- ◆ Cases of voluntary return of misappropriated money in 2004: 151; Amount promised to be returned: Rs 68 million; Amount returned: Rs 38 million.
- ◆ Total complaints received (1999-04): 11,410; complaints processed: 10,004 (88%); pending 1,406 (12%)
- ◆ Number of accused placed on ECL: 1,429.

The NAB acknowledged that three developments had helped it improve its performance. These were:

- ◆ Mandatory reporting by government of public contracts worth Rs. 50 million or more, as a result of which 350 contracts for procurements were scrutinised since 2002.
- ◆ Merger of FIA's Anti-corruption and Economic crimes wings with NAB (2003-04), which made NAB the sole anti-corruption agency at the federal level.
- ◆ Delegation of authority for inquiry and prosecution by the NAB chairman to D.G. Regional Bureau.

Political leaders made much of the report that fewer of them were in the dock than bureaucrats. In December 2004, there was quite an uproar in the Senate when it was told that the politicians against whom NAB had filed references for corruption accounted for less than one-fourth of the total number nabbed. Many Senators also reacted angrily when the NAB Chief did not appear before the Senate Standing Committee on Breach of Privileges, after it had been given out that he would respect the committee's summons. The committee had before it a plea by Senator Mushahid Husain who had felt aggrieved at a report that his affairs had been probed by NAB. The ruling party members on the committee made sure it concluded that no breach of privilege had taken place.

### **Boost to the jirga system**

Elected representatives, politicians in power, administrators, clerics, and other influential elements in society continued to promote the jirga system, especially in the Frontier and Sindh provinces. In the former territory the function of the jirga was expanded to cover political and economic matters of concern to the provincial authority and in the latter the High Court ruling that the jirga system was illegal was flagrantly violated by the custodians of power themselves. In both provinces the increased reliance on the jirga revealed important societal elements' growing alienation not only from the justice system but also from other components of the state apparatus.

#### ***NWFP alternatives***

The government of religious groups' alliance, MMA, in the NWFP again organized a caucus of various political parties in the province under the label of a Parliamentary Jirga, which asked the federal government to immediately convene a meeting of the National Finance Commission (for a new award on the divisible pool of tax revenues). The jirga also expressed concern at the delay in completion of the arbitration process in the matter of net hydel profit and arrears pending between NWFP and Wapda. The

assembly stated that unless the federal government paid due attention to the resource needs of Frontier, the province would not be able to meet its development and budgetary requirements.

Some time later the Jamat-i-Islami organized a 3-day jirga in Peshawar. The assembly, among other decisions, opposed the security forces' operations in North Waziristan and called for withdrawal of the Frontier Crimes Regulation (FCR).

A similar jirga was formed, under the title of Ulasi Jirga Mardan, at a meeting of about 70 people who were described as "concerned citizens of Mardan district."

The meeting expressed concern over the state of affairs in Mardan district, and criticized the elected representatives and officials both for failure to address the deterioration in law and order situation and corruption. Concern was also expressed at corrupt practices in courts.

- ◆ A number of public representatives in Mingora, Swat, said their area was being neglected by the federal and provincial governments both. To overcome the increasing problems faced by the people, they decided to form a jirga. Those who attended the meeting where this decision was taken included MNA Fazal Subhan, provincial minister Husain Ahmad, the district Nazim and the Nazim of Matta tehsil.

- ◆ The Frontier Chief Minister Akram Khan Durrani told a jirga at Dargai in Malakand Agency that the jirga system presented the best mechanism to resolve conflicts. The government wanted to get the jirga involved in the peace process, to lend support to helpless people and ensure punishment of the criminals, he said. He was trying to assuage public anger at the kidnapping of a girl in the area. Earlier, a delegation of Sakha Kot town, led by an advisor to the chief minister, had called upon the provincial police chief to demand the girl's recovery and to complain that a member of the Kohistan jirga was protecting the culprits.

- ◆ A high-profile jirga held at Ghalanai condemned the activities of the Mohmand Rifles in Mohmand Agency. The assembly said the Mohmand Rifles had no right to harass innocent people by conducting raids and checking vehicles.

- ◆ The jirga was attended by former Senator Haji Dilawar Mohmand, Commissioner (Retd) Malik Hidayatullah, and agency councilor Malik Muhambar.

The same dignitaries joined the commandant of Mohmand Rifles and the Assistant Political Agent in resolving the dispute arising from the killing of a local citizen, Tor Khan, by the Mohmand Rifles personnel. The local community had called the incident brutality by security forces. The deceased's children were promised compensation.

- ◆ A jirga held in North Waziristan decided to withdraw all cooperation from the security forces. The jirga, which expressed serious concern at the security forces' policy of not taking the local population into confidence, was attended among others by MNA. Naik Zaman, Senator Mateen Shah, and former MNA Maulana Deendar.

- ◆ The jirga of Mohmand tribesmen decided to boycott local government polls in the 25 disputed villages which had been included in Peshawar and Charsadda districts. The assembly demanded the restoration of these villages to the Mohmand Agency. The



jirga also resolved that it would like to live under the FCR for a thousand years.

- ◆ A Jirga of Mohmand tribe elders entered into an agreement with the political Agent of Bajaur Agency that they would burn down the houses of the tribals suspected of attacking some of their elders.

- ◆ The jirgas in Dir and Hangu barred women from taking part in local government polls. Similar decisions were taken by jirgas in other parts of the province.

#### *Arbab leads the jirga advocates*

Sindh Chief Minister Arbab Ghulam Rahim, who had sponsored a draft ordinance to legalise the jirga system immediately after it had been declared unlawful by the Sindh High Court, further demonstrated his contempt for the laws of the land when he came to Sukkur on 19 June 2005 to preside over a jirga.

The jirga was the fourth in a series held to persuade the Mahars and Jatois of Shikarpur to end their feud that had claimed about 250 lives since it began in 1987. According to press reports the jirga could dispose of only one item on its long agenda—murders. Each side was said to have been found guilty of 14 murders and ordered to pay Rs.4.2 million to the other party. All other matters were left for jirgas in future, which were to be held under the patronage of the veteran jirga promotor, Manzoor Panhwar.

The fact that the CM had to bring the Mahars and Jatois to a jirga again abundantly highlighted the failure of the jirga system to end conflicts. Nobody could deny that the jirgas held earlier (one of these in 2003 was presided over by the then CM, Ali Mohammad Mahar) had failed to establish peace.

However, it was claimed in some quarters that Arbab Ghulam Rahim had not been attracted to Sukkur by peace or justice; he only wanted to prepare the ground for the success of his surrogates in the local bodies elections which were due a couple of months later.

- ◆ A jirga headed by Sindh minister Manzoor Panhwar claimed to have settled a dispute between Junejo and Kehar tribes in Shikarpur. Other dignitaries attending the jirga included federal minister Ghaus Bakhsh Mahar, Shahnawaz Junejo, Jahangir Khan Kakepoto and Rizwan Kehar. Under the terms of settlement, the Junejos were to pay Rs. 1,550,000 for killing four Kehars and another Rs.100,000 for injuring seven persons as well as Rs.10,000 for killing a donkey and Rs. 13,500 for taking wheat belonging to Kehars. The Kehars were to pay Rs 1,350,000 for killing four Junejos and another Rs 150,000 for injuring five.

- ◆ A jirga of Mehsud elders from three of their main sub-tribes held in Tank opposed seizure of arms from common tribals and asked the authorities to first disarm the al-Qaeda fugitives.

- ◆ An eight-year-old dispute between Chachar and Sabzoi tribes, which had claimed 31 lives, was reported to have been settled by a jirga held at Kandhkot (Sindh) in February 2005.

The jirga imposed a fine of Rs.5.55 million on the Sabzois and of Rs. 4.925 million

on the Chachars, that is, a net fine of Rs. 625,000 on the Sabzois.

The jirga was held at a degree college and was attended by tribal chiefs who had often figured in lists of parliamentarians, such as Sardar Sundar Khan Sundrani, Mir Hazar Khan Bijarani, Sardar Ahmad Ali Pitafi, Shahnawaz Junejo, Pir Mian Mithu, Sardar Muqem Khoso, Sardar Haji Khan Chachar, Mir Manzoor Panhwar, Sardar Taigho Khan Teghani, Sardar Saleem Jan Mazari, and Sardar Hyder Ali.

- ◆ Two men who were accused of murder were executed (shot dead) in public after a jirga in Dabori area of Orakzai Agency (tribal area) had awarded them death sentence. A third accused, who had also been sentenced to death, failed to turn up for execution. His uncle promised to produce him. The jirga declared that if the convict was not produced his uncle would be executed.

- ◆ The Bara Peace Committee (Khyber Agency) assumed the power of a jirga and had the house of Sedak Zakakhel demolished for his alleged role in a dentist's abduction and then had Sedak's brother flogged for attacking the committee's deputy chief. According to a press report the committee established a jail also.

- ◆ The Utmanzai tribesmen of North Waziristan Agency met in a jirga and decreed that the Gurbaz tribe was part of the Utmanzais and its elders were entitled to inclusion in their jirga.

- ◆ In the Kohat Frontier Region, one Meena Baz was found guilty of theft and the local jirga ordered his house to be burnt down and also expelled him from the area for 20 years. He was also fined Rs. 250,000 and ordered to deposit jewellery worth Rs. 500,000. The accused paid Rs. 250,000 but failed to deposit ornaments. His house was burnt down but the expulsion order was withdrawn.

- ◆ A jirga of elders from about 36 villages, held in Nowshera (Frontier province) under the chairmanship of a former provincial minister (Mian Jamal Shah) reportedly, persuaded two feuding groups to end their enmity.

#### ***Killings at jirga***

The jirgas convened to establish peace were not always peaceful, as some of the cases reported during the period under review revealed.

Three persons, including an accused, were killed in exchange of firing during a jirga session in Bara, Khyber Agency. The Malik Deenkhel jirga was trying to resolve a money dispute between the Daulatkhels and one Mujahid, described as a notorious criminal. Heated arguments led to a shoot-out in which Mujahid and two Daulatkhels were killed. It was said that Mujahid had surrendered to the Bara peace committee and promised good behaviour only a short time earlier.

- ◆ A man was shot dead during a Jirga session at village Gadwalian, near Haripur (Hazara, NWFP). The Jirga had been convened to resolve a dispute between two families of the Mishwani tribe.

- ◆ Three persons were killed during a jirga meeting held in Wana, South Waziristan, convened in June 2005 to consider the worsening law and order situation in the tribal agency. Shooting started when a tribal elder accused another notable of mischief. The

latter shot the accused dead and was in turn gunned down by his victim's partisans. The third who was felled was described as an innocent member of the assembly who could not get out of the line of fire.

### ***Women worst victims***

Women as usual were the worst victims of jirga/panchayat decisions.

A panchayat in a Muzaffargarh village was reported in December 2004 to have ordered a man who was accused of molesting the wife of his tenant to surrender his wife to the husband of the victim. He was also ordered to pay Rs. 20,000 in fine and suffer shoe-beatings (20).

◆ An 11-year-old child wife, Nazia, got relief from a jirga in Sanghar district (Sindh) which not only fined her husband and father-in-law for torturing her and breaking her bones but also offered her the prospect of release from an oppressive bond.

Nazia was only eight when she was married off in a watta-satta arrangement. She was given away to a man whose first wife had committed suicide after complaining of severe torture by him and his father.

The jirga ruled that Nazia would live with her father for three years and then decide whether to stay with her father or to join her husband. The police knew of the incident but said it could do nothing as the victim's family had not lodged any FIR. The local SHO confirmed the girl had been tortured.

◆ The marriage of a 2-year-old girl with a 40-year-old man was ordered by a jirga in a Rajanpur village (Southern Punjab). This denouement followed a series of events that affected the lives of several persons.

Villager M. Altaf saw a man, Akmal, sitting on the bed of his wife, Maimoona. He made a complaint to the local elders and they told him to divorce Maimoona. Altaf obeyed the jirga decision.

After some months Maimoona got married again. Thereupon Altaf approached the council of elders for redress of his original grievance. This time the jirga ordered Akmal to pay Altaf Rs. 230,000 as compensation and give him in marriage his two-year-old niece.

The DPO confirmed the story and added that since the marriage of the girl was to take place when she came of age, the police had no reason to intervene,

◆ The inhuman custom of karo kari claimed two young lives— M. Ijaz and Ms P-of village Khokhran near Khanpur in southern Punjab.

On coming to know that they wanted to exercise their right to get married, a panchayat declared them karo and kari. They were tortured to death. Protest by local NGOs persuaded the police to register a case.

◆ A 35-year-old woman was gang-raped in Karachi and a jirga of local toughs told her and her husband to keep quiet. The woman's brother thought otherwise. He went to the police one month after the incident. The police confirmed the woman had been abducted and gang-raped by four men. Two members of the jirga that had heard

the case were also arrested. They were however released on bail. One of them was later on reported to have been rearrested.

◆ In accordance with the 'Vani' custom, a 7-year-old girl was handed over to an old man by the tribal panchayat in Taman Khosa, Dera Ghazi Khan. He was told that he was free to marry the girl or sell her to any other party.

The story was broken in a petition before the DSJ who ordered production of the girl. It was said that one Suba Khan was caught cohabiting with the wife of Karim Bakhsh.

The panchayat declared them karo and kari and ordered Suba Khan's niece, 7-years old N to be delivered to the aggrieved party.

◆ A minor girl from Usman Shah Lehri (Sindh) was abducted. Her fiancé abducted the kidnapper's wife. The police intervened to stop a clash between the two groups, registered a case against six persons and impounded their cattle. The matter was decided by a jirga which fined the kidnapper of the minor girl Rs.200,000, ordered honourable return of his wife, and annulled the little girl's marriage. The police obliged by discharging the detainees and freeing the animals.

◆ Young Naveed Ashraf, of village Maingri Gujran near Noorkot was accused of abducting and assaulting the daughter of his neighbour. He and the whole of his father's family were banished from the village under the local panchayat's orders. When his father protested against being forcibly thrown out of his home the panchayat leaders said he and his son both had accepted the charges against them and had signed the settlement deed on a proper stamp paper.

◆ A young man and his beloved were subjected to torture by a panchayat of self-appointed notables in a village near Lahore. Besides torturing the young man, his head, moustaches and eyebrows were shaved, and his face was blackened. He was then put on a donkey, taken round, and finally banished from the village. The girl reacted to calumny and torture by trying to slit her throat with a knife but failed in the suicide bid. The boy's father and other family members said they were opposed to the *panchayat* but were helpless in the face of landlord power.

◆ A 16-year-old girl from a village in Multan district eloped with a young man, Raju. The police picked up the couple at Multan railway station and handed them over to their families. The girl's father requisitioned a panchayat and, according to a press report, it summarily decided the matter as follows:

The girl was punished by being given in marriage to a 65-years-old man, father of three sons and a daughter (older than his new bride) and reported to be a drug addict. The girl cried out against this sentence before the panchayat and proclaimed her love for Raju but in vain. She was packed off with the old man forced on her as her husband.

Raju was ordered to give his young sister in marriage to S's father, pay the latter Rs. 300,000 in fine, and accept banishment from the area. This part of the decree was not immediately enforced.

◆ A jirga in a village near Daharki fined a man and his father belonging to the

Bholu tribe Rs 450,000 after declaring the former *karo*, for forging an illicit liaison with a woman from the Shar tribe. The young man was also banished from the area for a year. Violation of this order would render him liable to be shot down and doubling of the amount of fine.

♦ In Lodhran district, southern Punjab, the local *panchayat* ordered a woman to get divorce from the husband and marry a landlord whose wife had eloped with her brother.

♦ The *punchayat* in village Ghupwala, Multan district, came to the rescue of 70-year-old Maulvi Ghulam Qadir. He was accused of criminally assaulting a seven-year-old. The girl was reported to have been rushed to a Multan hospital in a serious condition. The local landlord forbade the girl's parents from going to the police and instead referred the matter to a panchayat which ordered the culprit's face to be blackened (temporarily, of course).

### ***Trial by fire***

A jirga in village Mohammadpur Dewan in Multan district decided a murder case by asking the four accused to walk on burning embers.

The son of a woman who had been murdered blamed four of his relatives for the crime. The accused denied the charge and agreed to their trial by fire. Only one of them got boils on his sole while the feet of the other three suffered no injury. The former was declared guilty and the latter innocent.

♦ Two minor girls (one 8, the other 7), who used to go to the house of a "kind" woman to learn reading the Holy Quran in a village in Kasur district, were made to stand bare feet on red-hot charcoal because the lady of the house suspected them of stealing her jewellery. Afterwards the badly hurt girls were locked up in a room from where they were rescued by neighbours who could hear their cries.

♦ Two persons who were accused of murder were able to prove their innocence by walking over burning embers without hurting their feet in a D.G. Khan village in July 2005. The family of the victim accepted the verdict of the fire and dropped charges against the accused. The DPO said he had to respect the custom followed by a community or a tribe.

## **Shariat courts**

### ***Bonded labour law upheld***

The Federal Shariat Court in October 2005 rejected a challenge to the Bonded Labour System (Abolition) Act by holding that the definitions of 'bonded debt', 'bonded labour', 'bonded labourer', and 'bonded labour system' in the Act were not violative of Islamic injunctions. "On the contrary, these are intended to achieve the lofty ideas put forth by (the) Holy Quran and Sunnah of upholding the dignity of man in general and preservation protection of the fundamental rights of (the) working class in the society in particular," the court declared.

A full bench of the court (CJ Ejaz Yousaf, JJ Dr. Fida Muhammad Khan and

Saeed-ur-Rehman Farrukh) also ruled that sections 5,6,7,8, and 11 of the Act “cannot be held to be repugnant to the injunctions of Islam.”

The court was hearing eight petitions that had been filed in 1992 and 1993 by brick- kiln owners in which some definitions in the Bonded Labour System (Abolition) Act and its sections 5,6,7,8, and 11 had been challenged on the grounds of repugnancy to Islamic injunctions. Besides the advocate engaged by all the petitioners the court heard the counsel for the federation, all the four provinces, and Pakistan Institute of Labour Education and Research. Advocate Asma Jahangir was asked to assist the court as *amicus-curiae*.

The court recalled the Supreme Court judgments on bonded labour of 1988 and 1989, after which the Bonded Labour System (Abolition) Act was adopted by parliament in 1992, and held that the two judgments of the SC were “authoritative on account of their constitutional status and as such conclusive of the matters/issues adjudicated upon.” The court was fully satisfied that the Act had been adopted strictly in line with directives of the SC. By assailing some of its provisions the petitioners wanted to get the SC verdicts nullified and that was not permissible in law.

Quoting verses from the Quran and sayings of the Holy Prophet (PBUH) the court observed that “exploitation of (the) down- trodden and toiling labourer is strictly forbidden in Islam.”

The following observations were also made by the court:

- ◆ The objects of the Act have not yet been achieved. Cases of unlawful detention of workers at brick-kilns are reported almost every day.
- ◆ The district authorities held:
  - ◆ It is futile to expect a woman who has been gagged and is being forcibly violated by two men to make a noise or recall from which direction people were coming (to the scene of incident).
  - ◆ Not only a victim of violent rape but members of her family also can be stunned to an extent that they cannot promptly file an FIR. In such cases delay in the lodging of the FIR cannot be used to the accused’s advantage.
  - ◆ The nature of relationship between two persons does not deter them if they are driven towards crime by lust.
  - ◆ In cases of criminal assault it is not necessary that a witness must have witnessed the criminal act. For purposes of convicting an offender it is enough if the commission of a crime is established by the victim’s statement and circumstantial evidence.
  - ◆ If the authenticity of a medical certificate is confirmed by other evidence that certificate will be accepted as complete evidence and the production of the doctor as a witness will not be necessary.

### ***Sentence for Zina***

The Shariat Appellate Bench of the Supreme Court, the highest religious court in the country, held (November 2004) that sec 11 of the zina ordinance prescribed life imprisonment as the only punishment for rape. The court thus revised its own ruling of

1991 whereby it had interpreted the section as providing for “imprisonment extending to life”. The bench in 1991 had argued that the language of sec 11 did not reflect the real intention of the law-maker and interpreted the section to mean what was laid down in sec 10 (3).

### **Attacks on judges**

A woman civil judge was briefly held as a hostage in Islamabad by an under-trial prisoner (November 2004). The accused had threatened to set-off a device he said was tied to his wrist if the judge did not order him to be unchained.

During negotiations with police the accused sought better class in prison and speedy conclusion of the case that had been going on for eight months. The accused was on trial on charges of abusing children. Captain (Retd) Sharjeel Ahmad had been running an educational institution (to train cadets for defence forces) in Islamabad for five years. He had been arrested twice over four years for child abuse. In 1999 his institution had been raided by the police when 12 students accused him of sexual harassment. He managed to get the case hushed up. Later on he was arrested early in 2004 when two boys, aged 10 and 11, alleged that they had been sexually abused by him.

- ◆ Armed assailants killed a murder accused outside a court in Naushero Feroze. The victim had come to the court to attend a hearing. Another prisoner was killed in the exchange of fire between the raiders and the police. Several under-trials escaped after snatching guns from policemen escorting them.

- ◆ Armed men opened fire on the police party escorting three dangerous under-trials to a court in Gujranwala with the objective of getting the accused freed. In the exchange of firing two policemen, a member of the raiding party, and a convict on the run were killed.

### **Bonded labour**

The courts in Punjab ordered the release of 491 bonded labourers during November 2004- August 2005 period.

- ◆ 31 bonded labourers (including 10 children) were recovered by an LHC bailiff from a brick-kiln in Nankana Sahib. They had been engaged four months earlier and had not received any wages for three months. The court ordered their release.

- ◆ 11 bonded workers were recovered by an LHC bailiff from the custody of a brick-kiln owner in Manga Mandi, near Lahore. The court ordered their release and asked the SHO to register a woman worker's complaint regarding sexual harassment.

- ◆ 13 workers were found at a brick-kiln in Mandi Bahauddin by a bailiff appointed by the LHC. They had been exploited for six months. They were released by the court.

- ◆ 12 bonded workers, including four children, were recovered in Manga Mandi by a bailiff appointed by the District and Sessions Judge, Lahore.

- ◆ 5 bonded workers were recovered from a village near Gujranwala by a bailiff

dispatched by the DSJ.

- ◆ 6 bonded labourers were recovered by an LHC bailiff from Jaranwala. Their employer claimed they owed him Rs. 80,000.

- ◆ 33 workers recovered by an LHC bailiff from Sharaqpur Sharif told the court they had been kept in bondage for 14 months. The court rejected the employer's statement that the workers owed him Rs. 2.5 million and ordered them to be freed.

- ◆ 8 bonded workers recovered from a brick-kiln in Sialkot were freed by the LHC. Their employer claimed they had taken loans amounting to Rs. 110,000.

- ◆ 6 bonded workers found at a brick-kiln in Rahwali (Gujranwala district) were ordered to be released by the LHC. As they came out of the court room, some policemen tried to arrest them, saying they were wanted in some other case. The court took a serious view of this attack on the workers' liberty and asked the police to ensure their protection.

- ◆ 25 bonded labourers, including seven children, were recovered by an LHC bailiff from a brick- kiln in Mandi Bahauddin . Their release was ordered by the court.

- ◆ 341 bonded labourers recovered from 16 brick-kilns in Lahore, Sheikhpura and Mandi Bahauddin districts were released by LHC in June 2005. The large-scale operation conducted on a single day by nine bailiffs was ordered by four judges acting severally.

### ***Books forfeited***

- ◆ The Islamabad Chief Commissioner ordered forfeiture of all copies of the January- March 2005 issue of the quarterly magazine 'Petah Tikvash' (Door of Hope) published from New York for "highly profane material against the Holy Prophet Hazrat Muhammad (PBUH) and Islam" in the article titled "Islam. A tool of domination," written by Ali Sina. Action taken under sec 99-A CrPC.

- ◆ Also forfeited was a book of verse titled "Dewan-e- Naseeri" by Allama Naseeruddin Hunzai. "Contains objectionable material which is contrary to the established Islamic beliefs." Action taken by the Islamabad Chief Commissioner under sec 99-A CrPC.

- ◆ One of the Publications ordered to be forfeited by the Islamabad Chief Commissioner under sec 98-A of the CrPC is an Urdu translation of the Holy Quran titled. "Quran Majeed ka Urdu tarjuma ba unwan Quran Majeed."

Ground: Violation of section 5 (5) of Publication of the Holy Quran (Elimination of Printing Errors) Act 1973.

## **Capital punishment**

### ***Executions***

Fifty-four convicts, all men, were hanged for various crimes during the 10 months (November 01, 2004 - August 31, 2005), showing a marked increase in the rate of execution (15 in first 10 months of 2004, 18 in 2003, twenty in 2002, forty in 2001 and



45 in 2000).

### ***477 join the death row***

The death row population grew by 477 (six of them women) during the 10-month period under review, as against the awarding of capital punishment to 394 during the first 10 months of 2004.

As a result of sizable addition to the number of condemned prisoners every year, the death row population during the period under review rose to 7,246 (33 of them females). Of these, 6,751 (22 females) were in Punjab. This meant that with about 55 p.c. of the country's population Punjab accounted for over 93 p.c. of the condemned prisoners.

### ***Recommendations***

1. *The government's involvement with the so-called war on terrorism is progressively increasing strains on the justice system and respect for the due process seems to be declining. This is fully borne out in the failure of the people arrested and detained by state agencies to regain freedom through the habeas corpus process. A concerted effort must be launched to ensure that no detainee is denied the protection of the due process of law.*

2. *New instances of arbitrariness in the matter of appointment and promotion of judges of superior courts have further eroded public trust in the justice system. The impression that the executive continues to ignore the basic requirements of the judiciary's independence can only be removed by making key judicial appointments subject to government-opposition consensus and then demonstrating complete respect for whatever principles are adopted in regard to judicial appointments.*

3. *The government's persistent failure to rid the tribal population of the curse of the FCR attracts indictment for denial of the latter's fundamental human rights. The sooner this colonial legacy is discarded the better it will be.*

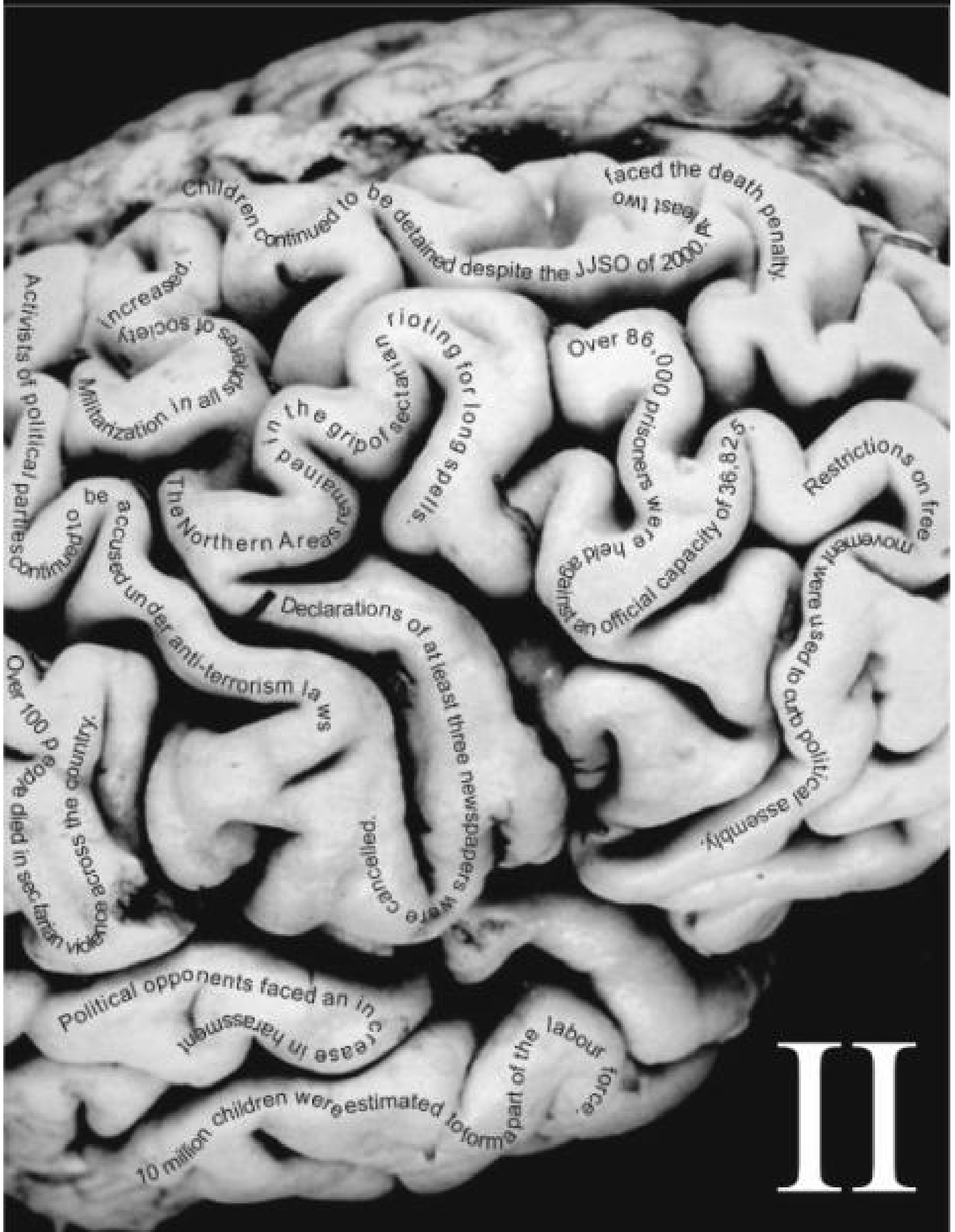
4. *No delay should be countenanced in ensuring complete implementation of the Juvenil Justice System Ordinance, reviewing its weak points in the light of experience, and meeting all obligations under the Convention on the Rights of the Child.*

5. *An independent commission should be set up to review and evaluate the changes in the judicial system carried out over a decade or so.*

6. *Attempts by state functionaries and members of the elite to legitimize the jirga system must be effectively curbed.*

7. *A review of the death penalty regime, especially with a view to abolishing mandatory awarding of capital punishment and reducing the number of offences for which death sentence could be awarded, cannot be delayed any longer.*

8. *Nothing has come out of promises and proposals to review the hudood laws or to reduce the rigours of the blasphemy law. A fresh and comprehensive review of these laws with a view to deleting them from the statute book is overdue.*



# II

## Enforcement of law

HRCP

# 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

### **Three hot spots**

Routine instances of lawlessness and disorder apart, the period November 2004-August 2005 witnessed large-scale disruption of peace and tranquility in Balochistan, FATA and Northern Areas.

Balochistan had been far from quiet for a better part of 2003 and 2004 and rockets were regularly falling in different parts of the province but large scale violence erupted around Sui in January 2005 following the disclosure of Dr. Shazia Khalid's rape in Sui's Pakistan Petroleum Limited Colony. The Sui plant, electricity towers, rail tracks, were attacked and considerable damage to property resulted. Attempts to deal with the situation through force alone resulted in fierce fighting in Sibi and Dera Bugti. The number of casualties could not be precisely ascertained as access to the affected areas was neither free nor safe. Intervention of the leaders of the ruling party secured a pause in clashes between the government and the nationalists but as events towards the end of 2005 revealed the lull was temporary and the situation in Balochistan remained potentially explosive at the end of the period.

In FATA, operations against al-Qaeda elements and other terrorists had passed the high water mark by October 2004 and the kind of battles that had taken place before that were not witnessed during the period under review. However, hopes of troops being recalled from Waziristan agencies did not materialize as sporadic acts of violence continued. Operations had to be resumed against Mahsud tribes when their leader was held responsible for the abduction of two Chinese engineers and the operation for their recovery resulted in the death of one of them.

The trouble in Northern Areas began in January 2005 when an attempt on the life of a popular religious leader Agha Ziauddin Rizvi was made. More violence occurred in Gilgit and later on in Skardu when Agha Ziauddin died in an Islamabad hospital. Trouble again started after a short interval and the people had to suffer the rigours of complete curfew for a long period.

### **Terrorism**

Armed action against what were generally and often loosely described as terrorists, militants and sectarian trouble-makers kept the law-enforcing agencies occupied throughout the period under review. This was also an issue that greatly distressed human rights activists and defenders of the rule of law as they were not offered complete satisfaction regarding respect for the due process, justification for the use of force and the principle of proportionality.

Of the scores of terrorist incidents reported in the media the three most serious ones were an attack on a Barri Imam congregation near Islamabad in May 2005 in which 20 people were killed. An attack on quasi-religious assembly in Fatehpur in Balochistan in March which took a toll of 15 lives (in some reports 35 were reported dead) and six persons were burnt alive in a fast food outlet in Karachi.

Anti-terrorist operations continued across the country, and according to data available at HRCP nine al-Qaeda suspects and 39 people described as militants were killed and about 350 al-Qaeda suspects/militants/sectarian troublemakers arrested. Those

arrested included Al-Libbi who was described as the person who master-minded the attacks on General Pervez Musharraf.

### **Disappearances**

A relatively new form of violation of citizens' most fundamental rights that caused anxiety during the period under review was the phenomenon of disappearance, something that had not been witnessed before or at least not to the extent now recorded. In a majority of cases it was found that those reported missing or believed to have disappeared had been taken into custody by intelligence agencies without intimation to their families and the legal formalities pertaining to detention were not fulfilled. Some of these were released or handed over to the police while a few remained missing till the end of the period. These cases of disappearance brought to light the inadequacies of the habeas corpus process because the superior courts could offer no relief if the agency/force/department named as respondent denied the arrest or detention of the missing persons. Some of the cases which attracted considerable attention were the following:

The wife of Ali Asghar Bangalzai said that he had been missing for four years and she believed that he had been taken away by a law enforcing agency.

The case of five leaders of Baloch Students Organization attracted attention both at home and abroad. They were arrested in Karachi and then there was no news about their whereabouts for several months till two of them including their president, Dr. Imdad Baloch, were released and the other three were revealed in the custody of DG Khan police which sent them to Balochistan. Their families could subsequently find out where they were and the condition of one of them, Dr Allah Nazar detained in a Balochistan prison was described as critical.

The Peshawar High Court was approached to seek the recovery of two brothers Abdul Basit and Abdul Aziz who were said to have been arrested by an intelligence agency. The Ministry of Interior informed the court that the missing persons were not in the custody of ISI, FIA or Intelligence Bureau. The petition failed.

The case of two missing persons, Tariq and Gohram was simpler to be handled by the Balochistan High Court. They had been arrested in June 2004 and in January 2005 the provincial government disclosed the withdrawal of their detention order. An official of the sub-jail where they had been detained deposed before the BHC that the detainees had been handed over to ISI.

Two Pakistan-Americans Zain and Kashan were picked up in Karachi in August 2004 and taken away by a group of men who had come in five vehicles. Their whereabouts were not known for many months and their case was referred to as being one of disappearance. They returned home many months later but refused to say anything of what had happened to them during the period they were missing. For many their silence said everything.

### **Target killing**

Target killing of political opponents and members of rival sects/groups continued throughout the country, especially in major cities. Sometimes a city reported more than

one case a day. For example, on 19 April 2005, five political workers were gunned down in Karachi two of them belonged to the MQM and one each to the MQM (H), PPP-SB and JSQM.

## **Blasts**

That the country remained disturbed for a better part of the period under review was confirmed by the large number of instances of blast—detonation of bombs, launching of rockets, explosions, etc- that were reported from all parts of the country but a majority from Balochistan. The data available revealed the situation as follows:

No of incidents: 150  
(Punjab 14, Sindh 20, Frontier 10, Balochistan 89, FATA 16, Northern Areas 1)  
Casualties: killed-84, wounded-73.

## **Kidnapping**

Amongst the categories of traditional crime kidnapping was the most common violation of citizens rights. The government itself told the Senate in February 2005 that incidence of kidnapping for ransom was on the rise. According to its statement, 1,500 people had been kidnapped for ransom since 1998 (763 in Sindh, 482 in Punjab, 209 in NWFP and 38 in Balochistan).

During the period under review, some new motives for kidnapping came to light. Kidnapping of rival candidates in elections had been heard before but kidnapping of persons to secure deferment of execution for murder was something new and one also heard of a young man abducting himself to his force father to pay ransom. *[See also the chapter on Children].*

Some of the more heinous cases of kidnapping were:

- ◆ Sunil Sethi, nine-year-old son of a Pakistani residing in Italy, was kidnapped from outside his home in village Jandala Baghwala, near Gujranwala. The culprits demanded Rs. 500,000 in ransom. The money was paid to them and after that the child's dead body was dropped at her mother's doorstep.
- ◆ Zahid Mahmud, a class VI student was kidnapped and killed in Mailsi, in southern Punjab, by two men who had a dispute with his elder brother.
- ◆ Jamshed Alias Ali Raza, 8-year-old student of class III was found dead outside his parents' home three days after he had gone missing. Marks of strangulations on his neck indicated he had been killed by his kidnappers.
- ◆ Asma Yusuf, an 18-year-old college student, was abducted in Lahore for ransom. Her body (packed in bag) was recovered from a cesspool in Kot Lakhpat area.
- ◆ The Faisalabad police arrested six men and recovered the college student they had abducted for ransom earlier in the day in the last week of December 2004.
- ◆ Members of non-Muslim communities staged a demonstration in Quetta at the beginning of December 2004 to protest against the administration's failure to recover a Hindu girl who had been kidnapped two months earlier. They specially expressed shock at the manner in which protests on the matter made earlier, including one by HRCP

activists, had been ignored.

Reporting of kidnapping incidents continued to be sketchy. For instance, when three members of the Hindu community—Pawan Kumar (tailor), Ajeet Kumar (owner of a chemist's shop) and Bunty (grocer)—were kidnapped in Shikarpur in November 2004, the report of the incident in a daily newspaper noted the six men belonging to Shikarpur district that had been kidnapped by bandits seven months earlier, had not been recovered.

\* The Bosan gang, whose exploits included publication of a pamphlet calling for recruits, kidnapped a Muzaffargarh landlord and a police constable in January 2005. The latter were guiding a police party that was out to find trace of a man who had been kidnapped earlier. Rs. five million were demanded as ransom.

**One abducted himself:** The young son of a Gujranwala merchant and a college student asked his father for money to buy a motorbike and a mobile phone, the two status symbols most of his friends possessed. All he got was a daily allowance of ten rupees. While sitting with his friends in a restaurant he decided to make his father pay ransom money to his "kidnappers". A call to the young man's father was made and two million rupees were demanded. The police could trace the origin of the phone call and the matter ended while the "abductee" and his accomplices were still at the restaurant and still dreaming perhaps.

♦ In Faisalabad a man, Aslam, was arrested for staging the kidnapping of his 8-year-old daughter in order to get some money from his father.

♦ Six-year-old Mohammad Siddique was kidnapped for ransom in Karachi by his uncle and killed because he had recognised his uncle.

### **Tribal clashes**

More than 30 people were killed in the more notable tribal clashes reported during the period under review. Most of these conflicts were reported from those parts of Sindh where the jirga system is supposed to have created a peaceful paradise.

### **Crimes against women**

There was little evidence to suggest a decline in crimes against women. [*See the chapter on Women.*] The most distressing feature of violations of women's rights was the authorities' unwillingness to take rape cases seriously.

In the case of Dr Shazia Khalid the establishment preferred alienation of the Baloch people and an ugly-looking dispatch of the victim to England to a straightforward investigation and arraignment of suspects accused.

Much later, Sonia Naz narrated her story of rape and harassment and her husband's detention and blamed a powerful police officer and his lieutenants for all her woes. While she found a better audience in the establishment than Dr. Shazia, the registration of a case against the accused was possible only after judiciary's intervention.

**Women at stake:** Three cases of women put on stake in gambling and lost came to light. MS S.A. of Multan, a mother of six children, told a court that her husband of



19 years had lost her to another man in a game and the latter r raided her house in order to take her into his possession. Somehow she managed to escape. She was admitted to a *darul aman*.

- ◆ In Sahiwal a man was arrested for losing her 14-years-old daughter in a game. (April)
- ◆ A man put his sister-in-law on stake and lost. (Lahore, May 2005)

### **Conduct of law enforcing agencies**

There was much talk of government resolve to change the ‘fnana culture’ and the benevolent effects of ‘community policing’, an expression without palpable substance, and yet there seemed to be little evidence of a decline in cases of excesses by the law-enforcing agencies or of a change in the forms these excesses took. While at all forums the largest number of public complaints of abuse of authority continued to be against the police there was a disturbing increase in extra-legal encroachments on citizens’ rights by agencies other than the police, especially the intelligence agencies.

### **Extra-legal killings**

#### *Death in custody*

The reporting of incidents of death in custody improved somewhat as a result of more frequent resort to the Police Order provisions designed to punish abuse of power. However, all cases of death in custody were still not reported in the media. This was confirmed when the government informed the National Assembly at the beginning of

The difficulties poor victims of rape face while seeking justice were highlighted in the case of a young widow Sakina who was at a brick-kiln in a village in Sialkot district. She alleged she was abducted (along with a small son) and ganged raped by four men. She was taken to a police post where two ASIs locked her up. Eventually she was handed over to her employer at the brick-kiln. She was warned against making any noise about her ordeal and to ensure her compliance her child was not restored to her.

Sakina was unable to get an FIR registered for nearly two months because the Sialkot DPO and the Daska police chief kept referring her to each other. Eventually a case on her complaint was registered under the LHC orders.

March 2005 that 14 custodial deaths had taken places over the preceding six months while the number of such cases reported by newspapers was smaller.

The cases noted during November 2004-August 2005 conformed to the pattern observed in the past—

detention without entry in record, use of violence to extract confession or to extort bribe, removal of a dying detainee to a hospital and explanation of custodial death as the result of some chronic illness or sudden heart attack or suicide. There was little doubt

that a determined campaign to end death (by unnatural causes) in custody remained a high priority objective before the custodians of law and order.

Some of the cases of death in custody during the period under review according to the data collected at HRCF from newspapers were:

- ◆ The death of Abu Bakr Panhwar in the custody of Mirpur Khas police sparked off protests across Sindh. Four police officials were arrested.
- ◆ The Multan DIG suspended a Burewala SHO in the case of one Qasim Bhatti's death in custody. (March)
- ◆ Samiullah Kalhoro, vice-president of Jiye Sindh Muttahida Mahaz was severely tortured in police custody. He died in a hospital where he had been taken when his condition became critical. Public protest across the province forced the authorities to take notice.
- ◆ The Punjab government constituted a one-man tribunal (Brigadier (R) Tauqir Qamar, member of Chief Minister's Inspection Team) to probe the disappearance of one Hayat Khan who was taken into custody by Sadiqabad police in Rawalpindi on 11 March 2005 and was alleged to have died as a result of torture by the police. While the tribunal was trying to ascertain facts the police officials suspected of causing the detainee's death were reported to have negotiated a settlement with the victim's family and the matter was dropped as a case withdrawn.
- ◆ A Lahore trader, Sufi Aslam, was arrested by Kot Lakhpat police on the ground that the accused for whom he had furnished surety had absconded. After some time his body was dumped at a hospital. The victim's son, who claimed to have followed the vehicle in which Aslam was taken away, said the detainee was badly beaten up and he fainted on way to the Kot Lakhpat police station. The police took him to a private clinic where they were advised to go to a proper hospital. The detainee had died when the police abandoned him at a hospital. A subsequent report claimed a medical examination had confirmed Aslam's death by torture. The Manawan police booked three policeman for murder.

#### ***The unsavoury encounters***

The loss of life in the so-called police encounters remained on the high side. While an increased readiness on the part of senior police officers to order inquiries in such cases and take some action against the offenders was noted, the results of these initiatives did not seem to have a deterrent effect. Nor were the aggrieved parties satisfied that justice had been done.

The data at HRCF collected from newspapers revealed the following pattern of extra-judicial killings in encounters during Nov 2004-Aug- 2005:

No of incidents: .....	166
<i>(Punjab 114, Sindh 36, Frontier 12, Balochistan 3, Islamabad 1)</i>	
No of deaths: .....	252
<i>(Punjab 180, Sindh 52, Frontier 13, Balochistan 5, Islamabad 2)</i>	
No of police officials killed: .....	35

Highest number of incidents in a month: ..... 29, May 05

Highest number of deaths in a month: ..... 49, June 05

A Newspaper report in August 2005 said the Punjab Police had communicated to Islamabad the following encounter figures for 15 years (upto mid-August 2005)

No of encounters: ..... 3,424

No of sinners/suspects killed: ..... 2,246

No of police functionaries killed: ..... 493

Highest encounter killings in a year; 413 in 417 encounters in 1998

### **Illegal detention**

While hearing an unusually outrageous case of illegal detention in January 2005, the Lahore High Court observed that the police practice of detaining innocent people was on the rise, and that “this conveniently escapes the attention of police bosses”.

The largest number of public grievances against the law-enforcing agencies, especially the police, pertained to detention of citizens without cause and or without entry in record. Cases reported in the media were legion. The courts ran out of words while reprimanding law-breakers among the law-enforcing personnel and action was taken by courts and higher police officers in a large number of cases.

The following cases noted during the period under review are recalled to offer a sample of the symptoms of a deep-rooted malaise.

The first of March 2005 was a day of normal business at the Lahore High Court. The cases of police excesses that came up before the judges also perhaps fell in the category of the routine. But it was a routine no lover of civil liberties could have been happy to see continuing.

A court bailiff produced before a judge one Naik Mohammad whom he had recovered from p.s. Sathiana, Faisalabad district, and who had been detained without charge or record for 22 days. He had apparently suffered much and the court ordered his examination by doctors at a leading hospital in the city.

The bailiff informed the court that while his assignment was recovery of Naik Mohammad only he had found four other persons under illegal detention at the Sathiana police station. The judge rang up the judicial magistrate at Jaranwala to recover the four detainees.

When the judicial magistrate raided the Sathiana police station he found, instead of four detainees, light victims of the police officers’ abuse of their powers. They were found chained to posts. There was no record of their arrest or charges against them.

The court asked the acting DPO, Faisalabad, to arrest the SHO concerned, an inspector (investigation) and an SI, and register cases against them. On the DPO’s inability to make the arrests, for want of a police force, the court asked its own guards to arrest the three police officers.

In another court room two persons recovered by a bailiff from p.s. Kot Lakhpat, Lahore, were produced. They had been detained illegally for six days. The SSP was

directed to take action against the SHO concerned.

The same court took a serious view of the illegal detention of the 70-year-old Naimat for 60 days at p.s. Jalalpur Bhattian, Hafizabad district, and his release on payment of Rs.100,000 in bribe. The DPO and the SHO were ordered to appear with the record.

The court also issued a contempt notice to the Sahiwal DPO for his failure to appear in a habeas corpus case.

- ♦ Mohammad Vakil filed a habeas corpus petition in a Lahore sessions court against the illegal detention of his brother at p.s. Faisal Town. The court bailiff sent him into the police station to look for his brother. He could not rejoin the bailiff because the police united him with his brother in a room which was described as a private torture cell. When the two brothers were produced in the court, the petitioner withdrew his petition. He had had a taste of police power.

- ♦ A bailiff of the LHC found an illegally detained youth, Awas, chained to a cot in p.s. Shalimar Town in Lahore. The court ordered his release and it was not amused when the offender-SHO declared that the young man had on his own appeared in the barrack at the time of the bailiff's raid.

- ♦ A bailiff of the LHC recovered a 10-year-old boy, Jamshed, from p.s Nankana, where he had been detained without record for 26 days. The SHO told the court Jamshed had not been detained, he had walked into the police station on learning of the bailiff's arrival.

- ♦ A woman police station did not sport a culture different from that of a male police station. A woman who had been illegally detained for a month was recovered from the women's police station at Race Course in Lahore (February)

### **Poor crowd management**

There was no improvement in the police attitude of dealing with public demonstration or crowds protesting a wrong solely through resort to force and the principle of proportionate force continued to be observed mostly in its breach.

HRCP itself had a taste of wanton police violence when its Chairperson Asma Jahangir, Secretary-General Iqbal Haider, Punjab Vice-chairperson Hina Jilani, several Council members and many general body members and activists were forcibly prevented from carrying out an innocent activity—a mini-marathon race in Lahore in May.

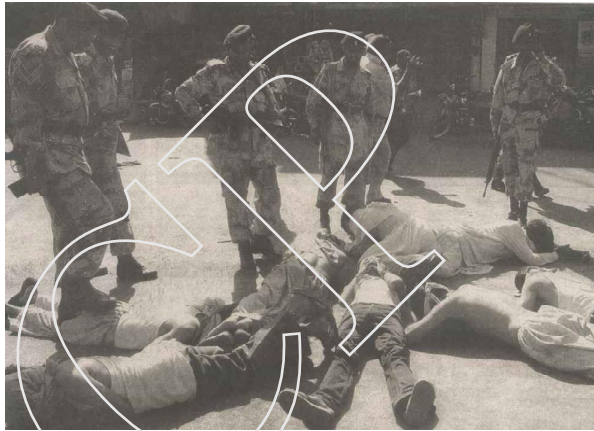
Quite a few of them, particularly Asma Jahangir, Iqbal Haider and several citizens accompanying them, were manhandled and their dignity of person outraged. They and many others were taken to police stations and briefly detained. Asma Jahangir's efforts to get an FIR registered failed and she had to secure this privilege through a court. (see also chapter on freedom of Assembly.)

- ♦ A 12-year-old boy, Umer Shahzad, was killed in Bhabra, Sargodha district, in a clash between two groups. Some people in his funeral procession started protesting against the police indifference to the murder and demanded an autopsy. The police opened fire resulting in the death of the deceased's uncle. The police denied killing

### The police savagery

At the beginning of June 2005, Karachi witnessed outrageous scene of police brutality on citizens. Daily Dawn (Karachi- Lahore- Islamabad) commented on the subject as follows:

IMAGES of the police and rangers brutally handling civilians in Karachi's strike ridden suburbs on Wednesday were flashed across the word on TV screens, and shamed the nation. The footage showed the rangers beating up unarmed youth, forcibly entering people's homes by knocking down their



front doors with kicks and rifle. Thursday's national newspapers, too, carried pictures showing law enforcement personnel posing with their 'catch'. A Rangers man in military boots stood on the legs and buttocks of a youth, surrounded by several other young people who were blindfolded, handcuffed and forced to lie flat on the ground with faces down. The camera caught other gunwielding officers looking unashamedly proud of their accomplishment. This was not Iraq or Palestine under occupation, but a street in Malir.

anyone and maintained that an angry mob had attacked the police post and set it on fire.

A case against 164 people and another 200 (unnamed) was registered. The Chief minister ordered inquiry against the DSP, Kot Momin, and SHO, Bhabra, and payment of Rs. 200,000 to each of the two victim families.

◆ The Lahore police decided the journalist had no right to observe the World Press Freedom Day on 3 May 2005 and therefore subjected them to violence. The media people in Islamabad were treated similarly.

The National Assembly unanimously prepared a resolution calling for the formation of a committee to probe the arrest and torture of journalists. The government chose to withdraw the resolution. The Law Minister declared the resolution had been withdrawn on the instructions of the Prime Minister. He also criticized the journalists "for violating law and order" on Press Freedom Day. The opposition members walked out in protest.

### Public protest

That on many occasions the people took to the streets and sometimes they indulged in violence again showed the ineffectiveness of normal channels of redress. These

protests were held in all parts of the country and for various reasons. The causes threw considerable light on the people's major concerns.

The most serious instance of police violence on demonstrators was reported from Qambar (Sindh). The crowd was protesting against the creation of a new district. The police firing caused the death of four.

Some of the more significant instances of public protest against officialdom's acts of commission and omission were:

- ◆ The police post at Madh Ranjha, Sargodha district was attacked by a mob that was protesting against the killing of a boy. The police opened fire and a man was killed.
- ◆ A crowd that was protesting against the death (after a murderous attack) of Agha Ziauddin, a leading religious figure of the Northern Areas, was subjected to violence by the police, and 32 protesters were arrested.
- ◆ The mob that attacked a police station in Lower Dir in April and caused injuries to several policemen had an uncommon grievance. The crowd wanted a murder accused to be delivered to it so that it could stone him to death.
- ◆ Similarly, a mob in Aliabad, Gujranwala district, wanted three accused that had been arrested by the police to be delivered to it. In the ensuing clash a 9<sup>th</sup> class student, Imran, died of gun wounds. The police said they had been attacked by the mob and had to resort to firing in self-defence. Later on 400 people were booked for attack on the police station.
- ◆ A police kiosk in Ajnialwala was torched by an angry mob. (June)
- ◆ The people Khanqain Dogran did not approve of their inclusion in the new district of Nankana Sahib, carved out of Sheikhpura district. Lack of vigilance on the part of the administration created a situation which led to a police station being put on fire.
- ◆ Early in December 2004, the Hindu and Christian communities staged a demonstration to express their frustration and anger at the non-recovery of a Hindu girl who had been abducted in Loralai two months earlier.
- ◆ The Indus Highway was briefly blocked in Sukkur area in protest against murders.

### **A miscellany of aberrations**

*Cops-cum-robbers:* An ASI, S. A., of the Karachi police chose a wrong place to rob a car-owner. The latter's brother saw the hold-up and robbery scene from his window, opened fire and fatally wounded the robber. It was only at the mortuary that he was identified as an official at the anti-car-lifting cell.

The same month (January 2005) the Lahore police offered a similar tale. A motorcyclist policeman robbed a couple of bike-riders on Guru Mangat Road in Gulberg and drove away. The victims were able to summon a mobile squad that succeeded in catching up with the robber. His identity was discovered when a case against him had

been registered.

♦ Three officials of Special Branch in Karachi, including a PSP officer, were suspended for making clandestine inquiries about the chief minister, the home minister, and some MPAs.

♦ The SHO at p.s. Qila Gujar Singh in Lahore was hauled up on Chief Minister's orders. He had beaten up an ASI working under him (May)

***A perfect crime?*** Six men who were desperately planning a vendetta thought they had hit on a perfect crime scenario when seven members of the Sindh police force agreed to be their accomplices and protectors. The latter arrested the six / co-conspirators on various charges and sent them to the judicial lock-up at Choondko, in Sukkur district. Some time later they were let out of the jail. They went to a place near Kandhro and killed eight members of a family. The foul deed done they returned to the jail-haven. They sowed the seeds of their undoing by leaving the Kandhro police out of the conspiracy. Result: In July they six 'main accused' and four police officials were arrested. A search was launched to find the three policemen.

♦ The SHO at p.s. Aabpara in Islamabad achieved distinction by writing to newspapers not to publish material based on sectarianism and fundamentalism. Those defying the police official's edict could be liable to prosecution. An embarrassed Press Information Department said the circular was being withdrawn. (July 2005)

***Better bargain:*** A Station House Officer (SHO) and two head constables were arrested in Karachi in November 2004 for entering into a bargain with an outlaw (Waheed). The latter, carrying Rs. one million as head money, was wanted by the Punjab police. They three policeman charged him Rs. three million for letting him go – two million more than what they might have received if they had locked him up.

## **Recommendations**

1. *Crime and disorder undermine basic rights of all people but the more vulnerable elements of society need special protection.*
2. *The demands of due process must not be compromised in a so-called war against terrorism.*
3. *However serious the situation in Waziristan and Balochistan may be the rights of civilian population must be respected.*
4. *The reports of inquiries in all cases of extra-legal killings must be released.*
5. *Women will continue to be a main target of criminals unless their social and economic rights 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.*

# 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

The continued denial to civil sector organizations and the media of access to jails and the reluctance to make information available made it harder to assess the situation within prisons.

There were indications that the increased secrecy had contributed to a worsening of conditions. Over-crowding and blatant violations of the jail manual were reported from many institutions. The detention of juveniles continued, with 2,329 male and six



female juveniles behind bars in August according to official figures, despite the ban placed by the Juvenile Justice Systems Ordinance (JJSO) of 2000 against the holding of children alongside adults.

The detention, in some cases without charge, of an unknown number of suspected militants added to the problems concerning lack of transparency at jails. It was believed suspected militants returned from Afghanistan continued to be held in some Punjab jails. Requests by HRCP for information about these persons, and access to other detained militants, were turned down.

### Conditions of detention

The problems posed by over-crowding in jails were reflected in figures showing the number of persons detained.

Across the country, according to published official figures in August, 81 jails held 86,194 prisoners, against a capacity for 36,825. Of these, 48,352 male and 1,023 female prisoners were under-trial. 18,455 male and 300 females had been convicted while 7,213 males and 33 females were held on death row.

A few months earlier, official documents showed that in the Punjab, there were 53,053 prisoners in 30 jails against a capacity for 17,637. In Sindh, there were 20,518 prisoners in 19 jails against a capacity for 9,261. In the NWFP, there were 9,728 prisoners in 22 jails against a capacity for 8,082 and in Balochistan, there were 2,895 prisoners in 10 jails against a capacity for 1,845.

In June, the Karachi Central Prison with a capacity for 999 prisoners held over 5,600. Women prisoners, packed into congested barracks at many male jails, were frequently the worst sufferers of such over-crowding.



The lack of access to jails for citizens contributed to worsening conditions of detention.

Women prisoners, packed into congested barracks at many male jails, were frequently the worst sufferers of such over-crowding.

While over-crowding imposed immense hardships on prisoners, the dilapidated state of jails also took a heavy toll. The roof of a barracks in the Dadu jail collapsed

in February killing one prisoner and injuring 44 others. While 150 prisoners were shifted to a new jail, the rest remained in the prison, which was reported to be in danger of collapse. In March, the boundary wall of a newly constructed central jail in Vehari collapsed, reportedly due to the use of substandard building materials.

The barracks of Camp Jail Lahore were reported to be in an extremely poor state. Early in the year, the prison housed 2,500 prisoners against a capacity for 1,000, while inadequate sanitation and a dirty water tank contributed to rampaging disease. It was alleged power to some barracks was cut, and instead provided to the houses of jail officials.

Conditions at judicial lockups at courts were often even grimmer. In February, 85 prisoners from various police stations brought for court proceedings in Dera Ghazi Khan, refused to enter the lockup to protest the dilapidated condition of the building. The Shikarpur judicial lockup was also reported to be in extremely poor condition. Some of the cells in the lockup were lodging up to 60 men, making it difficult for them to lie down.

The 141 year old jail building at Sialkot was declared dangerous. The 2,600 prisoners housed at the jail, against a capacity of 662, however remained there with no apparent progress on constructing a new jail promised by authorities.

A detailed report on conditions at Sheikhpura District Jail, published in January, stated prisoners were housed in unhygienic cells. Hot water was frequently unavailable; food served unhygienic and inadequate while relatives visiting prisoners were often maltreated by jail staff. Other reports from across the country indicated the circumstances of detention were as unpleasant for thousands of other prisoners.

Reports of corruption at jails were frequent. It was alleged that staff at Kot Lakhpat Jail in Lahore accepted bribes to shift prisoners to hospital. In other prisons, bribes were sought for hot water or better food.

The large number of under-trial prisoners, who often remained in prisons for long periods due to the slow judicial process, contributed immensely to the problem of over-crowding.

### **Violence in jails**

Unsurprisingly, given the situation in jails, prisoners repeatedly staged protests to draw attention to their situation, resulting in clashes with police and jail staff.

Some of the worst violence was seen at Sukkur Jail. An HRCP team, visiting the prison, noted that conditions of detention were extremely poor, while the jail administration itself seemed to be intimidated by gangs of prisoners. Many prisoners had access to mobile phones and appeared to dictate their own terms of imprisonment.

In May, prisoners at the jail rioted, took ten jail officials hostage and took over

control of the jail. Police opened fire on them, as they apparently attempted to break down a wall

In the violent clash that followed, one prisoner was killed and 35 injured. Police gained control over the jail only after ten-hours of violence. The ten hostages were freed after senior police officials successfully negotiated their release with prisoners. Prisoners demanded the sacking of the jail superintendent and other members of staff, claiming that jail staff had seized Rs 15 million from prisoners during two search operations. It was unclear how or why this cash was present within the jail premises. Prisoners also alleged jail staff took bribes to allow relatives to meet prisoners, and that they had been subjected to frequent torture by staff over the past five years.

An inquiry into the incident was ordered immediately afterwards. The inquiry team led by the Sukkur Deputy Inspector General (DIG) of Prisons, completed its report in May, and focussed on cash and valuables snatched from prisoners during search operations. Two jail officials were dismissed.

There had also been reports of clashes between gangs of prisoners at Sukkur Jail. A few days before prison staff were taken hostage, a clash had broken out between two groups of prisoners over the keeping of a boy in one of the barracks. Prisoners attacked each other with iron rods, sticks and stones, with the jail administration calling in the Frontier Corps and police to control the situation. 25 prisoners were injured in the two-hour long clash. Mobile phones, knives, clubs and other banned items were found during a subsequent search of barracks.

In August, amid renewed tensions at the troubled jail, some 1,000 prisoners took 22 staff members hostage, after accusing them of not returning items taken during searches. Additional police was called into the jail, and the situation temporarily calmed after talks between senior jail staff and the prisoners.

In February, the deputy superintendent of Bahawalpur Jail was attacked by a murder convict while inspecting the prison. The incident took place amid unrest among prisoners that had started when authorities had a few weeks earlier shifted several prisoners to Multan Jail. Prisoners who protested the shift were allegedly tortured. After the attack on the deputy superintendent, jail staff baton-charged them, with prisoners retaliating. The unrest was brought under control only after considerable violence. A few days later, prisoners on death row again attacked jail officials, and were reportedly locked in 'punishment cells'.

In March, a group of around 180 Pakistanis, released over previous months from Guantanamo Bay and Afghan Jails, took the jail superintendent and several members of jail staff at Adiala Jail hostage. They demanded their release and claimed they had been illegally held for months. The situation was controlled after jail authorities assured them cases for their release had been forwarded. Many of the prisoners were reportedly

freed in the weeks after the incident.

In May, condemned prisoners at Sargodha Jail held the entire staff hostage, using arms. Around two dozen members of the jail staff and inmates were injured as staff attempted to break away. The Inspector General of Police, Punjab, suspended 22 security guards and two assistant superintendents, after an inquiry held them responsible for providing inmates with weapons.

Officials of Camp Jail in Lahore were briefly taken hostage by two armed prisoners in June. The prisoners were allegedly protesting conditions of detention. An inquiry was ordered into the presence of arms in the jail.

There were other reports through the year of clashes between rival gangs of prisoners within jails. In such clashes early in the year, three prisoners were injured in Sukkur and six in Jhang district Jail.

In March, murder convict Ghulam Abbas killed fellow prisoner, Abdur Rehman in Sargodha Jail, by hitting him with an iron pipe. In April, Lahore Camp Jail authorities reported prisoner Zahir Ali had been killed by murder accused Manzoor, who attacked him with a brick. Serious injuries were suffered by prisoners in at least two other incidents, following clashes between prisoners.

Despite the repeated unrest at jails, there was no apparent effort to improve the conditions of detention, which in most cases lay at the root of the episodes of violence. Widespread drug peddling and sodomy continued in jails. In Jhang Jail, in June, two groups known to be dealing in drugs within the jail clashed, with over a dozen suffering injuries as a result of the violence.

### **Torture and maltreatment**

The use of torture, and the maltreatment of prisoners within jails, was believed to be endemic across the country. However, with the curtain of secrecy thrown around jails thicker than ever before, it was believed many of these cases went unreported. It was also noted that in many cases, prisoners who rioted did so as a desperate effort to draw attention to the widespread use of torture and violations of rules.

Some of the cases of torture that surfaced during the year were as follows:

- ◆ In January, Shoaib Khan died under mysterious circumstances at the Karachi Central Prison. His family members expressed apprehensions that he was poisoned to death either by fellow prisoners or jail staff
- ◆ One of the alleged militants repatriated from Guantanamo Bay was found dead at Adiala Jail in Rawalpindi in January. Fellow prisoners staged a hunger-strike alleging brutality, torture and illegal detention. [*See also section on Violence in Jails*].
- ◆ Muhammad Yaqoob, a condemned prisoner at the Sahiwal Central Jail, was reported in January to have staged a protest against substandard food by banging his



Many torture victims received no medical treatment.

head against a wall and refusing to eat. He was allegedly beaten and tortured by jail staff, and died as a result. A charge of attempted suicide was filed against him. Press reports stated another mysterious death had taken place at the jail within the same week.

◆ Due to police torture and denial of medical treatment, a prisoner at the Lahore Camp Jail was reported in

February to have gone into coma.

◆ In March, two condemned prisoners at Mianwali district jail went on hunger strike against torture and maltreatment by jail staff.

◆ Reports of the torture of two prisoners at the Kasur district jail were taken note of by Chief Secretary Kamran Rasool in April, and an inquiry ordered against the accused.

◆ It was reported in April that Zulfiqar, a prisoner at Adiala Jail in Rawalpindi, had committed suicide by strangling himself. Relatives of the victim, however, alleged he was tortured to death by the jail administration.

◆ Activists of the Shahab-i-Milli organization staged a protest in May in Nowshera against the alleged physical and mental torture of an accused at the district jail. They claimed that the torture inflicted had maimed the victim and affected his mental health.

◆ In July, Muhammad Hussain Sabir, accused in a kidnapping case, told a civil judge in Vehari that policemen had stitched together his lips, to punish him for a verbal clash with a constable, while he was being held in the judicial lock-up. The jail doctor who undid the stitches reported serious injuries. An inquiry was ordered into the incident.

### **Health and welfare of prisons**

The health of prisoners at jails across the country remained at peril due to inadequate facilities to cater to their needs and unhygienic living conditions.

Early in the year, multiple vacancies for senior doctors were reported to have

remained unfilled for months or even years in many Punjab jail hospitals. Media reports in June stated that 11 prisoners had died within two months due to shortages of medicines in various Punjab jails.

A team from the Society for the Protection of the Rights of the Child (SPARC) and the Pakistan Medical and Dental Council (PMDC) that visited the over populated Central Jail, Peshawar, in May, found scabies and chest-related diseases to be prevalent among detainees.

A detailed Press report in May found that no medications were available for prisoners in many Punjab jails. The medications available were sold by the officers. It was reported that cases of death and serious illness had risen among prisoners due to this situation. The provincial chief minister in April allocated funds for the purchase of drugs.

In Kot Lakhpat Jail, Lahore, three deaths were reported over a period of two months in May. Hepatitis A and B was found to be prevalent amongst prisoners, mainly due to the provision of unsafe water. There were many cases of skin diseases, diabetes and heart problems at the jail.

The rate of drug addiction and mental illness among prisoners was believed to be high.

No rehabilitation programmes for addicts existed within jails, with addicts in most cases treated as criminals. The easy availability of drugs within jails aggravated the situation. Many became addicted after being jailed. In some cases, the operations of drug mafias within jails resulted in incidents of violence and threatened the safety of inmates. Both prisoners and jail staff were thought to be involved in drug running. *[See also section on Violence in Jails].*

Prisoners suffering mental illnesses were detained at almost every large jail in the country. At Kot Lakhpat Jail, it was reported they were kept in separate barracks, where conditions of over-crowding and hygiene were especially grim. No treatment for their condition was provided. A number had developed mental ill-health after being kept in jails.

Early in the year, it was reported that some of the detainees repatriated from Guantanamo Bay had developed serious psychological disorders during detention in Cuba. No expert help was offered to them at Adiala Jail where they were detained. The refusal to allow families to meet aggravated their suffering.

### **Escapes from custody**

In a number of cases of escape from custody that took place during the year, officials on duty were found to have acted in connivance with the prisoners. In other cases, gross negligence of duty was reported. At least 18 prisoners escaped during the

year. Some of the cases reported were as follows:

- ◆ Six under-trial prisoners escaped from the judicial lock-up in Swabi in March after drilling a hole through the wall. Authorities suspended five policemen who were on duty at the time.
- ◆ Seven prisoners accused of heinous crimes escaped from Mach Central prison in April. At least a dozen Balochistan Reserve Police personnel were posted around the boundary wall of the jail at the time of the escape. Seven staff members, including six guards on duty at the time were suspended.
- ◆ A prisoner convicted in a dacoity case escaped from Kot Lakhpat Jail, Lahore, in April while working under the supervision of the warden.
- ◆ The Bahawalpur Central Jail Superintendent suspended two staff members in April for setting free a murderer facing imprisonment of 14 years. It was reported the convict had either conned staff or bribed them heavily.
- ◆ An accused being brought from Samasatta to Bahawalpur by train managed to escape with the help of his brother in May. The head constable and constable accompanying him were arrested.
- ◆ A guard of the tribal security force escaped from the lockup in Jandola, in South Waziristan, in June after being held for the assassination of former federal minister Malik Faridullah Khan Wazir. Two other guards were arrested for their possible role in aiding the jail break.
- ◆ Six policemen were arrested after an under-trial prisoner, Mohammad Aslam Chandio, escaped from their custody in Ratodero in June while being brought from the Larkana Central Prison.

### **Political prisoners**

Most political prisoners taken into custody during the year were persons arrested after various rallies, as a part of measures intended to prevent assembly. *[See also chapter on Freedom of Assembly].*

The largest round-up of political activists came in April, as Pakistan Peoples Party (PPP) leader and spouse of party chairperson Benazir Bhutto, Asif Ali Zardari, returned home to the country after a stay in Dubai. *[See Chapter on Political Participation].*

Many leaders and activists held during the year complained that they were kept in prison far beyond the 90-day period laid down under Maintenance of Public Order (MPO) regulations.

Pakistan Muslim League-Nawaz (PML-N) acting President Javed Hashmi, sentenced to 23 years imprisonment in April 2004 by an Islamabad district and sessions court after being found guilty of sedition and incitement to mutiny, remained behind bars. His

party, and many neutral political observers, held the harsh sentence was politically motivated. Hashmi's appeal against the sentence remained pending.

PPP leader Yusuf Raza Gillani sentenced to ten years in jail on corruption charges and former party MPA Peer Mukkaram, also jailed for corruption, remained in detention. The PPP held that the detentions were politically motivated.

An MNA linked to the Muttahida Majlis-e-Amal (MMA) was among at least a dozen activists of the religious alliance arrested in Gujranwala in April after disrupting a marathon race in which women were also participating. Some of those held were charged under anti-terrorism laws. Dozens of other political workers, rights activists, journalists and other citizens were detained during the year, from periods ranging from a few hours to several weeks, after attempting to participate in public gatherings. *[See also chapters on Freedom of Assembly, Women and Political Participation].*

### **Illegal detentions, imprisonment of militants and 'disappearances'**

The number of alleged militants in jails was unknown. Estimates varied from a few dozen to several hundred.

Meanwhile, concern across the country grew about the number of 'missing' or 'disappeared' people, in most cases alleged militants who appeared to have vanished without a trace, apparently after 'abductions' by persons thought to be linked to State agencies. Others remained detained, their families unaware of where they were being held and why.

Some information reaching HRCP suggested that, in Punjab jails, several dozen suspected militants, handed back from Afghanistan over the past few years, remained imprisoned, even after the interior ministry in May ordered provincial governments to release and rehabilitate all such detainees. A large number were set free from jails in the NWFP and Punjab after this. It was reported many who continued to be held had not been charged with any crime. Their families had also apparently not been informed of where they were being held or even that they had been returned to the country alive.

At the start of the year, 34 former Guantanamo Bay detainees who had been shifted to the Adiala Jail remained confined there without being charged or produced in court. The detainees, in January, staged a hunger-strike against their illegal detention. The interior ministry ordered their release in May, along with other militants. There was some uncertainty into August as to whether all had been set free. *[See also section on Violence in Jails].*

Through the year, HRCP stressed the need to put in place a programme to rehabilitate the many young militants in the country. Whereas the interior minister had in the middle of the year requested provincial governments to make suggestions in this regard, there was no planned scheme to re-train the men as useful citizens. Many had in past



years been trained as militants with the backing of the government. More persons, described by authorities as militants, were rounded up and jailed by authorities at various times during the year – most notably after a series of bomb attacks in London in July.

Two young women, Arifa and Saba Baloch, daughters of senior banker Sher Baloch from Karachi, were according to Press reports arrested in June in Swat. They were accused of being potential ‘suicide bombers’, and initial reports stated they had been charged under anti-terrorism laws. Media accounts suggested the girls had been influenced and trained by a maternal uncle, Gul Hassan, who was apparently linked to the banned sectarian outfit, the Lashkar-e-Jhangvi and had been sentenced to death for involvement in multiple murders. The parents of the missing girls alleged he had named them as potential bombers, to extract revenge on the family, with whom he had various differences.

The case acquired still more mysterious dimensions after a habeas corpus writ petition, filed in the Peshawar High Court for the production of the sisters was withdrawn.

The Federal Interior Ministry and provincial government expressed ignorance as to whereabouts of the girls. The court had ordered two petitions in the case to be heard together. One was filed



Where is their father?

by the father of the missing girls, Sher Baloch, who denied they were terrorists. The other was filed by Hameed Khan, who claimed his son, Bilal, had married one of the girls – Arifa – apparently in secrecy. The girl’s father, Sher Baloch, stated he knew nothing of this marriage. Some Press accounts stated Arifa was accompanied by an infant when she was arrested.

HRCP had received complaints from relatives of the girls soon after their arrest that they were being tortured and not permitted to meet family or lawyers. A request

sent by HRCP to the interior minister on June 21<sup>st</sup>, requesting permission for civil society representatives to meet the two young women, met with no response.

Early in the year it was officially confirmed that Tanzanian national Ahmed Khalfan Ghailani, arrested at a house in Gujrat in July 2004 along with 13 other foreigners, after a shoot-out lasting many hours, had been handed over to US authorities. Ghailani was wanted by the US for his alleged involvement in the bombing of US embassies in East Africa. It was unclear when the hand over took place or under what law. The fate of the other alleged militants, Ghailani's Uzbek wife, and several other women and children held at the house, remained unknown. The same was true of other women and children reportedly found alongside alleged local and foreign militants over the past three years.

In January, it was reported that two Pakistani born South African nationals, Dr Feroze Abu Bakar Gani and his father Zubair Ismail, arrested in the same raid in Gujrat and apparently accused of anti-state activities during the military operation in Wana in June 2004, remained in custody at an unknown place. A petition was filed by Safia Bibi, wife of Dr. Feroze, maintaining that her husband and father-in-law had no involvement with any terrorist or religious organization.

An alleged al-Qaida leader, Abu Faraj al-Libby, a Libyan national, was arrested in the Mardan district of the NWFP early in May 2005. He was handed over to the US within weeks, again with no apparent legal formalities completed. In June, President Pervez Musharraf told CNN during an interview he did not know where al-Libby was but believed he had been deported.

Two Karachi-based brothers, Zain and Kashan Afzal, both US nationals of Pakistani origin, were, according to an investigation carried out by the New York-based watchdog body, Human Rights Watch (HRW), abducted from their Karachi home, allegedly by agency personnel. They were returned in April 2005. The two young men, in detailed interviews conducted by HRW after their release, maintained they were illegally held at various centres in the country, and repeatedly tortured by Pakistani agency personnel. They were also interrogated by US Federal Bureau of Investigations (FBI) personnel. They were not produced in court at any time during their detention or allowed any contact with relatives or lawyers.

There was no trace of the US-trained neurological scientist, Dr Aafia Siddiqui, who reportedly had been 'picked up' in Karachi in 2002, apparently along with three small children.

Eight prisoners held in South Waziristan by the political administration observed a hunger strike in June, and told journalists that their bails against security of Rs 3,000,000 had been accepted but still they had not been released from jail even three weeks later.

Two activists of the banned Sipah-e-Sahaba Pakistan (SSP), meanwhile, were reportedly held in shackles in the Lahore Camp Jail for a prolonged period, as they

were considered dangerous.

Aside from suspected militants, many prisoners jailed for other offences were illegally held. Some of the cases reported were as follows:

- ◆ Afzal Haider, who spent 17 years in Karachi Central Jail in Karachi without being convicted, was finally released January after being acquitted of the charges against him.

- ◆ Similarly, Azizullah was released in March from Quetta, on the orders of the



Separated by steel bars.

Peshawar High Court (PHC) after spending nine years in prison without having committed any crime. While he claimed he was a Pakistani national, he had initially been sentenced to six months under the Foreigners Act and ended up in prison for far longer than this period, apparently due to oversight by jail authorities

- ◆ It was reported in February that Abid Mahmood remained in prison at Gujranwala even though he had been acquitted in a murder case by the Lahore High Court (LHC) seven years previously.

- ◆ Prisoners at the Khairpur Central Jail informed the District Nazim in June that their cases had not been heard for seven to eight years and they had remained in jail for a long period without being convicted. Similar cases were reported from jails across the country.

- ◆ Three victims of the Frontier Crimes Regulation Act (FCR) went on hunger strike at Dera Ismail Khan Jail in May in protest against the alleged refusal of the political administration of South Waziristan Agency to release them despite completion of their sentences.

### **Women and juveniles in jails**

According to official figures August, there were 1,323 women and 2,335 juveniles in jails across the country.

This represented an improvement on the situation in 2004, when nearly 3,000

women were detained. Remissions granted to elderly women prisoners and those accused of petty offences over the past year had helped bring down the numbers.

The juvenile prisoners remained behind bars despite provisions of the Juvenile Justice Systems Ordinance (JJSO) of 2000. In February, the Supreme Court, hearing two petitions filed by the federation and the child right's NGO, SPARC, suspended the Lahore High Court's (LHC) judgment of December 2004, striking down the JJSO. The apex court noted the LHC verdict, widely criticized by right's activists as it restored the death penalty for juveniles and cancelled provisions under the JJSO that made bail and probation easier for them, would remain suspended till further orders.

Six female juveniles were among those held.

Over-crowding remained a major problem for women prisoners, with the establishment of a separate jail for women in Hyderabad, adding to the ones existing in Karachi and Multan, offering only marginal relief. Most women were imprisoned in separate barracks within male jails. There were complaints of sexual harassment both by jailed women and children.

In the NWFP, the lack of a separate jail meant at least 335 female prisoners served terms in the 22 male jails in the province. Only 95 among them had been convicted. 74 children were jailed with the women, 46 of them born within jail. It was reported at the Peshawar Central Jail that women being taken to courts had to make their way through male barracks.

In March, the women's barracks at Adiala Jail were reported to be housing 159 women and 26 children against the capacity of 50. At Karachi Central Jail at least 262 women, along with 40 children were kept against the capacity of 105. In Multan there were 273 prisoners housed against a capacity of 104.

Unofficial statistics by NGOs in March stated that of the female prisoners held in 30 different jails in the Punjab after being prosecuted for different crimes. 28 had been awarded death sentences. 278 of the women were categorized as youthful offenders and four as juveniles. The federal and Punjab governments had repeatedly stated in previous years female juveniles would not be held in jails.

The Hudood laws remained in place, with at least 80 percent of all women in jail held under these ordinances. The largest number faced charges of adultery.

Women prisoners at Kot Lakhpat Jail in Lahore, Multan Women's Jail and Gujranwala Jail complained of sexual harassment by male prison staff. Press reports in the middle of the year stated 24 children had been born to women in jails, with the women becoming pregnant after their detention began.

In the Adiala jail, 28 prisoners including seven female foreign prisoners were reported to have been tortured in March. Three female foreigners complained of rape by the jail

staff.

During the previous 12 months, 124 juveniles and 16 women were released on probation.

However, no women prisoners were released on probation in the NWFP because women probation officers had not been recruited by the provincial government. According to rules, no female prisoner could be supervised by a male probation officer.

In June, Amnesty International (AI) expressed concern over the safety of two juvenile death convicts who were being held in an adult prison in Mach Jail in Balochistan, where they faced the risk of abuse, including sexual assault, torture and other ill treatment at the hands of fellow prisoners and officials. Offenders, Ziauddin, 15, and Abdul Qadir, also under-18, had been awarded death sentences, despite the provisions of the JJSO and Pakistan's commitment to international covenants, including the UN Convention on the Rights of the Child (CRC). AI further reported that though court documents clearly recorded both as minors at the time of their arrest, they were not tried in a juvenile court, but in an anti-terrorism court. Furthermore, both were being held in the heavily crowded and under-staffed Mach prison, along with some 68 other prisoners facing the death penalty.

In July, an under-trial prisoner, Inran, 17, held in the juvenile section of Karachi Central Jail, died after he was attacked with sticks by other inmates.

Rampant sodomy at jails presented a particular threat to juveniles, especially in cases where they were held alongside adults.

### **Relief measures**

Remissions in sentences for prisoners held for minor offences and those unable to pay their fines, remained the major form of relief offered.

At least 352 inmates unable to pay fines were freed during the year from Lahore Camp Jail, 61 from Gujranwala Jail and at least a dozen others from other jails in the Punjab. At least 525 other prisoners were released from Lahore jails on *Eid* and other major holidays.

During the year, at least 1,000 prisoners were released from jails in Sindh on payment of surety money by philanthropists. The Sindh government was reported to be making separate barracks for prisoners suffering mental ill-health or disability, also with the cooperation of philanthropists.

Sessions judges, during visits to Punjab jails through the year, ordered the release of those held for petty offences. Those freed included 408 from the Lahore Central Jail, 24 from the Bahawalpur Jail, 145 from Gujranwala, Jail and 92 from Kasur Central Jail.

In April, a two month remission in sentence was announced for all prisoners in

Central Jail Peshawar. Around 70 prisoners immediately benefited from this. The remission came after the Chief Justice of the PHC paid a visit to the jail. He also directed the jail authorities to forward a list of convicted prisoners whose appeals had not been taken up for over two years, and under trial prisoners who had been in prison for over a year.

The Federal Shariat Court amended existing prison rules by fixing a period of seven days for the filing of appeals by convicts. It ordered that the jail superintendent must inform a convict, after he or she arrived in the jail, about the right to appeal.

To provide prisoners their conjugal rights, the NWFP government allowed male prisoners who had served over five year to keep their wives with them in jail thrice a year. The same facility was to be provided to females as well. 20 private quarters for such couples were being built in provincial prisons, according to press reports..

In February, the Chairman of Senate Functional Committee on Human Rights constituted four subcommittees, one for each province, to submit recommendations for amendments in the jail rules after reviewing existing conditions. During the same month, the Supreme Court formed a judicial committee, consisting of the attorney general of Pakistan and the advocate generals of all four provinces, to formulate recommendations for improving jail conditions. The SC also sought complete data on prisoners held in jails across the country and stated it planned to resume its past practice of taking *suo moto* notice of the use of bar-fetters in prisons.

Recommendations on improving jail conditions, made by committees set up in previous years, remained unimplemented.

The Punjab government increased the Punjab prisons budget by Rs 190 million in April and ordered better food and required medications be provided to prisoners,

Both the Punjab and N W F P governments, during the year, announced plans



Different cultures, but the same detention conditions.

to provide vocational training to prisoners.

The Punjab also announced plans to construct new jails in Lodhran, Khanewal, Hafizabad and Khushab districts, with a allocation made for this in the annual budget.

### **Foreigners in jail**

According to official figures in August, 1,632 foreign male and 129 female prisoners were held at jails across the country. Most were charged with violations of the Foreigner's Act or of drug-related charges.

The harassment of foreign nationals increased in the country, with authorities taking Afghan, Bangladeshi, Nigerian and Uzbek nationals into custody on several occasions during the year, allegedly for militant activities. Foreign nationals detained in the northern areas were reported to have been deported to their home countries.

In other cases, foreigners faced detention for lacking valid travel documents. Nigerians, Iranians, Lebanese and Bangladeshi nationals were among those held at jails. In March it was reported that 50 nationals from nine countries remained in Adiala Jail despite having completed their terms. Most of them lacked money to return home, with their missions reluctant to help or unwilling to confirm nationality.

A Rawalpindi-based human rights organization stated in March that 24 Bangladeshis, including 11 women, three Lebanese, six Nigerians, three Iranians, four Indians and one prisoner each from Saudi Arabia, Kenya and Burma remained at Adiala Jail after completing their terms. More than 157 foreigners belonging to Sudan, Angola, Kenya, Germany, Iran, Romania, India, Burma, Afghanistan, Tanzania, Lebanon and Bangladesh were among those held at the jail. 53 had been convicted while the rest awaited trial.

The Anti-Narcotics Force (ANF) detained several foreigners mainly from African countries on the charges of smuggling. There were around 25 foreign women prisoners facing trial for drug trafficking in Karachi prison alone, in addition to 65 already convicted.

Three African women with their newborns were finally released in May, having completed their prison terms in 2004.

An elderly Palestinian who was arrested in the tribal areas under section 14 of the Foreigners Act and section 40 of the Frontier Crimes Regulations (FCR) for illegal stay a few years ago was released and deported along with 11 other such detainees. Six Afghan clerics were also released in June after three years of imprisonment under the FCR.

An Iranian couple reportedly remained behind bars in Karachi despite having served their sentence for illegal entry into the country.

The Supreme Court directed the government in February to submit comments on the detention, even after the completion of his sentence, of a Palestinian involved in the 1986 hijacking of a Pan Am airliner. Despite having completed his term in 2001, he had

been kept imprisoned along with three other men held in the same case, who also said they were Palestinians. The interior ministry stated that the Palestine authority had refused to confirm their nationality and no country was willing to accept them. They lacked necessary papers to remain in the country.

### **Detained Indians and Pakistanis**

More attention than in previous years was directed towards the issue of Indians and Pakistanis held in each other's countries. Talks on the exchange of prisoners, and the process of confirming their identity continued through much of 2005.

[In September, the biggest exchange of civilian prisoners between the countries took place at the Wagah border as 587 prisoners who had completed their sentences were returned. Pakistan handed back 435 prisoners, including 371 fishermen, while India handed over 152 Pakistani prisoners].

Sarabjit Singh, or Manjit Singh as his family in the village of Khaira, just across the border in the Indian Punjab called him, became the country's best known Indian prisoner, after the Supreme Court upheld a death sentence awarded to him for his alleged involvement in bomb attacks in Lahore and other cities in 1990. *[Sarabjit's appeal against the sentence was rejected by the SC in September].*

The family of the prisoner, held at Kot Lakhpat Jail in Lahore, maintained the sentence was a result of mistaken identity. They stated that the detained man was really Manjit Singh, who had accidentally strayed across the border by accident. Amid public protests and a media outcry in India, the prisoner's daughters and wife



While some prisoners returned, others from Pakistan and India remained behind bars in each others' countries.

threatened to commit suicide if the death sentence was not commuted. Pakistani officials held the man was an agent for Indian agencies, and had been responsible for multiple terrorist attacks. They also claimed he had confessed to his crimes. Consular access to



the prisoner was granted by Pakistan to Indian High Commission officials at the end of August, for the first time in 16 years, as the debate in both countries accelerated.

While some Indians and Pakistanis were released from jails in each other's countries, scores of fishermen continued to be detained on both sides of the border. In most cases they had accidentally strayed into waters of the other country.

In May, it was reported that at least 1,251 Indians were present in jails in Pakistan. This exceeded previous estimates regarding the number of jailed Indians. The interior ministry had ordered all four provinces to provide details of detained Indian nationals.

An official report in February disclosed that at least 182 Indian prisoners including five women were being held in Pakistani jails on 'unknown charges' since 1971. Many of them were reported to be suffering from loss of memory and depression. Out of these 182 prisoners, 30 were Muslims, six Christians and the remaining Hindus or Sikhs.

In March, President Musharraf ordered the release of 83 Indians who had either completed their sentence or were in prison as a result of exploitation by travel agents who made their illegal entry into Pakistan possible. Another 31 were to be released from Quetta district jail in March.

Reports during the year in the Indian press stated that 54 Indian defence personnel had remained in prisons in Pakistan for the last 33 years as Prisoners of War (PoWs). An official of the Missing Personnel Relatives Association in India said that after the Simla Agreement of 1972, 93,000 Pakistani PoW's were returned but only 617 Indian PoW's were handed over by Pakistan.

Over 1,500 fisherfolk, held in 2004 and 2005, were returned to India. Reports of more arrests however continued to pour in through the year. 101 fisherfolk were detained in February, 15 in March and 36 in April. Several dozen Pakistani fisherfolk were also released by India after being detained for several months.

In August, the Pakistan Foreign Office confirmed there were at least 611 Pakistani nationals in Indian jails. It also stated that of these, the nationality of 173 had been confirmed. The Foreign Office blamed the interior ministry for the delay in confirming the nationality of the others, and stated this was holding up efforts to arrange for them to be handed back. Indian authorities were reported to have granted consular access to 389 of the detained Pakistanis.

Pakistani authorities, during the middle of the year were also stated to be attempting to locate the families of five Pakistani prisoners in India who had become mentally impaired or were deaf and dumb, so that they could be identified and returned home.

It was reported in August that Ruby, a Pakistani national detained at Tihar Jail in India for several years along with a small child, could not be handed back to Pakistani

authorities as they had failed to confirm her identity.

The detention of Pakistani who had accidentally crossed the border was also reported. However, in several cases, Indians and Pakistani guilty of such transgressions were swiftly returned.

### **Pakistanis in foreign jails**

The Pakistan Embassy in Kabul believed at least 49 Pakistanis remained in Afghan jails. Others were thought to be held at prisons in the country run by private warlords.

It was also reported that eight Pakistanis arrested in Afghanistan had been handed over to the US, though this was not officially confirmed.

Eight Pakistani prisoners were released from Shiberghan jail in northern Afghanistan in February, allegedly after paying three million rupees as bribes. Officials of a banned extremist organization said the freed men were suffering from various diseases due to poor conditions in jail.

In March, Afghanistan authorities announced that almost all Pakistani prisoners had been set free. Other reports said more than 200 Pakistanis were still in the custody of Afghan warlords.

29 Pakistanis were among the 211 people freed from the Guantanamo Bay detention centre by March. Three more were released in April.

Hundreds of Pakistanis were believed to be in jails in the Middle East, Far East Asia, Africa, Europe and the US, in a large number of cases after illegal entry or work without authorization.

A foreign office report tabled before the Senate in February stated that 2,768 Pakistanis had been jailed in five Muslim countries on charges of illegal entry within the last eightths. Of these over 2,000 were jailed in Saudi Arabia, 383 in Oman, 123 in Kuwait and one in Bahrain.

In April, Christian rights organizations in the country called on the Foreign Ministry to seek the immediate release of 40 Pakistani Christians detained by the Saudi authorities for holding a religious ceremony at a private home in Riyadh. It was reported the Christians had been detained under laws that barred the practice of any religion other than Islam. HRCF wrote to the Foreign Ministry to urge action in the matter. The arrested Christians were stated to have been released in May.

According to information provided by Turkish and Iranian authorities to the government of Pakistan in February, 145 Pakistanis were imprisoned in Turkey while 94 were held in Iran. Other Pakistanis were detained in Russia, Spain and other European countries, apparently for illegal entry. In June, the federal cabinet directed the Foreign Ministry to obtain details of Pakistanis imprisoned abroad through diplomatic channels

so that actions could be taken for their release.

Thousands of Pakistani job seekers were deported during the year, often after being jailed in other countries. *[See also chapter on Labour].*

Families of Pakistanis detained in Far East Asia countries and Saudi Arabia complained they were often treated extremely brutally in jails, with Pakistan embassy staff failing to offer any assistance or support.

### **Prisoners on death row**

During the year, 7,213 males and 33 females remained on death row in jails across the country. The largest number, over 5,000, was held in the Punjab.

With executions each year far fewer than the death sentences awarded, the death row population continued to grow. In some cases, up to 12 inmates had been kept, sometimes for years, in death cells that measured on average 12X9 feet, and were intended to detain a single prisoner.

At least two cases were reported from the Punjab in which relatives of condemned prisoners had kidnapped either the complainant or close family members, and threatened them with death if the death sentence was carried out. The execution of Muhammad Arshad at Gujranwala was delayed in May after relatives allegedly kidnapped the complainant in the murder case against him.

### **Recommendations**

1. *Citizens must be allowed access to jails. The bar on visits by activists, journalists and lawyers has contributed to worsening conditions in jails while the increased secrecy regarding those detained can only aggravate this situation. Regular visits to prisons by committees including eminent jurists and other citizens, as well as committees appointed by the government, must be carried out. The access of journalists to jails must be permitted.*

2. *The new trend of 'disappearances' of persons accused of militancy, and the secrecy surrounding their detention and investigation is extremely disturbing. Those guilty of involvement in illegal detention, including that of alleged militants, must be punished under the law. Prison staff who hold prisoners after the completion of their sentences and violations of court orders regarding illegal detentions must not go unpunished.*

3. *Overcrowding in jails is contributing greatly to the dismal conditions within them. Changes in laws and their implementation are required to discourage police from placing those guilty of minor offences behind bars. Community-based restraints, a parole system and other means can be strengthened as alternatives to imprisonment.*

4. *The rise in the cases of violence in jails is alarming. The root causes behind the riots reported must be identified and resolved. In many cases, the conditions of detention are factors in the rioting. Every incident of reported suicide or murder in jails needs to be impartially investigated to determine the cause of death. Police and jail staff must be trained to effectively tackle violent situations.*

5. *The rapid increase in the number of condemned convicts, often held for years in crowded death cells, must be urgently addressed. A scrapping of the death penalty would be the most effective means to achieve this.*

6. *Jail staff guilty of violating the jail manual, or of torture, extortion or other crimes, must be punished under relevant laws. A prisoner must also be informed of his or her rights and rules requiring this enforced.*

7. *The Juvenile Justice System Ordinance 2000, aimed at providing adequate protection to youthful offenders, is still to be implemented in full. The reasons for this failure need to be examined and remedied.*

8. *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. Recommendations on prison reforms made by various committees need to be implemented.*

9. *Jail staff must be trained to recognize the need to protect the basic rights of prisoners and ensure they are treated humanely and their dignity preserved. Poor pay structures, a lack of training, low social esteem, staff shortages, frequent transfers and dismal housing conditions for jail staff breed corruption and contribute to the deplorable situation in jails. The rights of jail staff should also be safeguarded*

10. *The long detention of under trial prisoners, sometimes over several years, contributes to overcrowding in jails. 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. Transport needs of prisoners required to allow them to appear in court, must be met. All prisoners remaining in jail after completing terms, simply because they are unable to pay fines, must be released.*

11. *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. 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 penalized*

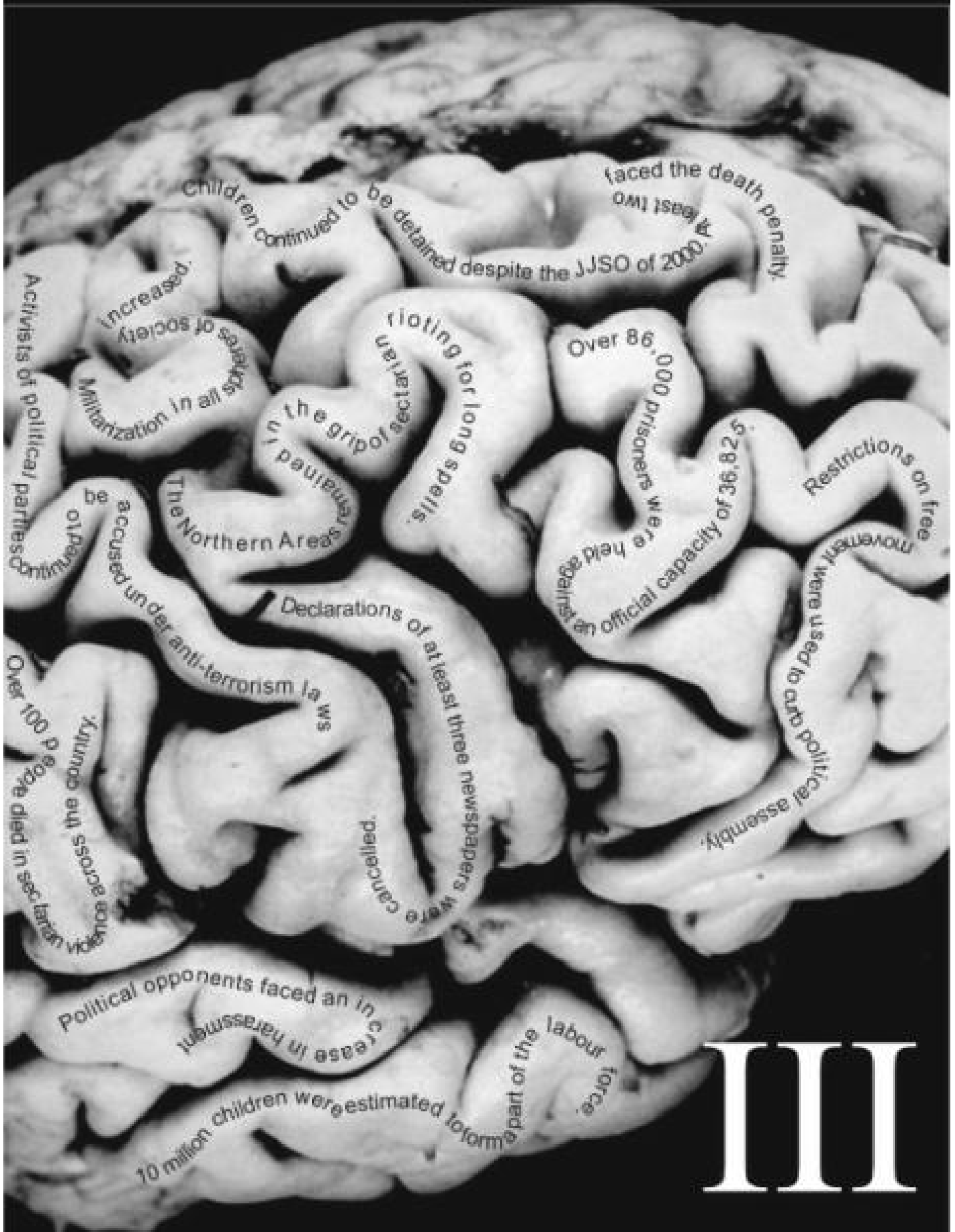
*and treated as prisoners. Educational, recreational and health facilities must be available to these children. They should be helped to spend at least some of their time outside the prisons.*

*12. Drug addicts and the mentally disordered must not be jailed but provided the expert care they require. Provincial health departments should be made responsible for the health care of prisoners. Preventive health and prompt medical care or hospitalization for prisoners who fall sick must be ensured at all jails.*

*13. While recent progress in exchanging Indian and Pakistani prisoners held in each other's country is welcome, the mechanism for identifying prisoners needs to be streamlined. The continued detention of fishermen straying outside their country's territorial waters must be stopped.*

*14. 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.*

*15. The plight both of foreigners jailed in the country and Pakistanis jailed overseas needs to be humanely addressed given the immense suffering of prisoners jailed far from home. Arrangements must be made to enable foreign nationals who have completed sentences to return to their countries.*



# III

## Fundamental freedoms

HRCP

# 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 use of the Exit Control List (ECL) to prevent movement outside the country, and the placing of restrictions on the movement of political activists, clerics and others was repeatedly seen during the year.

In May, gang-rape victim Mukhtar Mai was placed on the ECL and prevented from attending a seminar on violence against women in the US. The government action attracted media attention from around the world. Mai's movements remained under close watch in the months following this episode, even though it was officially claimed



she was free to travel anywhere in the world. [*See also Chapter on Women*].

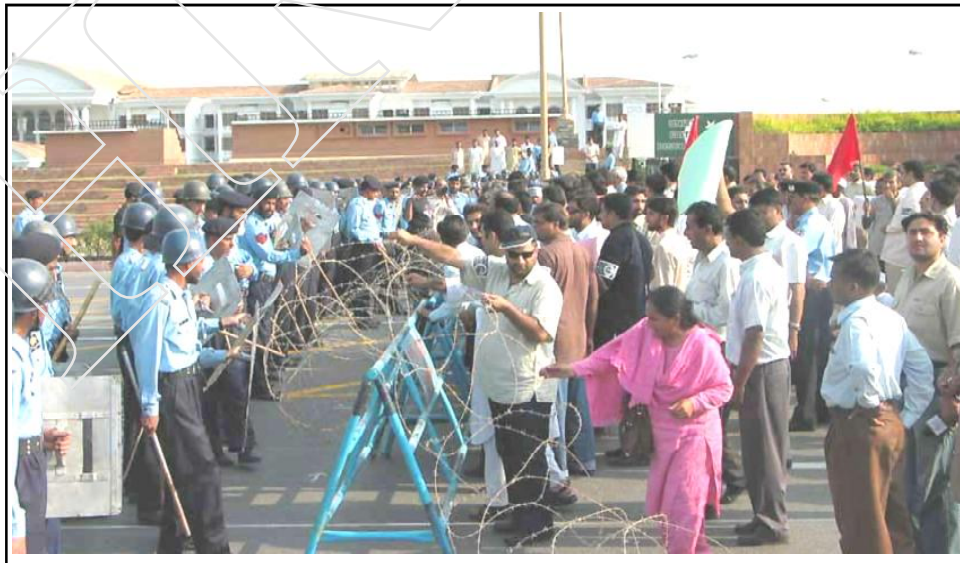
### **Movement within the country**

As in the past, religious leaders and clerics were barred from entering various parts of the country during the Muslim month of mourning, Muharram, most devoutly observed by Shias, which fell in February.

Lists of dozens of clerics, barred from entering specific districts were published. The bans ignored the fact that in many towns and villages, cassette recordings, CDs and videos of sectarian material was freely available. Laws against the incitement of hatred were not used to prevent the distribution of such material or against persons guilty of making provocative speeches.

Curbs on free movement were also used as a means to prevent assembly by political parties. In April, hundreds of workers of the Pakistan Peoples Party (PPP) planning to travel to Lahore aboard trains in order to meet party leader Asif Ali Zardari at the airport were prevented from doing so. Trains were cancelled to restrict the movement of workers from Sindh. Activists from Quetta, Peshawar, Islamabad and towns in the Punjab were also prevented from travelling to Lahore with many arrested in their home cities. [*See also Chapter on Political Participation*].

In January, around 200 supporters of the Awami National Party (ANP) were prevented from travelling to Jalalabad in Afghanistan by the Khyber Agency political



Police block a protest: Restrictions on free movement took many forms.

authorities to attend the 17<sup>th</sup> death anniversary of the party's founder Khan Abdul Ghaffar Khan, on the grounds that they lacked travel papers. ANP leaders angrily protested the restriction and maintained that, as per tradition, tribesmen could not be prevented from traveling across the Pak-Afghan border.

The Governor of the NWFP early in the year asked the administrations in tribal areas to bar entry by political leaders, including provincial ministers of the NWFP government and to place a ban on any gatherings addressed by them.

Activists, political leaders and journalists continued to be barred from visiting specific areas of the country. These included the tribal area of Waziristan, where a military operation continued through 2005 and parts of Balochistan. *[See also chapters on Freedom of Expression and Political Participation].*

### **Movement outside the country**

While Mukhtar Mai became the best-known victim of the ECL, it was noted in July that the ECL, as it appeared on a website maintained by the National Accountability Bureau (NAB), stretched to over 4,000 names. This far exceeded estimates in 2004 that the list had in fact shrunk to under 1,000. *[See also chapters on Administration of justice and Women].*

The poorly maintained list included names of persons who had in fact died, such as Riaz Basra, long the country's most wanted sectarian terrorist, who had been killed in 2002, apparently in an encounter with police. Other names were incomplete or lacked details regarding parentage, raising the potential for possible harassment of persons with similar names.

The names of six men accused of raping Mukhtaran Mai were placed on the ECL early in the year. The federal government announced they would not be removed until the Supreme Court (SC) delivered a final verdict in the case.

The names of Interior Minister Aftab Ahmed Khan Sherpao, Kashmir Affairs Minister Faisal Saleh Hayat, ruling party chief whip in the National Assembly Nasrullah Dareshak and Public Accounts Committee chairman Malik Allahyar Khan were also among the 4,227 names on the ECL as available on the NAB-maintained list. All these individuals had however been able to travel overseas in the previous few months. NAB amended the list in July to exclude these names and that of Mai.

In March, a Lahore accountability court had asked the interior ministry to place the name of Faisal Saleh Hayat, his wife and nine others named in a corruption case on the ECL. At the time, the interior ministry denied the name had been added. The accountability court also asked the ministry to place the names of all those accused in corruption cases on the list.

The name of Rabia Noor, former principal of the OPF Girls College in Islamabad

was put on the ECL in March, after accusations of corruption and wrongdoing by students and their parents.

In January the wife of an activist of the banned Tehrik-e-Hussainia moved the Lahore High Court (LHC) to allow her detained husband, Azhar Husain Naqvi, to perform Haj. The petition remained pending as the Haj pilgrimage for 2005 ended.

In July, the Sindh High Court (SHC) accepted a petition from Balochistan National Party (BNP) leader and former chief minister Muhammad Akhtar Mengal challenging the placing of his name on the ECL. Apart from Mengal, the names of other Baloch leaders hostile to the government were also reported to be on the ECL. *[Members of the Jammu and Kashmir Liberation Front (JKLF) in Azad Kashmir complained to HRC in November that the names of some activists and leaders had been placed on the ECL by the Pakistan government as a means of harassment].*

### **Curbs on entry**

The issue of the exile from the country of Pakistani citizens Nawaz and Shahbaz Sharif, and various family members, continued to come up during the year.

The Pakistan Muslim League-Nawaz (PML-N) party warned it would move a court to question the travel restriction on its leaders. In July, Main Nawaz Sharif made a request to the Pakistan consulate in Jeddah seeking a renewal of his Pakistani passport. The PML-N claimed that Nawaz, under the terms of a secret agreement reportedly reached with the government of Pakistan in 2000, was free to travel outside Saudi Arabia after completing three years in the country. The passport was not granted to Nawaz till the end of August. *[Passports, and permission to travel outside Saudi Arabia, were granted to the Sharif family in November, after the son of Nawaz Sharif fell sick and the family requested they be allowed to visit the UK for treatment.]*

### **Aliens in the country**

Foreign tourists to the country continued to be prevented from visiting most tribal areas, and also some districts in the Punjab, such as Dera Ghazi Khan, where authorities stated 'sensitive' atomic installations were located.

The National Authority for the Registration of Aliens (NARA) continued efforts to register foreign nationals present in the country. A lack of trust and a failure to inform people as to the purposes behind the registration meant many non-Pakistanis were reluctant to register.

A still more alarming dimension of this issue was the alleged refusal of officials at the National Database and Registration Authority (NADRA) to accept Bengali or Bihari

speakers as Pakistani nationals, apparently purely on the basis of their language. In July, HRCP received complaints in Karachi that the National Identity Cards (NICS) of some citizens of Bengali or Bihari origin, holding were being withheld by NADRA and passports being denied to them. HRCP contacted the Pakistani Fundamental Rights Forum which confirmed this. Offices of NADRA had not responded to HRCP queries in the matter into September.

The Paris-based media rights watchdog, Reporters Sans Frontieres (RSF) complained that foreign journalists present in Pakistan had on several occasions been prevented from entering certain areas. In August, three documentary makers were forced out of the country. [*See Chapter on Freedom of Expression*].

There were reports that obtaining visas to Pakistan for foreign journalists and rights activists had been made subject to approval by the Pakistan interior ministry. This meant long delays in the grant of visas, and in some cases, a refusal to allow entry.

In July, Indian journalist Harider Baweja of the weekly 'Tehelka' was prevented from entering the country at Lahore airport in July, despite holding a valid visa. She was told her name was on a 'blacklist' after a previous visa violation. The journalist denied ever violating visa rules, while the Pakistan foreign ministry stated she was not on any blacklist.

### ***Recommendations***

1. *The bars on the travel of political leaders and activists to other provinces, cities, towns or the tribal areas, on the grounds of preserving law and order, violate their fundamental freedoms. They also prevent exchange of views between people from various parts of the country. Such undemocratic restraints on movement must not be used to curb assembly*

2. *The policy of placing curbs on the movement of religious leaders, especially during the month of Muharram, as a means to prevent sectarian violence needs to be reviewed. 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.*

3. *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 victimization, most recently of gang-rape victim Mukhtaran Mai. 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.*

*4. 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.*

*5. Foreign nationals wishing to undertake legitimate work in the country must not be prevented from doing so..*

*6. Passports or CNICs must not be denied to citizens on the basis of arbitrary judgments regarding their nationality or for the purpose of political victimization.*

# 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)

Across the country, attacks on religious minorities increased. The attacks came in the form of 'fatwas' threatening non-Muslims with death, in the form of attacks on temples, churches and other places of worship and in the form of the increased kidnapping of members of minority communities.

Even more disturbing than the attacks themselves was the failure of authorities to act under applicable laws against the culprits. This policy spurred on further intolerance, despite official claims to the contrary, and increased feelings of insecurity among non-Muslim citizens. The material included in some text-books contributed towards the bias against religions other than Islam, while a minor amendment made in the blasphemy law late in 2004, requiring police to investigate any incident before arresting anyone for blasphemy, was frequently ignored. Minority communities remained vulnerable to charges of blasphemy, while demands from Christian leaders that charges of blasphemy also be extended to attacks on the religion or religious personalities central to faiths other than Islam went unheeded.

Social and economic discrimination continued. The Ahmadis, who faced persecution under specific laws, were the worst affected, facing multiple threats to life and property. There was also increased evidence that Ahmadis, and indeed all non-Muslims, were increasingly denied equal access to jobs and education. In more and more cases, blasphemy laws, to which members of minority communities were especially vulnerable, were used to settle property, monetary or personal disputes.

Some positive developments were seen. At the end of August, after the Chief Justice of Pakistan Justice Iftikhar Muhammad Chaudhry went on a brief overseas visit, Justice Rana Bhagwandas was sworn in as acting chief justice. He became the first Hindu and only the second non-Muslim to hold the highest judicial office in the country, even if only for a brief period. The influx of a larger number of Sikh and Hindu pilgrims from India meant greater attention was paid to renovating places holy to members of these religions. Early in the year, the Punjab government approved a plan to allocate land for Hindu funerals in Lahore and allocated funds to renovate the Krishna Mandir temple belonging to the Hindu community in the city, thus meeting a longstanding demand. Renovation of a historical Hindu temple located close to the entrance of the Lahore Fort, also began,

In August, newspapers in Israel reported that around ten Jewish families had been

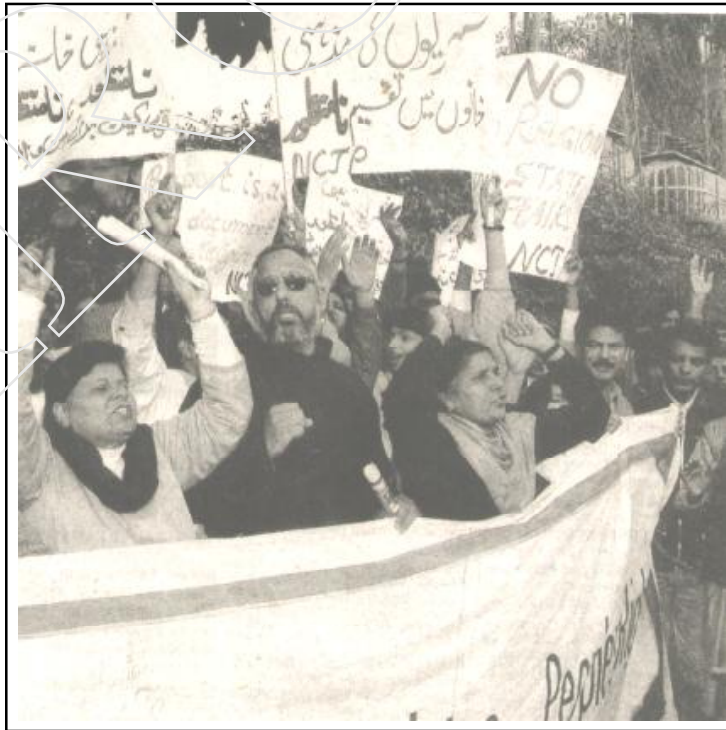
'discovered' in Karachi, and had apparently been able to sustain themselves and their faith despite the discrimination they had suffered over decades. It had been previously thought that the only Jewish presence in the country was of an elderly woman living in Karachi. The Jews in the city were reported to frequently describe themselves as Parsis to avoid conflict with neighbours. The Jewish synagogue in Karachi had been demolished in 1980 to make way for a shopping plaza, while a Jewish graveyard was threatened with a similar fate.

### **Discrimination by State**

Acts of discrimination by the State and its agencies most severely affected the rights of non-Muslims.

While the joint electorate was, according to the Election Commission of Pakistan (ECP), restored for the local government polls, in practice lists for minority voters were maintained separately. The listing of Ahmadis on a separate list, a move the community leaders protested since it categorised them as non-Muslims, meant Ahmadis boycotted polls, and the community was, as such, effectively disfranchised. HRCP observers during the polls reported that in some cases in Lahore, separate polling booths had been set up for Christian voters, acting to highlight the divide between citizens on the basis of their faith.

In March, the column requiring passport holders to state their religion was restored in Pakistani passports, amid strong protests from minority rights groups, and



Demands raised by non-Muslim citizens went unheard.



also other citizens. These groups argued that by including a column on religion in passports, the document in fact became a certificate of religious belief, and a possible ground for discrimination. The column on religious belief had been eliminated when new, machine-readable passports were introduced in 2004, as part of measures to bring travel documents in line with internationally-set standards. The elimination of the column drew fierce criticism from religious parties, and also members of the Pakistan Muslim League (PML), the largest party within the ruling coalition. The party's president, Chaudhry Shujaat Hussain, was among those who assured religious leaders it would be restored. A five-member ministerial committee, headed by Defence Minister Rao Sikander Iqbal, early in the year advised the column be reintroduced with a decision to his effect adopted by the federal cabinet a few weeks later. It was also decided the religion of the holder would be stamped onto passports that had already been issued without the column.

The Hasba Bill, passed in July in the NWFP, setting in place a 'Mohtasib' (ombudsman) to curb maladministration and guard public morality and etiquette in the province and to ensure Islamic values were respected, was also perceived by minority communities as a potential tool for further harassment. In August, the Supreme Court – after a constitutional reference filed by President Pervez Musharraf – ruled that some clauses of the controversial Bill were unconstitutional, and advised the NWFP Governor not to sign it.

Leaders of minority communities pointed out that while National Assembly seats had been increased from 200 to 332, the reserved seats for minorities had not been increased. They demanded that the ten reserved seats be increased in proportion to the population growth of minority communities, and also sought improved representation for non-Muslims in government service.

Various incidents were reported during the year of attacks on the holy places of minorities, on members of these communities or of attempts to incite hatred against them. The State remained a silent witness in almost each case, with this impunity available to perpetrators encouraging other outrages [*See sections on Ahmadis, Hindus and Christians*].

### **Growth of intolerance and curbs on religious freedoms**

Evidence of growing intolerance came in through the year. In several incidents reported in late 2004 and early 2005, an ancient Bamyán tree, said by legend to have once sheltered Buddha himself during his travels in the area was set ablaze by arsonists. For many years, Buddhists had placed small icons and lit candles at the make-shift shrine. It was believed madrassah students were behind the arson attacks. In February, Islamabad's diplomatic community decided to set up fences and posts to protect the historic tree, located within the diplomatic enclave, while a new shrine was established

for Buddhists.

School text-books used in the Punjab in primary schools included material biased against religions other than Islam. Material in text-books produced by the Punjab text-book board, perceived by the Shia and Ismaili communities in the Northern Areas of the country as being biased in favour of Sunnis, led to mounting sectarian tensions in the region late in 2004. In January, the gunning down of Ismaili leader Agha Ziauddin in Gilgit triggered off riots and sectarian tensions that persisted into August. An HRCP fact-finding team to the Northern Area in August found 67 lives had been lost during the sectarian riots that followed Ziauddin's death, and persisted into August. HRCP also noted that, apart from policing action with military posted in Gilgit through much of the year and curfews periodically imposed, the administration was guilty of not taking steps to prevent the violence. As tensions spread, the Sunni minority in Skardu became a target for violence. HRCP founds demands by leaders of all sects in the Northern Areas, that rioters be punished under the law, remained un-met into August.

Sectarian terror was also unleashed in other incidents. In May, at least 18 people were killed and scores injured in a suicide bombing of the Hazrat Bari Imam shrine in Islamabad. The shrine, located in the highly secured diplomatic enclave, is visited by both Shias and Sunnis. In March, at least 35 people were killed in an attack on a shrine most often frequented by Shias in Fatehpur, Balochistan. It was reported three members of the banned Sipah-e-Sahaba Pakistan (SSP) had confessed to the crime after their arrest, a few days after the attack. Riots in Karachi were triggered off in June by an attack on a Shia mosque. In other apparently sectarian attacks, leading Shia professionals were gunned down in Karachi, Quetta and other parts of the country. At least three such targeted killings of Shias were reported from Quetta in July and August alone. According to newspaper reports, 116 people died in 29 sectarian incidents in the country between January and July 2005. 280 were injured. *[See also chapter on Law and Order].*

In its report for 2004, released in May, the US Department of State committee on international religious freedoms observed police in Pakistan often failed to act against those guilty of harassing or inflicting violence on members of minority groups. It also noted provisions of the penal code prohibited Ahmadis from engaging in any Muslim practices, including using Muslim greetings, referring to their places of worship as mosques, reciting Islamic prayers, and participating in the Haj or Ramadan fast. Ahmadis were under these laws prohibited from proselytizing, holding gatherings, or distributing religious literature. Government forms, including passport applications and voter registration documents, required anyone wishing to be listed as a Muslim to denounce the founder of the Ahmadi faith. Ahmadis were frequently discriminated against in government hiring and in admission to schools.

Reports on discrimination in the job market and at educational institutions continued

to come in. There were reports of Christians being pressurised to vacate or sell off property cheaply, while girls from minority communities seemed especially vulnerable to rape. The State failure to grant all Christian sanitary workers a holiday on Sunday and the restriction to holidays granted on Christmas and Easter to a single day added to the unfavourable climate for many non-Muslims in the country.

### ✪ *Ahmadis*

As in previous years, Ahmadis faced the worst discrimination, both by State and by other actors in society.

Laws specific to Ahmadis prevented the community from calling themselves Muslims, calling their places of worship mosques, worshipping in a mosque or other public place, reciting publicly from the Holy Quran or making any other affirmation of the Muslim faith to which they professed they belonged. The threat of blasphemy remained particularly severe for the community. Ahmadis remained effectively defranchised, while the sealing of their places of worship in several incidents added to the hardships faced by the community. *[See also section on Intolerance in Society].*

Some of the worst incidents reported during the year were as follows:

- ◆ In Lahore, in January, Dr. Mansur Ahmad Waqar was targeted apparently by anti-Ahmadi religious extremists. His clinic was burned down and equipment and records destroyed. Despite Dr Mansur's claims of an arson attack, no case was registered by police and no investigation conducted.

- ◆ Another Ahmadi doctor, Dr Mubashair Ahmad, survived an alleged murder attempt in May in the Gujrat District, where he was attacked by four armed men outside his clinic at night. The incident was reported to the police.

- ◆ In February, an Ahmadi youth, Nasim Ahmed, enrolled at an educational institution in Lahore, became embroiled in a heated discussion with some of his class-mates. Subsequently, he was allegedly poisoned by these class-mates and survived only after being rushed to hospital. His family claimed that after this incident, Nasim Ahmed suffered acute depression and was admitted to a mental institution. Approximately two months later, local Muslims arrived at his home and told his parents that he had in fact converted to Islam. They accused them of wrongfully confining their son in the mental institution. This led to a court hearing. The court dismissed the case. In the immediate aftermath of the hearing, local Muslims tried to kidnap Nasim Ahmad, but failed after police intervened to protect the family. They were subsequently forced to shift out of Lahore.

- ◆ Abdur Razzaq suffered a severe beating in March, in the town of Kakki Nau in Jhang district. He was also charged under Sections 295, 295A and 298C of the Pakistan

Penal Code for converting to the Ahmadi faith. Razzaq, according to reports, had converted, and then enraged a local cleric by urging him to study the Ahmadi faith.

- ◆ On April 21, 2005, three Ahmadis were sentenced to death after being convicted of killing Muhammed Amir, alleged to be an anti-Ahmadi extremist and his son, Shabbir Hussain, in Gujrat in 2003. Ahmadi organizations maintained evidence produced at the trial was falsified.

- ◆ In June, a sessions judge in district Sialkot ordered the sealing of an Ahmadi place of worship in Khiva Bajwa, Sialkot, on the appeal of a local cleric. Hearings into the matter were continuing, but Ahmadis feared the building could remain sealed for months or even years, as had happened in similar cases in the past.

- ◆ Munir Ahmad, a recent convert to the Ahmadi faith, was brutally murdered in Rahwali in the Punjab in July 2005. He was reportedly stabbed multiple times by his nephews who stormed his house and also chopped off Mr. Ahmad's wife's hand. Their daughter also sustained injuries in the attack. In another case of conversion, this time in the Leiah district, Mohammed Imran was beaten up by his family for changing his faith. His father subsequently disinherited him.

*[In early October, eight Ahmadis were killed and 20 injured when four gunmen on motorcyclists entered a place of worship in village Mong, near Mandi Bahuddin, and opened indiscriminate fire on those present].*

Ahmadis were repeatedly prevented from holding public meetings in Rabwah (renamed Chenabnagar), while complaints of discrimination in admissions to educational institutions, in employment and in promotions came in through the year. Ahmadi publications in Jhang were temporarily banned during the year. Handbills and pamphlets distributed in various cities urged consumers to boycott items produced by Ahmadi manufacturers, while evidence of the deep-lying bias against the community was also reflected in some Press and television reports.

### **Christians**

The number of clashes reported between Muslims and Christians, as well as reports of attacks on Christian holy places in 2005, was higher than in the previous year. Some of the cases reported were as follows:

- ◆ In January, armed Christians and Muslims clashed in Lahore, resulting in injuries to at least 11 persons. The background of the clash was the murder of a Muslim, Haseeb Khan, after he reportedly attempted to stop two Christian youths, Pitras Masih and Yousaf Masih from passing remarks about his daughter and other female relatives who were attending a funeral in the area. The verbal skirmish resulted in the Christian youths returning with weapons and opening fire on Haseeb, who also produced a pistol. Haseeb Khan was killed, and at least four other persons critically injured. In

protest against the killing, Muslims in the area staged a rally, which resulted in further tensions. Other Christian communities in the city were also affected by the unrest. Police remained deployed in the area for several days. Christian and Muslim community leaders helped resolve the issue, with Christian leaders also assisting in the arrest of Pitras and Yousaf.

◆ In March, a Christian worker was allegedly captured by armed co-workers in a village close to Mandi Bahauddin. Shahbaz Masih was tortured and threatened with death if he did not convert to Islam. One of the kidnappers was alleged to have links with an extremist group.

◆ In March, madrassah students attacked an under-construction church in Islamabad after a local prayer leader opposed the construction of a church within 100 meters of the mosque. 65 Christians present at the church building at the time were



Non-Muslim women faced increased threat.

attacked by the m a d r a s s a h students. Muslims living in the predominantly Christian locality were reported to have no objection to the construction of the church. Police sealed the church after the attack. Christian rights groups and other civil society organizations

protested the incident and demanded action against the attackers, rather than a sealing of the church.

◆ In April, a Christian NGO-worker, Babar Sampson and his driver were kidnapped and murdered in Peshawar. Their bodies had been mutilated before being thrown into a drainage channel. HRCF conducted a fact-finding into the case. Police arrested two other Christian employees at Babar Sampson's organization, and accused them of attempting to gain control of funds after murdering Sampson. However, the families of the victims insisted the detained men were innocent. There was a suspicion Sampson was killed by extremists for preaching Christianity.

◆ Nowshera, in the NWFP, was the scene of inter-religious riots in June. The clashes between Christians, Muslims and Hindus were triggered off by an incident in

which Yusuf Masih, an illiterate Christian sweeper, allegedly burnt some pages from the Holy Quran. The accusation arose after children in the area stated they had seen Yusuf burn pages that they believed were from the Holy Quran, and informed elders. Yusuf Masih later stated he had burnt some paper on the orders of his employer. HRCP found the man also suffered mental health issues. Mosque loud-speakers were used to announce the alleged desecration soon after the event, and Hindus and Christians sought protection at the local police station as Muslim mobs rampaged through the streets, demanding Yusuf Masih be handed over to them. Police arrested Masih on charges of blasphemy. As riots continued, approximately 40 people attacked the Hindu Lamba Vira temple after setting fire to a gas pipeline. The temple and some Hindu and Christian houses close to it were badly damaged, and Hindu families forced to flee the area. The NWFP chief minister ordered an inquiry into the incident. 13 people were arrested for attacking the temple, and work on its restoration ordered. Hindu families stayed away from the town for several weeks, but most were reported to have returned by the end of August. *[In mid-November, three churches, a convent and the homes of at least six Christians were set ablaze in the Punjab town of Sangla Hill by a mob estimated at between 1,500 and 3,000 in number. Women formed a part of the mob. The incident came after a Christian man, Yousaf Masih, was accused of setting an Islamic school and a copy of the Holy Quran on fire. The allegations were repeated over mosque loudspeakers. Christian leaders held the charges stemmed from a gambling dispute, and had been made by Muslims who owed money to Yousaf. HRCP conducted a fact-finding into the incident, and noted police had failed to prevent or stop the rampage, that continued for several hours. The findings of a Punjab government probe into the incident had not been made public into December 2005].*

Other incidents of harassment were also faced by Christians. In June, a Christian bookshop in Karachi selling videos, CDs and Christian literature was raided by local police. The shop was run by the Daughters of St. Paul nuns and the police raid appeared to be motivated mainly by the fact that the bookshop was managed by Christians. A male worker was taken to the police station and questioned for nearly 24 hours and the nuns were allegedly harassed and intimidated by the police. *[In September, the announcement by leading cricketer Yousaf Youhana that he had converted to Islam shocked many Christians in the country. Youhana had for years been seen as a source of pride by the community].*

### ✪ **Hindus**

Hindu community leaders stated during the year that Hindus, most of them based in Sindh, lived in considerable fear. They maintained this was aggravated after communal clashes in India, with Hindus fearful of facing a backlash from Muslims within the country.

Reports of attacks on Hindu places of worship came in during the year, as had

been the case in previous years. There was however some indication of increased official efforts to preserve Hindu sites, partially in response to the influx of more Hindu pilgrims from across the border as ties with India improved.

Some of the incidents of violence against Hindus reported in 2005 were as follows:

- ◆ In May 2005, a Meghwar Hindu family complained they were being subjected to violence and harassment by men related to Sindh Chief Minister, Arbab Ghulam Rahim. The harassment, apparently aimed at securing political support for certain groups, allegedly took place in the Chief Minister's home village of Khait Lari. An HRCP fact-finding team headed by Jam Saqi, an HRCP Council Member visited the area and found that the large Hindu community in the area lived in fear of the Chief Minister and his henchmen. Furthermore, Arbab's relatives were accused of kidnapping Attam, a Sikh. Following the fact-finding, Saqi and his wife were targeted by the Sindh authorities for harassment, with Saqi arrested on a kidnapping charge. *[See also Chapter on Freedom of Association].*

- ◆ In May, Dinesh, son of Dayaidas, was taken into custody, apparently by ten men from Military Intelligence, from his home in Kotri, in Sindh. Dinesh, an Indian national, had been seeking Pakistani citizenship since 1993. His wife, Shrimati Nirmal Bai Dinesh, in a petition sent to HRCP, has stated he was the 'gadi nashin' of the Bhagat Bhagwan Darbar Sahib temple at Sadhu Paro in Kotri. Dinesh had married Nirmala Bai, a Pakistan national, in 1997 and the couple had three children. Dinesh received a computerized National Identity Card (NIC) early in 2005. His application for Pakistani citizenship was, according to last reports received, still pending before the Director of Immigration and Passports. HRCP had brought the petition of his wife to the notice of President Pervez Musharraf on July 29<sup>th</sup> - while stating it could not vouch for the authenticity of the facts narrated. Dinesh continued to be held in illegal custody into August.

- ◆ During the same month, in Karachi, a girl, Lakshmi, was reported missing by her parents, who stated she had been kidnapped. Police claimed she had run away and married. Hindu leaders disputed this, maintaining she had been abducted. Reports of other similar 'abductions' of girls belonging to minority communities had also come in during previous years from various parts of the country.

- ◆ In June, a Hindu temple in Nowshera in the NWFP was set ablaze by a Muslim mob, enraged after an incident in which they alleged a local Christian had burnt pages of the Holy Quran. *[See section on Christians]*

- ◆ In July, the HRCP Karachi office received complaints that a land mafia was attempting to sell the property of a Hindu temple in the city. An HRCP fact-finding team

visited the temple. The attempts to sell the temple stopped after this.

◆ HRCF received a complaint in August from Kunri, in the Umerkot district of Sindh, of threats to local Hindus. A 'fatwa' warning Hindus of death if they failed to leave the area had been issued. The community was further warned acid would be thrown on their women. The threatening letter was apparently distributed by an extremist group. The same town had in previous years seen attacks on Ahmadis living in the area.

*[Early in September, police arrested a Hindu couple on charges of desecrating a copy of the Holy Quran in Swabi. The man identified as Chaman Lal and his wife were arrested after neighbours complained to police they had thrown a copy of the Holy Quran in a field near their house.]*

There were also accounts, from Sindh, Balochistan and the NWFP of attempts to forcibly convert Hindus, especially children and young girls. In some cases, members of the Hindu community were allegedly kidnapped in order to pressurise them to change their faith.

### ★ *Sikhs*

The Sikh community within the country benefited from the increased influx of Sikh pilgrims from India. Gurdwaras were refurbished and the Pakistan Sikh Gurdawara Perbandik Committee continued to make recommendation for improving facilities available to Sikhs visiting holy places in the country. Thousands of Sikh pilgrims, mainly from India but also the UK and North America, visited Pakistan during 2005 to mark various religious events.

Like other minority communities, the Sikhs in Pakistan faced violence. Early in the year, Gorjeet Singh, a Sikh grade six student, was kidnapped for 168 days for ransom from Bara in the Khyber Agency. The boy's family contacted the Governor of the NWFP, and with his cooperation the boy was reunited with his family in June.

### **Victims of blasphemy laws**

As in previous years, Muslims most often fell victim to blasphemy laws, which were used with increased frequency as a means to settle personal or monetary scores.

There was no evidence that a minor amendment made in the blasphemy laws in October 2004 had any impact in preventing its misuse.. Under the amended law, the police was required to investigate allegations before charging and arresting anyone, but this in most cases did not happen, as in Nowshera in June when a Christian was charged with blasphemy on the basis of accounts provided by children. *[See section*



*on Christians].*

It was also obvious that police made no efforts to protect people accused of blasphemy. In one of the worst incidents reported during the year, Ashiq Nabi, of village Spin Khak in Nowshera, was killed by a mob of villagers after remaining on the



Younas Sheikh: Another blasphemy victim.

run for several days in April. After charges of blasphemy, and the issuing of a 'fatwa' by a local cleric in April, he and his family had feared he would be killed. The charges against Nabi, who a HRCF fact-finding team comprising leading lawyers, activists, journalists and reserachers, found suffered mental ill-health, stemmed from an incident during a quarrel with his wife. Nabi was accused of hurling the Holy Quran to the floor. His wife, apparently the sole witness to the

incident, denied this. Nabi himself was reported to have repeatedly sought forgiveness after he was forced to flee his home and hide in fields for days. The HRCF team, that visited Spin Khak in May, days after the mob killing, found many people seemed uncertain of the facts but had been spurred on by the mob frenzy that developed after the issuance of the 'fatwa'.

In August, an anti-terrorism court in Karachi sentenced Younis Sheikh, 40, to death for writing a book titled 'Shaitan Maulvi' (Satanic cleric). Sheikh had been arrested early in 2005 under blasphemy laws. It was alleged some of the contents of the book were blasphemous.

In a study by the Justice and Peace Commission of the 647 blasphemy cases reported in the media since 1988, it was noted that nearly 90 cases were against Christians. This was despite the fact that Christians accounted for less than three per

cent of Pakistan's estimated 162 million population - 95 per cent of whom were Muslim.

Calls from HRCP and other organizations to scrap blasphemy laws or at least introduce major amendments to prevent their abuse as a means of harassment and intimidation, went unheeded.

### **Recommendations**

1. *All laws that discriminate against minorities and provide legal sanction for such discrimination must be scrapped. These include the continued separate electoral lists. A single list for all voters must be put in place, as a means to end discrimination and the growing sense of social divide. The column on religious belief should also be eliminated from passports, as it can serve no useful purpose while acting as a potential tool of harassment.*

2. *The increased threat to the life and welfare of minority groups by militants, and the growing discrimination they face, cannot be tackled by expanding policing alone. Holistic policies, aimed at upgrading the declining status of non-Muslims and tackling the issue of intolerance and militancy through broad-ranging reforms, need urgently to be put in place to avoid a further loss of life.*

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. *Those accused under blasphemy laws must be protected both within and outside jails. The basic flaws in the law have not been resolved through the amendment made in October 2004. Capitulating to pressure from those threatening violence and failing to make essential changes in the law can only encourage the forces of obscurantism.*

6. *The judiciary at all levels, 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.*

7. *Sectarian violence must be curbed by enforcing laws against the keeping of arms, stopping the training of militants and checking the growth of bias based on*

*religious belief.*

8. *In view of the increasingly dangerous situation in the country, efforts must be made to build an environment of greater tolerance. Incorporating material on the rights of minorities 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. Material in text-books that is in any way biased against religions other than Islam or promotes one Muslim sect over the other, must be removed.*

10. *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

The cancellation of the declarations of at least three newspapers, sealing of the presses of others, the use of official advertisement quotas to coerce publications and an increased threat to individual journalists marked the media environment during the period under review.

HRCP received at least five complaints from journalists regarding attempts to influence what they wrote through direct threats to their safety.

In May, the Paris-based media freedoms watchdog, Reporters Sans Frontiers (RSF), in published a list of 34 countries whose governments directly curbed Press freedoms. Pakistan was named alongside Iran, China, Bangladesh, Cuba and other nations. The beating and arrest of journalists staging rallies in Lahore and Islamabad on May 3<sup>rd</sup>, to mark the global Press Freedom Day, was also condemned by RSF

Criticism of the amendments proposed by the government to a 2002 law setting up

the Pakistan Electronic Media Regulatory Authority (PEMRA) came from experts throughout 2005. Most believed the amendments, made in May, without any debate in the National Assembly, would greatly curb the freedom of privately owned television channels. The amendments, granting PEMRA sweeping powers, permitted the arrests of electronic media journalists without warrants and the seizure of equipment. The Senate did not pass the bill within the mandated 90 day period. The Defamation law, the many limitations of the Freedom of Information Act of 2003 and laws pertaining to the registration of publications also continued to come under attack.

### **Restraints on Press freedoms**

The Press and the electronic media, including both television channels and radio stations, were subjected to numerous efforts to curb free expression.

The cancellation of the declarations of publications, using powers given to the government under the controversial Presses, Newspapers, Newsagents and Books Registration Ordinance (PNNBRO) of 2002, was an especially grave development. The Pakistan Federal Union of Journalists (PFUJ), the Council of Pakistan Newspaper Editors (CPNE) and the All Pakistan Newspapers Society (APNS) had repeatedly demanded since late 2002, when the presidential ordinances were passed, that this and other ‘black laws’ be repealed or drastically amended. These appeals were ignored.

In August, the declarations of three Karachi-based newspapers, the weekly ‘Friday Special’, the weekly ‘Wajood’ and the daily ‘Zarb-e-Islam’ were cancelled by the Sindh government. The editor of ‘Wajood’, Mohammad Tahir, was arrested. Earlier, the declaration of weekly ‘Zarb-e-Momin’ had also been cancelled. The editor and assistant editor of the weekly ‘Zarb-e-Islam’ had been arrested a few weeks previously. Police also raided the offices of at least two other publications.

The PFUJ and the CPNE both condemned the ban, and maintained that the accusations against the dailies, of printing material aimed at spreading sectarian hatred, had not been proved in any court of law and the ban was as such arbitrary. The CPNE stated it strongly opposed the spreading of sectarianism, but at the same time, completely supported Press freedoms and the right of people to know. International media watchdogs, including the New York based Committee to Protect Journalists (CPJ) also condemned the action taken.

It was reported in August that the government planned to ban 43 publications across the country on the grounds of spreading hatred.

The use of official advertising — a crucial source of revenue for most publications — to control newspaper content remained in practice. In May, the federal government and the Punjab provincial government blocked most advertising to the Lahore-based Nawa-e-Waqt group, bringing out the Urdu daily ‘Nawa-e-Waqt’ and English daily ‘The Nation’. It was reported the publication of a supplement advertising a key opposition

party lay at the heart of the official displeasure with the owners of the publications. Other newspapers were also warned not to publish advertisements issued by opposition parties. Advertisements to the same group had also been curtailed the previous year. In June, key government officials, at the very last minute, turned down invitations to an annual pre-budget seminar organized by the Nawa-e-Waqt group, forcing the annual event to be cancelled. The ban was, in August, reported to have been lifted – with the APNS and CPNE having lodged strong protests over it in several cases.

HRCP received complaints both in late 2004 and 2005 of a ban placed on the monthly ‘Kargil International’, published in Gilgit. The editor of the publication, Manzoor Hussain Parwana, stated no legal notice was shown before the magazine was banned. He also complained of threats, from extremist groups, and also agencies. HRCP activists in Gilgit confirmed harassment of the editor and staff at the publication, which had aroused official wrath by publishing details of soldiers from the Northern regions killed in the Kargil conflict of 1998.

In August, Jhang police confiscated copies of a daily newspaper, ‘al-Fazl’ and a monthly magazine and sealed two printing presses belonging to members of the Ahmadi community in Rabwah (renamed Chenabnagar), apparently on the grounds of preventing the spread of religious hatred. The presses were handed back to the owners a few days later and publication resumed.

HRCP also received complaints from newspaper editors of pressure to limit dissent, and warnings that the content of their publications was being monitored.

### **Threats to media professionals**

More cases of the harassment of individual journalists, by both State agencies and other groups, were reported in late 2004 and 2005 than in previous years. HRCP received at least 18 complaints of harassment from November 2004 to August 2005, both from print media journalists and those working in the electronic sector. There were also reports that prominent journalists had been warned by senior officials against freely voicing their opinions.

While this harassment often took the form of registering cases against them, phone calls from ‘agencies’, pressure on publications not to employ certain individuals and warnings against voicing dissenting views all formed a part of the campaign. In May, the CPNE stated it had documented at least 11 cases of attacks on media professionals and organizations within the previous four months alone.

An unprecedented attack by police on rallies organized by journalist’s bodies to mark Press Freedom Day in Lahore and Islamabad on May 3 illustrated the growing levels of official contempt for the Press. In a statement, HRCP noted it was inconceivable that the brutality inflicted by police on media persons took place without the knowledge of senior officials. Permission for the traditional rallies had been sought days in advance,

and it was obvious that the rallies in no way threatened law and order. Journalists were dragged into trucks, brutally beaten and at least 37 arrested in Islamabad. Several police officers were suspended. In August, Pakistan Muslim League President Chaudhry Shujaat Hussain, while speaking at a special meeting of the National Assembly (NA) Standing Committee on Information and Broadcasting to which journalists were also invited apologized for the incident, stated FIRs registered against journalists would be withdrawn and cameramen whose equipment had been damaged compensated.

Reports by watchdog groups, including Green Press, Pakistan, released in May 2005, and international groups including RSF and CPJ, found at least 120 journalists and media organizations were attacked between May 3, 2004 and May 3, 2005 as



Broken windows and silenced voices.

compared to 70 between May 2003 and 2004. At least two journalists were killed and at least 26 injured in assaults including one on a female reporter; the house of a journalist was bombed and others were intimidated by police or intelligence agencies. Journalists were also prevented in April 2005 from

covering the arrival of Pakistan Peoples Party (PPP) leader, Asif Ali Zardari. [*See also chapter on Political Participation*].

Apart from the State and its agencies, professional journalists faced a threat from extremist forces, criminal mafias and other groups.

Some of the incidents reported during November 2004 to August 2005 were as follows:

- ◆ In November 2004, Qazi Muhammad Rauf, correspondent for daily 'Express' in the Khyber Agency, was kidnapped apparently by armed men belonging to the Sheikhmalkhel tribe, angered by his coverage of their clashes with orthodox, pro-Taliban forces. He was kept at a private detention centre for several days.

- ◆ Also during the same month, Zaheer Mahmood Siddiqui, a senior staff member at the daily 'Dawn' in Lahore, was beaten up by guards and staff members at the Civil

Secretariat. Two policemen joined the assault. Siddique had filed a story concerning the extraction of bribes by staff at the secretariat for allowing visitors access to various offices. He was warned by senior staff members against filing such reports. Siddiqui lodged a complaint with HRCP, and stated he continued to face intimidation well into 2005.

◆ At the end of November, police raided the offices of the FM 103 radio station in Lahore, and arrested two radio journalists, Abdul Ghafoor and Nauman, who had gone to see his colleague at the police station. They were accused of filing an allegedly false report on mismanagement at the Pakistan Institute of Cardiology (PIC), and also of attempting to stage a public rally. Other journalists at the radio station were harassed, and the station's equipment seized a few days after the arrests. This made it impossible for broadcasts to continue. The incident came amid a row between the government and FM 103 over the re-broadcasting of BBC Urdu Service news. The re-broadcasts were stopped by courts early in 2005, after an appeal by PEMRA (Pakistan Electronic Media Regulatory Authority). An appeal by FM 103 was rejected. The arrested journalists were released on bail. *[See also section on Electronic Media]*

◆ Amir Mir, senior assistant editor of the monthly 'Herald' at the time, was visited at his Lahore home by intelligence personnel in November, and warned against publishing unfavourable stories. Mir had remained the target of similar intimidation over the previous few years, with his car targetted in a mysterious arson attack in 2003. Amir Mir resigned from his job early in 2005. International press watchdog bodies claimed official pressure had led to his employers requesting he leave. No major publication was willing to employ the well-established journalist following this.

◆ Militants linked to the Imamia Students Organization (ISO) in January 2005 raided the Lahore Press Club, injuring ten journalists, to protest what they saw as inadequate press coverage of the murder in the northern areas of Shia leader Agha Ziauddin.

◆ At the end of January, around 30 men, alleged to be religious extremists, broke into the offices of the privately owned Geo TV and its sister organization, the 'Jang' newspaper in Karachi, after manhandling the guards on duty. They broke furniture and equipment, and made threats against staff. The unexplained attack was believed to have been linked either to the broadcast of an interview of Israeli deputy prime minister Shimon Peres or to a talk show in which sexual abuse had been discussed.

◆ In February, two journalists, Allah Noor Wazir of Khyber television and Amir Nawab, correspondent of 'The Frontier Post', were killed in Wana, South Waziristan, after unknown masked men opened fire on their van. The reporters had been covering the signing of a peace deal between a rebel militant leader and Pakistani authorities. A third reporter, Anwar Shakir, a stringer for the Agence France Presse (AFP) was



seriously injured.

- ◆ Nisar Abbas of Geo TV and the daily 'Jang' was badly beaten up by an army officer in Skardu in March. He was covering a ceremony organized by a welfare group, which the military stopped from taking place.

- ◆ A home-made bomb was thrown at the home of Gilgit-based journalist Khurshid Ahmed, the correspondent of the national Urdu daily 'Khabrain' in March 3. No injuries were caused. Local journalists feared the attack may have been carried out by extremist sectarian groups angry with the local Press for failing to publish their statements.

- ◆ In May, cases were registered against two Karachi-based reporters under laws relating to defamation and inciting public fear. The reporters, Afzal Nadeem of the daily 'Awam' and Asad Ibne Hasan of 'Daily News' had filed stories critical of the government. HRCP stated the cases appeared to be a direct consequence of the stories they had published. Sindh home minister Rauf Siddiqi ordered the withdrawal of the cases at the end of August, after meeting with representatives of the PFUJ.

- ◆ Kamran Mumtaz, executive editor of the daily 'Mashriq' was badly beaten up in the newspaper's office in Quetta in April, apparently by thugs linked to the Jamhoori Watan party (JWP), who saw the newspaper's position as being biased against the organization.

- ◆ Mujeebur Rehman, a correspondent of the English language 'Daily Times' and Reuters Television was shot at in Wana in May. He received a minor hand injury.

- ◆ In July, Rashid Channa, a journalist with the Karachi-based 'Star' evening newspaper, was picked up at his house by intelligence agency personnel and held till late into the night. The Dawn group of newspapers stated Channa was being targeted for his stories exposing wrongdoings by senior members of the Sindh government. The reporter was later charged in a case of attempted murder, though he denied even knowing the intended victim.

- ◆ In late July, three foreign film-makers, Swedish nationals Leon Flamhole, his son David Flamhole and a British writer of Afghan origin, Tahir Shah, were arrested by military police at a private house in Peshawar. For the next 15 days they were extensively interrogated, denied contact with their missions or families and threatened with torture, before being secretly deported in August. Some reports stated authorities believed they had filmed a military camp. The film-makers denied this, and maintained they were making a documentary, for their production company, Caravan Films, on the treasures of the Mughul Empire. RSF strongly condemned the action against the media professionals.

### **Curbs on working journalists and conditions of employment**

At a regional conference of the International Federation of Journalists (IFJ) held in

Taiwan in July, job security was demanded for journalists in South Asia. The system of contractual appointments and payments on the basis of daily wages were identified as key factors hindering working journalists in the region.

The 7<sup>th</sup> Wage Board Award remained unimplemented.

But, aside from these factors, violent attempts to dissuade journalists from carrying out their duties increased. Restrictions on the entry of journalists to areas in South Waziristan where operations against alleged militants continued, prevented information from the troubled area from reaching citizens, as had been the case through 2004. Journalists attempting to cover events in the area faced a direct threat to their safety. *[See section on Threats to Media Professionals].*

In April, at a seminar in Lahore, crime reporters stated that they were under increasing pressure from police to avoid reporting routine incidents, and especially, police corruption. Despite the Freedom of Information Ordinance of 2002, access to information at many departments was denied to journalists more stringently than at any previous time. Requirements of the law that detailed titles and dates of required documents be given made it difficult for journalists to access official material.

In November, Radio FM 99 chief executive Waseem Ahmed, director Najeeb Ahmed and presenter Azeem Rafi were arrested in Islamabad while covering a protest demonstration against inflation staged by citizens in a market. The crowd was baton-charged by police and media-persons told not to cover the events. The Radio FM 99 media-persons continued their broadcast. They were arrested, along with a woman staffer and the children of director Najeeb Ahmed, who happened to be present with him. The arrested broadcast journalists were manhandled,, and their mobile phones and cash seized. They were freed a few days later.

Journalists attempting to cover the return of Pakistan Peoples Party (PPP) leader Asif Ali Zardari to the country in April were harassed and forced away from the Lahore airport area by police. Through the day, there were also prevented from taking pictures of party workers being arrested or roughed up. Photographers who had accompanied Zardari on the flight from Dubai had their cameras and mobile phones seized and films exposed as they landed at Lahore. Journalists on the flight with Zardari were detained for several hours in the airport lounge.

Earlier in 2005, the cameras of a press photographer had been broken by police in Multan as he tried to take picture of a rally staged by opposition parties.

In July, it was reported that the editor of a fortnightly papers from Lahore, Faisal Javaid, was detained by Race Course Police, and booked in a fabricated case, allegedly on the behest of a politician against whom he had published stories.

Journalists boycotted events addressed by Prime Minister Shaukat Aziz on at least two occasions, after complaining about poor arrangements and being forced to vacate

seats at a press conference in order to accommodate ministers. There were also complaints from reporters about the refusal to allow them to enter department buildings and the instructions given to staff not to speak to any member of the Press.

### The electronic media

The Pakistan Electronic Media Regulatory Authority (PEMRA) Amendment Bill of 2005, passed by the National Assembly in May, after being bulldozed through the house without debate, gave sweeping powers to PEMRA to regulate the electronic media.

The amendments came under fierce criticism from media bodies, including the PFUJ. The amendments in the PEMRA Ordinance of 2002, setting up the new authority,



Police and agency personnel frequently clashed with journalists.

were justified by the government as necessary to allow cross media ownership. It was unclear why the clause permitting newspaper owners to also own television channels, was combined with many restricting the freedoms of the fledgling electronic media in the country. At

no stage was any feedback or advice from media professionals and owners sought prior to forcing the amended law through the lower house.

The amended law empowered PEMRA to shut down or cancel the licence of a broadcaster, for airing what it described as ‘pornography, obscenity, vulgarity or other material offensive to commonly accepted standards of decency’. This clause was absent in the 2002 Ordinance, with the ambiguity of the terms used in fact giving PEMRA virtually unchecked powers to take punitive action against broadcasters. PEMRA’s powers to shut down cable operators were also increased significantly – and checks and balances previously in place to allow licence-holders an opportunity to air

grievances done away with. PEMRA's discretionary powers to grant licence holders exemptions from certain provisions were expanded. The government-controlled Pakistan Television (PTV) and the Pakistan Broadcasting Corporation (PBC) remained outside the ambit of the new law.

The number of members on PEMRA's board was raised from nine to 12, and a provision included that seven of these would be government nominees. Previously, four of the nine members were to be appointed by the government.

In August, the controversial bill outlived its mandatory 90 day life in the Senate, and awaited scrutiny by a mediation committee of the two houses of parliament, made up of eight members of either house. This was the measure introduced under the Legal Framework Order of 2002. Previously, a joint sitting of parliament had to be convened under such circumstances. The changed procedure increased likelihood a controversial bill would be approved.

Apart from controversy over the PEMRA bill, another major issue concerning the electronic media concerned radio news re-broadcasts from foreign channels. The BBC Urdu Service was forced in March to halt Urdu-language news programmes relayed to Karachi, Lahore, Multan and Faisalabad via the Lahore-based FM-103 radio station. PEMRA argued before the Lahore High Court (LHC) that the re-broadcasts violated licencing conditions. The court, after a battle that spanned much of 2004, banned the BBC newscasts. The decision was fiercely criticized by RSF and other international watchdog bodies, who condemned it as a form of news censorship.

The network of privately-owned radio channels in the country continued to expand. In June, it was officially stated there were plans to set up 47 new radio stations across the country, operating under PBC. At least 65 privately owned radio stations were operating across the country by June 2005, while PEMRA announced plans to grant new licences to operators in remote areas of Pakistan and also Azad Jammu and Kashmir. By the end of August, PEMRA stated it had granted licences to 82 FM Radio stations for 56 cities, and 16 licences for satellite TV channels since 2002.

In April, PEMRA shut down three cable television networks in Balochistan. It maintained they had been set up illegally and were broadcasting 'objectionable' material. Critics pointed out that the definition of 'objectionable' content was very loose, and that PEMRA's mandate seemed to offer no protection to subscribers against poor services provided by cable operators. It was noted that PEMRA had, over the previous three years, shut down hundreds of cable networks for broadcasting what it termed 'objectionable' material. *[After the earthquake of October 8th, HRCP received multiple complaints from electronic media journalists of attempts to prevent them from reporting on the situation or from exposing the long delays in rescue work and relief operations].*

During the year, attacks on electronic media professionals and their organizations

showed a marked increase. *[See section on Threats to Media Professionals].*

### **Artistic expression**

Film directors, producers and actors in the country, as in previous years, continued to protest stringent censorship of feature films, and argued this was a serious hurdle in the way of the success of the film-making industry.

In several cases, objections were made by the city district government to stage plays put up in Lahore.

Some of the harsh past restrictions on artistic expression were significantly relaxed. An international Performing Arts Festival in Lahore in December 2004 brought dance, drama and music from a variety of countries before large audiences. The Russian Bolshoi Ballet Company was also able to stage several performances in Karachi, Islamabad and Lahore – mainly to raise money for charitable causes. Indian classical dancers were also able to visit and perform in public.

Government programmes to promote the performing arts were initiated in Karachi, Lahore and other cities, and a national academy of the performing arts based in Karachi began work. Leading dancers were, according to Press reports, being encouraged officially to establish teaching centres in the country.

New private television channels often took up controversial social issues in teleplays or discussion programmes, including child sexual abuse, rape and the sex trade in the country, while dress codes for actors and presenters were more relaxed than in the past.

### **The new media**

According to statistics compiled by RSF, Pakistan in 2005 had a total of at least 1.5 million Internet users. Internet coverage continued to expand rapidly, with services being offered to smaller towns in many parts of the country.

Government regulations on Internet usage, mainly on the grounds of restricting access to pornography, remained in place, with filters set up by PTCL allowing certain sites to be blocked. Sites seen as blasphemous by PTCL censors were also blocked.

In May, a new federal government agency, the Pakistan Intellectual Property Rights Organization (PIPPO) was set up to oversee copyright, trademark and patent protection issues. During the year, the Federal Investigations Agency (FIA) made nine arrests, seized over 100,000 pirated CDs, videos and cassettes and shut down six illegal duplication facilities. Critics of the international campaign to prevent the piracy of computer software and films argued the laws restricted poorer people from freely accessing information.

In November 2004, an issue of 'Newsweek' magazine was banned in Pakistan,

and all copies of the publication seized. It was officially stated the magazine contained material that could hurt religious sentiments.

### ***Recommendations***

1. *Laws that fail to recognize the right of all citizens to access information must be revised and brought into conformity with the drafts of the laws agreed on by bodies representing media professionals, editors and owners. The implementation of laws on free access to information must be carried out in a fashion that ensures documents can be obtained by citizens. The law covering declarations for newspapers, and other legislation, including defamation laws, used to intimidate media professionals must be amended as proposed by media bodies.*

2. *Controversial amendments introduced in the PEMRA law, increasing official control over independent electronic media channels and granting sweeping punitive measures to PEMRA must be scrapped. 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. Government control over the largest national news agency, the Associated Press of Pakistan (APP) must also end.*

3. *The restrictions preventing journalists from entering areas, such as Wana, where a military operation is underway, amounts to preventing access to information. Curbs aimed at preventing journalists from carrying out their professional duties must not be imposed and the use of official machinery to harass and intimidate them strictly checked.*

4. *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.*

5. *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 authorized judicially.*

6. *Attempts must not be made to curb the independent electronic media by threat or intimidation.*

7. *Journalists and media organizations 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. 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.*

*9. 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 organizations to which the journalists belong.*

*10. 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.*

*11. 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.*

*12. 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.*

*13. Censorship rules for films and theatre need to be re-formulated to allow both for creativity and the addressing of key social issues.*

# 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*

The right to free assembly was severely restricted through the period under review, with force used repeatedly by police to prevent people from drawing attention to their concerns.

Political activists faced brutal repression. Even citizens protesting long power breakdowns and journalists staging rallies on World Press Freedom day were violently baton-charged. HRCP and other groups were prevented from staging a token marathon in May to protest attacks on mixed marathon participants by the Muttahida Majlis-e-Amal (MMA). In contrast, religious extremists threatening the token run were permitted assembly while other religious groups were able to stage rallies and gathering through the year. The annual gathering of the Tableeghi Jamaat (Party of Preachers) at Raiwind, on the outskirts of Lahore was just one example of this. Other rallies by religious parties were permitted in many places in February, during an MMA campaign to draw attention to the price hike. *[See also chapters on Women and Freedom of Expression].*

Section 144, barring public gatherings by more than four persons, and Maintenance of Public Order (MPO) laws were used repeatedly to restrict rallies and protests. Section 144 remained in force in the Punjab for much of the year, as well as the last



two months of 2004, with a failure to publicize this adding to confusion over the staging of public gatherings. The requirement that prior permission be sought before any rally was also used to prevent assembly by political parties and citizens.

Use of uncalled for force by police to disperse even entirely peaceful rallies, the manhandling of participants and their detention, in some cases for months, was seen through the year.

Traditional, religious processions on the occasion of Ashura, the mourning period most devoutly observed by Shias, were once more barred in some cases in Lahore, Quetta, Rawalpindi and other cities, on the grounds of preventing sectarian violence.

### **Restrictions on political gatherings**

As part of a wider strategy to quash dissent, opposition parties faced repeated restrictions on assembly.

In December, dozens of MMA activists were rounded up ahead of a visit by President Pervez Musharraf to Gujrat. The MMA had planned a rally on the occasion against the dual offices of President and Chief of Army Staff (COAS) held by Musharraf. Cases were registered against hundreds of MMA activists who staged rallies across the Punjab and blocked the Grand Trunk Road briefly, near Gujrat. The rounding up of MMA activists continued into January 2005.



Women activists faced police batons as often as men.

Around the same time, cases against eight activists of The Pakistan Peoples Party (PPP) in Bahawalpur were registered for staging an anti-government rally. The party's city president was booked for making a 'provocative' speech against President Musharraf.

Hundreds of PPP activists were detained through the year after staging rallies, the largest number in April as they attempted to greet party leader Asif Ali Zardari at Lahore Airport. Section 144 was re-imposed in the city a few days before Zardari's scheduled arrival. The PPP

maintained it had sought formal permission from the district nazim to greet the leader and take him in a procession to Data Darbar shrine, and indeed delivered a letter informing the nazim of the event before media cameras a few days before Zardari's arrival. The city administration repeatedly denied receiving any request for permission.. A suggestion that the PPP hold a rally at the Minar-e-Pakistan was turned down by the party leadership, who stated it had been made too late to alter plans. A fierce crackdown on PPP workers and leaders across the country saw mass detentions and brutality by police. *[See also chapters on Political Participation and Jails and Prisoners].*

The Lahore High Court (LHC) ruled in July that staging anti-government rallies or raising anti-government slogans did not constitute an act of terrorism, and ordered the quashing of FIRs under anti-terrorism laws registered against nine PPP workers held after Zardari's return.

More PPP workers were held during other rallies staged by them in Sindh and the Punjab during the year. 150 were held in Thatta in August, and cases registered against them, for staging a protest against alleged pre-poll rigging by government-backed candidates. Even rallies on Independence Day were stopped, and cases registered against PPP workers in Tando Muhammad Khan and Bulri Shah Karim for staging marches to mark the day.

In February, FIRs were registered against PPP MPA Humera Alwani, the district people's Labour Bureau president and 70 party activists for blocking the National Highway near Hyderabad and for instigating labourers. The political workers and labour activists had staged a sit-in to support demands of labourers of the Indus Jute Mills.

Activists of Sindhi nationalist parties were baton-charged while taking out a procession in Sukkur in February against the controversial Kalabagh Dam and Greater Thal Canal. In other instances too in Sindh and Balochistan, activists of nationalist parties drawing attention to provincial concerns were arrested.

The Sindh chief minister announced in March that MMA rallies would be disallowed across the province, unless prior permission had been granted. After weeks of confrontation with the Sindh government over the issue, the MMA was permitted to stage a 'million march' in Karachi to protest inflation.

Further tensions between authorities and the MMA came in April, as the MMA called a nationwide strike to protest government policies. Section 144 was imposed in Sindh ahead of the strike, and thousands arrested across the country. The MMA stated over 20,000 had been held. The MMA also maintained transporters and traders were intimidated and warned against participating in the strike. The NWFP government was, reportedly, cautioned not to back the protest action. The MMA held the strike had succeeded despite the government attempts to thwart it, while the government declared the strike had failed.

Similar efforts were made to stop a shutter down strike called by the Pakistan

Oppressed Nations Movement (PONM) in Balochistan and the NWFP in March. A rally staged by PONM in Quetta was charged, and at least 40 activists arrested, most of them belonging to the Pukhtoon Kh'wa Milli Awami Party (PKMAP)

Scores of workers of the ruling PML were hauled away by police and manhandled during a protest against the sacking of Sindh revenue minister, Imtiaz Sheikh.

In May, 12 PML-N workers including four women were arrested for staging a protest while standing in the Lahore Canal to demand the return of party president Shahbaz Sharif.

### Curbs on other groups

So ruthlessly was the ban on assembly enforced that even token protests by citizens attempting to draw official attention to civic issues or other concerns drew brutal attention from police.

In March, police baton-charged jewellers, who were protesting outside the Lahore



A police State?

Press Club against a shop robbery and neglect on the part of the police.

Earlier in 2005, in January, 107 people were booked in Khairpur for holding a demonstration against the illegal arrest of a woman and her two daughters.

Police once

more resorted to a baton-charge when relatives of about ten personnel of the military's Khyber Rifles outfit who had gone missing in Tirah Valley after to an avalanche, tried to hold a protest demonstration near Jamrud in March to demand the provision of information about the soldiers.

HRCP reiterated its warning that such harsh restrictions, barring people from even voicing their grievances, could only add to the dangerous air of frustration and anger prevailing in the country. It was pointed out that the action by police in all provinces of the country, and the uniform measures taken to beat and bludgeon people into silence,

suggested the orders to this effect came from higher levels of authority.

In February, at least 140 people were booked under MPO laws for staging an anti-government demonstration at Depalpur in the Punjab. The demonstrators, agitating against inflation, had raised anti-government slogans.

Two leaders of the Pukhtun Students Federation were arrested on treason charges from the University of Peshawar in January, after organizing a rally against the rising cost of education. They were said to have created a law and order situation and instigated students against the State. The student leaders, held under MPO laws, were granted bail by a court a few days later.

Police arrested over 200 farmers in May after preventing them from staging a demonstration outside the Balochistan Assembly in Quetta to protest power load shedding, which the farmers said was resulting in the destruction of crops watered by tube wells. The Naudero police in Sindh used batons and tear gas shells to disperse local people who had blocked the Larkana-Sukkur road to protest the lodging by police of what they termed a fake FIR in a local murder case. Four people were arrested.

A baton charge on journalists on May 3, World Press Freedom Day, in both Lahore and Islamabad and the police manhandling of HRCP leaders attempting to stage a token marathon in May were other examples of the suppression of the right to free assembly seen all through the previous year. *[See also chapters on Women and Freedom of Expression].*

### ***Recommendations***

1. *The use of repressive means to curb peaceful assembly is unacceptable. The basic democratic right of assembly must be allowed to all political parties and other groups. This must be recognized as a fundamental freedom available to all citizens.*
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 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, thus 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. Police must be trained to handle protests and gatherings, given that mismanagement has repeatedly led to unnecessary violence.*

HUMAN RIGHTS

# 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)

The hostility directed by rulers towards civil sector organizations which expressed dissenting views assumed immensely threatening dimensions during the period under review.

Attacks came from the president of the country, various ministers and other representatives of State authority throughout 2005. Non Government Organization (NGO) leaders were accused of damaging the national interest, by highlighting issues such as rape and were accused of deliberately projecting victims in order to obtain funds and to tarnish the country's image.

In June, in the aftermath of the embarrassment caused to the government by its attempts to prevent gang-rape victim Mukhtar Mai from attending a seminar in the US, State Minister for Interior Dr Shahzad Waseem and the Prime Minister Advisor on Women's Affairs, Dr Neelofer Bakhtiar, accused NGO leaders of immoral behaviour, corruption and working against the national interest. The language used and the accusations made were strongly condemned by HRCP and other NGOs, which also maintained the government had lied in stating Mukhtar Mai was free and had not been

prevented from moving or speaking freely.

Other accusations against NGOs came from various official quarters. The threat of new laws, to monitor the working of NGOs, continued to lurk. Despite government assurances that the laws were not intended to control NGOs, independent organizations feared they would be used to intervene in work or to control funding, particularly against the backdrop of the increasingly blatant official animosity towards civil society groups critical of government policies.

Apart from the official threat, militants posed a growing danger to NGO activists, particularly women and groups working for the rights of women. A woman activist, along with her teenaged daughter, was murdered in Dir in June. Many others were threatened. The failure to punish the culprits pointed to official connivance in the acts of violence and encouraged others to engage in similar acts.

### **Threats from official quarters**

There were several incidents during the year in which NGO leaders faced intimidation or physical threat.

In May, HRCP Council Member and veteran Sindhi leader Jam Saqi was arrested in Hyderabad days after leading an HKCP fact-finding mission to investigate allegations of harassment and high-handedness by associates of Sindh Chief Minister Ghulam Arbab Rahim in his home village. Some of the complainants were Hindus in the area. Saqi was freed after angry protests by activists in Hyderabad. The Sindh CM maintained HRCP had no authority to investigate complaints made to it. *[See also Chapter on Freedom of Thought, Conscience and Religion].*

However, a vendetta against Saqi and his family continued even after his release. Saqi's wife, Akhtar Sultana, was in June first arrested by Hyderabad Police on a kidnapping charge and after she obtained bail, picked-up by Karachi police on a theft charge, with allegations dating six years back. A nephew of the couple, Imtiaz Mallah, was briefly detained. The Sindh High Court (SHC) granted bail to Akhtar Sultana and pre-arrest bail to Jam Saqi. Lawyers for the couple told the court the charges against them were obviously politically motivated. NGOs, political parties and trade unions lodged strong protests against the harassment of the elderly couple, and the arrests made even after the persons named as complainants in the cases against them stated they had made no charges against Saqi or his relatives.

The violent manhandling of HRCP leaders Asma Jahangir, Syed Iqbal Haider, Hina Jilani and others in Lahore in May during the organization's token marathon race to draw attention to women's issues, was also widely seen as a direct result of official hostility towards NGOs. Asma Jahangir's shirt was torn as she was hauled to a police truck. HRCP voiced its concern after the incident that the degree of brutality unleashed by police on the peaceful participants in the rally suggested a 'go ahead' for the action

had come from persons in powerful positions. *[See also chapter on Women].*

In June, Prime Minister Shaukat Aziz stated a code of conduct was being devised for NGOs and a plan put in place to regulate their work. It was unclear whether these measures were a part of a law drafted by the Pakistan Centre for Philanthropy (PCP), apparently to streamline NGO working. The failure to take independent NGOs into confidence on the draft, and the requirement that NGOs register with the PCP, itself an NGO, meant many questions continued to be raised about the new law. New laws were in August reported to have been drafted to check NGOs working against the 'national interest'.

In June, the PCP stated it was assessing the efficiency and certification of hundreds of NGOs across the country, and had determined 72 parameters on the basis of which it would assess internal governance, financial management and programme delivery. Certification would be granted after the assessment process, and the PCP stated tax exemptions would be granted on the basis of this certification.

There was also evidence of official attempts to directly intervene in the working of NGOs. In June, it was reported the Islamabad-based 'Rozan' NGO, working on violence against children, had been 'blacklisted' for distributing 'obscene' questionnaires in schools. A short while later, the ministry of social welfare advised the NGO to abandon its 'Aangan' programme, aimed at raising awareness about sexual abuse among children.

Earlier in the month, the federal education ministry issued directives to educational institutions ordering them not to allow any organization to distribute survey forms amongst students or teachers without obtaining prior permission from the ministry.

In March, the Peshawar district government banned any NGO activity in public-sector schools, apparently after complaints about material on HIV/AIDS and sex education distributed by a multinational organization.

In other cases too, high-handed actions were taken against NGOs. In March, the LHC ordered the unsealing of the office of a welfare organization, 'Khidmat-e-Khalq', which had been closed down earlier in the year by police reportedly acting on the orders of Dr Faiza Asghar, advisor to the Punjab Chief Minister on children's rights and in charge of the Child Welfare Protection Bureau.

As part of what it described as a process aimed to bridge the gap between NGOs, the government and civil society, the ministry of social welfare in March launched an NGO database. The website, containing information on around 100,000 active NGOs was stated to be the first such record of NGOs compiled at the official level.

In August, women members of the MMA, at a seminar in Lahore, demanded a ban on NGOs pursuing a 'western agenda' in the NWFP. They also stated NGOs had harmed the country by raising the Mukhtaran Mai issue.

In spheres such as education and health, the government worked closely with



NGOs. Concern continued to be expressed by HRCP and other organizations about the government's abdication from its responsibility of meeting the educational and health needs of citizens, and instead handing this task over to NGOs. It was feared the government could, in future years, blame NGOs for a failure to meet literacy targets or other developmental goals.

NGOs in the Punjab, and also other provinces, continued to work in public sector schools. The Punjab government, in February, praised the work by NGOs at these schools and sought their assistance for implementation of education sector reforms in the province. The Punjab population ministry also acknowledged the role of NGOs in the health sector.

### **Threats from militants and other elements**

The threat posed to NGOs and their activists, especially women, posed by militants grew – most notably in the NWFP.

NGO activists in some incidents also faced a threat from other individuals or groups wielding influence.

The extent of the threat from extremists was highlighted by the murder in June of Zubaida Begum, a 40-year-old activist for Aurat Foundation in Dir. Zubaida Begum, a well-respected activist who had worked for voting rights for women in the area, was shot down. Her teenaged daughter, badly injured in the attack, died a few hours later.

After looking into the facts, HRCP found the attack was a direct attempt by zealots to silence women and prevent them acquiring even the most basic rights. Insulting calls to the family of the murdered women, mocking their attempts to secure political rights for women, followed the killings. The murderers had not been apprehended into August.

Even before the gunning down of Zubaida Begum, NGOs had faced repeated intimidation. In May, Aurat Foundation accused the Jamaat-e-Islami (JI) of threatening to disrupt election-related activities in Timergarah in Dir by warning them against holding a meeting with local social and civil rights groups. A meeting, held separately for women in the area, was disrupted by the Timergarah tehsil nazim, who arrived at the venue, abused the organizers and ordered them to wind up the meeting.

Women activists in Dir and surrounding areas reported harassment throughout the year. A female advocate in the area complained in May that in some areas 'fatwas' (edicts) had been issued against them by religious leaders. NGOs advocating voting rights for women faced the brunt of attacks in 2005. In previous years, groups advocating education for girls had faced severe hostility in many parts of the NWFP.

There were also reports from Balochistan in July and August, notably from the Pishin area, of growing hostility towards NGOs running schools for girls.

In December 2004, the office of the Aga Khan Foundation in Chitral was attacked

with grenades. Two staff members were killed. Vehicles and office equipment was badly damaged, in what was seen as the first such attack on the Aga Khan Foundation centres in the Northern Areas. The incident took place amid growing sectarian tensions in many parts of the Northern Areas. Two members of a banned sectarian outfit were arrested soon after the attack.

The killing of an NGO activist, Babar Sampson, and his driver in Peshawar was feared to be an attack on Christian NGOs. Police believed monetary motives lay behind the murder. *[See also chapter on Freedom of Thought, Conscience and Religion].*

According to press reports in August, a Lahore-based human rights activist, Kiran Fatima opted to go into self-exile in the US, after receiving threats allegedly from extremist groups. The lawyer had been helping women victims of crime with their cases. She stated police had refused to lodge a complaint.

A similar incident was reported from Karachi during the same month. Khalida Ahmed, a member of the NGO War Against Rape (WAR) stated she had been harassed and threats made to her life after she attempted to assist a maid servant allegedly raped at the home of her employee. The victim had approached the Sindh ombudsman after police refused to register a case, and instead lodged a separate case against the victim's husband. Khalida Ahmed complained unknown persons who visited the Civil Hospital where the victim had been sent by the ombudsman for a medical exam threatened both the victim and herself, warning they would be killed if they pursued the case.

Extremist leaders continued to attack NGOs and activists in speeches made across the NWFP, without any check. In April, Jamaatud-Dawa leader Prof Hafiz Saeed, while addressing an Islamic Medical Conference in Lahore, alleged NGOs were out to destroy religion.

In January, the Muttahida Tulba Mahaz threw stones at a demonstration staged by the Joint Action Committee (JAC), consisting of over a dozen NGOs, outside Lahore Press Club, to protest demands to add a column on religious belief in passports.

### **Trade unions**

Tough curbs on trade union activities continued. The Industrial Relations Ordinance (IRO) of 2002, which remained in force despite demands by political parties and labour unions that it be scrapped or amended, made forming new Central Bargaining Agents (CBAs) within organizations extremely arduous.

In attempts in June to end industrial action within the Pakistan Telecommunications Corporation Limited (PTCL) by labour unions opposed to privatization of the public sector giant, leaders were arrested, manhandled by police and, in other cases, family members detained. *[See also chapter on Labour].*

Trade union activities in PIA, the Railways and other semi-autonomous organizations

continued to be restricted.

Student unions remained banned at educational institutions. Despite the ban, the



The torches carried by workers could not lift or dispel the darkness brought by tough curbs on trade unions.

Islami Jamiat-e-Tulaba (IJT) forcefully exerted its influence at the Punjab University and other institutions in several incidents, with administrative efforts to control it repeatedly floundering. In May, the IJT went ahead with holding a book fair at the

university, despite the administration's decision not to allow the event. Senior government figures were among those who visited the fair.

### **Recommendations**

1. *No legislation must be introduced to harass, victimize or intervene in the work of non-government organizations (NGOs) working independently of the government or voicing criticism of official policies.. While NGOs or other organizations choosing to work alongside the government should be fully permitted to do so in all sectors, others must not be targeted for attack.*

2. *Members of government must be prevented from threatening NGOs or slandering their leaders. Where evidence exists of dishonest conduct, the matter should be dealt with under due process of law.*

3. *Those guilty of making threats, inciting hatred and carrying out violent attacks on NGOs or other peaceful associations and their activists must be penalized 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 in which many NGOs function.*

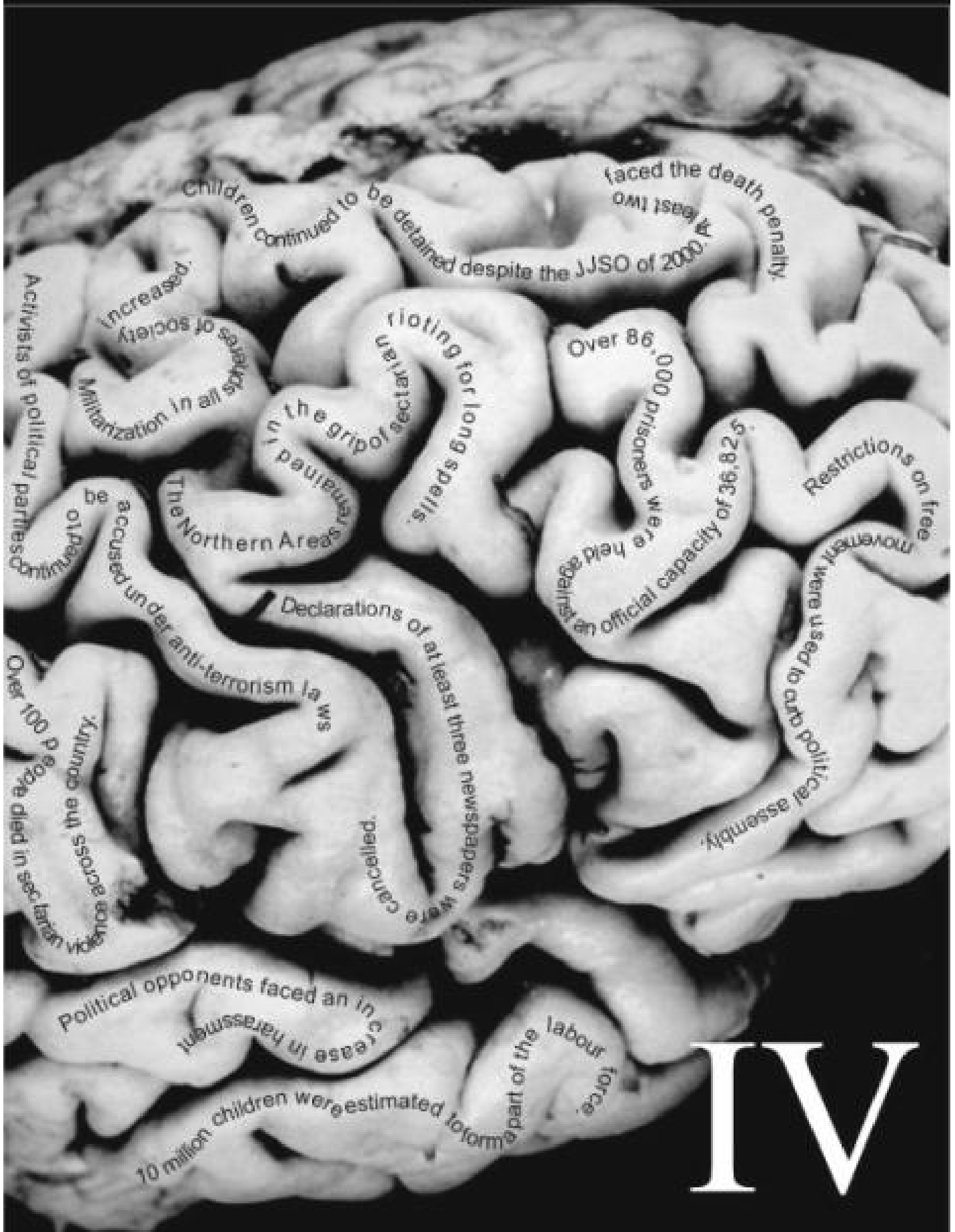
*4. The increased actions by the State and its agencies against activists are alarming and present an immense threat. A full, independent investigation into all cases of illegal arrest and detention must be carried out, so that those responsible can be penalized under existing laws. Other forms of harassment against activists, utilizing mechanisms such as the ECL, must also be brought to a halt.*

*5. 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 organizations to continue their activities.*

*6. 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 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.*

*6. Action against NGOs accused of misusing funds or other illegal actions should be carried out only under the due process of law. Unilateral action, aimed at sealing NGOs, freezing funds or forcing them to quit operations, goes against this principle. Any action against an NGO must be transparent and carried out under specific laws.*

*7. 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.*



# IV

## Democratic development

HRCP

# 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 worsening state of democratic freedom in the country was highlighted by increased ruthlessness in crushing dissent from all quarters. The measures taken included mass round-ups of political activists, harsh curbs on assembly and an increasingly

blatant subversion of the democratic process.

Manipulation in local government polls, the first two phases of which were completed in August 2005, through the re-drawing of constituency lines, widespread intimidation of candidates linked to opposition parties and, in the post-poll scenario, the open luring over of members of these parties to the ruling PML, provided evidence of this determination to curb basic democratic freedoms.

This tendency was confirmed by the State's increased secrecy. Independent journalists, activists and other citizens were denied access to various parts of the



The opposition pleads its case.

country including Waziristan, Dera Bugti, Sui and Marri Agency. As was evident from the chain of events that unfolded in Balochistan, the military seemed determined to further tighten its grasp over all aspects of life in the country. The increased federal d i s h a r m o n y

suggested the need for a return to democratic, civilian rule was more imperative than ever before.

Parliament acted increasingly as a rubber stamp, with bills bulldozed through it within days. Debate and public discussion on laws, such as amendments in legislation governing the electronic media in the country, was virtually non-existent within the lower house. However, there was some evidence that the Senate was less willing to blindly allow legislation to be rushed through it, with the Pakistan Electronic Media Regulatory Authority (PEMRA) amendment act not passed by the Upper House within the mandated period of 90 days [See chapter on Freedom of Expression].

The steam-rolling of the controversial Hasba Bill through the NWFP provincial assembly in July gave rise to fears that the law could be used to add still further to the harassment, intimidation and discrimination faced by all opponents of the provincial government, and especially women and non-Muslims. The striking down by the Supreme Court of various clauses in the bill a few weeks later, and its advice to the NWFP Governor not to sign the bill in its present form, meanwhile gave rise to renewed



controversy over the question of whether the apex court had over-stepped its constitutional powers.

Anti-terrorism laws were increasingly used against political opponents, while mainstream parties remained largely marginalized. Attempts to weaken them continued, while there was also strong criticism of the parties themselves and their leaders through the year.

### **Crisis in Balochistan**

The crisis in Balochistan, that lingered on into August even though matters seemed on the surface to have simmered down after the tensions created by the paramilitary operation in Dera Bugti at the start of the year, presented an acute threat to federal harmony, and to peace in the country's largest province.

The latest crisis started in early January, when Bugti tribesmen attacked the country's largest natural gas producing plant at Sui, run by Pakistan Petroleum Limited (PPL). The attack came hours after local police accused an army captain of raping a female doctor, Dr Shahzia Khalid, working there. *[See also Chapter on Women].*

Some reports stated that the Bugti tribal chief, Sardar Akbar Bugti, had encouraged the attack on gas installations to settle matters linked to royalties from the gas fields. Other accounts suggested a guerilla force, known as the Balochistan Liberation Army (BLA) was involved. Gas supply to parts of the country, including industrial units in the Punjab, was cut off as a result of the attacks on installations at Sui, located at the heart of the Bugti tribal area.

Refusal by the government to provide information about the situation or the precise sequence of events contributed to the anger and frustration of Baloch people. Independent accounts and information collected by HRCP suggested eight people, including three soldiers, were killed and 35 people wounded in these clashes.

As tensions lingered, a siege was thrown around Dera Bugti with thousands of troops and paramilitary forces moved into the area. The Marri, Mengal and Mazari tribes also gathered to aid the Bugtis, as fighting intensified. The siege had terrible humanitarian consequences, with people denied access to food water or hospitals. House to house searches by troops, the forced shifting of entire villages and bombing raids over areas where there were sizeable civilian populations inflicted still greater suffering on local people. Floods earlier in the year, and accusations that water had been deliberately released from dams, added to the seething anger among people in the province. *[See chapter on Environment]. [In December 2005 aerial bombardment of Marri, and later also Bugti tribal areas in Balochistan began after the government accused insurgents of attacking military targets. The HRCP chairperson led a fact-finding mission to the area soon after violence erupted].*

In March, after a meeting of its Council, the policy-making body of the organization, HRCP expressed concern over the increasingly aggressive tone adopted by President

Pervez Musharraf as the fighting continued, and warned against any rash action. While condemning the use of force by all parties involved in the conflict, HRCP reiterated its position that the problems of Balochistan could not be solved without accepting the principle of provincial autonomy. HRCP also called for a demilitarization of Balochistan, a suspension of plans to build cantonments and an investigation by a multi-member tribunal to determine whether use of military force had been arbitrary.

In March, talks were initiated between Nawab Akbar Bugti and government representatives led by PML leader Chaudhry Shujaat Hussain. The dialogue led to an



The problems of Balochistan cannot be solved by guns.

end to the siege of Dera Bugti. President Pervez Musharraf, during a visit to Balochistan, Prime Minister Shaukat Aziz and other leaders pledged multiple developmental schemes in the province. However, Nawab Akbar Bugti, head of the Jamhoori Watan Party (JWP)

continued to warn through the year that the wider issues facing Balochistan remained unresolved. At the end of August, Bugti called a meeting of all nationalists in Balochistan to discuss evolving a single platform from which to raise their demands. He also maintained a new military operation in the province was being planned. Baloch nationalist leaders had been demanding greater autonomy and control over their own resources since the 1950s. HRCP had during a fact-finding mission to Balochistan in 2004 found deep resentment among people against the increased military presence in the province and a strongly felt perception of deprivation.

While some semblance of calm returned to Balochistan after March, tensions remained high. At least 120 bomb blasts and 123 rocket attacks were recorded in the province between January and August 2005. It was unclear who was responsible for the acts of terror that greatly threatened the safety of people and spread harassment and fear across the area. At least three Baloch political activists, 'picked up' over the past two years, remained missing into August. They included Syed Faisal Shah and Ali

Asghar Bungulzai, who had been missing for several months, and Hafiz Saeedur Rehman, who had ‘disappeared’ in July 2003.

In March 2005, at least seven students of the Balochistan Students Organization (BSO) were ‘picked up’ in Karachi. They were held illegally for two months, with no access to lawyers or family. Four were released on May 24<sup>th</sup>, after being produced in a Dera Ghazi Khan court and granted bail. They complained of being held in solitary confinement for over a month and being subjected to severe torture and degrading treatment. After the BSO and other Baloch nationalist parties threatened a hunger strike in Quetta, the three other students, Dr Allah Nazar, Nadim Akhtar and Gohar Ali, were produced before a Karachi court in August. Immediately after their appearance HRCP received a complaint that the three were in precarious mental and physical health. Special concern was expressed over the condition of Dr Allah Nazar.

Sectarian violence stalked Balochistan, with at least four prominent members of the Shia community gunned down in Quetta in July and August 2005 alone. Other sectarian attacks had been experienced earlier in the year. [*See chapters on Law and Order and Freedom of Thought, Conscience and Religion*]

Complaints from people across Balochistan, most notably in the Gwadar area, of harassment at military check-posts continued to come in, while there was also growing opposition to the military cantonments being set up in the province.

### **Militarization of society and secrecy of State**

The lack of transparency in the working of State and the refusal to disclose details regarding operations in Balochistan, the tribal areas and elsewhere, contributed significantly to the exclusion of citizens from the decision-making process and deprived them of information which had far-lying national consequences.

A discernible decline was observed over the past few years in the access available to citizens to prisons, while independent journalists were prevented from reporting from areas



The ranks of militants continued to grow.

of conflict such as Waziristan or parts of Balochistan. The precise situation prevailing in the northern areas, as a outcome of operations stated to be directed against militants was unknown. In July, 15 out of 17 people killed during what authorities described as 'anti terrorist' operations in Miran Shah were reported to be women and children. There was no independent corroboration of these reports, or of accounts that suggested houses had been flattened in some parts of Waziristan and thousands displaced as part of the effort to track down alleged terrorists.

Even apart from military operations, draft laws were often kept secret and not circulated for discussion. Indeed, bills were in many cases rushed through parliament with such unseemly haste that no debate was possible. The secrecy of State extended to many other spheres, with government servants reportedly asked to avoid divulging information to journalists. The failure to inform employees at PTCL of privatization plans or develop a consensus on issues arising from this, contributed to the crisis arising within the organization in May and June 2005. *[See also chapter on labour].*

The military meanwhile continued to expand its grasp over many spheres of life. In January, civil society groups in Karachi and Badin joined the Pakistan Fisherfolks Forum (PFF) in protesting the failure of Sindh authorities to hand fishing areas on the Badin coast back to fishermen. The system under which Thar Rangers controlled fishing in the area by awarding contracts had been ended late in 2004, after the PFF complained to President Pervez Musharraf. Civil society groups complained that the Sindh government and Rangers were colluding to deny fishermen their rights.

Various studies, including detailed presentation made at the Woodrow Wilson International Centre for Scholars in Washington in June by experts on Pakistan, on the 'Political Economy of Militarization' found close links between military and business interests in Pakistan. It was noted this had greatly influenced political development in the country, and contributed to the gulf that existed between civilians and the military. It was also pointed out, at various forums, that the increased focus on national security interests rather than welfare of the people by State seemed to derive from an essentially military mind-set. Throughout the year, NGO activists, political leaders and journalists were rebuked for 'damaging national interest', usually by expressing dissent from official views of criticizing government policies.

The extent of the militarization of society was evidenced by the rapid increase in the number of serving and retired servicemen holding posts previously reserved for citizens. Civil Service records showed that in 1968, with one a few exceptions, military men held almost no posts in the civilian sector. Between 1980 and 1985, according to published figures, under the late dictator General Ziaul Haq, 211 officers from the armed forces were inducted into the Central Superior Services.

During the four-year period after 1999, according to newspaper records, 1,027 personnel from the fighting forces had been inducted into jobs previously reserved for

civilians. Just before the October 2002 general election, 400 serving officers either returned to military service, or left because their contracts had been terminated. But the trend of inducting military men resumed soon afterwards, with recruitments into the civil services coming even as 700 surplus civilian employees remained on the books. Thousands more military inductions into organizations such as WAPDA were reportedly planned, despite the acute shortage of employment opportunities for civilians. Through 2005, military men continued to hold posts as vice chancellors of universities, and increasingly moved into other coveted slots in the civilian sector. While most resentment of ordinary citizens for uniformed personnel stemmed from the vast allocations made to meet their needs, other events aggravated this sentiment. In the middle of 2005, various incidents were reported from Lahore in which military personnel, while enforcing a ban apparently placed on rickshaws in the city's sprawling cantonment area, 'punished' rickshaw drivers by making them assume the humiliating 'murgha' position while standing on the pavements. In some cases, it was reported schoolchildren being brought home in rickshaws hired by parents for the purpose were forced off and made to find their own way home.

The fact that the country's President wore uniform, and evidence that military men played a key role in decision making, with numerous interventions from the establishment reported during the local government polls in August, highlighted the scale of the militarization of society.

### **Local government elections**

HRCP received hundreds of complaints from across the country regarding the rigging of local government polls, the first two phases of which were conducted in August 2005.

The non-party election system in itself served to encourage corruption and violated democratic practices. Changes in constituency lines and district boundaries ahead of the polls, most notably in Sindh, were widely seen as being intended to damage opposition



Poor arrangements contributed to problems faced in the conduct of local body polls.

parties. The PPP lodged numerous complaints about the changes made months ahead of the poll. The splitting up of Hyderabad and Dadu districts, in particular, was widely seen as an obvious attempt on the part of the Sindh government to damage the interests of the PPP.

Apart from the changes in district delimitation, intimidation of opposition candidates, in many cases aimed at luring them over to the ruling party, was widely reported from both the Punjab and Sindh. HRCP received complaints of such harassment from Khairpur, Sukkur, Thatta, Mithi, Dadu, Larkana, Nowshera, Gujrat, Multan, Gujranwala, Okara, Kasur, Sheikhpura, Sialkot, Kharian, Jehlum and other locations across the country. The manipulation of the polling process was clearly intended to ensure local government institutions remained in the control of the ruling party, or other groups supporting the establishment.

Changes made in the Local Government Ordinances 2001, days ahead of the first phase of polling, granted the provincial chief ministers the right to over-rule decisions made by district, tehsil and union councils. Seats within union councils were reduced from 21 to 13, with this change entailing a significant reduction in seats for women.

The extensive manipulation well ahead of polling day in many ways rendered the balloting process itself of somewhat marginal significance. HRCP organized a limited observation of the polls. Volunteers who watched the election during the first two phases of polling on August 18 and August 25 record widespread chaos caused by extremely poor arrangements. Poorly maintained voter lists, inadequate stationery, ink that easily washed off, badly printed ballot papers which in some cases made it impossible to distinguish between the symbols used, confusion over the location of polling stations and a failure to initiate polling at the set time caused grave difficulties to voters and acted to trivialize the entire process. In some cases, names of certain candidates had in fact been left off the printed ballot sheets. At least 45 people were killed during the first two phases of polling, with most incidents coming in the Punjab, closely followed by Sindh. HRCP received complaints of ballot stuffing and intimidation of polling agents and EC staff from Larkana, Mirpurkhas, Sukkur, Multan, Gujrat, Okara and other locations.

Despite a restoration of the joint electorate, in some cases separate polling booths for Muslim and non-Muslim voters were retained in Lahore. The Ahmadis continued to be denied a joint electorate, whereas non-Muslim candidates in many cases were allotted degrading symbols such as a dog, rat or snake. *[See also Chapter on Freedom of Thought, Conscience and Religion].*

Women voters once more faced bars on polling, notably in the NWFP. However improved efforts by the Election Commission to prevent the exclusion of women were appreciated by HRCP. *[See also Chapter on Women].*

In an interim report on the first two phases of the polls, HRCP stated that the

elections, as held for local body institutions, had been rendered virtually meaningless. This was seen as a warning signal, with a general election scheduled within two years.

The Alliance for the Restoration of Democracy (ARD), the Muttahida Majlis-e-Amal (MMA) and smaller parties, including the Pakistan Tehrik-e-Insaf (PTI) detailed large-scale rigging of polls at various press conferences. References against alleged rigging were moved before Election Tribunals, with hearings continuing into the end of August.

The third phase of polling was delayed to October. Opposition leaders maintained the delay was intended to grant the government



Accusations of tampering with results were widespread.

and establishment more opportunity to intervene in the process, and ensure candidates of their choice attained the key slots of district nazims. Over a dozen members of the PML-N joined the ruling PML in the Punjab in August alone, with the trend of defections to the ruling party, seen through the year, accelerating. It was alleged by opposition leaders that, in a blatant display of political corruption, members had been persuaded to join the ruling party through coercion, propaganda, warnings that such defections represented their only hope of political success and blatant bribery, in the form of promises of political offices. *[The ruling Pakistan Muslim League won most seats for nazims as the third phase of polling ended in October.]*

### Threats to political opponents and intervention in party working

The pattern seen in previous years, of attempts to weaken opposition parties and persuade members to switch over to the ruling PML continued.

The trend, which violated the principle of multi-party democracy, was most visible in the Punjab, Between April and August 2005, at least 20 PML-N members, including several MPAs and MNAS, announced their decision to join the PML. At least five

leaders of other parties, including the PPP, also switched alliances.

Leaders of the PML-N and PPP alleged the Punjab government had intimidated and harassed leaders to persuade them to defect, while also using offers of important positions within the ruling party or government as a means to bribe them over. The luring over of opposition leaders assumed greater pace just before and after the local government polls in August, with the Punjab authorities aiming to strengthen their own position in various districts by acquiring the support of opposition leaders who wielded political influence. The PML-N repeatedly stated the tactics were intended to cover-up the considerable support of the party in the Punjab, and to ensure establishment-backed candidates assumed the maximum number of district nazim posts. Even more sinister than the intimidation of opposition leaders in the Punjab was the open threat to their safety that came during the year.

Some of the incidents reported during the year were as follows:

- ◆ In August, five PPP activists were gunned down in Akora Khattak in the NWFP, while a victory procession of party nazim-elects was on its way back from a shrine where party workers had gathered to celebrate the victory of their candidates in local government polls. The culprits were not apprehended as August ended.

- ◆ Only a few days earlier, five PPP leaders had escaped what they described as a murder attempt in Umerkot in Sindh. They included party MNA Nawab Muhammad Yusuf Talpur and ex-Sindh minister Mir Munawwar Talpur. PPP leaders accused the Sindh government of being behind the incident. PPP MNA from Sindh, Pir Aftab Shah Jilani and his brother, Shafquat Jilani, were charged by police with attempted murder in the case. The PPP maintained thugs of the ruling PML had been involved and the charges against the PPP leaders were fabricated.

- ◆ Towards the end of the month, PPP MNA Manzoor Wasan, his nephew, Nawab Khan Wasan and other PPP workers were attacked in Khairpur during a rally. Days earlier, local police had prevented PPP workers staging demonstrations on Independence Day. After angry protests by party workers, who gathered outside the local police station with the former Khairpur district nazim Nafisa Shah and other party leaders, 65 persons were booked for the attack.

- ◆ Nisar Khuhro, opposition leader in the Sindh Assembly, was fired upon in August while speaking at a corner meeting of political workers in Larkana soon after the second phase of the local government. He was at the time speaking about the rigging of the polls.

- ◆ PPP leaders Yousaf Talpur, Ghulam Qadir Paliyo and Sassi Paliyo each faced attacks by unknown assailants in separate incidents in July and August, while campaigning for local government polls.

The alarming incidents came during a year when widespread victimization of political opponents had been seen. In December 2004, four district nazims and two



naib nazims from four districts in Sindh had been removed by the provincial government on an executive order, on the grounds that the districts represented by them had been split after new delimitations of constituencies in Larkana, Mirpurkhas, Dadu and Jacobabad. All four nazims, Khursheed Ahmed from Larkana, Pir Shafquat Hussain from Mirpurkhas, Mir Shabbir Bajrani from Jacobabad and Malik Asad Sikander from Dadu, as well as the two naib nazims, Nazir Ahmed and Muhammad Younis from Larkana and Mirpurkhas respectively, were affiliated with the PPP. In May, the Supreme Court restored the nazims and naib nazims, dismissing an appeal by the Sindh government against the restoration of the nazims by the Sindh High Court. The court ruled the provincial government had no authority to dismiss nazims.

The PPP was not the only party to face victimization, and what appeared to be targeted attacks. In May, in Karachi, a nazim of the Jamaat-e-Islami (JI), Tahir Jamal, was gunned down by unknown assailants. It was unknown whether the attack was sectarian or political in nature. Next day, gunmen opened fire at the congregation where the victim's funeral prayers were being offered. Hours later, as Aslam Mujahid, deputy leader of the JI in Karachi, left the congregation, he was kidnapped and his dead body later found dumped by a roadside. It bore torture marks and multiple bullet injuries. As the MMA issued a strike call, police raided the JI Karachi offices and arrested nine leaders. Some were charged with criminal offences, including arms possession. The JI dismissed the charges and stated the weapons had been planted in the office.

The Muttahida Qaumi Movement (MQM) in Karachi meanwhile accused the JI of attacking its offices and threatening its workers. Political tensions remained high in Karachi through the year.

While there were rumours at the end of 2004 and early in 2005 of dialogue between the government and the major opposition parties, the PML-N and the PPP, citizens were not informed as to the developments or the nature of any talks. President Pervez Mushraf confirmed in the middle of 2005 that authorities were in contact with the PPP. Press reports conjectured that such contact had also been made with the PML-N, while theories suggesting that Asif Ali Zardari and Shahbaz Sharif could be permitted to return circulated widely. It was also reported the PPP had sought polls in 2005 or 2006 as a pre-condition for any agreement with the government. Benazir Bhutto and Mian Nawaz Sharif met early in the year in Jeddah to discuss the political scenario.

As in the past, these developments excluded citizens and were conducted in an air of secrecy, contributing to political uncertainty in the country. The reports by the end of August 2005 of possible plans to shift to a presidential system added to this uncertainty and political confusion.

The determination to prevent people participating in political events was most obviously demonstrated in the harsh measures taken to restrict assembly. Thousands

of political workers associated with opposition parties were arrested during the year. They included thousands of MMA activists, who had attempted to stage a strike in April. Others were held on various occasions. *[See also Chapter on Freedom of Assembly]*

One of the largest round-ups came in April, when Pakistan Peoples Party (PPP) leader and spouse of party chairperson Benazir Bhutto, Asif Ali Zardari, returned home to the country after a stay in Dubai. While the PPP planned a big reception for Zardari at Lahore Airport, and a rally to Data Darbar shrine, last minute changes in flight schedule created chaos. Some reports stated the changes had been deliberately orchestrated by authorities to create confusion and prevent party workers from reaching the airport. Zardari, who arrived at dawn, was whisked swiftly away under police escort to his home in the cantonment area. Meanwhile, scores of PPP workers were arrested at the airport. Others were held from outside Zardari's house and across the city. An HRCP fact-finding mission, led by its chairperson, expressed dismay over the ruthless force to which party workers had been subjected. Women, children, the young and old alike, were mercilessly dragged away to police stations with scant respect for their dignity. HRCP learnt at least three women were injured. The HRCP team was denied entry to police stations, within some of which children were held.

Several women political activists complained even the sick were not provided medical care. Some women workers were subsequently sent off to distant jails where they remained detained for weeks and even months. PPP workers entering the city were rounded up in hundreds. Others were held in Karachi, Islamabad, Multan, Gujranwala and other cities as they set out for Lahore. The PPP maintained at least 2,000 workers were arrested countrywide, including dozens of parliamentarians and party leaders.

Families of detained PPP leaders including Ahmed Mukhtar, former Multan mayor, Salauddin Dogar and Jifan Sheikh, filed petitions before the Lahore High Court (LHC) in April complaining they were not being permitted to meet the prisoners held at Multan Jail. The court ordered jail authorities to permit meetings.

At Adiala Jail in Rawalpindi authorities told families of leaders that only the home secretary could grant permission for arrested workers to be allowed to meet relatives.

Many leaders complained that they were kept in prison far beyond the 90-day period laid down under Maintenance of Public Order (MPO) regulations.

The lack of respect for democratic principles on the part of authorities was reflected not only in such actions, but also the suspension on at least nine opposition members of the Punjab Assembly in June, for what the speaker termed 'unruly' behaviour. Opposition parties insisted the MPAs, who included deputy opposition leader Rana Sanaullah, were attempting only to make their voice heard, and maintained the Speaker

had consistently prevented them from airing views critical of the government.

The establishment intervention in the ruling party was also visible through much of the year. President Pervez Musharraf intervened several times in 2005 to patch-up differences within the party, and quash attempted moves against PML president Chaudhry Shujaat Hussain. In a meeting in May with the central executive committee of the party, the President advised leaders not to make statements that could damage the government, and instead ensure unity within the party. There were also reports in August that the establishment's instance that hand-picked candidates be supported by the PML for district nazim slots in certain constituencies aggravated differences within the party, with leaders maintaining such dictation went against all democratic norms.

Attempts to merge all PML factions continued. The PML-Functional of Pir Pagara however declined to accept Chaudhry Shujaat as leader of a united group, and retained its independent existence despite repeated attempts to bring it under the PML umbrella. PML-N leaders meanwhile argued that internal differences that cropped up several times within the PML-N, and also differences within the ARD that surfaced in the middle of the year, threatening to split the alliance, were the result of intervention by government allies as part of a wider effort to weaken opposition parties and alliances.

### **Cases against opposition politicians**

The use of anti-terrorism laws as well as National Accountability Bureau (NAB) regulations against opposition politicians was more blatant than in previous years throughout 2005.

Dozens of political workers were charged under the Anti-Terrorism Act after being arrested at rallies or other public gatherings. They included members of the National Assembly and the Punjab and Sindh provincial assemblies.

In April, after a marathon race in Gujranwala, in which women were also participating, was attacked by extremist zealots, cases under anti-terrorism laws were brought against MMA MNA Qazi Hameedullah, his son and several others. Over two dozen persons were arrested. Qazi Hameedullah and his son were released on bail by a Gujranwala Anti-Terrorism Court (ATC) a few days after the attack.

In June, PPP MPA from Sindh, Zahid Ali Bhurgari, was arrested in Hyderabad while returning home from a worker's convention, two days after he had strongly criticised the Sindh budget in the assembly. Police initially denied he was in their custody, while the PPP staged protests and demanded his release. Two days later, Bhurgari was produced before an ATC, and shown as arrested in a bomb blast case by police in Jamshoro district. The police accused him of damaging two WAPDA electricity towers located along the Indus Highway, near Amri Town, and claimed Bhurgari had been

arrested near the site of the blasts.

The MPA was released on the orders of the Hyderabad ATC after 15 days in detention, when police submitted they had no evidence against him.

The PPP stated in August that similar, fabricated cases had been lodged against other leaders. PPP leaders facing criminal cases included MNA Pir Aftab Shah Jillani and his brother, Shafquat Jilani, MNA Naveed Qamar, former minister Mohsin Shah, former nazim Makhdoom Rafiquzzaman and Sindh MPA Sassi Palijo.

In April, in Karachi, Sindh MMA leaders Mirajul Hudda Siddiqui, Aslam Mujahid, Badrud-Duja, Kaleem-ur-Rehman, Muhammad Asghar, Muhammad Iqbal, Muhammad Rashid, Zafar Iqbal and Mehmood Khan were arrested by police during a raid on the JI office in the city. They were charged with possessing four bags containing explosive material, including grenades, bombs and also fire-arms. The MMA maintained the accusations were false and politically motivated. The leaders were granted bail a few weeks later.

The PML-N's acting president, Javed Hashmi, sentenced to a 23-year jail term in April 2004 on charges of sedition, was produced before an accountability court in Lahore several times during the year in a case accusing him of illegal acquisition of wealth.

In March, the PPP accused the government of deliberately misleading people on corruption cases. It stated it had received documents from a Geneva court stating party leader Benazir Bhutto had been found not-guilty in a case involving alleged kickbacks on the purchase of tractors from a Swiss firm. The PPP stated the government had been stating the PPP chairperson had been found involved in wrongdoing. A Swiss court continued to hear other corruption charges against Benazir Bhutto and her spouse, Asif Ali Zardari, into the end of August 2005.

At the end of the same month, PPP leader Asif Ali Zardari was warned by a Rawalpindi accountability court that bail granted to him in the case would be cancelled if he failed to appear. Zardari, who underwent heart surgery in Dubai earlier in the year, was at the time stated to be undergoing further treatment in the US [*Bail for Zardari in eth case was cancelled in September*].

Evidence of the biased manner in which NAB laws were enforced came in March, when a Lahore accountability court requested the interior ministry to place the name of Kashmir Affairs minister Syed Faisal Saleh Hayat and other family members being tried in a corruption case on the Exit Control List (ECL). The interior ministry stated a few days later that Faisal's name had not been placed on the list. The minister was able to make various trips overseas, in distinct contrast to other citizens whose names remained on the ECL. [*See also Chapter on Freedom of Movement*].

In December 2004, a question was asked in the Senate about the status of NAB

cases against federal ministers Faisal Saleh Hayat, Aftab Sherpao, Rana Nazir Ahmad, Jehangir Khan Tareen and Liaquat Ali Jatoi, among a total of nine sitting legislators. The house was told some of the cases were under trial, some under investigation while some had apparently been closed for unknown reasons. No further details were provided.

It was also stated in the Senate that the chairman of the Senate Committee on Foreign Affairs, Syed Mushahid Hussain, had also been named as being involved in a case of “misuse of authority.” In reply, the government stated the case was closed in May 2002 after over two years of investigation.

However, the situation became increasingly chaotic as Mushahid Hussain rose to state he had never been informed of this case and challenged NAB. A privilege motion was filed against NAB for misleading the House. The meeting on the matter was scheduled for December 22, 2004 and the chairman of NAB summoned to attend it. The meeting was cancelled hours before it was due to commence. The NAB chairman was granted exemption from the meeting subsequently held early in January 2005, and as the opposition walked out to protest his absence, the government swiftly rejected the privilege motion.

Reports of corruption within NAB itself, mainly involving trips overseas, also surfaced during the year, adding further to the organization’s increasing lack of credibility and the perception that it had been converted almost solely into a tool of harassment.

### ***Recommendations***

- 1. The subversion of the political process, through the manipulation of local government elections, the steamrolling of legislation through assemblies and the increased exclusion of ordinary people from decision-making have added to the frustrations prevailing in the country. The steps taken demonstrate a determination to prevent people from enjoying basic democratic rights or freely taking part in the political process. A return to multi-party democracy is essential to avoid a further erosion of fundamental rights.*
- 2. The 17<sup>th</sup> Amendment Bill, the President to Hold Two Offices Bill and the NSC must be scrapped, alongside the many other laws brought in by an unelected government. The country’s laws must be brought back in conformity with the constitution of 1973. Changes in local government laws, that permit provincial governments control over elected councils, thus undermining the principles of the devolution of power, must also be reviewed.*
- 3. The increased militarisation of society, and the lack of transparency in governance, must be checked. Citizens have the right to be informed about the nature and scope of military operations underway in parts of the country. Posts intended for*

*civilians, in the education, health and administrative sectors, must not be handed over to military personnel.*

*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 has been missing from the most recent electoral exercises is restored.*

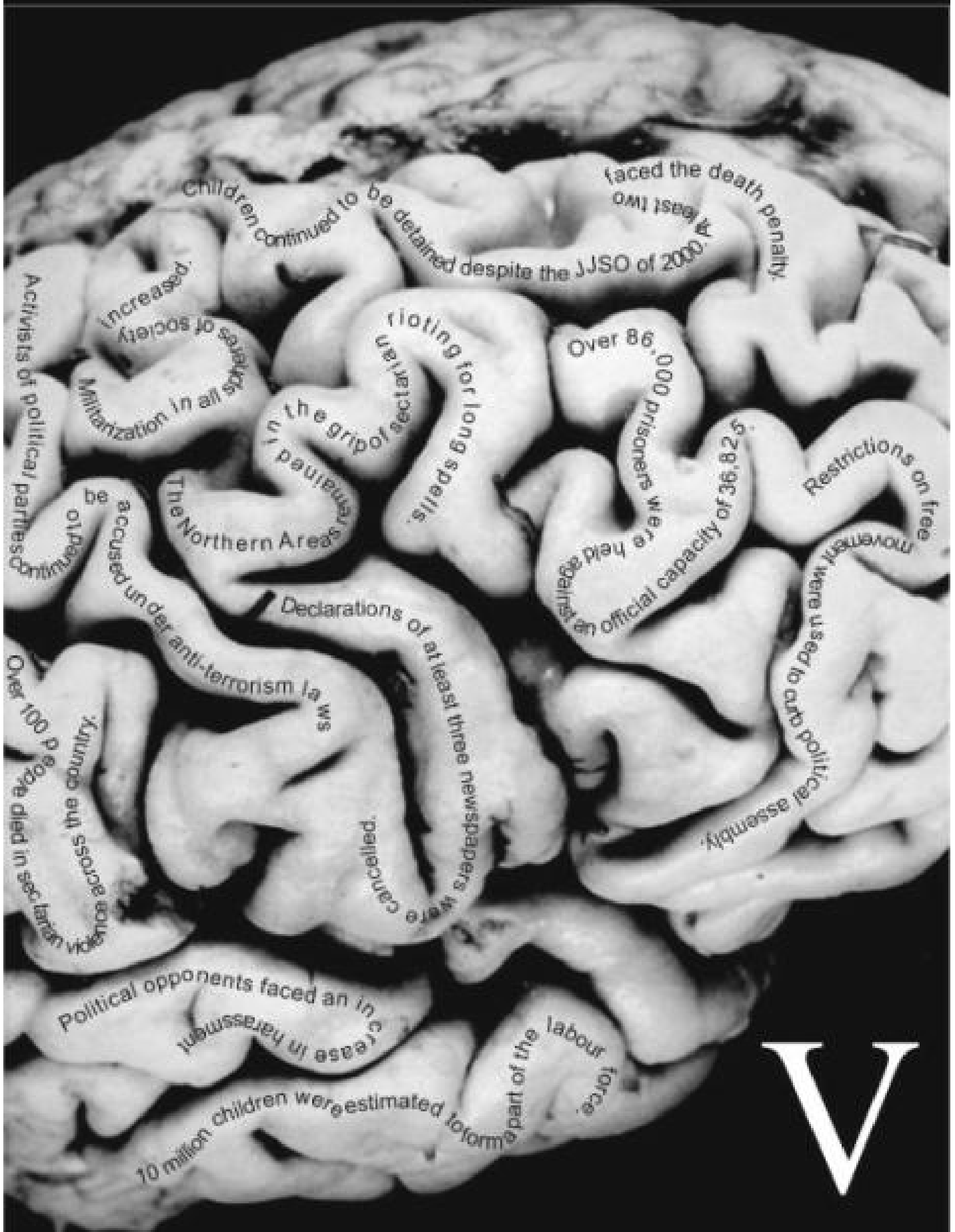
*5. Changes in the delimitations of districts to serve political ends or weaken opposition parties must not be permitted.*

*6. Joint electorate must be restored for all citizens at all levels.*

*7. 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*

*8. The intervention in the internal working of political parties, or attempts to create new factions, must be halted.*

*9. Anti-terrorism and accountability laws must not be used to victimise political opponents. 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.*



# 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 accounts reported of violence inflicted on women in the form of rape, custodial rape, mutilation, burning or murder increased during the period under review.

While amendments in the law passed by parliament in 2004, which the government maintained were intended to curb ‘honour’ killings and ensure punishment for perpetrators were enforced early in the year, there was no evidence the number of ‘honour’ killings had declined.

Indeed, data gathered by HRCP showed an upward rise in the number of murders of women carried out across the country.

Thousands of women remained victims of domestic abuse. Laws discriminatory to women, including the Hudood ordinances, under which at least 4,621 women were jailed, remained on the statute books, despite the recommendations of the officially set-up National Commission on the Status of Women (NCSW) made in 2003 that they be repealed. The Qisas and Diyat law also remained in place.

Social and economic factors too contributed to the discrimination women faced. According to the gender gap index devised by the Geneva-based World Economic Forum, Pakistan was ranked at 56<sup>th</sup> place among 58 countries listed, in terms of equitable treatment of women with respect to their economic participation, opportunity, political empowerment, educational attainment, health and well being.

The UNDP’s Human Development Report for 2005 found that Pakistan was the worst among South Asian countries in building the capabilities of women. The country was ranked at 107<sup>th</sup> place in this respect, from among 177 countries in the world. Sri Lanka, at 66<sup>th</sup> place, was the best performer in South Asia. Pakistan fared better on the gender empowerment index, finishing at 71<sup>st</sup> place. This was largely due to its high rating, at 45<sup>th</sup> place in the world, in terms of the number of women in parliament. This also placed it at the top of South Asian countries in this category. In Pakistan, 20.6 percent of parliamentary seats were held by women. The largest percentages, 45.3 percent, were held by women in Rwanda and Sweden. The country however was ranked at 138<sup>th</sup> place in terms of the ratio of female to male earned income. 2.4 percent of administrators and managers in Pakistan and 25.8 percent of professionals and technical workers were women.

The increase in incidents of rape and gang-rape drew the attention of various international watchdog bodies. It was also observed more and more victims were coming forward to report the abuse and demand justice. The insensitive official attitude adopted regarding women sufferers of violence often made their quest for justice more arduous. *[President Pervez Musharraf’s comments on rape in September, while in the US, triggered off a major controversy. The President alleged rape had become a means of monetary earnings and to acquire visas for Canada].*

Several high profile cases, including that of Dr Shazia, who suffered a brutal rape

at Sui in Balochistan, hit international headlines. The case of Mukhtar Mai, victim of a jirga-ordered gang-rape in 2002, also resurfaced as the government took drastic steps to prevent her appearing at a seminar in the US, while the Supreme Court ordered the re-arrest of her alleged rapists, who had earlier been freed on high court orders.

## Women and politics

The curbs placed on the participation by women in contesting or casting ballots in local government elections in various parts of the NWFP, and the gunning down in July in Dir of Aurat Foundation activist, Zubaida Bibi, along with her teenaged daughter, indicated the increasing hold of extremists determined to deny women their most basic rights.

An HRCP fact-finding into the murder of Zubaida Bibi indicated the act was intended to deter women seeking voting rights, and send out a signal in the strongest possible terms to all activists.

Following reports from various parts of the northern areas, including Malakand Agency, Upper Dir, Shangla, Kohistan, Batagram and parts of Mardan, Swabi and Peshawar, that women had been barred from contest as a result of agreements reached between religious, political and tribal leaders, the Prime Minister's advisor on women's development, Neelofer Bakhtiar, travelled to Dir and joined NGO activists in assisting women to file papers. Following this initiative, 60 women from all political parties except JUI-F filed papers to contest elections. At the



The statement made by these activists is clear.

end at least 300 women filed papers for the local elections in the NWFP. The ruling Pakistan Muslim League (PML), the Pakistan Peoples Party (PPP) and other mainstream parties all put up candidates. The Jamiat-e-Ulema Islam-Fazl (JUI-F) declined to nominate women.

The Election Commission (EC) issued repeated warnings that as per its rules, any

election in which women were prevented from participation would be declared null and void.

According to reports in June, women in 19 polling stations of PF 66 Dera Ismail Khan were not allowed to vote in a by-election to the NWFP assembly, after an accord between contesting parties. The JUI-F defended the decision as being a part of local tradition.

During polling in the first two phases of local government polls in August, reports from Upper Dir, Lower Dir, Kohistan, Batagram, Swat and some areas of Hangu and Peshawar stated women were, as in previous years, barred from casting votes as per agreements reached between male candidates. At the end of August, the ruling PML was reported to have moved election tribunals against the bar placed on women voters in Peshawar and other areas. HRCP, in its interim report on local government elections, appreciated the more serious efforts made by the EC to prevent women being disenfranchised in this manner.

Outside the NWFP, there were reports that women in Mohirpur tehsil, Kabirwala, near Multan, had not cast votes since the inception of Pakistan, as a spiritual leader 55 years ago had barred local women from balloting.

According to the Election Commission, for the local government elections, 21,989 seats had been reserved for women councillors out of 78,286 union council seats in 105 districts of the country.

In May, the Awami National Party (ANP) began holding public meetings across the NWFP at which the participation of women was actively encouraged. Family members of leaders also attended in many cases.

In June, the Punjab chief minister sanctioned grants to women legislators equal to those of their male counterparts for development works in their constituencies. This doubled the amount of Rs 2.5 million previously available to women councillors.

A study by HRCP on the local government process, targetting four districts of the country – Turbat, Malakand, Sukkur and Multan — which was begun in June, found many women and minority councillors complained they were not included in the mainstream of decision-making and were often expected to act as pawns in the power games of male nazims and councilors.

In June the Senate standing committee on women's development noted that active participation of women in national life was essential to development. Even though legislation on issues pertaining to the rights of women was limited, women in the

National and provincial assemblies continued to raise issues of concern to women, thus bringing them into the public sphere. Domestic violence, the treatment of rape victims, harassment of working women and the neglect of children were among those brought up for discussion in assemblies.

### **Women and law**

Much debate during the year focused on the controversial Hasba Bill passed by the NWFP assembly in July.

It was feared that the law, under which provincial and district ‘mohtasibs’ would act to enforce an ‘Islamic code’ aided by ‘hasba police’, would result in the increased harassment of non-conformists, particularly women and non-Muslim citizens. The law laid down that the order of the ‘Mohtasib’ could not be challenged in any court.

Ruling on a presidential reference challenging the bill, the Supreme Court, in August, declared 17 clauses and one section of the bill ‘unconstitutional’ and asked the NWFP governor not to sign it. The controversy over the matter continued, with the Muttahida Majlis-e-Amal (MMA) using the issue as a part of its campaign in local polls. Leaders also vowed to enforce an Islamic code, which critics stated in fact meant their own, obscurantist interpretation of religion. *[See also chapter on Laws and Law-making].*

Even without the Hasba Bill, it was noted that in many spheres, Taliban-like restrictions had been placed across the NWFP. These included bars on healthcare provisions to women by male doctors, restrictions on music at weddings even within private homes, restrictions on music at all public places and curbs on the coaching of women athletes by men.

At various seminars it was noted the Hudood ordinances continued to result in the detention of women. According to the NCSW, at least 50 percent inmates of Darul Aman, a government owned shelter, were implicated in Hudood cases. The NCSW proposal to scrap the law remained pending before the Council of Islamic Ideology (CII).

A special sub-committee of the CII recommended life imprisonment in April, under section 295-B of the Pakistan penal code for marrying women to the Holy Quran. In June, the council unanimously approved a draft bill aimed at eliminating the practice, most common in rural areas of Sindh and the southern Punjab as a means to avoid division of family property.

In April, the National Assembly adopted a resolution asking the government to declare the act of stopping women from participating in healthy, social activities as

terrorism. Treasury member Mehnaz Rafi presented the resolution against the backdrop of the disruption by extremist elements of the officially sponsored Gujranwala marathon in April. *[See box]*.

A month earlier, the National Assembly passed a unanimous resolution, initiated by women members from across party lines, to mark International Women's Day. Almost all women assembly members backed the resolution.

### Women at work

Early in the year, the NCSW recommended the government ratify an ILO convention on home-based workers to give recognition to women working from homes. *[See also Chapter on Labour]*.

It was estimated that in Pakistan, 75 per cent of the total informal sector consisted



Hard work, poor rewards.

of home-based women workers, but their contribution remained invisible and unrecognized. The labour policy of 2002 recognized home based workers, but they remained uncovered by labour laws. A study by the NCSW and UNDP found most of these workers

were women.

While official figures showed low levels of participation for women in economic activity, the work of women in the agricultural and domestic sectors went largely unrecorded.

Implementation of laws intended to protect women at the workplace remained poor in most sectors. However, despite the odds women faced, some significant gains were made.

The Pakistan Air Force (PAF) began commissioning women as pilots and engineers for the first time. 12 were selected for basic flying training and preliminary training.

The first PAF female pilot was expected to start flying in October 2005.

In January Sanhia Karim became the first Baloch woman to join Pakistan Navy that comprised a squad of around 53 women officers and 72 sailors.

Women also took on tasks as bus conductors, telephone operators, shop attendants and salespersons, with more appearing in the public sphere. *[In December, Dr Shamshad Akhtar became the first woman to head the State Bank of Pakistan (SBP), after being appointed its governor.]*

In March, the Haripur district government banned women telephone operators in the district and directed the public call offices to dismiss all female operators. The decision, taken according to the district government to avoid 'immorality', was condemned by HRCP and other organizations.

In April, the Supreme Court stayed Pakistan International Airline's decision of fixing the retirement age for airhostesses at 35 till the final disposal of its appeal against a judgment of the Sindh High Court. PIA had challenged a four-year old SHC judgment declaring the regulation which limits the service age of the female cabin crew to 35 years as discriminatory.

### ***Harassment***

The Alliance Against Sexual Harassment in the Workplace (AASHA), a group of nine civil society organizations, found in a study early in the year that the harassment of women cut across all boundaries of class, age and position. AASHA also devised a code to protect women from harassment.

No law to protect women at the workplace was however introduced. Press reports indicated harassment was especially high among female domestic workers and nurses.

In May, the Federal Investigation Agency (FIA) transferred two senior officials of Lahore to Islamabad for allegedly harassing a woman. Complainant Hina Khan had stated FIA passport circle Lahore assistant director Gohar Sarfaraz and passport cell in charge Munawar Ranjha had raided her home and threatened her. Other than transfer, no punitive action was reported against the officers.

Complaints by women of harassment on public transport vehicles were frequent, with difficulties in reaching work seen as a major deterrent preventing women from taking up employment.

### **Women and development**

Perhaps more than any other factor, poverty, and with it illiteracy and the lack of access to basic healthcare put at peril the life and welfare of women in the country.

Official figures indicating the literacy rate for women hovered just above 40 percent were especially disturbing in view of findings, in a number of studies, that education

## Running for freedom: HRCP's symbolic marathon

*State attempts to brutally stop two token marathon runs, organized by HRCP with other civil society groups to draw attention to the need to ensure the rights of women and basic freedoms for all people, drew unexpected attention from within the country and from the international community*

The symbolic marathons, organized by Human Rights Commission of Pakistan (HRCP) with Joint Action Committee (JAC) and other civic sector groups attracted far greater public appeal than had been envisaged.

The token marathon, run on May 21 from Liberty Chowk to the Gaddafi Stadium was participated in by hundreds. They included not only NGO activists, but also students, young professionals, housewives and many others.

In many cases, they had opted to participate in the event to demonstrate their anger over the brutal repression by police of the marathon on May 14, the date for which it was originally planned. In an unprecedented display of wrath against the activists who had gathered to take part in the symbolic run to draw attention to curbs on women's participation in marathons, police violently attacked participants. HRCP leaders Asma Jahangir, Syed Iqbal Haider, Hina Jilani and Shahtaj Qizalbash were among the dozens manhandled, hauled away in police trucks and arrested. They were detained for several hours, while the HRCP Council condemned the refusal to allow peaceful activists to assemble.

Asma Jahangir's shirt was torn by police officials, apparently deliberately, as she was arrested. Ms. Jahangir subsequently lodged a formal complaint before courts, with proceedings continuing as August 2005 ended.

The action against marathon participants, on the grounds of upholding Section 144, contrasted sharply with the manner in which authorities had permitted religious organizations to hold rallies and other events. No effort was made to disperse activists of the Jamaat-e-Islami (JI) who gathered on Ferozpur Road, blocking traffic while chanting slogans against women's participation in the event. Religious activists who gathered during the staging of both marathons were also not dispersed by the truckloads of police on duty.

The reason for selecting a symbolic marathon as a means to demand rights for women and indeed all citizens was rooted in the government's staging of a marathon run in Lahore in January 2005. The run, in which the Punjab government invited participants from around the world to compete, took place amid much media-hype. Both men and women ran along Lahore's streets during the race, cheered on by thousands.

After the success of this event, which the government stated was intended to show the world a 'softer image' of Pakistan, it was decided to organize similar athletic contests in other towns across the Punjab. On April 3, another



race was arranged in Gujranwala, with provincial ministers and advisors taking active part in the planning. However, minutes after the participants set out, activists of religious groups and madrassah students attacked them, disrupted the race and beat up women participants. Religious parties then announced they would not allow women to take part in sporting events alongside men. While the government initially insisted the races planned in Sargodha, Multan and other towns would go ahead as planned, it swiftly caved in to pressure from the extremists. The marathon contests were either cancelled or women permitted only to run within enclosed arenas.

Following these events, HRCP decided extremists must not be permitted to snatch away the fundamental freedoms of women in this fashion. A mixed marathon for men and women was organized over a short distance of Gaddafi Stadium to Kaima Chowk on May 14 to protest violence against women. City authorities, unleashing



The strong arm of the law.

extraordinary brutality against activists who in no way threatened law and order, prevented the race from going ahead. Other participants collected at Gaddafi Stadium to join the run dispersed as police trucks patrolled the area and news of arrests on Main Boulevard, outside the AGHS legal aid cell, came in.

After assessing the situation in the aftermath of these events, HRCP decided that authorities and extremists must not be allowed to usurp the rights of citizens in this ugly manner. Another marathon was organized on May 21, with many civil sector groups joining in. Authorities once more threatened to use force to prevent the race. However, at the last minute, they opted to allow the token marathon, while requesting for a minor change in the route for security purposes. International observers, scores of media persons and hundreds of participants took part in the event – with civil society demonstrating its refusal to bow down to the coercive force of State and the threat of violence from clerical leaders.

The marathon ended at Gaddafi Stadium, with Asma Jahangir and other civil society leaders addressing cheering participants in speeches that reiterated the right for civil liberties would be continued at all costs.

HRCP received hundreds of messages from within the country and around the world over its token marathon races and the disruption of the initial event.

for women acted to significantly empower them and improve the quality of life for entire families.

At an international conference on gender mainstreaming and millennium goals held at Islamabad in March, it was noted the high mortality rate for mothers and infants alone indicated the immense health risks women faced. The rate of cancer among women of the country was also found to be among the highest in South Asia, due to poor levels of awareness or access to diagnostic facilities. Some reports stated one woman died somewhere in the country every 20 minutes due to pregnancy-related complications. *[See also Chapter on Health].*

Studies also showed that mounting poverty levels took the highest toll on women, who within families were often given least priority in terms of education, healthcare or other needs. A study by the World Bank early in the year found that one out of every six women died prematurely in desert-areas of Sindh, where poverty levels had grown alarmingly.

In May, a Gender Reforms Action Plan (GRAP) was approved by the federal cabinet, and aimed at improving the status and situation of women across the country. *[See also chapters on Health, Education, Labour].*

### **Violence against women**

The low social status of women, the absence of legislation to offer adequate protection and the frequent reluctance of law enforcing agencies and administrations to act contributed to the high rate of violence suffered by women.

Despite increased discussion on the issue of 'honour' killings at various forums, HRCP found no evidence that the rate of killings was on the decline. Indeed, the increasing number of 'jirgas' held in various parts of the country often resulted in verdicts that greatly damaged the safety and interests of women. HRCP also recorded at least 1,242 cases of violent crime against women in the first eight month of the year.

According to the Karachi-based Lawyers for Human Rights and Legal Aid (LHRLA), 31,000 crimes against women had been reported in the last five years throughout Pakistan, including murder, rape, torture, 'honour' killings, burning, abduction and torture by police.

According to a report by Women Against Rape (WAR) 728 sex-related crimes were reported in Lahore alone during 2004. The organization stated it investigated 57 cases reported by the print media, and found that only 15 surviving victims appeared willing to move a court to seek justice. In other cases, the victims cited the lengthy judicial process, social and family pressures and the insensitive method of cross-examination as some of the reasons for their unwillingness to approach courts.

A manual for policemen investigating crimes against women was launched in March,

as part of a project to implement human rights undertaken by the ILO during the year.

### **The hold of tradition**

Many crimes against women were committed in the name of tradition. It was also noted that as people became increasingly disillusioned with the existing administrative and judicial system, they in many cases appeared to resort to 'jirgas' to decide disputes. The verdicts delivered by these extra-judicial forums often went against women, and in some cases ordered the instant killing of persons declared guilty of a crime.

Administrations failed to check the holding of 'jirgas' or to penalize those responsible for acting outside the law in meting out punishments. The handing over of women to settle disputes also continued, despite court bans on the practice. Many incidents were reported during the year of crime committed in the name of tradition. Some were as follows:

- ◆ In February, in Multan, a village council punished Muhammad Akmal, 20, for alleged adultery by ordering the betrothal of his 2-year-old niece to the husband of the woman with whom he had had adulterous relations. The woman was also divorced by her husband. Relatives of the minor child reported the matter to district authorities, and after reports appeared in the media, officials stated those behind the jirga would be penalized under law.

- ◆ It was reported in April that eight-year-old Arooj Bakht from Islamabad had been forcibly married to a 55-year-old man three months ago as her father needed money to pay back a debt.

- ◆ Two women were injured in Nawabshah in June when they were shot at after being dubbed 'karis' (black women) by a jirga in Moharram Shar village. Ubaidullah Shah shot his wife Hidayat Khatoon, 40, and her sister Kazbano, after accusing them of immorality. Both the women were seriously injured and admitted to the People's Medical College.

- ◆ In July, the Commissioner FCR (Frontier Crimes Regulations) Jalat Khan Afridi set aside the unlawful order of the Assistant Political Agent/Additional District Magistrate Khar, Bajuar Agency, regarding giving a girl in 'Swara' as compensation to the rival party. The commissioner ordered the Assistant Political Agent to constitute a fresh jirga under Section 11 of the Frontier Crimes Regulations (FCR) and decide the case strictly in accordance with the provisions of law. As per details available, Abdul Qadar and his family members had allegedly killed the wife of Baz Khan and injured two others from the rival Rehmat Shah party over on old enmity. The family of Rehmat Shah detained Habibullah, son of Jamdali, and kept him in unlawful confinement. A jirga was constituted to settle the dispute. The jirga in its unanimous findings recommended that Jamdali's party would give a girl as 'Swara' (as compensation for the murder of Baz Khan's wife) to Rehmat Shah's party. An order for this was passed by the Assistant Political

Agent. The Peshawar High Court (PHC) had declared the practice as unconstitutional and unIslamic.

◆ In Dera Ghazi Khan, in May, Kaneez Kubra was gang-raped allegedly with the consent of her in-laws by three people on her wedding night, to exact revenge against her brother. Ghulam Hussain, the father of the victim told reporters that his daughter was married to Mujahid Hussain as ordered by a 'panchayat' (local jury) under the 'vani' custom. Kaneez's brother Abdul Majid had allegedly had sexual relations with Mujahid's sister, Sumera. Mujahid's grandfather Shahroo Khan and his mother Mukhtar later stated the wedding was simply a means to extract revenge. Mujahid Hussain invited three friends Muhammad Rafiq, Shabbir Muhammad and Abdul Majid Almani to gang-rape the bride.

◆ A murder case was registered against a father in June in Thatta for allegedly forcing his teenaged daughter at gunpoint to take poison. According to the FIR the accused suspected that his daughter, Amina, 18, had illicit relations with a relative. The girl died soon after taking the poison.

◆ In July, a candidate for the nazim's office in Kohistan district in the NWFP was reported to have paid Rs 200,000 and given the hand of his three-year-old daughter to his political rival to get elected unopposed. Ajoon, a candidate for the nazim's office in Kunsher union council, made the deal with Vilayat Noor, a political opponent, who was then reported to have withdrawn his nomination papers. An election tribunal was reported to have taken up the issue after complaints from local people and some political parties.

Despite laws barring child marriages, there was evidence that many such weddings took place. The sale of minor girls in marriage to men much older than them by impoverished families also increased, with a growing number of instances reported in Sindh and the southern Punjab.

In two cases involving the marriage of minor girls that were reported in the middle of the year, Asiya, 12, was rescued by police from the home of her husband near Lahore after neighbours reported the girl was mercilessly beaten by her older husband. Her father had refused to intervene in the matter.

The Lahore High Court in May, upheld the marriage of Zeenat, 12, to a man considerably older than her, by her own free will. In doing so, the court ruled that a girl who was below age as per the Child Marriages Restraint Act but had reached puberty, could marry. Zeenat was pregnant at the time.

Despite court bans on the handing over of women to compensate for a crime committed, instances of 'vani' and 'swara' in both the Punjab and NWFP were reported to be continuing. The Punjab administration in several cases responded to reports and intervened in such cases. 'Watta satta', in which two men marry each other's sisters,

also took place routinely, sometimes creating complications within families.

### ✪ *Honour killings*

The precise number of victims of ‘honour’ killings remained unknown, with many crimes going unreported. Media interest in the issue also tended to vary, while in many cases, the murder of women carried out to settle property disputes or over other issues, were described as ‘honour’ killings.

Official statistics stated an average of 1000 people were murdered in the country each year in the name of ‘honour. Data collected by HRCP from November 1<sup>st</sup>, 2004 to August 31<sup>st</sup> 2005 showed at least 316 died in such murders. It was believed many cases went unreported.

It was unclear if anyone accused of ‘honour’ killings had been charged under the amended laws enforced early in the year. Rights groups within and outside the country continued to demand changes in the law, pointing out that retaining the provision of compoundability meant murders could still escape scot-free. They also demanded the law lay down a role as ‘wali’ for the State in cases of ‘honour’ killings.



A united voice, but no change in statistics.

There was also evidence that ‘honour’ killings were increasing in urban centres, where previously fewer such murders were routinely reported. Between January 1<sup>st</sup> and August 6<sup>th</sup> 2005, at least 34 ‘honour’ killings took place in Lahore. 25 victims were female and nine men.

In April, the National Assembly deferred for the third time identical bills submitted by M.P. Bhandara and Kashmala Tariq against the practice of ‘karo kari’ (literally back man, black woman), despite their insistence the bills be sent to the relevant house committee. The members had sought amendments to the PPC to check ‘honour’

killings.

In an incident near Multan in June, a man burned his wife and daughter to death in the name of so-called honour. The police reported that Jalil Ahmed, 45, rushed from Karachi to his hometown, Samasatta, south of Multan, when his brother informed him of his daughter's sexual relationship with a neighbour. With the help of his brother, he tied Shomaila, his 20-year-old daughter, and her mother, 40-year-old Azeem Mai, to their beds while they slept. They then poured kerosene over them and burned them to death. The police registered cases against three people, and claimed to have arrested the girl's father and uncle. The neighbour fled the town after the incident. The two arrested men admitted to the crime and said they had killed them for honour.

In another incident in July in Multan, a man killed his pregnant daughter and son-in-law for marrying against his will. Iqbal Bibi, 19, returned to her father's home along with her spouse Hazoor Bakhsh Ghazlani, 25, six months after their marriage in Muzaffargarh. Her father, Ghulam Hussain, shot the couple dead while they were sleeping. Muzaffargarh police registered a case, but the father and his three accomplices had not been held in the immediate aftermath of the crime.

Various other cases of 'honour' killings continued to be reported through the year.

#### ✪ *Burnings and domestic violence*

Hundreds of women were known to suffer domestic violence each year. While estimates by some international bodies in previous years suggested that in fact 70 to 90 percent of Pakistani women suffered domestic abuse, the precise figures were difficult to ascertain, given the fact that the crimes took place within homes.

The stories that did leak out, and the figures available on domestic violence, showed the extent of the threat so many women faced at the hands of relatives, within closed doors.

Beatings, burnings, mutilation and torture all ranked among the methods of abuse.

Figures compiled by HRCF found 96 cases of burnings from the period between November 2004 and August 31<sup>st</sup> 2005. In many cases, family members had reported the burns to be caused by accidents involving stoves.

In the NWFP, according to statistics collected by a Peshawar-based NGO, 1,415 women were burnt by their relatives in 1,274 such incidents during the past five years. 821 women had expired while only 502 survived. Only 143 FIRs had been lodged, and only 20 percent of the accused arrested.

According to a survey conducted in March by the Pakistan Institute of Medical Sciences (PIMS) and reported by Amnesty International in Lahore at least 90 percent of married women in Pakistan reported being physically or sexually abused by their husbands. The women said they were most frequently abused when their husbands

were dissatisfied with their cooking or cleaning, or because they had failed to give birth, or produced a daughter rather than a son.

In March, police in Kasur declared closed the five-month investigation into the alleged abduction, burning and rape of Rabia Mehboob, a 19-year-old school teacher. They decided the evidence pointed to suicide, while one of the accused, Mohammad Amjad, was charged with adultery. In a detailed report on the case by HRCP and the AGHS Legal Cell, compiled after several visits to Kasur, it had been pointed out that Rabia's dying declaration, at Mayo Hospital in Lahore, that she had been kidnapped, raped and set alight by some men had been ignored. The HRCP-AGHS report maintained the police version of suicide by the victim made no sense, especially the fact that she apparently left home alone, without Amjad, the man who it was thought she wished to marry. Rabia had disappeared on October 7 2004, and been found severely burnt next morning on the Lahore-Kasur Road. She died three days later at Mayo Hospital. Her family accused Muhammad Amjad and several accomplices of kidnapping and killing her.



Emotional scars often run deeper than physical ones.

The burning of a maid, Asiya, in Karachi early in the year, after rape, was also investigated by HRCP. The maid died soon after reaching hospital, but accused the son of her influential employer of raping and then burning her. The employers blamed a male servant for the rape. *[See also chapter on Labour].*

In April, a 24-year-old victim of domestic violence, Shakila, from Peshawar lost her battle for life due to severe burn injuries at Khyber Teaching Hospital. She had allegedly been burnt by her spouse in April with the help of his sister-in-law, for fear she might disclose the illicit affair between the two.

In another incident in Peshawar during the same month, investigated by HRCP, a 30-year-old woman was burnt, allegedly by her husband, over a domestic dispute and brought in critical condition to the Khyber Teaching Hospital. Fouzia, wife of Amir Habib, reported she had been married for four years but had no child which was a cause of tensions with her husband. She died in April.

Other cases of grotesque mutilation were also reported. Early in the year, HRCP investigated a case in Sargodha in which the legs of a woman had been amputated by

her brother-in-law, who suspected her of having illicit relations. Her husband was working overseas. The victim, who was tied to her bed and her legs cut off, suffered further torture. After assistance from Lahore-based organizations, she was able to reach the city for medical treatment.

In an incident in Multan in July, the police arrested five men involved in chopping off the feet of a woman, Razia, on the charge of being promiscuous. They were identified as Nausher, the victim's father-in-law, Manzoor, her husband and three other relatives. They accused the woman, who had separated from her husband but visited his home to see her daughter, of immoral behaviour. The woman was rescued by police from a nearby river bank where she had been taken after her parents lodged a complaint. She was admitted to hospital in critical condition, and the culprits arrested.

Press reports during the year also cited several incidents in which the nose or eyes of a woman had been cut off, usually by husbands, to 'punish' her for alleged immorality.

### ☛ *Acid attacks*

As in previous years, the largest number of acid burnings took place in the southern Punjab. According to HRCP data, seven cases were reported between November 1st 2004 and August 31<sup>st</sup> 2005.

A married woman from Bahawalpur was allegedly killed in June in an acid attack at Ahmadpur East while her daughter sustained serious burns. Reports said Rozina Bibi had strained relations with her husband, Asghar, who wanted to re-marry. His mother and sister Fatima arranged a second marriage for him. Fatima, along with her friend Shamshad Mai, allegedly sprinkled acid on Rozina and her one-year-old daughter Sonia, killing them both.

Azra Kausar, 16, a brick kiln worker was raped in May at her home near Sheikhpura. According to her family, the rapist then forced her to drink acid and also poured it over her face. She was treated for severe burns in Mayo Hospital for several days, but was taken home a few days later, and died. The rapist, named in the FIR by the victim's family as Irfan, son of a person of local influence named Manzoor, had not been apprehended into July, when last reports came in. Her family claimed police were protecting the culprit, and appealed to the country's top officials for help.

A resolution against acid attacks, passed by the Punjab Assembly in 2003, was not followed up by action to control the sale of acid and other corrosive substances. The easy availability of acid at low prices was seen as a key factor in the rapid increase in the rate of acid burnings.

The 'Smile Again' initiative, launched to provide cosmetic surgery for acid burn victims, continued sending women abroad for treatment, with at least 35 women



receiving assistance in the past two years.

### ✪ **Murder**

The number of women killed in the country remained high. In many cases, rape or 'honour' related motives were behind the deaths.

In other instances, the killings were carried out over property issues, to settle old enmities between men or over disputes within families.

According to HRCP data, between November 1 2004 and August 31, 2005 279 women were killed.

Husbands were most often accused of the murder, with domestic disputes cited as the most common motive. At least 65 of the killings were carried out using firearms.

Some murders were especially shocking. In March, the naked bodies of two girls were found in Dalbandin in Balochistan. The girls had their eyebrows and heads shaved and throats cut. The doctor who examined the bodies said the girls, aged 14 and

15, had been tortured. She said the elder girl was raped and her chest bruised. She also said the girls were first strangled and then their throats slit. Residents demonstrated against the killing and all shopping centres and markets remained closed in protest. A procession was taken out, which chanted slogans against the local administration.

In April, Yasmeen Kanwal, an activist with the women's rights organization Women Workers Help Line (WWHL), was killed in Lahore. Her mother, Jamila, was a member of the local union council. It was believed Yasmin, 24, a health worker, was killed after she asked neighbours not to climb onto her rooftop, as her bathroom had no roof. She was six months pregnant at the time.

### ✪ **Rape**

The stories of two rape victims, Dr Shazia Khalid and Mukhtar Mai dominated the news in 2005.

While Mukhtar Mai's long efforts to seek justice drew international headlines [*See box*], Dr Shazia Khalid's case was, for months, kept shrouded in deep secrecy. In



Small body, big crime.

fact, many details emerged only after she decided to speak to the international media from the UK, where she had been hastily sent in March, along with her husband.

NGOs, including HRCP, stated they had played no part in whisking her out of the country – an action that also meant investigation of the case came to a halt.

Dr Shazia, working at the Pakistan Petroleum Limited (PPL) plant in Sui, had been violently raped in January. According to her own version of events, next morning, as she sought medical help, PPL officials rushed to the scene, warning her to keep quiet about the matter. Dr Shazia believed the rapist was an army captain – with fears that she could speak out on this dictating the official cover-up that followed. Dr Shazia was removed to a psychiatric hospital in Karachi. Her husband, Khalid Aman, working in Libya was notified only after a long delay, and rushed back 11 days after the crime.

The couple was placed under what amounted to house arrest, and NGO leaders who met them could do so only in the presence of persons who appeared to belong to agencies. A committee of national assembly members met Dr Shazia in February. Hints were passed, allegedly by agencies, that Dr Shazia was a woman of immoral character, while relatives in interior Sindh threatened to kill her as a ‘kari’.

The taking up by Baloch tribal leaders of the case in Sui added to the tensions and the confusion. The Baloch activists, who opposed the military presence in the province, demanded justice for Dr Shazia, with the Sui area seeing a prolonged stand-off between tribals and the military, who laid siege around the Dera Bugti area for weeks. *[See also Chapter on Political Participation].*

The army officer accused in the case fervently denied charges. In March Dr Shazia and her husband left the country, with Dr Shazia telling the media in July, several months after the event, that they had been threatened with murder if they declined to do so. The couple’s adopted son, Adnan, was not allowed to go with them, and Dr Shazia warned not to speak to journalists. A video film showing her thanking the government was aired as she left.

The couple remained overseas as August ended. Dr Shahzia, in media interviews, stated she in fact wished to return.. No reported progress was made in the effort to track down Dr Shazia’s rapist.

There were also many other incidents of rape and gang-rape. HRCP figures indicated there had been at least 190 cases of gang-rape and 176 cases of rape between November 1, 2004 and August 31, 2005. It was believed many cases went unreported in the press, though more women than before were willing to come forward and make complaints of rape.

In July, 11 people kidnapped a married woman, Fauzia Bibi, 25, from her village near Chakwal and gang-raped and tortured her for three days. They apparently suspected

her aunt had played a role in the elopement of the daughter of the main accused. The woman was rescued by police party, reportedly after heavy firing. HRCP carried out a detailed fact-finding in the case. The accused were reported to have been arrested a few days after the incident.

In February, five students of a private college in Muzaffargarh allegedly gang-raped the 18-year-old wife of their principal at gunpoint and took nude photographs. They threatened to distribute the pictures in the area if she lodged a complaint. The rapists were reportedly sons of influential people, and police are stated to have initially avoided registering an FIR. This was done only after a delay of 18 days. No arrests were reported.

In April, 17-year-old Nazish Akhtar, a student from Sialkot, told the Press that she had been kidnapped while on her way home from college, and subjected to repeated gang-rape at a house over a 37 day period. After she was recovered, police took her to the police station, and once again subjected her to gang-rape. After Nazish demanded justice, and warned she would set herself alight outside parliament if the rapists and the policemen guilty of gang-rape were not held, she was accused by police of being involved in prostitution. Action against the four policemen was taken only after the media highlighted the case.

In an incident in June near Multan five men gang-raped a woman and stripped her 16-year old daughter. Two of the accused were out on bail by August.

#### ✪ ***Kidnappings***

The incidents of kidnapping of women and children showed an increase.

According to HRCP figures, at least 538 women and girls were kidnapped from November 1, 2004 to August 31, 2005. However, as in previous years, figures for kidnapping often included women who had eloped of their own free choice. Families, in such circumstances, often registered cases of kidnapping

A total of 2,906 cases of kidnapping were reported in 2004 according to Madadgar, a helpline for women and children based in Karachi. There were 1,398 cases of woman being kidnapped and 981 kidnappings of girls.

Cases of kidnapping for ransom also increased. [*See Chapter on Children.*]

#### ✪ ***Molestation and stripping***

Cases of stripping, molestation and the harassment of women continued to be reported.

HRCP recorded at least eight cases of stripping between November 1<sup>st</sup> 2004 and August 31<sup>st</sup> 2005.

In February, in Mandi Ahmadabad near Okara, a widow was forced to dance

## **Mukhtar Mai: From victim to defender**

*Mukhtar Mai, victim of a gang-rape on jirga orders in 2002, continued her long quest for justice, emerging in the process as a defender of human rights, rather than a victim. Government action to prevent her speaking at a seminar in the US in June once more led to her story gaining international attention, and again dominating headlines*

Mukhtar Mai's story again came to the fore-front in June, as the victim of a brutal jirga-ordered gang-rape in the southern Punjab village of Meerwala in 2002 was prevented by the government from leaving the country to attend a seminar to which she had been invited in the US.

In a farcical sequence of events, Mukhtar Mai's name was placed on the Exit Control List (ECL) and she was whisked away from Meerwala, eventually turning up in Islamabad, alongside the Prime Minister's advisor on women's development, Neelofer Bakhtiar. The government stated police had been deployed around Mukhtar Mai's house and action taken to remove her to Islamabad due to fears for her safety.

Soon before Mukhtar Mai was taken to Islamabad, a Multan bench of the Lahore High Court (LHC) that sat unexpectedly after routine working hours had over-turned the conviction by an anti-terrorist court of the five main accused in the gang-rape case. Officials stated the impending release of the men presented a security risk to Mukhtar Mai.

As an international furore erupted over the restrictions placed on the victim, Mukhtaran was produced at a Press conference in Islamabad. She was later able to collect her passport from the US embassy. The passport was confiscated by government officials, who maintained it would be handed back to Mukhtaran Mai whenever she needed it.

Mukhtari Mai returned to Meerwala, with government officials insisting she was free to move as she pleased and travel overseas. Police however remained present outside her home.

In June, the Supreme Court ordered the re-arrest of all 13 men accused of

naked. The incident reportedly took place after Shamim Bibi ticked off a local resident, Mohammad Din Faridi for teasing her. This infuriated the accused and he attacked Shamim Bibi's house along with 15 accomplices and forced her to dance naked. Police registered a case.

In another incident in Okara in the same month a girl was undressed and beaten up over an old enmity. Mohammad Ashfaq and Mehr Din allegedly forced their entry into

involvement in the gang-rape of Mukhtar Mai, and designated them as under-trial prisoners.

The SC short order came as a triumph for Mukhtar Mai in her long search for justice. In March 2005, the LHC Multan bench had acquitted five of the six men found guilty by an ATC court on an appeal, and commuted the sentence of the sixth, Abdul Khaliq, to life imprisonment. Amid growing legal confusion, as both the Supreme Court and the Federal Shariat Court (FSC) took up the issue, Prime Minister Shaukat Aziz, after a meeting with Mukhtar Mai, ordered the re-arrest of the men for a three month period.

In the years since 2002, Mukhtar Mai had evolved from a victim into a defender. The school for girls run by her in Meerwala attracted a great deal of publicity, as donations continued to come in, while Mukhtar Mai herself emerged as a powerful spokesperson for the rights of women, especially the many who fell victim to rape.

At least three more cases of jirga-ordered gang-rape in the country since 2002 however suggested many women remained at peril of falling victim to such outrages. **[See also chapter on Administration of justice].**



From victim to defender.

Nazir Ahmad's house when his daughter was alone at home. They tore of her clothes and beat her up. A case was registered against them.

In April, the owner of a beauty parlor in Lahore, Dr. Aamir, was arrested for making a pornographic video of a woman and allegedly using it to blackmail her into divorcing her husband and marrying him instead. The victim stated she had been drugged before shooting the video.

Early in the year, five armed men allegedly stripped a woman and forced her to walk in a street in Mitro Town in district Vehari, Punjab, because they suspected her of

having an affair with a boy from their family. The men raided the house of Saifal after dark, and beat him and his wife up. The five culprits then allegedly stripped Saifal's daughter and dragged her naked into the street. They fled the scene after locking up the family in the house.

In yet another incident in June, police arrested a man in a village near Arifwallah in the Punjab, after he allegedly stripped a teenager and paraded her naked in a village as punishment for her brother's suspected affair with his wife. The 19-year-old woman and her 12-year-old sister were snatched from their home by the accused and six of his friends, and paraded naked. All seven men were arrested.

A high profile case of molestation and harassment, against a surgeon at the Nishtar Hospital in Multan, resulted in him being suspended. [*See Chapter on Health*].

### **Violence by police**

The account by a young woman from Faisalabad, Sonia Naz, of her rape ordeal at the hands of police, shocked people across the country, after a local newspaper in August published a detailed account. The young mother of two reported being raped after being kidnapped in Lahore by members of the Faisalabad police, and being subjected to abuse and violence, apparently inflicted as punishment for continuing efforts to locate her husband, arrested by police in late 2004.

Sonia's harassment by police began soon after her husband, Asim Yousaf, was arrested in late 2004 in a case involving corruption in the Faisalabad revenue department, where he worked as a clerk. Asim appeared to have vanished after his arrest, with police failing to produce him despite repeated requests and bribes paid by his family.

In April 2005, his wife, Sonia, fearing for the safety of her husband, entered the National Assembly in Islamabad, to make an appeal for help to government members. She was arrested for illegal entry to the house and arrested. Her story came to light only after an Islamabad-based reporter took up the matter, and Sonia was finally released. Weeks later, she was kidnapped by policemen in Lahore, and, according to her own account, taken to a deserted house where she was raped by Inspector Jamshed Chishti of the Faisalabad Police, following orders issued by his superior officer, Superintendent Khalid Abdullah. Other policemen watched the crime.

After Sonia's story was published in August, Prime Minister Shaukat Aziz ordered an inquiry. Sonia Naz chose Asma Jahangir as her lawyer, and moved into the 'Dastak' shelter in Lahore. As the case continued, a departmental inquiry led by Deputy Inspector General (DIG) Police Zafar Qureishi was completed in early September. Press reports suggested it held Sonia's account to be accurate. A separate, one-man tribunal made up of the Faisalabad district and sessions judge, set up by the Punjab government, was boycotted by Sonia. She and her lawyer held a tribunal comprising of a judge from the

same area as that of the accused policemen may not be impartial. Sonia also appealed to the Supreme Court to take up her case. While the two policemen named by Sonia were suspended, no FIR in the rape case was registered against Superintendent Abdullah. Sonia's quest for justice continued into September. Her husband meanwhile, who resurfaced soon after her account of rape was published, was reported to have divorced his wife. He stated he had been freed by police after bribing them, but had been warned not to contact his family. *[Sonia Naz continued to allege harassment by police into December. Her attempts to obtain justice continued.]*

Through the year, legal restrictions against keeping a woman overnight at a police station were frequently violated.

The case involving the gang-rape of Sialkot student Nazish Akhtar *[See section on rape]* was one among several that were reported during the year. It was thought other cases of the abuse and harassment of women in custody, including those in jails, often went unreported.

In May, the federal interior minister suspended four policemen and ordered a judicial inquiry after a teenaged girl was raped at the Shahzad Town Police Station in Islamabad. According to press reports, Saira was traveling in a car with her mother and three other adults, when the police stopped the car and ordered them to prove their identity. All the five occupants were taken to the police station where the sub-inspector told them that if they didn't pay Rs 200,000, they would be charged in a 'zina' case. Since they were unable to pay, the teenaged girl and reportedly also another woman in the car, were raped. After an uproar as the story appeared in the press, four policemen were suspended, including a Deputy Superintendent of Police (DSP) and the Station House Officer (SHO).

In an incident in Sukkur in July, the civil court at Rohri remanded a constable, Soomar, in police custody for three days. He was arrested in a rape case. It was alleged that a woman, Shamshad, was raped by three policemen in Rohri police station. The policemen, who had arrested Shamshad from her house near Rohri, allegedly kept her at the police station for investigation. *[At the end of November, the Senate initiated a probe into an unusual case involving the illegal detention of members of a Gujjar Khan family, including four women, by AJK police. The AJK police 'picked up' the family members of two alleged kidnappers of a 12-year-old boy, who were absconding, and held them for 26 days as a 'bargaining chip'. The case raised a political and legal furore over the action taken and the legality of AJK police action within Pakistan].*

## **Women in jails**

Most women in jails continued to suffer extremely grim conditions of detention.

There were at least 6,000 women and children in jails across the country in June 2005. Juvenile girls were held at Punjab jails, despite a bar placed on holding them

alongside adult criminals. It was estimated 80 percent of jailed women faced charges under Hudood ordinances. *[See also Chapter on Jails and prisoners].*

Early in the year, there were 185 women and children housed at Adiala Jail, which had a capacity for no more than 50. The situation was no better at most other prisons.

More than 330 females were held in male prisons in the NWFP, as the province lacked a jail for women. Many women had to pass through male barracks when being taken to court. Despite demands by rights activists for the appointment of at least five female probation officers in the province, it was reported in June that the NWFP government had yet to appoint any female probation or parole officer

#### Trafficking and sale of women

Pakistan remained a destination, transit and source country for trafficking, with both cross-border and internal trafficking reported.

As the Pakistan government devoted greater attention to the issue, the Geneva-based International Organization for Migration (IOM) in May conducted trainings for the personnel forming the Anti-Trafficking Unit (ATU) of the Federal Investigation Agency (FIA).

The US State Department, in its report on trafficking made public in June, noted women and girls from Bangladesh, India, Burma, Afghanistan, Iran, Kazakhstan, Kyrgyz Republic, Turkmenistan, Uzbekistan, and Tajikistan were trafficked to Pakistan for commercial sexual exploitation and bonded labor. Girls and women from rural areas were trafficked within the country to urban centres for commercial sexual exploitation and involuntary domestic servitude. Women trafficked from East Asian countries and Bangladesh to the Middle East often transited through Pakistan.

The report also noted the government of Pakistan did not fully comply with the minimum standards for the elimination of trafficking, while observing efforts to do so had improved and there was greater enforcement of anti-trafficking laws.

Early in the year, the FIA arrested a proclaimed female trafficker, Adeeba, who had been nominated in four different cases and was declared a proclaimed offender in 2003.

Police claimed in February to have arrested two members of a gang, allegedly involved in the slave trade in Sukkur. Two women were freed from their custody. Police claimed the gang lured in women found at different shrines by offering them employment, but then sold them.

#### **Suicide by women**

The number of cases of suicide by women, most notably young women aged under 40, continued to rise. HRCP recorded 311 cases of suicide and 299 cases of



attempted suicide by women from November 1, 2004 to August 31, 2005.

Other organizations also noted rising suicide rates. Some of the cases reported during the year were as follows.

- ◆ Saadia Anwar, a college student, was reportedly greatly distressed by her sister's serious illness and the inability of her parents, due to poverty, to bear the costs of medications and other care. She committed suicide in Rawalpindi in February.
- ◆ Rukshana, 38, killed herself in Lahore in March in reaction to unkind remarks about her age and her single status.
- ◆ In April, Shahnaz Bibi, the young mother of two disabled children, hung herself in Rawalpindi. The family was too poor to send the children to school.
- ◆ Domestic discord and a quarrel with her husband reportedly led Shazia, 30, to commit suicide in Karachi by taking poisonous pills in June.
- ◆ During the same month, Hafeezan Bibi, of Shorkot, committed suicide after throwing her three small children, Iram, 9, Ghulam Shabbir 7 and a six-month-old infant, into the Haveli Canal. She was reportedly disturbed after being scolded by her husband for failing to prepare a meal on time.

Many of the cases of suicide seemed to be motivated by domestic tensions, sometimes aggravated by financial stress. Studies conducted in 2005 by experts at the Shifa Institute in Islamabad and the Aga Khan University in Karachi also found high rates of mental ailments, and especially depressive diseases in the country, with over 30 percent of the population affected. Women more often fell victim to mental ill health than men.

### **Shelter for women**

The lack of adequate shelters for women remained one of the most acute difficulties faced by women confronting domestic violence.

In many cases, these women had no safe place to live in situations where discord existed with families. In the case of married women, parents were often unwilling or unable to accommodate them.

The Darul Amans, shelters run by a religious organization with government support, lacked adequate facilities. Women housed within them were often treated no better than criminals, and denied the right to free movement. There were also reports of grave rights abuses within Darul Amans. In August, an Indian national, Kanwal Arain, trafficked into the country and sent to the Darul Aman at Hyderabad, was reported to have fallen from a third floor window. She died a day later. Press reports suggested she had committed suicide, or even been murdered. The HRCP Special Task Force at Hyderabad conducted a fact-finding and was completing findings into the end of August

2005.

Absence of transport at the Darul Aman, Rawalpindi was reported during the year to be leading to serious problems for inmates as well as staff, especially as many women needed to make regular appearances at the courts. The facility housed 30 to 50 women, most of who were involved in court cases and needed risk-free mobility, which was not possible while commuting on public transport. It was reported in early 2005 an inmate involved in a rape case mysteriously disappeared from the court premises where she was to appear for a hearing.

The ministry of women's development in collaboration with an Islamabad-based NGO, early in the year conducted a five-day training workshop for staff of the government run crisis centers and shelter homes for women to sensitize them to the needs of women facing violence.

In February, the Punjab Aqaf and religious affairs minister said the government planned to establish shelters for distressed women in 26 districts and improve existing shelter homes in eight districts. Rs 92.649 million were allocated for this purpose.

### ***Recommendations***

1. *It is unfortunate that the authorities have chosen to stall changes in laws discriminatory to women, including the Hudood ordinances. These laws must be repealed without further delay, as per the recommendations of the National Commission for the Status of Women (NCSW). Other laws 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. All laws that act to discriminate against women or threaten their rights, such as the Qisas and Diyat law, must be set aside. Laws restricting the liberties and freedoms of women must not be put in place in any part of the country.*

2. *The issue of violence against women in the country must be acknowledged officially. Denying violent crimes against women, including rape, that take place frequently or pointing the finger at other countries, can do nothing to solve the problem. The attitudes of leaders, who imply women victims of crime are in some way responsible for their own fate or are highlighting the issue for personal gain, can only worsen the existing plight of women.*

3. *The many flaws in the law on 'honour' killings, enforced early in 2005, must be removed. The failure to address the issue of compoundability means the law can bring little change in the existing situation of the murder of women. Authorities must also take note of the huge dangers faced by women, and in many cases their spouses, confronted by a threat of violence from families.*

4. *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.*

5. *Women's participation in elections at all levels must be encouraged and the low enrollment of women in specific parts of the country remedied. The government must also act to ensure elections in which women are prevented from participation are declared null and void in all cases. Evidence of a firmer stance against bars on women voters is welcome, but much more needs to be done to register women voters and ensure they are able to cast ballots. The reduction in seats reserved for women in local councils needs to be reviewed in light of the pressing need to promote women's participation in the political process. Equal funds and a say in decision-making must be granted to elected women councilors.*

6. *Cases of illegal detention of women by police, rape in custody or other crimes against women committed by law enforcers must be rigorously penalized under the law. The increase in atrocious crimes against women committed by police officials is an outrage. Offenders must not go unpunished or victims be forced to run from pillar to post seeking justice. The condition of women in jails also requires urgent attention.*

7. *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 district government officials or members of other governments who support such forums must be penalized. The Sindh High Court ruling, banning 'jirgas', must be enforced, and a new ordinance proposed in Sindh to legitimize 'jirgas' withdrawn.*

8. *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.*

9. *The gender disparity in education, health and other developmental spheres must be addressed. Links between the education and empowerment of women, as well as their welfare, are well established.*

10. *Employment opportunities for women need to be increased as a means not only to utilize their potential and increase household incomes, but also to combat the menace of child labour. Factors that hold back employment, including social tradition, lack of transport and lack of childcare, must be addressed. Laws must be put in place to prevent the widespread harassment of women.*

11. *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 penalized and efforts made at the official level to involve communities in checking such crimes. .*

*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. 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'.*

*14. 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.*

*15. The trafficking of women within the country and of those brought in from abroad, must be stopped by enforcing laws and penalizing 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)

Many of the laws intended to protect children went largely unimplemented. Children and young people under 18 years formed at least 50 percent of the country's total population of 152 million people.

Millions of children across the country formed a part of the labour force and remained out of school. Many more faced physical, sexual or emotional abuse in one form or the other.

However, some policies were put in place to offer some protection to children.

These included the rescue of child camel jockeys trafficked to the Gulf. There was also wider discussion at official and non-official forums of the issues facing children and measures that could help offer them greater security.

Unicef's annual report on the State of the World's Children for 2005, launched in December 2004, put Pakistan at 46<sup>th</sup> among 157 countries in terms of basic indicators for child welfare. The findings showed 19 percent of children born in the country between 1998 and 2003 were of low birth weight. The Federal Bureau of Statistics, in its demographic survey for 2001, the results of which were published in 2003, reported 785 infant deaths daily across the country and 1,019 deaths of children aged between one and five years.

Eight to ten million children were employed in various sectors, according to unofficial estimates. Officially, 3.5 million children were acknowledged to be a part of the labour force. Child labour and corporal punishment were believed to be the major cause of the Sindh school drop-out rate of over 50 percent, while similar reasons were also responsible for children leaving school in other provinces.

Access to clean drinking water, adequate food, healthcare and education was denied to most children in the country.

### Conditions of childhood

A report on the quality of drinking water released by Unicef in March stated that over 200,000 children in Pakistan die annually due to the consumption of contaminated



Born into a life without opportunity?

water. Estimates by international agencies also found at least 35 percent of children in the country were malnourished. The infant mortality rate, at 82 for every 1000 live births, and the child mortality rate, at 100 for every 1,000 live births showed

Pakistan's children faced a bigger risk of death than anywhere else in South Asia. The 906 Maternity and Child Health Centres (MHC) in the country were insufficient to

meet needs.

Epidemics of diarrheal diseases that broke out across the country [*See also chapter on Environment*], often affected children most. At least 1,500 children in Multan were hit by severe stomach ailments over the summer. 1000 of them were admitted to the Children's Hospital in Multan in July alone. The Children's Hospital in Lahore, around the same time, also recorded a sharp increase in the number of children admitted with stomach ailments, mainly due to unclean drinking water.

In March 2005, the Worldwide Fund for Nature (WWF) noted that 60 percent of infant mortality was caused by dehydration and water borne diseases.

Participants at a medical conference in April noted that 20 percent of the country's children suffered asthma. The rate of other respiratory diseases, as well as skin infections, was on the rise due mainly to worsening air pollution.

The Punjab health department constituted a provincial infant feeding committee at the start of the year to implement the Protection of Breast Feeding and Child Nutrition Ordinance 2002. There were no reports as to how successful the implementation had been.

The deaths of 133 newborn babies in the Intensive Care Unit (ICU) and neo natal wards in Larkana in December 2004 alone was an indication of the conditions prevailing at most hospitals, including those specifically set up to treat children.

There were estimated to be at least 12,700 children with cancer in the country. International and local experts noted that delayed diagnosis frequently reduced the chances of successful treatment.

According to a UN study presented at a national consultation in January, at least 35,000 children lived on streets in the country's provincial capitals and more than half of them were found to be involved in commercial sex work thus being prone to STDs and HIV infection. An increasing number of children were addicted to sniffing commercial adhesives.

Despite extensive campaigns, most notably in the Punjab, it was estimated less than half of all children completed primary school. [*See also chapter on Education*].

### **Children at peril**

Figures collected by HRCP suggested there was no change in the pattern of crimes against children. Between November 1, 2004 and August 31<sup>st</sup> 2005 47 minor girls were gang-raped and 70 raped. This compared to 71 cases of the gang-rape of minor girls and 106 cases of rape in the 12 months of 2004.

A study released by a Karachi-based helpline for children, Madadgar, in March revealed a rise of at least 280 percent in the number of cases of crimes against children during the past five years. The helpline reported 4,530 cases of child abuse at the end

of 2004 as compared to 1,612 in 2000.

Statistics compiled by the Islamabad-based Society for the Protection of the Rights of the Child (SPARC) in its annual report 'State of Pakistan's Children 2004' released in May 2005 disclosed that 1,549 children, including 1,184 girls were sexually assaulted by the end of 2004. According to Madadgar, 208 cases of the abduction of children were reported in November 2004 and 192 in December 2004.

Incidents of kidnapping remained high during 2005, with over 600 cases reported by the end of August, according to press reports. Cases of kidnapping for ransom increased, with at least five high-profile cases reported during the year.

During the first six months of 2005, 71 children, 45 girls and 26 boys, were murdered after sexual abuse, according to Sahil, an NGO working against child abuse. In 2004, 101 children had been murdered after being raped or sodomized. In August, four children were reported to have been raped in Karachi alone – in each case by family members.

Fear gripped parents in Gujranwala during April and May 2005, as a serial child rapist kidnapped and raped nine girls, all aged less than 12 years, in separate incidents.

On May 21, police in the industrial town claimed to have arrested man they claimed was the rapist, identified as Ikram alias Karamu. Doubts lingered as to whether he was indeed the culprit. At the end of May, another person, Asif Sindhu, was seen apparently abducting a 10-year-old girl. Police surrounded the building into which he had taken the child. The man was then stated by police to have shot himself. Press reports stated the post mortem report showed he had been tortured, and it was alleged police may have shot him claiming a suicide. Victims identified the man as the rapist from the sketches shown to them.

The minister for religious affairs informed the Senate in December 2004 that the police were investigating 500 cases of alleged child abuse implicating clerics. He also suggested the rate of child abuse at madrassahs was high. His remarks kicked off a storm across the country with clerical leaders and other government members disputing the figures. Press reports of incidents of abuse in madrassahs continued to come in through the year. *[See also chapter on Education].*

The rate of corporal punishment at all schools, in the private and public sector, remained high. A study by HRCP carried out over the summer, after interviewing 11 parents, 20 teachers and 26 children, found most broadly favoured corporal punishment. The study also found the practice was widely seen as essential in order to discipline a child.

Corporal punishment continued to be meted out at schools, despite directives by both the federal government and the governments of the Sindh, Punjab and the NWFP to ban it. In June, the Punjab chief secretary ordered a notification regarding the ban be



sent to all private and public schools in the province, after several incidents were reported. A study by UNICEF and the UK-based Save the Children, published in May, identified 28 types of punishments used in homes and 43 in schools across the country. It estimated 43.11 percent of children in primary schools faced corporal punishment.

Some of the incidents of physical abuse reported at schools were as follows:

◆ In a case that drew widespread attention and concern in March, a six-year-old boy, Ashar, was so severely beaten by the principal of the private school he attended in Malir, Karachi that he had to be hospitalized. His father filed a case against the school head. The pupil was pinned down by a clerk and beaten by the principal for missing the school bus.

◆ During the same month, it was reported that Akhtar Mohammad, an eight-year-student at a madrassah in Panjgur, Balochistan, lost a hand after he was badly beaten by the teacher. The hand was broken but failure to provide medical care meant it had to be amputated when the boy was finally taken to hospital.



Protest against poverty.

◆ I s h a q Ahmed, a resident of Karachi, filed a complaint in May to the education department, saying that a physical trainer at the private school his nine year-old son, Ishtiaq Ahmed attended beat up the child so severely that one of his legs was fractured.

◆ Another nine-year-old boy was taken to hospital in June at Samundri, near Faisalabad, after being beaten and tortured by a school teacher. The medical report stated torture marks had been found on his back, neck and shoulders.

Children also continued to runaway from their homes. Financial stress, unemployment and poverty appeared to be the main reasons for this. The United Nations Office on Drugs and Crime (UNODC) reported that as many as 1.2 million children had turned to the streets of all major cities to earn a living.

A Karachi-based NGO estimated some 70,000 children remained on the streets

## **Saving abused children; Government protection measures**

*The return of hundreds of child camel jockeys from the Gulf, and the work undertaken by the Child Welfare Protection Bureau (CWPB) were some of the measures taken by government to check the abuse and exploitation of children*

Some concrete measures were put in place to save children facing abuse and to offer them protection.

These included the return of around 200 child camel jockeys during the year from Gulf states, as a result of measures taken by the Pakistan government in cooperation with authorities in the United Arab Emirates (UAE). HRCP welcomed the measures to bring home children facing miserable conditions in the Middle East. It also appealed for similar steps to end other forms of exploitation of children. **[See also box].**

The children were taken to the Child Protection and Welfare Bureau (CPWB), established in 2004 in Lahore to shelter destitute children. At least 80 had been reunited with families by August. Others remained at the bureau, receiving education and medical attention, with their parents apparently fearing criminal cases under anti-trafficking laws if they recovered them, or simply not aware of their return. Cases had been registered against at least 30 parents during the year.

The Punjab government ordered authorities in the Rahimyar Khan, Dera Ghazi Khan and other southern Punjab areas where most of the children were based, to continue efforts to locate the parents. Many of the rescued children, generally aged between four and 14 years, did not recall the names or addresses of their parents. Some spoke only Arabic, after spending up to five years of more in the Gulf.

The Bureau was formally inaugurated in February 2005, with the main goal of rehabilitating homeless children, beggars, and children trafficked as camel jockeys. The Destitute and Neglected Children's Act 2004, passed by the Punjab assembly the previous year, permitted such children to be taken into State-run care. A child protection judge, based at the Bureau, decided on the cases of the children brought to the bureau.

To recover street children and identify persons involved in their exploitation, the services of intelligence agencies and police were acquired. Several gangs engaged in child beggary were stated to have been broken up. The Bureau announced in March that over the past nine months, 249 child beggars had been rescued and reunited with their families in the Punjab. Of these, 120

were given medical treatment, 20 treated for drug addiction and 70 faced psychiatric problems. One runaway child from Kohat had severe injuries after his leg was burnt by the mafia.

Through the year, the Bureau continued to round-up street children and beggars and house them at the shelter. A programme to rehabilitate children addicted to drugs was also implemented, while child victims of abuse and prostitution were among those sheltered and treated.

In July, after reports were published in newspapers about four-year-old child street performer, Sonia, who lay on beds of broken glass under heavy weights to earn money for her gypsy family, the Punjab chief minister ordered the police to take the child into custody. Sonia, and an 11-year-old cousin were housed at the Bureau, where reports stated they had been provided balanced meals, toys and education for the first time in their lives. Efforts to locate Sonia's younger sister, also being trained as a street performer, proved unsuccessful.

During the year, the Punjab government prepared a policy to lower the ratio of missing children. While this number remained high, plans to set up Child Protection and Welfare Bureaus (CPWB), in seven other Punjab cities, replicating the one working in Lahore, were welcomed by children's rights activists. Reports in July stated a CPWB had been set-up in Rahimyar Khan, and had helped reunite recently returned camel kids with their families.

It was reported in May that the privately run Welfare Home for Child Beggars (WHCB) in Peshawar had during the year, rehabilitated 65 child beggars rescued from markets, restaurants and other locations.

The National Assembly was told in March that the government planned a Child Protection Information Management System for monitoring physical abuse and violence against children.

Meanwhile in May, the Sindh Commission for Child Welfare and Development reviewed a draft bill setting up the Sindh Child Protection Authority 2005, aimed at monitoring the implementation of laws formulated over previous years for the protection of children rights.

A National Plan of Action for the rehabilitation of special children across the country was reported to have been finalized in May.

In July, the National Commission for Human Development (NCHD) in collaboration with the education and health departments launched a school health programme in 17 districts of the country. The NWFP health department also announced plans to restore the school health service in the province. The service had been suspended for over two decades.

across the nation. At least 14,000 were based in Karachi alone. The NGO reported that of these, 57 percent were involved in criminal activity, 90 percent in solvent abuse and 63 percent had been sexually abused. Many of the children complained of illness and injury.

In Lahore, the Child Welfare Protection Bureau (CWPB) took in hundreds of children, and began efforts to educate and rehabilitate them *[See box]*.

Child prostitution was reported to be on the rise. Despite a crackdown by law enforcement personnel on the practice in Peshawar in July, reports stated prostitution continued at street hotels and various spots across the city.

A joint report by Save the Children and the Working Group against Child Sexual Abuse and Exploitation released in July 2005 noted that the exploitation of children was widespread, and the use of children for prostitution was especially prevalent among nomadic gypsy groups based in cities.

Some of the worst crimes reported against children were as follows:

- ◆ It was reported in December 2004 that a teacher and a senior student of a seminary in Nankana Sahib in the Punjab had sexually assaulted a seven-year old boy and later strangled him to death within the mosque premises.

- ◆ A nine year old girl was murdered after gang-rape by three men in Karachi early in the year. Police arrested two of the alleged killers. The child, along with her sister, had been sent to buy bread from a local 'tandoor'. Both girls were gang-raped, allegedly by workers at the 'tandoor'.

- ◆ In April, police in Lahore arrested a man identified by them as the ringleader of a five-member gang which abused children and forced them into beggary and pick-pocketing. Around 14 children aged between four to 12 years had been arrested earlier in a drive against beggars. The child beggars stated that the gang members used to torture them severely. *[See box]*

- ◆ A raid conducted at a house in Sialkot in May uncovered a sodomy racket involving at least 100 children. It was found that these children were kidnapped, sodomized, and filmed by a gang in Sialkot. The films were then distributed in the UAE, Saudi Arabia and cities and towns of Pakistan. 23 children were identified while the rest remained unknown.

- ◆ In July, 15-year-old Manzoor committed suicide by hanging himself from a tree in the Murad Babar village in Dadu. His father said the boy had been sexually assaulted by three men days before.

- ◆ Hafiz Usman, a 13-year-old madrassah student, was in August admitted to the Pakistan Institute of Medical Sciences (PIMS). His body bore marks of acute torture and beatings, apparently afflicted by a teacher at the madrassah in Lalamusa where he

was enrolled.

◆ During the same month, horrifying accounts of sexual abuse were reported from a madrassah in Dijkot, near Faisalabad. The head of the madrassah and three teachers were arrested and remanded in custody. The details surfaced after two fathers of pupils at the madrassah saw signs of torture on the bodies of their children, and took them to the local RHC. Medical staff confirmed physical violence and informed police. After staff at the madrassah was rounded-up, pupils narrated horrific accounts of burning with heated rods, sexual abuse and the use of chains and fetters.

### **Children behind bars**

In August, according to official figures, there were at least 2,335 juveniles remained behind bars across the country. The NGO SPARC also stated a six-year-old child had been charged under anti-terrorism laws in South Waziristan.

Poor implementation of the Juvenile Justice Systems Ordinance (JJSO) of 2000 remained a major problem, with some juveniles still facing the death penalty. In December 2004, the Lahore High Court (LHC) had struck down the JJSO in the province, declaring it “unconstitutional, unreasonable and impracticable”. The court stated that the rate of crimes committed by juveniles had soared since the law was enforced. The Supreme Court suspended the LHC order in February. *[See also Chapter on Jails and Prisoners].*

In April, the government informed the Senate there were 1,452 juvenile prisoners in the country. 435 of them were in the Punjab, 654 in Sindh, 258 in the NWFP and 105 in



Imprisoned youth, fettered futures.

Balochistan.

Unofficial sources stated during the year that ten juvenile girls in Punjab jails were charged under Hudood laws.

Estimates by NGOs put the number of juvenile prisoners in Punjab jails at 1,251 including 1,017 under-trial and 234 convicted juveniles. 229 of the juveniles were at the Borstal Institute in Faisalabad, 186 in the Borstal Institute Bahawalpur, 112 in Central jail Gujranwala, 69 in Central Jail Rawalpindi, 64 in Lahore jails and the others scattered in prisons across the province.

According to a study conducted by Unicef in January, jail staff and prosecutors involved in the cases of juveniles had no knowledge about the JJSO and its provisions.

Only 415 of the juveniles were housed in Borstal Institutes. Child rights activists continued to urge the completion of Borstals at Peshawar and Bannu, and the immediate transformation of the Adolescent Training Centre (ATC) in Haripur jail into a Borstal institute. At jails and the existing Borstals, facilities to educate and rehabilitate the children were inadequate.

There were limited efforts to offer relief to juveniles. It was reported in July that no legal aid had been provided to 28 juveniles jailed in Punjab, some of whom had been in detention for two months without appearing before a court. 124 juveniles were released on probation during the year, while the number held under the draconian Frontier Crimes Regulations (FCR) was not known.

At least five cases of the illegal detention of juveniles by police were reported during the year.

### **Childhood lost: Children at work**

A National Child Labour Survey conducted by the Federal Bureau of Statistics (FBS), the results of which were released in August 2005, found that out of 40 million children in the country between 5-14 years of age, 3.3 million or 8.3 percent were working. The maximum number was found in the agriculture sector in rural areas.

The official study came as part of intensified focus on the issue of child labour.

A survey of child labour in the FATA and PATA areas conducted by the Directorate of Labour and the ILO during the year found that poverty and low wages, with many families surviving on less than Rs 2,500, meant many people were forced to send their children out to work. Only 43 percent of people of the area had attended schools. The report found the socio-economic constraints to be a major cause behind the growing ratio of child labour in these areas. The report stated 61 percent of male and 40 percent of female children in the age group of 5-17 were involved in various forms of labour.

According to press reports citing unofficial figures published in April, at least 45 million children across the country were engaged in labour. 58.6 percent of the total

child labour was engaged in Punjab, nine percent in Sindh, 32 percent in the NWFP and 0.4 percent in Balochistan. 70.11 percent of the total child labour was categorized as unpaid family helpers, 23.15 percent as employees and 6.74 percent as self employed workers. Out of these 46 percent were forced to work more than eight hours a day.

The International Labour Organization (ILO) stated that around 20 percent child labour was due to poverty while the underlying factors for this were dearth of skill learning opportunities, lack of education and lack of awareness.

According to the ILO, unofficial estimates put the child labour figure between eight to ten million with half of this number out of schools. Greater attention than before was devoted to child labour both officially and unofficially.



A heavy burden for small shoulders.

In its annual report, released in May, SPARC stated that than

120,000 children in the country were employed as industrial workers or earning livelihood as scavengers. At least 6,778 boys and 2,806 girls under-18 were working in the glass bangle industry in Hyderabad district. Around 5,800 children worked the in surgical tools manufacturing sector in Sialkot while many worked in other industries..

Children were seen at work at hotels, workshops, factories and in other sectors in all urban sectors. The abuse of female children working as domestic labour also remained a cause of growing concern. *[See also chapters on Women and Labour].*

In April, the ILO launched an action programme on basic education and skill development to be provided to children involved in domestic labour. Meanwhile, the federal government stated in June it had prepared the first ever draft legislation for combating child domestic labour in the country. The draft was not presented in parliament. Another draft law proposed banning the employment of children aged under-15.

The ILO stated that available data indicated 250,000 of the 3.3 million kids engaged

in economic activities serving as domestic servants. According to a report by the FBS, every fifth house had a child worker feared to be at high risk of exploitation.

Many children worked at hazardous occupations. In March, 12-year-old Munir, employed at a match factory in Mardan district, suffered severe burns and died after an explosion at the Risalpur Industrial Estate.

A survey conducted by medical students of the Pakistan Medical and Research Council in June found most children working in automobile workshops in Peshawar suffered a host of medical problems as they were exposed to lead. 150 children in 120 workshops of the city were interviewed. These workshops, the study showed, employed at least 2,300 children. Many suffered headaches, memory loss, low IQ and other disorders associated with prolonged lead exposure.

### Trafficking of children

In April, a ban was placed on the use of children under 16 as jockeys in camel racing in the United Arab Emirates (UAE) and new laws introduced for this by the UAE government.

The measure raised hopes that there would be a decline in the trafficking of children for use as camel jockeys from the country. The return of children already in the Gulf also began.

Over 200 children returned home during the year, with most housed at the CPWB

in Lahore and a new centre in Rahim Yar Khan.

*[See box].*



Camel kids: Back from the Gulf, but what now?

The international child rights group, Save the Children conducted a detailed survey in June 2004 and in July 2005 published a report on camel jockeys from the Rahim Yar Khan area. 46 of the recently repatriated

children were interviewed in detail. The report pointed towards a 'trafficking triangle'



involving the child, his family and agent. The study estimated around 15,000 children had been trafficked from Rahim Yar Khan District alone over the past for 30 years. Among those who were surveyed, most were around five years old when trafficked. Almost all the children narrated horrific ordeals of sexual and physical abuse, and the trauma of being forced onto a camel. Younger children were preferred because of their lighter weight.

While the process of repatriating children continued, in June 2005 the state minister for overseas Pakistanis confirmed the presence of some 5,000 Pakistani children in various camel racing clubs of the Gulf states. According to the UAE's own preliminary survey report, nearly 2,000 Pakistani children aged under 16 years were still in the UAE after being brought in as camel jockeys.

In August, the federal government stated it had identified 92 human traffickers, including government officials, involved in smuggling children to the Gulf for use as camel jockeys. The services of Interpol had been sought to locate and arrest them.

Child trafficking for other purposes was also reported. In May, the Federal Investigation Agency (FIA) arrested two women from Multan Airport who were declared to be proclaimed offenders in a child smuggling case and recovered four children from them.

Sahiwal police in June arrested a member of a human traffickers gang allegedly involved in kidnapping children from different parts of the province for sale. The gang had, it was reported, kidnapped and sold 13 children, most of them girls.

HRCP reiterated its stance during the year that as part of measures to check child trafficking, holistic policies aimed also at addressing issues of poverty and unemployment, notably in the southern Punjab, needed to be put in place.

### ***Recommendations***

*1. While an increased number of laws to protect children now exist, their unsatisfactory implementation remains a major issue. The ratified international conventions on the rights of children too remain largely unenforced. While the ushering in of new laws, including the Juvenile Justice System Ordinance and the Punjab's Destitute and Neglected Children Act, indicates a welcome increase in interest in children's rights, the legislation serves little purpose unless it is enforced and problems in doing so removed. The child protection programme in Lahore needs to be reviewed further to assess problems, so that these can be resolved and the work more effectively replicated.*

*2. Areas of broader concern with 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 highlight some of the reasons why so many children suffer acute deprivation. Priority must be given to improving the situation in these sectors and strengthening provisions to safeguard the rights of children.*

3. *Universal, free 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, as many children are 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. *The official efforts to repatriate child camel jockeys are welcome. As a next step, laws to check the smuggling of children need to be made still more specific while existing legislation must be implemented. Apart from legislation to penalize parents who sell children, efforts to combat the extreme poverty of these families and to educate them about the risks of camel racing must be initiated. The official efforts need also to be expanded to other child victims of abuse or those who have gone missing.*

7. *Legislation to cover the increased number of runaway children is needed. As steps taken to protect such children and ensure the recording of reports on missing children by police have had little impact, an urgent reassessment of the situation is required.*

8. *Laws to protect children from sexual and physical abuse need to be enforced. Health workers, teachers, community activists and others must be trained to recognize abuse and take action to ensure the safety of victims.*

9. *Laws must be made on a priority basis to prevent the use of children as soldiers in conflicts and to punish their 'employers'.*

10. *The increase in the kidnapping of children for ransom 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)

The rising inflation rate, which officially stood at just over nine percent in January, aggravated the grave problems posed by poverty and unemployment.

Some unofficial estimates placed poverty at 11 percent, while the State Bank of

Pakistan (SBP), in its report released in March 2005, noted that the high inflation rate had a negative impact on welfare and the economy.

The government acknowledged poverty and inflation were growing problems. However, strategies that could offer swift relief to citizens were not put in place, with members of government maintaining poverty reduction strategies and development projects would bring benefits in time. At various workshops, experts stressed the need to adopt policies that would allow macroeconomic gains to be translated into benefits for the poorest sections of society.

The issue of the privatization of Pakistan Telecommunications Corporation Limited (PTCL), which saw industrial action by workers on a larger scale than any witnessed during the previous few years, dominated labour issues during the year. PTCL was privatized in June, with many fearing the handing over of the public sector giant to a UAE-



The rights of informal labourers went unprotected.

based company would result in downsizing similar to that seen in other public sector corporations after privatization in previous years. *[See box]*

While the GDP growth rate was officially put at 8.4 percent, exceeding government targets, this seemed to have little impact on jobs. According to the Economic Survey for 2004-05, the total employed labour force in 2005 was 43.22 million as compared to 42.24 million in 2004, a 2.3 percent increase. This however had only a limited impact in reducing unemployment, which was officially put at 7.7 percent. Unofficially, some estimates stated levels could be as high as 14 percent.

Labourers across the country protested the lack of steps to benefit the most impoverished sections of society in the annual budget. It was noted that laws intended to protect the rights of labourers remained poorly enforced. The repressive Industrial Relations Ordinance (IRO) of 2002, which severely restricted the rights of workers to

organize unions, remained in place, with the ministry of labour stating a draft amendment bill had been drawn up.

### **Distribution of the labour force**

According to the Economic Survey, employed persons in rural areas increased from 28.98 million in 2004 to 29.65 million in 2005. Urban employment increased from 14.69 million in 2004 to 15.03 in 2005.

The agricultural sector absorbed the largest share of the total employed labour force amounting to 17.97 million. The community and social services sector employed 6.27 million closely followed by the wholesale and retail trade sector, employing 6.18 million. Manufacturing and mining employed some 5.73 million, 2.43 million were engaged in construction, 2.40 million in transport and 0.44 million in finance and insurance.

Female labour force participation showed an increase, especially in the agriculture and fishery sector. Rural female employment was mainly in the category of unpaid family helpers while the increase in urban female employment was mainly in the community services, manufacturing and construction industries. The labour force participation rates for females increased from 13.72 percent in 2000 to 15.93 percent in 2003-04.

A substantial portion of the country's economic activity remained in the hands of the informal sector which employed 70 percent of Pakistan's total labour force.

### **Labour laws and policies**

During the year, worker's federations and employees protested the non-implementation of labour laws in factories and the non-provision of benefits to workers. The contractual employment system and downsizing policies were also protested. Rallies against unemployment, rising poverty and the price hike were seen in several cities.

In late July, the federal cabinet approved amendments in labour laws aimed at ensuring greater compliance with international standards, to boost exports. Contract workers stood to benefit from the amendments in terms of the rights available to them.

While the managements of textile giants generally welcomed the new WTO quota-free regime that came into force on January 1st 2005, the response of workers was more muted. According to a report by the Pakistan Institute of Labour Education and Research (PILER) in December 2004, workers unions had sought a 25 percent increase in salaries under the WTO regime.

The privatization of PTCL, which came in for much criticism by experts who argued it was neither necessary nor prudent, took place in June. The privatization was

preceded by a mass protest by workers, and a strike that lasted almost a month. The failure to take worker's leaders into confidence over privatization strategies, to discuss golden handshake proposals and to take them into confidence on plans aggravated the situation, and added to the deep sense of uncertainty by thousands of workers who feared lay-offs and massive downsizing. The use of force to quell the strike, the arrest of leaders and the reported harassment of many others added further to this

PTCL was finally privatized in June 2005 and handed over to the Dubai-based giant Etisalat. Uncertainties over the future of workers lingered on as the deal was finalized. [See box].

In April, labour leaders stated that most of the 5.5 million employees working on contract in the country had not been issued appointment letters and were being paid wages as low as Rs. 1,800 a month. PILER suggested regulations to safeguard the rights of contractual workers. The Oil and Gas Development Corporation (OGDC) regularized 650 workers in December 2004.

In January, the National Labour Federation (NLF) organized a meeting at which trade union leaders demanded a m e n d m e n t s recommended in the



Many workers opposed the WTO.

IRO be made. After a study of the IRO, and consultations with stake holders, the federal labour ministry stated in July a draft amendment bill had been forwarded to the prime minister for approval.

The ministry of labour fixed the minimum wage at Rs 3000 in February. A proposal to increase weekly working hours from 48 to 60 hours was condemned by labour federations.

In January, the National Commission on the Status of Women (NCSW), after a study conducted with UNDP support, recommended the government urgently ratify the ILO convention on home workers, which would give recognition to home based women workers, and could act as a starting point in providing them legal protection.

NCSW estimated that 75 percent of the total informal sector consisted of home-based women workers.

The Pakistan Fisherfolk Forum (PFF), representing the country's fishing community, protested official policies through much of the early half of the year, and urged authorities to provide facilities to 0.5 million fishermen. They claimed that the policies of the provincial fisheries department and especially the handing over of lakes to contractors had badly affected the fishermen and driven them to the point of starvation. Fishermen across Sindh staged rallies to pressurize authorities to abolish the contract system and restore the licence system for fishing in sea, lakes and wetlands. Five leaders of the Pakistani Fisherfolk Forum were arrested by police in Hyderabad in May, after they held a big protest demonstration against the contract system. Some 70,000 fishermen went on strike in protest and hundreds of fishermen from Badin, including women and children observed an eight-hour token hunger strike.

Hundreds of farmers from various parts of the country participated in a rally held in Multan in April to protest the WTO regime.

The Sustainable Agriculture Action Group, a coalition of civil society and farmers organizations from around the country, called upon the government in January to devise policies to protect the interests of small farming communities and indigenous systems and revoke the decision to introduce corporate farming in the country. The SBP pledged loans to farmers to boost the sector.

In March, the Asian Development Bank (ADB) recommended legislation to fix minimum wages for agricultural labourers and to revise pricing policies to benefit small farmers.

Pensions for Punjab government employees and some federal government employees were raised during the year. The Punjab government also stated it had budgeted Rs 750 million to provide housing colonies and hospitals for labourers.

At least 644 cases of the violation of labour laws by industrial units based within the Hattar Estate at Haripur, were in June reported to the labour court by the labour department. The violations generally related to minimum wages, occupational safety and the issuance of appointment letters.

### **Downsizing policies**

The draft of the Labour Protection Policy 2005, the policy document of the taskforce on labour protection set up in 2003 under the labour policy of 2002, recognized the employer's right to reduce their workforce in the interest of efficiency and competitiveness. At the same time the document stated employees required additional protection since there no system of unemployment insurance. The document was sent to the provinces for approval in March.

Fears of downsizing, linked to the privatization of PTCL in remained at the forefront



of discussion on the issue. *[See box]*.

There was also downsizing in other sectors. The Ministry of Information Technology terminated the services of dozens of educated employees of Paknet in December 2004. The Senate sought a report on the matter a few weeks later.

In February, the Risalpur Cantonment Board sacked 22 employees without serving them show cause notices. Those workers dismissed were sanitary workers, watchmen and masons and had been working with the Board for five to 26 years.

A ban was placed on the manufacturing and plying of two-stroke rickshaws in the bigger cities of the Punjab in February, to check environmental pollution. Some 40,000 rickshaws in Lahore were to be shifted to small towns. It was believed the ban would affect at least 300,000 people, mainly the families of rickshaw drivers. Rickshaw driver unions staged protests, and the policy remained unenforced. *[See also chapter on Environment]*.

A ban on 'tongas' in Rawalpindi early in the year affected at least 85 families.

More than 30 glass bangle factories in Hyderabad were closed in February in an illegal lockout, because of which some 50,000 workers of the bangle industry, including women, were directly affected.

Lay-offs continued from private sector corporations and factories through the year. Employment opportunities however increased in some sectors, notably the telecommunications business, as more companies arrived on the scene.

## **Unemployment**

The second quarterly SBP report, released in March, showed that the national unemployment rate had fallen from 8.3 percent in 2001-02 to 7.7 percent in 2002-03. However, employment opportunities in Sindh and Balochistan had shrunk during these two years. The report stated that the overall unemployment rate in Sindh increased from 5.2 percent in 2001-02 to 5.97 percent in 2003-04 and that the increase was more pronounced in rural areas.

The Labour Force Survey in 2003-04 counted 3.48 million unemployed people. Of these, two million were educated and 1.48 uneducated. The report rebutted the government's claims that the growing economy was generating employment for the country's educated youth, while reporting a slight improvement in overall employment levels as compared to 2001-02..

The desperation for jobs was reflected in the fact that 7,000 candidates appeared for a written test in February for 40 posts lying vacant in the Hyderabad Electric Supply Company in Dadu. Most of the candidates, aspiring to join the company as assistant linemen, bill distributors and meter readers were diploma holders or possessed

master's degrees.

Balochistan National Party (BNP) leaders complained in January that the government had done nothing to provide employment to 16,000 graduates in the province, and cautioned that denial of jobs to the youth might force them to indulge in anti-social acts. They also criticized the Gwadar port management of recruiting youth from areas outside Balochistan, with the issue also taken up by the Balochistan chief minister.

Four members of the Balochistan unemployed engineers and agriculture graduates association went on a hunger strike till death in January 2005 to protest unemployment among educated youth in the province. They ended their strike on assurance of a provincial minister that graduates would be accommodated in different departments.

Councils in various districts in several cases made appeals for jobs to be offered to



Work was not easy to find.

local people, The Dadu district council in November 2004 appealed for jobs for local people at the oil and gas field in Dadu.

An assurance was given by the Sindh governor in November 2004 that 50 percent of new job opportunities generated in the railways in Sindh would be filled by

local youths. The SBP also continued efforts to induct youth from less developed areas of the country.

Reports in May stated the prime minister's employment plan costing Rs 6 billion would provide jobs to 300,000 youths. Around 30 percent of the new employees would be females. Under the scheme, job opportunities were to be created in both the public and private sector.

Four new industrial projects started in Chakwal in April for cement and paper were expected to generate 50,000 jobs.

The Punjab Chief Minister launched a self-employment scheme in the livestock sector at the start of the year to create employment for 26,000 people.

The Rawalpindi district government prepared a plan in March to offer jobs to more

than 100,000 jobless people in government and semi-government departments.

However, despite these efforts, unemployment remained an issue affecting millions in the country, and was repeatedly identified by citizens as their most pressing problem.

### **Desperate means: suicide and the murder of children**

More and more cases were reported during the year of suicide by unemployed people, and in some cases of the murders of their own children. This reflected the terrible toll joblessness and poverty inflicted on people.

In April, a poverty stricken man poisoned his three children and then attempted suicide in Lahore. Kashif Saleem, a car battery seller, had been facing financial crisis for the past few months. His three children were found dead while he survived, and was taken to hospital in critical condition..

In Karachi, Mohammad Younis, 35, who had been jobless for the past few months, in April slaughtered his seven-year-old daughter Mariam by slitting her throat while she slept.

The incidence of suicide amongst youths registered a sharp rise. In the first three months of 2005, 14 out of 27 people who were reported to have committed suicide were young people aged from 11 to 25. The reasons stated included poverty and unemployment. Some of the cases reported were as follows:

- ◆ Sher Alam, 20, a jobless man hanged himself from the ceiling fan in his house in Karachi in November 2004. He had been looking for a job for months without success.
- ◆ A young labourer committed suicide in Islamabad in March by electrocuting himself, reportedly due to financial hardship.
- ◆ In April, 24-year-old Shahid Mehmood leapt to his death from the Minar-e-Pakistan. Police said he had been driven to death by joblessness.
- ◆ Labourer Iftikhar, 21, swallowed poison in March in a village near Chung in the Punjab, after failing to find employment for several days.
- ◆ In March, Gulnawaz, 19, a resident of Mianwali shot himself. He was reportedly acutely depressed as he did not have enough money to send home to his village.
- ◆ Nazim Ali, 19, a graduate student, committed suicide in June in Bhawana, after failing to get a job.
- ◆ Ramzan, 18, committed suicide at his home in Lahore by taking poisonous pills after his parents admonished him for being unemployed.

There were also multiple reports of suicides by other persons of all age groups, due to unemployment. 581 suicides were reported during the first six months of 2005, with a large percentage linked to financial hardship suffered by the victims.

Reports appearing in the press narrated details of people who had sold kidneys in order to pay off debt or to make ends meet. *[See also chapter on health and section*

on bonded labour].

### Tenants on farms

Violence flared on several occasions during the year at the Okara Military Farms, where Rangers kept up a siege of the villages.

Rangers had been deployed at the farms since 2002, when, after an attempt to alter

## The privatization of PTCL

*The controversial privatization of PTCL, and the manner in which the issue was handled, resulted in massive unrest within the organization*

Plans to privatize the Pakistan Telecommunications Corporation Limited (PTCL), one of the largest public sector entities in the country, created massive uncertainties through much of the year among thousands of employees.

PTCL was eventually sold to the Dubai-based Etisalat Company, the highest bidder, in June. The physical take-over of the organization began in August, amidst continued unease among employees. The privatization was preceded by months of unrest, with the government having failed to take employees into confidence or make any kind of effort to build consensus and



PTCL workers: No say in their destiny.

trust regarding the privatization. This meant employees at all levels feared large scale downsizing after privatization, as had happened in the past when other concerns were privatized.

Use of brute force to break strikes by PTCL workers, the arrest of union

leaders, deployment of paramilitary troops at offices and harassment of families of leaders acted to heighten tensions and mistrust.

In May, thousands of PTCL employees stormed the company's

their status as tenants, nearly a million landless farmers working on 70,000 acres of farmland owned by the Punjab government began an uprising. The land had been divided into 21 farms, with some of the largest, as at Okara, managed by the military. The tenants maintained they had been granted rights to the land they farmed under various agreements, dating back to colonial days, when they had been shifted onto the then barren land to cultivate it. Rather than attempting to resolve the issue through dialogue, authorities had attempted to crush the movement through force. At least a dozen tenants had been killed as a result of action since 2002, while hundreds faced

headquarters in Islamabad, threatening to jam the country's telecommunications system if privatization, planned for June 6, was not put off. The administration had earlier in the month failed to reach a final golden handshake deal with over 20,000 employees.

PTCL staff went on strike in the Punjab, and many parts of the country in May, causing massive disruptions in services. The strike was called off in early June after 12 days, as the government announced a delay in privatization plans, and began talks on a new Rs three billion package with employees. These talks however soon reached a deadlock, and employees initiated further strike action. Rangers were deployed at key telephone exchanges in the Punjab, Sindh and Balochistan, while army personnel took over crucial services. A campaign of intimidation was initiated, with dozens of PTCL workers and union leaders arrested. HRCP received numerous complaints of the arrest and harassment of relatives of union leaders who could not be found. In several cases, female relatives were detained. At least 200 workers were arrested in the countrywide swoop. Many were beaten, humiliated and warned they would be charged under anti-terrorism laws.

At the end of June, 29 workers were dismissed for disrupting the telecommunications network. Amid persisting tensions, the deal with Etisalat was finalized. Under the deal, the government stated 26 percent shares had been sold while 62 percent were still owned by the government. They also said complete job security for contractual workers was guaranteed for two years and a package of Rs 0.5 billion agreed for all employees. It was further agreed no permanent employee would be dismissed prematurely, while wages and educational grants were raised by 35 percent.

Consumers feared privatization could mean higher rates for services. HRCP condemned the use of brute force to deal with PTCL workers, and pointed out that the hardships faced by consumers could also not entirely be blamed on the workers who feared for their own livelihoods. *[Etisalat backed out of its deal to take-over PTCL in November, 2005 but a few weeks later stated, the deal would go ahead].*

cases lodged against them in a bid to coerce them into signing new lease agreements that would convert them from tenants to employees.

The Anjuman Mazarain Punjab (AMP), representing the tenants, continued to press for land rights despite efforts to split it up and weaken the movement. It vowed at a convention in March to continue its struggle.

In February, the Senate Functional Committee on Human Rights, assigned to assess the situation, submitted its report to the Senate. The report proposed resolving the issue by allocating alternative land to the tenants.

Episodes of unrest flared up sporadically at the farms. In February, the tenants



Women continued to demand rights for tenants.

blocked the Grand Trunk Road and allegedly opened fire on police, demanding the removal of army pickets from their lands. Tenants had also reported earlier that they faced harassment from military troops, attempts had been made to prevent them working on the land and women

and children beaten and harassed.

Following the blocking of the GT Road, police registered cases against 1,600 tenants including 69 women. More protests against army check-posts were staged in April, with tenants at the Peerowal farms in Khanewal also staging rallies to demonstrate solidarity.

Activists of HRCP and other organizations were prevented on several occasions from reaching the farms.

Tensions flared again in April, with the AMP maintaining military authorities were preventing tenants from harvesting wheat. Talks between military representatives and tenants were held, at which an agreement was reached that the tenants would pay their contract money before harvesting the crop. Military representatives also, according to press reports, assured tenant leaders they would assist them in obtaining alternative land from the Punjab government.

Clashes over the wheat harvesting issue however continued. In May, a police sub-

inspector and two constables were taken hostage by tenants to demand the release of a tenant teacher, Muhammad Abbas, arrested during a protest. Abbas was released soon afterwards and the three policemen freed. A few weeks later however, the AMP staged a sit-in to demand the release of two other arrested tenants. It also demanded the setting up of a judicial commission to probe cases of terrorism registered against them, under military pressure.

While, in June, some measure of calm returned to the farms, which remained blocked off by military pickets, there was no sign of a swift solution to the long-standing issue.

### **Trade union activities**

Despite restrictions on the activities of trade unions under the IRO and bans placed on trade union activities four years ago, workers continued to agitate for their rights. Privatization policies remained the focus of most of these protests.

While PTCL saw industrial action on the largest scale [*See box*], the Karachi Electrical Supply Corporation (KESC) and the Water and Power Development Authority (WAPDA) unions joined hands to protest the proposed privatization of KESC. Sit-ins and protests were staged in Karachi early in the year, with KESC employee's unions stating that losses suffered by KESC were due to poor management of the corporation, and rather than privatization, the administrative set-up should be improved.

Early in the year, at a meeting of trade union leaders, the All Pakistan Federation of Trade Unions (APFTU) demanded an increase in the minimum wage and other benefits.

The situation for workers in the private sector was illustrated by an incident in March, when Shaukat Ali, a power loom worker in Faisalabad, was beaten, allegedly on the behest of employer's with sticks, belts and batons, after raising his voice to demand rights for workers. He remained unconscious for over four hours. Civil sector organizations described conditions in most power looms as extremely oppressive.

### **Hazards at the workplace**

The failure to enforce laws on occupational safety placed workers at grave risk.

Early in the year, the International Labour Organization (ILO) stressed that safety at the workplace was the joint responsibility of employers and the State, and called for an improvement in the prevailing situation. The Pakistan Worker's Confederation (PWC) pointed out no measures were taken to prevent accidents at many industrial units.

In November 2004 two workers were killed at a factory in Faisalabad when an iron chain broke as they were moving heavy machinery. Another labourer, Zulfikar Ali, 38, died when a heavy piece of iron fell on him at a factory in Lahore in February.

In February, a blast at a coalmine in Mach caused injuries to eight miners, illustrating

the many risks they faced. Children and bonded labourers also remained engaged in work at the mines. Responding to various reports about the hazards faced by mine workers, the Punjab Mines and Minerals department in April established rescue and safety stations for mine workers at Choa Saidan Shah, Makarwal and Khushab. A mines safety equipment warehouse was set up at Ketas in Chakwal district, and Rs 10 million disbursed among 170 families affected by death or injury.

A press report in May stated that agricultural workers, most of them women, ran twice the risk of dying from ailments caused by pesticide exposure than workers in any other sector.

There were also dozens of reports of injuries to workers in various industries, while the provision of safety equipment to them was rare. In some cases employers complained workers failed to use helmets, masks or ear muffers provided – mainly due to lack of awareness and training.

### **Domestic labour**

The lack of any law protecting domestic workers left them vulnerable to abuse. While it was believed a large number of such cases took place, precise numbers were unknown.

The Society for the Protection and Rights of the Child (SPARC), in November 2004, condemned the ill-treatment reportedly meted out to a 17-year-old female domestic worker by a bureaucrat and his wife in Islamabad. The young woman had been locked into an apartment, without adequate food, as her employers travelled out of town.

In May, the Domestic Worker's Association (DWA) set up in Karachi demanded laws to protect workers in private homes. They also demanded action in the case of Asiya, a maid who died at the Civil Hospital, Karachi in January. HRCP had investigated the case, in which it was believed the son of her influential employer had raped her and then set her alight to cover-up the crime. A male servant in the same home was accused of the rape by the employers.

This was not an uncommon pattern, with at least four other cases reported during the year of the sexual abuse of maids. Surveys by civil sector organizations suggested a large percentage of female domestic workers were subjected to sexual abuse in one form or the other.

### **Women and children at work**

Child labour remained rampant. It was officially estimated there were at least 3.5 million child workers in the country.

Unofficial estimates put the number of child workers at at least eight million, with some studies suggesting there were as many as 10 million child workers in the country.

The government of Pakistan and the ILO signed a Memorandum of Understanding



in December 2004 for the extension of the International Program on the Elimination of Child Labour (IPEC) in Pakistan for five years.

The NWFP Directorate of Industries, Commerce and Labour began efforts to implement an ILO-IPEC-SDC action programme that would educate employers, workers and parents of working children and law enforcement agencies on the issue of child labour. A training workshop was held in February in Peshawar.

On March 17, 12-year-old Munir Khan suffered severe burn injuries in an explosion at the Pakistan Match Factory at the Risalpur Industrial Estate. The child died the next day at a Peshawar hospital. Employment of children below the age of 14 in processes where matches, explosives or fireworks were manufactured was prohibited under labour laws.

A rapid assessment study of bonded labour in the country, conducted by the ministry of labour and ILO with several local organizations, found that almost half the total workforce of brick kilns comprised of child labourers aged between 10 and 14 years. Most worked in extremely grim conditions.

The female labour force participation rate in Pakistan as compared with that of

d e v e l o p e d countries and even with the countries of the Asian region remained exceptionally low at 10.46 per cent. This was also believed to be due to low reporting of women at work, and a failure of official data collection mechanisms to amend the



The labour of women often went uncounted.

situation. Many women worked in the informal labour sector, while the arduous domestic and agricultural work of women went uncounted.

Over six million girls, under the age of 18, were thought to be employed as maids in private homes, facing risks of abuse and exploitation.

In a rally in Lahore on May Day, the Working Women's Organization (WVO), a trade union representing women workers, sought more job security and benefits for women employed in factories and industries, including maternity leave and equal pay.

No attempt was made to reserve a quota for women in government sector jobs,

despite a recommendation by the NCSW. The five percent quota for women in government service, set in the 1990s, which had been declared unconstitutional by then Prime Minister Mir Zafarullah Khan Jamali in 2004 was also not restored. *[See also chapters on Women and Children].*

### **Bonded labour**

Failure to enforce the Bonded Labour System (Abolition) Act of 1992 meant bonded labour remained prevalent across the country.

Debt bondage was reported to be especially prevalent in the brick kilns, carpet weaving, mining, glass manufacture and fishing industries. According to HRCP findings, thousands of haris remained in bondage on agricultural estates in Sindh, with many suffering physical or sexual abuse of various kinds.

A global report on forced labour by the ILO, released in May, found that in South Asia, bonded labour was most common in Pakistan, India and Nepal.

Independent studies indicated at least 6.8 million persons worked in bondage on farms and in homes, with slave labour increasingly found on farms in the Punjab.

Other forms of forced labour also existed. Muhammad Bashir was one of hundreds held as a bonded labourer at a camp in FATA. It was reported in May that he escaped after spending 18 years in the camp and stated the camp owner kidnapped different people, mainly children, for different purposes such as cutting stones. They were tortured and were given only raw sugar and bread to eat.

The Senate was informed in December 2004 that the Ministry of Labour was pursuing the National Policy and Plan of Action for abolition of bonded labour and rehabilitation of freed bonded labourers since 2001. Bonded labour cells were created in the Punjab and Sindh labour departments, but it was uncertain if these were functional.

During the year, the need to set-up functional bonded labour vigilance committees in districts was stressed at various seminars and workshops.

In March the Federal Shariat Court (FSC) reserved its judgment on a petition seeking that bonded debt labour and bonded labour be declared repugnant to the injunctions of Islam.

### **Haris in bondage**

A report by the ILO, released in May, found women held in bondage on farms women were at a particular risk of sexual abuse and were the worst sufferers in the agriculture sector.

Cases of sexual abuse were reported by at least 500 among more than 1,000 households in a survey of freed haris conducted by the ILO at their camps near Hyderabad. The report further stated that some 45 percent of haris and 40 percent of

brick kiln workers had no understanding of their creditor's calculations concerning debt — the terms of which are unilaterally dictated by the landlords or employers. Many who were interviewed confirmed that they were not free to seek alternative employment while their debts remained unpaid.

According to HRCP estimates, over 1.7 million haris remained in bondage across Sindh. The release of haris was slow following the 2002 ruling of the Sindh High Court (SHC), while dismissing the petitions of 94 haris, that disputes between haris and landlords over debt should be settled under the Sindh Tenancy Act of 1960. HRCP's petition against the verdict, seeking the upholding of the 1992 Bonded Labour Systems (Abolition) Act remained pending before the Supreme Court.

In April, members of the Bheel community observed a token hunger strike to protest the kidnapping of 17 of their colleagues from the Ismail Rajar village, Khipro, allegedly by a landlord. They said the landlord was not giving them their share of the wheat.

In May, the Ministry of Labour approved three projects worth Rs 15 million for bonded labourers. Under the project, low cost houses would be built for freed landless tenants living in Hari camps around Hyderabad. HRCP continued to express concern over the plight of 15,000 haris, released over previous years through its efforts, who remained at inadequate camps in Hyderabad. Rehabilitation of the haris, that would allow them to put to use their skills as farmers, had not been undertaken and many remained at risk of kidnapping by former landlords.

According to statistics compiled by the HRCP Special Task Force in Hyderabad from November 4, 2004 till August 31, 2005, 231 applications were received from bonded haris and 115 complaints sent to authorities. Responses were received in only nine cases. At least 1,039 haris were released during this time period. Amongst them, 233 were released by the district administration and 87 by sessions courts, while around 719 escaped.

Of the haris released, 190 were from Sanghar, 196 from Mirpurkhas, 194 from Badin, 192 from Umerkot, 48 from Mithi, 21 from Tando Jam, 25 from Qambar, 58 from Tando Mohed Khan, 137 from Hyderabad, 25 from Thatta, 57 from Nawabshah, 31 from Larkana and seven from Khairpur.

### **Bonded brick kiln workers**

Through the year, unions of brick kiln labourers demanded enforcement of laws and the minimum wage. They called for the registration of all brick-kilns and imposition of labour laws to ensure social security, pension rules and education of their children.

A rapid assessment study on bonded labour, carried out by the ministry of labour, ILO and other organizations late last year, found almost one million bonded labourers in 4,000 brick kilns across the country. Many kilns were unregistered, with virtually no safeguards for workers. Physical and sexual abuse, especially of children, was common

with women also reporting rape by kiln owners.

At least 500 brick kiln labourers working in the Sheikhpura district protested at court premises against poor wages and lack of basic facilities. They said they had been receiving Rs 145 for making a thousand bricks a day from the owners without any increase in their wages, whereas the price fixed by the government was Rs 184 per thousand for 'katcha' bricks and Rs 240 per thousand for 'pacca' bricks.

During the year, a number of reports appeared in the press about bonded kiln labourers who had sold kidneys to pay off debts. Early in the year, around two dozen such labourers had staged a protest before the Lahore Press Club, displaying their scars. They demanded protection for labourers, and stated they had been forced to sell organs to buy freedom for themselves or close family members. In many cases, the labourers soon found themselves in debt again, despite the kidney sale, and were often forced to undertake arduous work despite ill-health.

In April, Seema Bibi, who worked at a brick kiln in Bhai Fheru in the Punjab, told reporters she, her husband and a nephew had all sold kidneys in a desperate attempt to escape debt. They had however swiftly once more fallen into the hands of exploitative kiln owners, and remained captives at the kiln. At least 14 others at the same kiln had also sold kidneys. It was feared there were hundreds more like them across the country.

In August, a kiln worker, Muhammad Inayat, who had already sold his own kidney and that of his wife, was reported to be attempting to sell the kidneys of his sons, aged 13 and 14 years. The kiln-owner of a kiln near Lahore was stated to be holding 12 of Inayat's family members in bondage. He hoped to buy freedom for them by selling the organs of his sons.

During the first eight months of 2005, the Lahore High Court (LHC) freed at least 642 bonded labourers after they were recovered from kilns in Hafizabad, Sialkot, Lahore, Sharaqpur, Gujranwala, Sanghla, Sheikhpura and Mandi Bahauddin. The Peshawar High Court (PHC) also ordered the release of at least a dozen bonded workers. In most cases, relatives had complained they were being held against their will.

### **Slave labour on farms**

In January, the LHC freed seven people including three children from six months of custody at a farm in Kamoki, near Gujranwala. The family had been forced to work on the farm and in the home of the landlord, who reportedly refused to allow them to leave.

There were also reports of an increase of cases of forced labour on farms, notably in the southern Punjab, but the precise number of bonded workers was unknown.

### **Human smuggling**

By the end of 2004, figures showed that in the 12 months of that year, at least

54,000 Pakistanis had been deported and sent back home from the Middle East, Far East Asia, Europe and the US.

This finding indicated the number of people leaving the country illegally, in the hope of escaping the grim socio-economic circumstances most families in the country faced. Many of those attempting to flee were unemployed. Another indication of the number of Pakistanis who had illegally entered other countries came as reports were published early in the year that thousands of Pakistanis based in other European countries were hoping to enter Spain to take advantage of a planned amnesty for illegal immigrants.

With the past two years, 100,000 illegal immigrants who had travelled to western and Gulf States either on forged documents or over stayed their visas there were deported. The wave of deportations continued into 2005, with over 1,000 Pakistanis arrested in Oman and deported in May. Several thousand more were sent home from other Gulf states and Far East Asian nations.

Complaints from European countries, notably the UK, about human trafficking from Pakistan continued. To tackle the growing trend, with many influential people at various levels thought to be involved in the highly lucrative trade, the Federal Investigation Agency (FIA) sought amendments to the Anti-Human Trafficking Ordinance, 2002, in March, to make it more effective. In May, the federal interior minister confirmed signing an agreement with Greece to check drug trafficking and enhance cooperation to check human smuggling.

Despite tougher visa and work restrictions in many countries for Pakistanis, it was estimated at least 150,000 people left the country legally each year. They often included the best educated and qualified. Nearly triple that number was estimated to attempt leaving illegally, often paying agents large sums of money to prepare forged papers.

The FIA seized a large numbers of fake Pakistani passports, National Identity Cards and other documents from Gujranwala in January. One of the arrested traffickers



Back from Oman, and facing a bleak future.

disclosed he had sent more than 1,000 people abroad mostly to the UK. Three employees of a local school in Gujranwala, allegedly involved in sending people to Finland under the guise of scouts and teachers were arrested in March. The FIA also claimed to have arrested at least four other human smugglers during the year in the Punjab.

In several cases, district officials and legislators were accused of involvement in the human smuggling racket.

Press reports from Guangzhou in China stated thousands of young Pakistanis had been found in the city, often languishing in low paid jobs. They had been sent overseas by smugglers who promised they would be given jobs in South Korea or Japan, but then sent them to China.

The UK raised the issue of human smuggling with the government of Pakistan on several occasions during the year. It was reported to have warned in the middle of 2005 that flights by the national carrier to the UK would be suspended if trafficking was not controlled.

### ***Recommendations***

1. *Unemployment needs to be seen as a national crisis. Merely ignoring the realities and putting forward only the figures that show the state of the economy in a positive light will do nothing to alleviate the suffering of citizens. The government must acknowledge the provision of work is a primary responsibility. At the very least, functional employment bureaus need to be set up in as many locations as possible..*

2. *Downsizing in both the public and private sectors needs to be reassessed. Where policies of privatization are pursued, as in the case of PTCL, it is essential that representatives of workers be taken into confidence regarding plans and a consensus built on key issues. Failing to do so can only create uncertainty and panic amongst employees.*

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 vacancies for those with such qualifications are limited.*

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. Workers' rights must be accommodated in the amended IRO, and the draft turned into law without further delay. 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. Administrative measures in the Punjab that end labour inspections of work places, in violation of ILO Convention 81 ratified by Pakistan, require amendment in consultation with labour representatives. The minimum wage for workers, and other legislation protecting their rights, must be enforced. Implementation of such laws is often extremely poor.*

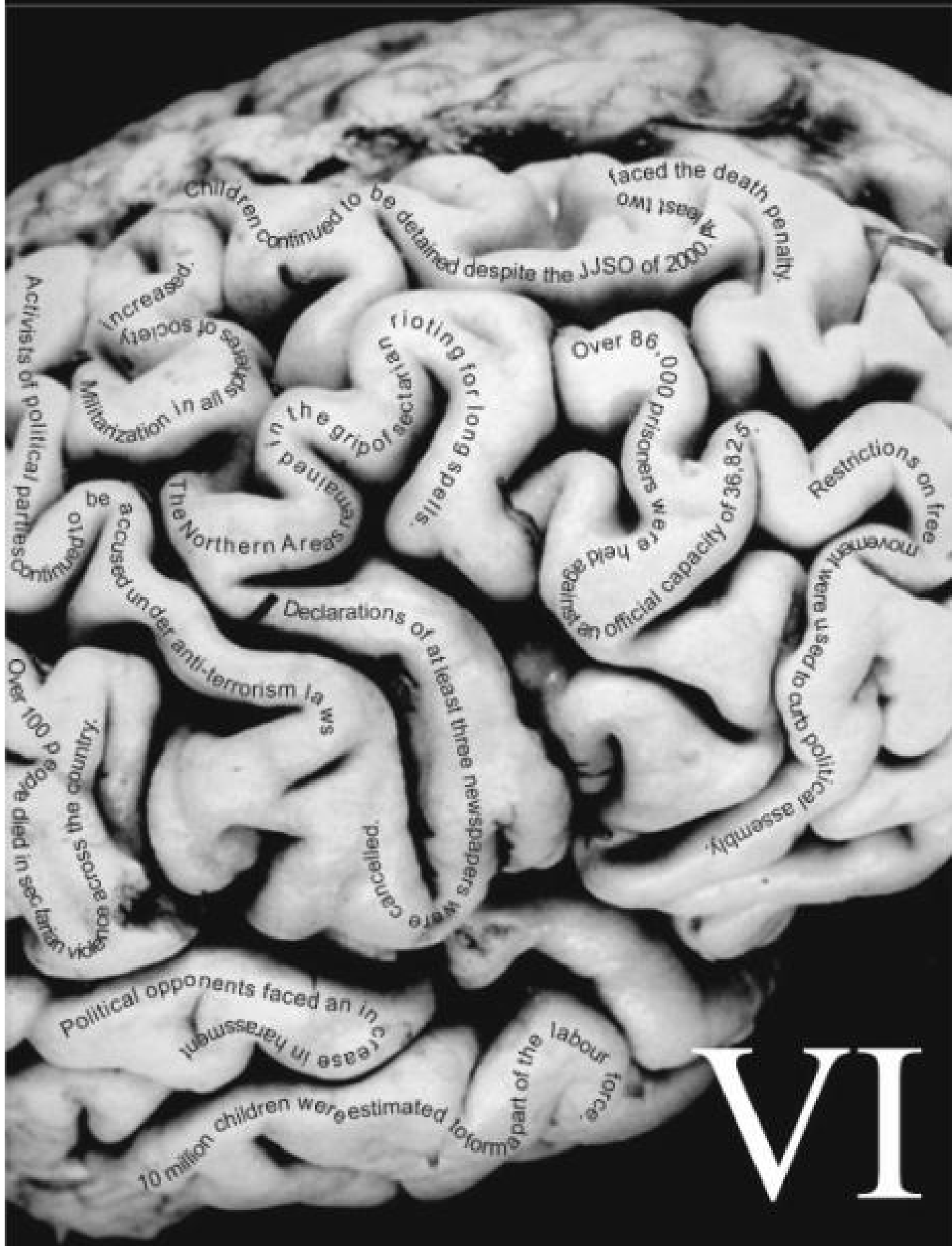
*8. Where retrenchments do take place, they must be followed by a period of training for personnel found to be surplus, so that they are equipped to handle new, alternative jobs.*

*9. The standards of safety at workplaces, including mines, 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.*

*10. The rights of women within the workplace need to be protected. These include their rights as mothers, as laid down under international conventions.*

*11. Self-employment and micro-credit schemes, aimed at expanding employment must be extended to more people and improved, and more information and guidance provided to citizens on how to take advantage of this.*

*12. 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.*



# 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)

Pakistan failed once more to meet Unesco recommendations that at least four percent of GDP be spent on education. Spending on the sector remained below two percent of GDP in 2004-2005, according to official documents.

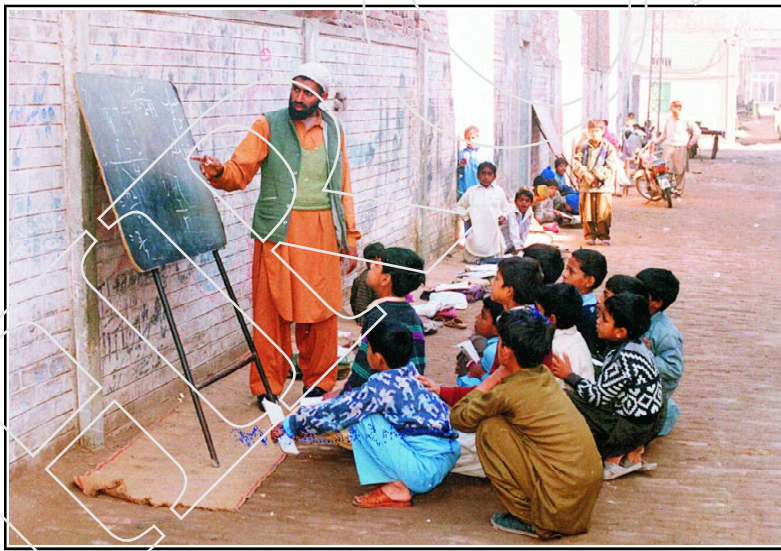
This fact alone demonstrated the low priority to education on the list of decision makers.

Efforts to improve educational attainment continued, with a highly publicized campaign in the Punjab aiming to enroll more children at schools, and move towards a 100 percent literacy rate. The quality of education provided at public sector schools was often totally ignored by policy makers concentrating energies on pushing up

enrollment rates.

Pakistan moved up to 135th position out of 177 countries on the UNDP's Human Development Index (HDI) for 2005. The country had been ranked at 142nd place in 2004. An improvement in literacy rate, from 41.5 percent literacy to 48.7 percent and an improvement in life expectancy, from 61 years to 63 years, were the main factors taking Pakistan ahead of Bangladesh, placed at 139th position and Nepal, placed just a step behind Pakistan at 136th place. Both countries had finished ahead of Pakistan in 2004. The figures used by the UNDP in the HDI listings for 2005 were from 2003. Sri Lanka was the best performing South Asian country, at 93rd place while India held 127th place.

While Pakistan's progress was widely publicized by the government, independent analysts, including researchers at the Mahbubul Haq Human Development Centre (HDC) in Islamabad pointed out that final placing on the comparative index was influenced by a worsening of conditions regarding the three dimensions it measured: life expectancy,



Learning in the street.

literacy and quality of life in other nations. The researchers also questioned figures provided for 2003, asking whether five million more people had truly become literate between 200

and 2003 and two more years added to the mean life expectancy of 150 million.

In terms of educational attainment, still Pakistan ranked according to international studies among the ten worst-performing countries in the world, with at least 68.4 million people still illiterate out of a population of over 150 million.

In a study released in July by the Asian South Pacific Bureau of Adult Education, a network of 200 organizations, and the Global Campaign for Education, a coalition of development organizations in over 100 countries, Pakistan was ranked the lowest among

14 countries of the Asia and Pacific region in terms of commitment to basic education. It finished behind India, Nepal, Bangladesh, Papua New Guinea and the Solomon Islands.

As per official figures from the Economic Survey for 2004-5, overall literacy stood at 52 percent. The literacy rate for men at 64 percent remained higher than that for women at 39 percent. In some parts of the Northern Areas and FATA, the literacy rate for women was a mere 0.5 percent – one of the lowest figures anywhere in the world.

Access to education also remained low. According to the Higher Education Commission (HEC) in Pakistan, only 2.9 percent of youth aged 18 to 23 had access to higher education. According to the Society for the Protection of the Rights of the Child (SPARC), about 60 million children in Pakistan had never received any formal education because of poverty or because of conditions in schools.

Administrative problems, a lack of resources and a shortage of trained teachers adversely affected education at all levels. With no improvement in the state of public sector schools, it was noted that parents attempted to shift their children to private schools.

A detailed study on primary education conducted over the year by HRCF as part of a project on budget tracking in education, found poor administration, the lack of monitoring and evaluation, unclear fiscal transfers after devolution, insufficient resource allocation and utilization, lack of facilities and a shortage of teachers to be the major problems afflicting public sector education.

The goal of 'Education for All', set at Dakar in Senegal in 2000 remained elusive. A United Nations backed report released in November 2004 by civil society groups, suggested that despite significant efforts to increase resources and the numbers of children going to schools, many dropped out before the fifth grade or graduated without mastering even a minimum set of cognitive skills. Unicef urged Pakistan to invest more in education, warning the country would be unable to meet its target of achieving education for all by 2015 or enrolling as many girls as boys in schools by the end of 2005.

### **Policies and priorities**

Pressure continued to be exerted on the government to raise spending on education to four percent of GDP, matching expenditures by India and Bangladesh.

Education was declared free up till matriculation by the federal government at the end of 2004.

There were doubts whether devolution had brought any improvement in the educational set-up, especially as confusion still persisted regarding the powers available to district governments. Indeed, reports of mismanagement were frequent. In April it

was reported that for over 2,000 girl students of a government girls higher secondary school at Satrah, near Daska in the Punjab, there only three teachers. In March in Mirpurkhas, a former director primary education allegedly misappropriated Rs 30,000 of the education department funds, in connivance with an office accountant. According to reports in March the government girl's high school, Hundai, in Sialkot had been awaiting the appointment of headmistress for the last 10 years. Similar reports also came in from other parts of the country.



A heavy educational load.

Early in 2005, files and records were stolen from the offices of the district education directorate in Multan, including details of army surveys showing bogus appointments. Other records were tampered with. The involvement of officials at various levels was suspected and an inquiry ordered.

The widely publicized 'Parah likha Punjab' (An educated Punjab) drive launched in the province came under attack in the National Assembly in

March, with opposition members arguing it achieved nothing in concrete terms. The Punjab government meanwhile claimed 900,000 more students had been enrolled at schools. This in turn put strains on the ESR (Education Sector Reforms) budget available to provide facilities at schools.

During 2005, the World Bank expressed concern over the delay in implementation of a number of its projects in Pakistan related to education.

There were also reports that a project to promote compulsory education in Sindh, initiated nearly two years ago, had not had any marked impact.

The Punjab education department developed a school manual, academic calendar and a form to ensure systematic improvement in standard of education in public sector

schools. The plan was introduced at schools in April 2005.

The National Education Management and Information System (NEMIS) to collect and consolidate accurate literacy data was set up by the education ministry early in the year, after consistent international criticism regarding the unreliability of educational data..

The Punjab government allocated Rs 9.2 billion for education development projects in the Annual Development Plan 2005-6. The education budget was 11.8 percent higher than for the previous year.

International organizations and donors continued to play an active role in the education sector. According to official information, 18 donor agencies were providing assistance of 308 million dollars to increase the literacy rate. The World Bank remained the major donor, providing US \$100 million.

Budget utilization remained low in many sectors of education. According to a report in November 2004, 15 districts in the Punjab had utilized less than 50 percent of funds allocated for the ongoing reforms programme in the education sector despite the lapse of over 12 months.

### **Primary and secondary education**

The number of children out of schools remained a concern. It was reported during the year that 50 percent of children in Sindh remained outside classrooms.

While there was great emphasis on increasing enrollment at the primary level, universal enrollment was still to be achieved.

The drop out rate remained high, and various studies confirmed findings that this was linked to the hostile conditions children faced in schools. A survey by Unicef, along with various local and international NGOS, conducted in three districts of the Frontier province, in June, identified 43 types of corporal punishment being routinely meted out at schools, despite a ban on the practice. 3,582 children, 1,231 parents and 486 parents were interviewed for the survey in Peshawar, Dera Ismail Khan and Hangu districts.

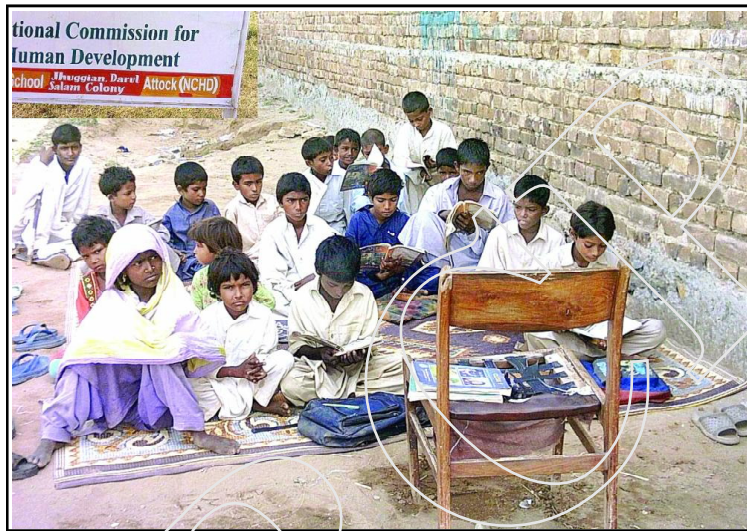
Early in the year, the case of Ashaar, a six year old boy who had to be hospitalized after being beaten by the headmaster of the private school he attended in Karachi, focused national attention on the issue.

Other reports came in of children suffering injuries after beatings, or being given demeaning punishments. *[See also Chapter on Children].*

According to another study by Save the Children, UK released in July, of 135,365 state-run primary schools across the country, 50 percent had no drinking water, lavatories and boundary walls while 73 percent had no electricity. Similarly, 30 percent middle schools were without water and toilets while 40 percent were without electricity

and boundary walls. Teacher absenteeism was another key factor behind low enrollment and a high dropout rate.

Official figures in May stated that 13,995 government schools, including 583 in



urban areas of Sindh had no buildings, while another 2,351, were functioning in precarious buildings.

In the backdrop of such findings, experts at various seminars and workshops argued that rather than

Can officially-backed literacy schemes succeed in such conditions?

merely focusing on pushing up enrollment, educational policies should be aimed at improving the learning environment at schools, and making education meaningful for children.

According to official statistics, 6,000 villages in Sindh had no schools and 3.3 million children were unable to enroll in the province due to poverty and non-availability of schools.

The school education wing of the city district government in Lahore closed down 11 primary, one middle and one high school early in the year, continuing policies put in place in 2004. It stated the purpose was to streamline schooling. Most of the schools shut down were for girls. The CDG stated most had very low or even zero enrollment.

By the end of last year, at least 3,000 schools were reported to have been closed in Sindh, often because the number of students was deemed insufficient to justify them.

### Children out of classrooms

Corporal punishment and inaccessibility of schools in rural areas remained one of the main reasons for the high dropout rate. The dropout rate was highest among girls in the NWFP. Across the country, more girls dropped out of schools than boys.

Child labour and corporal punishment were both cited as the cause of at least 50

percent of the dropouts from Sindh schools.

Figures from the Sindh Education department in May stated that despite efforts to reduce the dropout rate, the figure for 2003-2004 was up by two percent from the previous year's 19 percent. The average dropout rate for boys and girls in the urban areas stood at nine and four per cent respectively while in the rural areas the rate was 26 and 27 percent respectively.

According to the Pakistan Integrated Household Survey, children in the 10-18 year

age group attended primary school occasionally and 15 per cent left before completing primary school. Many children failed to make the transition from primary to



No school to go to?

middle school, especially in rural areas where 33 per cent of girls and 24 per cent boys left school before reaching class six.

According to the same survey, half of the children who enrolled in the school left before completing class five and among them the majority was of girls. Even those who completed primary school had low learning achievements. Children in the rural areas, particularly girls, faced problems in enrolling and completing school. The report interlinked the dropout rate with low household income. In rural areas, some 53 per cent of the poor children dropped out before completing class six. 29 per cent of boys and 19 per cent of girls discontinued their primary education because it was too expensive for them.

Aside from the high dropout rate, many children never enrolled at schools. A survey conducted in June in Swabi by a local NGO found that over 200,000 children of the district were not going to school. The survey said 243,308 children were enrolled in 1,559 public and private sectors schools. The main factor behind the failure to enroll



children was the poverty and lack of education in families. Most of the children out of school were girls.

The Islamabad-based National Commission for Human Development (NCHD), a government-backed organization which had over the past few years taken on a massive share of responsibility for education, early in the year called on volunteers to help prevent dropouts. The NCHD stated enrollment had risen to 90 percent in the districts where it remained active. It planned to expand its sphere during the year.

### **Public and private sector cooperation**

The 'adopt-a-school' programme launched by the Sindh Education Foundation in 1997 remained in danger of falling prey to maladministration, corruption and apathy, according to press reports. At the start of the year, there were 173 government schools which had been adopted by 44 NGOs. However, doubts were expressed over whether the project had brought any real improvement in standards.

While the government largely continued to promote intervention in education by NGOs, a policy that some feared amounted to an abdication of responsibility for education by the State, there were also new restrictions placed on civil society groups. In June the Education Ministry issued directives to all the educational institutions in Islamabad to disallow any organization from distributing questionnaires without approval of the ministry.

In the Punjab, statistics showed individuals or NGOs had in recent years 'adopted' as many as 300 schools, and were running their affairs. Many of these schools were managed by the NGO, 'Care', which in partnership with the government had taken over administration of schools in the Sheikhpura and Lahore area. Most reports suggested the induction of Care-trained teachers, administrators and monitoring by the organization had at least marginally improved the situation at the schools.

### **Private sector schooling**

The growing importance of private schooling was indicated by official figures that showed that, in 2004, private schools accounted for 42 percent of total enrollment. During the same year, at the middle school level, the private sector had a share of 37 percent of the total enrollment.

However, concern about the standards of teaching at schools, the qualifications of teachers and the facilities provided in exchange for the fees charged remained high. Complaints of schools extorting high fee also poured in. Parents alleged that the Sindh education department had failed to enforce a law introduced two years previously to regulate private schools. The department had also failed to notify rules regarding the registration of private schools.

Despite these issues, the mushroom growth of new private schools and colleges in

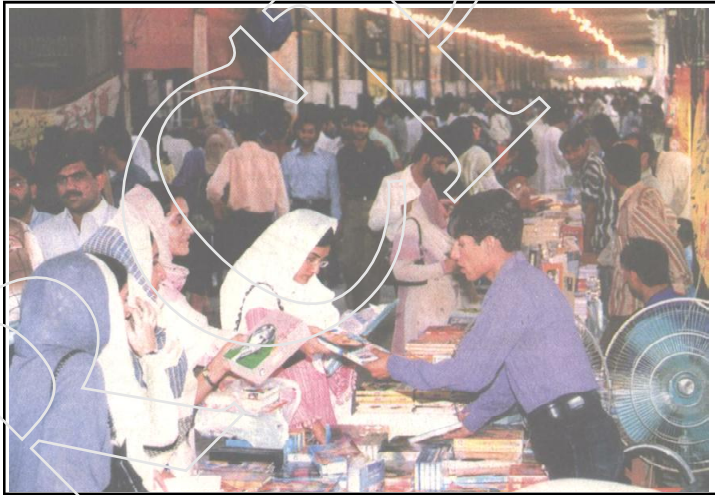
all urban centres and many smaller towns indicated the extent of the demand for quality education.

### **Textbooks and curriculums**

The Punjab government in April estimated an increase of 0.5 million had been recorded in enrollment at public sector schools in various parts of the province due to the provision of free books.

The distribution of the free textbooks was widely welcomed by parents, and it

was noted that children had in a growing number of cases been shifted from private to public sector schools, so families could benefit from the provision of the books. While books were delivered to schools across the province, it was



Books drained the pockets of many.

s o m e t i m e s observed that mismanagement, often by school heads, meant that the books provided for a particular class either exceeded or fell far short of the required numbers creating difficulties for pupils.

While an improvement on past standards was noted, the quality of the textbooks, and their content, continued to come under criticism. At many seminars, experts backed the setting up of a National Curriculum Council to sort out the issue of designing quality books, with balanced content able to hold the interest of a child.

### **Teachers and administrative matters**

In June, the Punjab education department launched a large-scale teacher training programme.

Earlier in the year, reports stated hundreds of female teachers had not received their salaries for the previous three months. The Punjab Teachers Union said teachers

had not been paid, as powers for this purpose had not been delegated to any officer.

Shortages of teachers persisted across the country, while administrative delays held up appointments.

In Nausheroferoze, as teachers for commerce subjects were not available in the government degree college, the principal in January advised students to either change their group or get transferred to some other college. At the same college, the Urdu and economics teachers had been on leave for a several months, whereas a lecturer of accountancy had been transferred to Karachi.

Even more critical than administrative issues, was the lack of motivation of teachers – linked to poor pays and low social status. This, combined with poor training, meant that lessons imparted in classrooms lacked quality; teachers often opted to stay away from schools for days and, civil society observers noted, in many public sector schools they often had a disparaging attitude towards the mainly impoverished children they taught.

### **Higher education**

Issues linked to poor standards, indiscipline, poor administration and declining standards of research continued to hinder the provision of quality higher learning.

Across the country, at various seminars and in Press reports, the declining standard of English-language writing and conversational ability was in particular noted as a factor creating difficulties in the job market. Not only English, but other skills, such as report writing and mathematics were also on the decline, as was general knowledge.

A new problem confronting higher education concerned the increased number of private colleges. Hundreds of such colleges existed in all urban centres. In May, it was reported that more than 5000 students were studying in five private institutions that the Higher Education Commission (HEC), the regulatory body for higher learning, had placed in category C. Under HEC rules, if the institutions remained unable to meet category B requirements, in terms of standards and the qualifications of teachers, by 2007, they would be shut down and the students as such left without degrees, or any return from their years spent at the institution.

The representatives of private sector universities meanwhile continued to complain about the treatment meted out to them by the Higher Education Commission (HEC), in terms of the strict eligibility criteria of research projects. These views were aired by them in February 2005, at a meeting chaired by the governor of Punjab and attended by representatives of 15 private educational institutes.

Five private medical colleges were shut down during the year, as they were found to be operating illegally. [*See chapter on Health*].

In March, the NWFP higher education regulatory authority directed the vice chancellors of all the seven public sector universities, district *nazims* and coordinators

to close down all unlawful colleges and universities in their respective areas.

Students of the prestigious Overseas Pakistanis Foundation (OPF) Girls College Islamabad in April staged a demonstration against a former principal of the college for giving them admission in university classes without having affiliation with any institution of higher education. Some 180 students were given admission in the class in 2002, but later learned the college had no degree-awarding status.

In February, it was reported that hundreds of students at all the five government boys' colleges of district Toba Tek Singh, could not take up Punjabi as a subject due to the non-availability of lecturers in the subject. It was further reported that the district government and the district education officer had written several applications to the provincial governments to approve posts of Punjabi lecturers in the colleges, but to no avail.

According to an estimate early in the year, the number of students at Quaid-e-Azam University in Islamabad, the largest such institution in the country, would double in the next five years. The federal education minister urged the university to ensure it was prepared for this increase in terms of space and facilities. Other reports suggested that due to the increase in students, standards were slipping and research facilities were insufficient to meet needs.

Government College University in Lahore and the PCSIR laboratories inked an agreement in January for collaboration to promote and disseminate scientific and technological knowledge, and facilitate research for PhD students.

The Sindh government stated it planned by 2008 to set up 12 new colleges in the province, including six in Karachi.

By May, 56 universities were connected to each other through the Pakistan Educational Research Network (PERN), while work to interconnect 59 more campuses continued. The HEC believed this link-up would greatly improve access to data and cooperation between centres of learning.

HEC policies and strategies came under attack during the year from some academics, who argued they had failed to properly assess the needs linked to enhancing scientific research and post-graduate study. The HEC defended its attainments, pointing out it had been able to set in place tougher standards, plan scholarship schemes to send students overseas and enhance facilities for research. Other critics maintained the greatly expanded budget for higher education served little purpose unless educational standards were raised at the primary level – the platform for future learning.

### **Examinations, cheating and standards**

The controversy over the conduct of examinations, standards attained, cheating and related issues raged on.

There were also complaints from across the country that papers set for examinations

at various levels were 'out of course' or failed to follow a particular pattern. Such complaints acted to highlight the dependence on rote learning, making it difficult for students to adapt their skills to examination questions that deviated from a set norm.

In February, the Punjab teacher's union warned the government teachers would boycott the class eight examinations if papers set were 'out of course'. The warning followed complaints about the pattern of class five examination papers.

During the same month, the conduct of class five examinations was protested by parents in Gujranwala, after widespread confusion over the examination centres set up.

'Vigilance' teams set up by the Board of Secondary and Intermediate Education (BISE) in Karachi seemed to have succeeded in eliminating cheating during the Higher Secondary School annual examination, with no cases reported. In other examinations conducted around the country, there were continued reports of cheating, papers being leaked and the connivance of officials in such malpractices.

The government's support for the Aga Khan University Examination Board (AKUEB) and the proposal that by 2006, it conduct class nine examinations, continued to come under attack as the issue became highly politicized. Under a presidential ordinance passed in November 2002, the AKUEB had been authorized to affiliate schools, and conduct class nine examinations. This was strongly resisted by the BISE in all provinces, with the new board seen as a threat to its own status, and also by religious parties, who opposed an independent board run by the Aga Khan University, with its own curriculums and books. The government backed down from its decision to affiliate public sector schools with the board.

The federal education minister during the year appreciated the performance of the Aga Khan Board, including the textbooks it produced, and stated that, as a part of official policy, the ministry was encouraging private sector schools to register with the board. This was favoured by many who supported the establishment of the AKUEB, and considered it a move towards improving education standards in the country through the introduction of a modern, transparent and efficient examination system.

Under the plan, the AKUEB would take the first matriculation examination of its affiliated private schools in 2006. The exam would be conducted as per a syllabi and courses approved by the federal government. By March, 200 private schools countrywide had affiliated with the board.

The AKUEB repeatedly stressed no school would be pressurized to affiliate with it, while critics insisted schools were being coerced into linking up with the new board.

In May, the HEC constituted a committee headed by a former judge of the Supreme Court to look into the issue of fake degrees. It also announced it would take steps to ensure all institutions awarded degrees as per rules, and within their charters. [*Confusion*

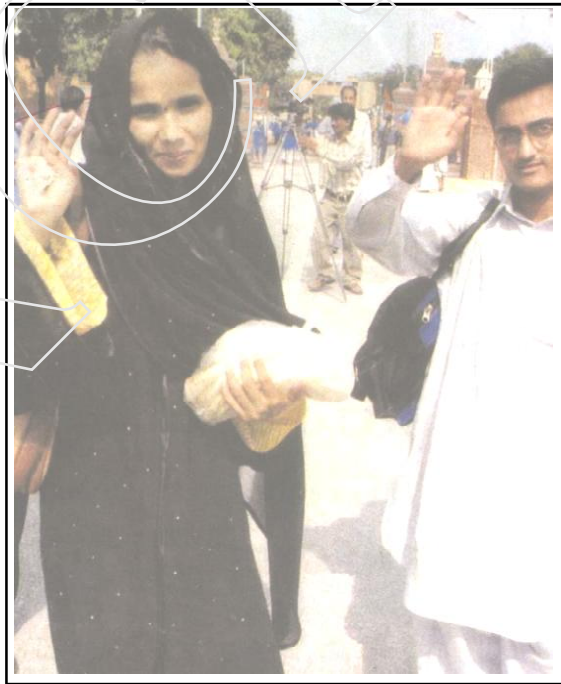
*over policy making persisted. In December 2005, at an inter-provincial educational meeting in Karachi, the decision taken a few years previously to conduct examinations for classes nine and ten and for classes eleven and twelve separately was reversed. It was also decided terms would begin in August.]*

### **The madrassah controversy**

The issue of the thousands of madrassahs operating across the country, and the failure to register or regulate them, continued to generate controversy.

There was talk during the year of introducing new legislation in a bid to persuade madrassah heads to register their institutions, and provide information as to funding, the qualifications of teachers, the number of students and their nationalities.

Following bomb attacks in London in July, the federal government, facing increased international pressure regarding madrassahs operating in the country, and the militant philosophy or training they imparted, began efforts to oust all foreign nationals enrolled at madrassahs in the country. Major religious parties, including the Jamaat-e-Islami (JI) and the Jamiat-e-Ulema Islam, Fazl (JUI-F) opposed the move. Other bodies, running madrassahs, stated they would abide by the law and ask foreign nationals to leave. Several hundred students, mainly from African, Far East Asian and Central Asian countries were believed to be enrolled at madrassahs in various locations across the country. The federal authority also announced it planned to ensure all madrassahs were registered by December 2005.



These Nepali madrassah students were among those sent home.

The government meanwhile continued with its policies of attempting to modernize and streamline madrassah education, and establish 'model' madrassahs. Critics of the policy argued that even if madrassahs imparted a more mainstream curriculum, the

mindset of intolerance underlying education in many madrassahs would not change. They called also for funds to be redirected towards reviving public sector education.

A report by the Congressional Research Service (CRS), a public policy research body of the US Congress, published in January and presented to the US Congress, criticized madrassah reforms. It stated that little had been achieved under the Pakistan government's US \$113 million plan to introduce a set curriculum at 8,000 madrassahs.

During the same month, the Northern Areas education department said it would spend Rs 50 million to bring the 1,000 madrassahs in the region into the mainstream of education. 442 madrassahs had applied for registration in the region.

In May, the federal government set up an 11-member board, headed by the federal education minister, to introduce reforms in thousands of Islamic seminaries. An alliance of the five major madrassah boards, the Wifaqul Madaris, opposed the plan.

A study, conducted by the World Bank and Harvard University, the results of which were made public in February, found that less than one percent of Pakistani children attended madrassahs, and stated this had remained constant since 2001. The study also stated reports on madrassah enrollment, the influence of madrassahs and the growth of madrassahs, appearing in the national and international press, were grossly exaggerated.

This report was met with skepticism by experts within the country. The findings were challenged in April by the Brussels-based International Crisis Group (ICG). The ICG stated in its report, titled 'The State of Sectarianism in Pakistan', that madrassahs run by sectarian groups were contributing to growing violence, and that madrassahs, especially those managed by sectarian or 'jihadi' organizations had a negative impact on developing a culture of liberalism and tolerance.

There were also reports during the year of abuse suffered by children at madrassahs. *[See Chapter on Children]*

### **Gender discrimination**

As more and more girls in countries around the world enrolled at schools, provincial and federal governments continued efforts to close the gender disparity in education in the country.

While there was some success in this, with official statistics showing 1.575 million more girls were enrolled at schools in 2004-5 as compared to 2002-03, the gender gap in education remained one of the widest in the world. Official policies, and efforts by international donors, focused on enrolling girls, and a five percent increase countrywide in private schools for girls was noted.

The Economic Survey for the year put female enrollment in public schools at 98 percent in proportion to male enrollment. In the private sector, the proportion of female to male enrollment was 81 percent. HRCP findings during the year in Karachi that

families quite often opted for private education for boys but placed girls in public schools went some way to explain the figures. It also emphasized the greater significance many in the country continued to attach to education for boys.

A study by Save the Children, UK, released in July, found that the gender disparity in primary education in the country was still too wide to allow Pakistan to attain millennium development goals.

Studies conducted within the country found the dropout rate for girls was far higher than boys, both due to the lack of access to secondary schools and the burden of domestic chores shouldered by many girls in the country.

### **Recommendations**

1. *Given that Pakistan has lagged behind almost every other country in the world in terms of educational attainment for most of the last two decades, an educational emergency needs to be declared. The focus of official attention must also be on the standards and quality of teaching at schools, rather than merely aimed at forcing up enrollment. 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. *No manipulation of figures on education, including literacy rates, enrollment data and educational attainments must be permitted. While citing enrollment data, the ability of schools to retain children must also be assessed and accounted for. Complete honesty and transparency in statistics are vital both for the purposes of future planning and to address the issues that exist in the educational sector. Tampering with figures can only have a negative impact.*

3. *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 four percent of GDP 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.*

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 uncertainty and confusion, as created by the policy of encouraging schools to affiliate with the Aga Khan Board.*

5. *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.*

*6. The conditions within schools, including the state of buildings and the provision of basic facilities, need to be ensured given the negative impact these have on children seeking education.*

*7. 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 points to a need for urgent improvements.*

*8. The poor quality and standards of text-book require improvement. As with the books themselves, the curriculums too are in need of urgent revision that goes beyond the cosmetic.*

*9. Mere policing cannot end the menace of cheating. Instead, examinations must be designed to make cheating more difficult □ for example by setting 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 discipline.*

*10. 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.*

*11. The HEC, while devising changes to improve higher education, needs to consult students and teachers before finalizing policies, to avoid conflict. The proposals made must also address ground realities, such as mismanagement at institutions of higher learning related to funds, degrees and discipline on campus. Primary education, on which the foundations of the system are based, must not be neglected in favour of higher education.*

*12. Education in the private sector, at both school and college level, needs to be regulated to ensure students and their parents are not exploited by those seeking mere profit.*

*13. 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. 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. The abuse of pupils at madrassahs is a rising concern that must be addressed.*

# 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)

While there was some evidence that the people of Pakistan had grown healthier over the past three decades, as immunization became more widespread, many problems remained.

Indeed, in terms of access to healthcare, it was noted the majority of people still found it difficult and often very expensive to obtain medical treatment. Malnutrition affected thousands of children. Pakistan remained far behind most developing countries in terms of women's health, with World Bank studies reporting that out of every 38 women who gave birth, one died.

The poor state of public sector hospitals, the rising costs of medications, poor sanitation and unsafe drinking water contributed to make health one of the most critical concerns of people across the country. Concern about the issue at both the official and

unofficial level seemed to increase, but despite many promises a healthcare policy remained elusive.

### State of the nation's health

The list of statistics indicating the condition in which people lived – and died – remained as dismal as in previous years. Communicable diseases, notably diarrhoeal illnesses, respiratory infections, tuberculosis and preventable childhood diseases still took the biggest toll on health. Unsafe water caused the most sickness. At least 100 people across the country died in June and July as a result of consuming contaminated water. *{See also Chapter on Environment!}*

The unofficial infant mortality rate, estimated at 101 per 1,000 births and the mortality rate for children under five, at 140 per 1,000 births were stated by international



Poverty brought illness with it.

agencies to exceed averages for low income countries by 60 and 36 percent respectively. Official figures put infant mortality at 74 per 1,000 births and under-five mortality at 98 per 1,000 births – which were still the worst figures among all SAARC countries. International reports put birth

control cover at a mere 24 percent, with the fertility rate of 5.3 children per woman and a population growth rate officially put at 1.9 percent, much higher than elsewhere in South Asia.

Perhaps most crucially, problems such as poverty, illiteracy, the low status of women, unsafe drinking water and inadequate sanitation remained in place – and it was feared unless holistic policies were introduced to address these concerns, health would continue to suffer.

Findings at various seminars, suggesting that the diets of most people in the country lacked the amount of protein needed to sustain growth, and linking malnutrition to

kidney diseases and other ailments, illustrated the severe toll taken on people's welfare growing poverty.

According to the Economic Survey for 2004-05, there was one doctor for every 1,359 people, one dentist for every 25,107 and one nurse for every 3,175 people. This indicated a slight improvement on figures for the previous year – but also demonstrated the inadequacy of existing services.

There were 916 hospitals, 552 RHCs, 5,301 BHUs and 4,582 dispensaries in the country, according to official data. Press reports coming in through the year stated a very large number among these were either totally non-functional or offered grossly inadequate services.

The fact that a mere 0.9 percent of GNP was reserved for the health sector, only a marginal improvement on patterns in previous years, accounted for the poor state of facilities.

The Pakistan Medical Association (PMA) noted during the year that there were over 600,000 quacks practicing in the country, and endangering health. Roadside dentists, in particular, were seen as responsible for the spread of HIV, hepatitis and other potentially fatal infections. The fact that such quacks charged lower fees meant a large number of people utilized their services. Efforts to eradicate them consistently failed.

### **Public sector care**

The finding in July by the Board of Governor's of Lahore's Mayo Hospital, the city's largest public sector facility, that the quality of services was deteriorating rapidly, illustrated the state of care at most such government-run centres.

In the weeks prior to the Board's findings, which prompted the Punjab Chief Minister to order the hospital administration to improve healthcare, there had been a series of reports of negligence at the hospital. In at least two cases, loss of life was caused as a consequence.

Indeed, while complaints about hygiene, over crowded wards, malfunctioning equipment, inadequate medical care and over charging came in, as in previous years, from hospitals around the country, what was most alarming was the increase in the cases of gross negligence. In many of the reported instances, death, loss of limb or damage to vital organs was caused. *[See box].*

Reports from around the country detailed the poor state of hospitals. Doctors at Peshawar's three major public hospitals, Lady Reading, Khyber Medical Complex and the Hayatabad Medical Complex were in February accused of negligence. It was alleged that, in a violation of rules, they sent junior doctors to examine patients, rather than

## Playing with lives

*The number of cases of medical malpractice reported during the year was significantly higher than in previous years. It was feared that many other cases of negligence, at both private and public sector hospitals, as well as of unethical conduct by doctors went unreported.*

At least six cases of death due to negligence, five of them in public sector hospitals, surfaced during the year.

Yet, as in previous instances, the flawed mechanism of holding doctors and medical staff accountable, and the failure of the Pakistan Medical and Dental Council (PMDC) to uphold its code of ethics, meant that there was no certainty that the accused persons would face an impartial probe and be penalized if found responsible for causing death or otherwise endangering welfare.

The case that gained the most publicity during 2005 involved the tragic death of teenager, Jehanara, at an elite private hospital in Lahore in March, after she was taken in suffering from a severe headache. Her parents maintained the girl had been the victim of misdiagnosis and neglect. Their complaint was taken up by the Punjab chief minister, but it was uncertain into August if the inquiries ordered had yielded any definite findings regarding the handling of the case by doctors.

Most other reports of death due to negligence came in from public sector hospitals. Some of the cases of negligence reported from around the country were as follows:

- ◆ In January, the family of Akram Gondal, 50, complained he had died at the Mayo Hospital due to the delay in admitting him to the Intensive Care Unit (ICU)
- ◆ A couple whose six-year-old daughter had been admitted to the Dadu Civil Hospital in February, suffering from an ear ailment, complained the child's eye had accidentally been operated upon. The mishap apparently took place after the beds of patients were changed. The chief surgeon at the hospital

examining them themselves. Meanwhile, in March, people complained that treatment for hepatitis had been stopped after zakat funds, allocated by the MMA government for this purpose, ran short.

The state of RHCs and BHUs was far worse than that of hospitals. 1,700 out of 2,500 BHUs in the Punjab were, according to Press reports in April, non-functional.

ordered a probe while the Citizen's Action Committee in the town angrily protested alleged negligence. Hospital staff maintained the child's eye had been cleaned, but not operated on. The findings of the probe were not known.

◆ In April, Mir Zafarullah Jamali, a student, died in Hyderabad after suffering a head injury in a road accident. His brother, a doctor himself, complained in a letter to newspapers that a senior doctor at the district hospital had failed to attend to him in time, and he had died before he could be brought to a Karachi hospital.

◆ The family of Mussawir Hussain, 25, who died at the Punjab Institute of Cardiology (PIC) in May, complained of mistreatment and neglect. Doctors at the PIC denied the charges, and stated Mussawir was suffering kidney failure due to massive antibiotic overdoses even before he was admitted, and his condition made surgery on his heart impossible.

◆ In June, police in Thatta registered a case against two medical doctors and a dispenser of the Malkli Civil Hospital after the death of a young woman, Shahzadi.

◆ Ten-year-old Usman died after surgery at Mayo Hospital in Lahore in July. He had broken his arm during a fall, and had undergone several previous operations. He did not regain consciousness after surgery. A probe was ordered by hospital medical superintendent Dr Fayaz. Consequently the services of house officer Dr Ali were terminated, and two other staff members suspended.

Other reports during the year from major cities and towns detailed medical negligence, or unethical behaviour by doctors. In many cases, it was claimed doctors had failed to exercise necessary vigilance in treating patients, while in several others, it was alleged the wrong medicine had been prescribed.

In a case in Multan, Dr Ashiq, a surgeon at the Nishtar Hospital, was accused of sexually harassing the mother of a boy whom he was treating for an orthopaedic problem. The parents of the patient lodged an official complaint, and in July, the surgeon was made an OSD (Officer on Special Duty) after the chief secretary of the Punjab rejected the defence he had put up for his actions in a report.

It was believed other cases of misconduct by doctors also took place, but were only rarely reported.

Another 800 had begun some operations after being taken over by the Punjab Rural Support Programme (PRSP). No lady doctor had been available at the RHC in Daska for eight years.

Proposals by the Punjab government that hospital service fees be increased were criticized on the grounds that facilities at public sector institutions remained extremely

poor and increased charges would burden the poor people dependent on them.

### **Private care**

While the quality of care at many private hospitals was far superior to that offered at public sector facilities, the costs were often formidable. This put such care beyond the reach of the vast majority of citizens.

There was growing concern about the failure to regulate private hospitals and clinics, and lay down rules regarding standards of care, qualifications of medical staff



Only the fortunate had access to medical care.

and the fee structure. Resistance from the owners of private medical centers appeared to hold back regulation. Press reports stated that many private hospitals, including

those attached to private medical colleges, lacked adequate facilities while the standards of consultants etc was also often not high.

The Sindh government's draft law to regulate private health centres remained in wide circulation during the year. Criticism focused on the fact that a board, to be set up under the law, would command sweeping powers to determine fees, grant privileges to selected hospitals and intervene in working. There was apprehension this could lead to victimization of some centres and unjust benefits to others.

### **Preventive measures and policies**

A national healthcare policy, believed by many professionals to be crucial to altering realities, remained elusive,

Despite repeated promises, no bill to control the mounting issue of organ donations was tabled. A draft was stated to be ready. In the absence of legislation, the sale of

kidneys by impoverished people continued. In March, the federal health minister stated it was estimated 1,600 to 2,000 kidneys were sold each year. Press reports narrated the woeful tales of bonded brick kiln labourers who had sold kidneys in an often unsuccessful bid to pay off debts or free relatives from bondage by paying off the money they owed. In some cases, owners had coerced labourers to sell organs, and then pocketed the money. Some, like brick kiln labourer Seema, told reporters in April that she, her husband and a nephew had all sold kidneys in an effort to repay debt. She complained they were, despite failing health, forced to carry out arduous labour in order to survive even after the organ sale.

Reports said that almost all organs donated to patients came from female relatives, especially wives and sisters.

Problems with the recruitment of doctors continued. In March, the NWFP government ordered the finance department to sanction more posts for specialists. The reluctance of doctors to serve in remote areas however meant that in rural areas, most notably in the NWFP and Balochistan, medical cover was frequently unavailable to people.

The continued presence of thousands of unauthorized blood banks also posed a grave threat to health. In March, it was reported from Karachi that expired blood had been found even at a bank run by an international charitable concern. Blood banks that were sealed after unsafe blood was found frequently resumed operations within days.

In January, the federal health ministry launched a new programme aimed at promoting all essential vaccines for children, rather than focusing on the administration of polio drops alone. Despite the continuing anti-polio campaign, at least 12 new cases of polio surfaced, mainly in areas of the southern Punjab and Sindh. WHO teams launched inquiries into cases involving children who had apparently received polio drops but still contracted the disease. At least one case in Landi Kotal surfaced in which the parents of the affected infant stating polio vaccination teams had been prevented from entering the area, and thus the child had remained unimmunized.

The biggest toll on the health of citizens was taken by gastroenteritis and other diarrhoeal diseases, mainly caused by contaminated water. At least 100 people died as a result of such stomach ailments. A study at the Mayo and Children's hospitals in Lahore, carried out in May, found there had been a ten percent increase in the number of children admitted with diarrhoea within a five month period as compared to the previous year. This number rose still more markedly in June and July. [*See also chapter on Environment*].

The skin disease leishmanias once more ravaged large tracts in the Dadu district of Sindh as well as the Larkana area, and also spread to Balochistan and the NWFP. At least 6,000 new cases were reported over the year.

An increase in the number of malaria cases was reported from the Peshawar area,



Karachi, Lahore and other parts of the Punjab over the year. The WHO reported at least 200 people in the NWFP died annually due to malaria. In Lahore, Press reports alleged inadequate spraying of mosquito breeding areas caused an upsurge in illness.

It was reported by the WHO and other agencies that the dismal tuberculosis (TB) detection rate of a mere 30 percent of cases, as opposed to the internationally set standard of at least 70 percent, meant the disease continued to affect a growing number of people. 250,000 new cases were detected each year on average. Pakistan was the sixth country in the world in terms of the number of TB sufferers found within it.

Pakistan remained a country at high risk of AIDS infection, with at least 80,000 reported to be infected. This figure, Press reports suggested, was growing rapidly – mainly due to the use of unsafe syringes, unscreened blood and person-to-person transmission of the disease.

Hepatitis remained a huge health threat, with some reports stating one out of every ten citizens was a carrier of the hepatitis virus. In March the Prime Minister announced Rs 2.5 billion for hepatitis control initiatives.

There were also reports of outbreaks of typhoid and cholera during the year.

### ***Prices of drugs***

The prices of many drugs remained among the highest in South Asia, with critics of government policies arguing that this was a consequence of allowing giant pharmaceuticals a virtually uncurbed control over the manufacture and sale of drugs. Press reports in March stated that pharmaceutical companies were providing drugs to the market at far higher prices than those at which the same medications were offered to hospitals. This allowed the companies to make big profits, while placing immense burdens on consumers.

Shortages of essential drugs, resulting in inflated prices, and the widespread sale of spurious medications continued to be reported. There was also a growing debate in the media over the links between doctors and representatives of pharmaceutical companies, with accusations made that these salesmen effectively bribed doctors to prescribe specific medications.

### **Drug addiction**

Levels of drug addiction continued to rise in the country, with the flow of narcotics, according to media reports, growing as poppy cultivation expanded in Afghanistan and the tribal areas of Pakistan.

Officially, the Anti-Narcotics Force (ANF) and the federal health ministry stated there were between three and four million addicts in the country. Unofficial estimates

put this figure closer to five million, particularly when the millions using tranquilizers or other medications bought over-the-counter were counted.

The National Drug Abuse Survey, the findings of which were released during the year, listed 116,045 opium addicts, 1,329,795 heroin addicts, 542,891 charas addicts, 53,109 cannabis addicts and 303,668 tranquilizer addicts in the country. 51 percent of the total addicts were heroin users. The highest proportion of drug addicts fell in the 26 to 30 year age group. Divided by profession, 53.3 percent of addicts were labourers, 14.1 percent salespeople, 11.4 percent students and 10 percent agricultural workers.



Social issues contributed to high addiction rates.

News reports in July stated that some addicts in Lahore were injecting lemon juice or smoking dried insects, in new forms of addiction that presented enormous health risks. 'Glue' sniffing among children on the streets remained widespread [*See also Chapter on Children*].

Rehabilitation for addicts was virtually non-existent, with many dragged off to jails and treated as criminals. There was evidence of increasing drug use among young women, and of the use of syringes to inject drugs among all users, expanding the risks of contracting HIV, hepatitis and other infectious diseases.

### Maternal health

The statistics on maternal and infant mortality [*See section on State of the nation's health*] indicated the dangers presented to woman due to lack of healthcare during pregnancy and the high number of pregnancies.

The reports suggesting almost 70 percent of mothers were anemic or suffered other health conditions provided further evidence of the toll taken on women, and their children, by malnutrition, frequent births and the lack of ante-natal care. Despite

expansions in schemes aimed at providing health care to mothers, notably the Lady



Traditional midwives attended to some mothers.

H e a l t h  
V i s i t o r s  
( L H V )  
programme,  
most women  
gave birth  
without  
medical  
assistance.

In July,  
Press reports  
stated that  
orthodox  
groups had  
launched  
campaigns,  
with slogans  
opposing  
family

planning displayed on rickshaws and vans, to oppose the Punjab government's planned population control programme. Reports by Unicef and other agencies indicated nearly 50 percent of children in the country suffered mental or physical stunting, due to inadequate food and healthcare. while despite official campaigns, girls often suffered severe discrimination in terms of both healthcare and the nutrition provided to them.

### **Medical education**

While complaints of poor standards, outdated texts and flaws in the conduct of practical training continued to come in, the gravest crisis in terms of medical education concerned private colleges and their recognition.

Adding confusion to an already complex situation, a row between the PMDC, the Ministry of Health and the Private Medical Colleges Association raged through much of the year, placing the future of at least 1,000 students at 18 unrecognized medical colleges at stake. A dispute over who would assume chairmanship of the PMDC, after the death of former chairman Dr Zafar Hayat, saw a Senate Committee stepping in as the Senate began hearings on the matter. Private colleges meanwhile complained they were not being granted recognition despite meeting set standards.

The performance of the University of Health Sciences (UHS), hastily set up in 2002, continued to come under attack. The confusion over rules of affiliation for

medical colleges, with a dispute continuing between the UHS and the PMDC over which body the colleges should register with, allowed new medical colleges to begin taking fees, with students and parents often not informed of the uncertainty over future certification or degree awards.

Early in the year, the UHS was accused of causing private health colleges to raise fees by imposing higher charges for registration with it and for conducting examinations. Complaints came in that this imposed added hardships on students and violated PMDC rules. There were also reports of grave irregularities in exams conducted by the UHS, with some accusation in the media suggesting the children of influential people had been assisted in cheating.

The UHS meanwhile continued to demand that rules be put in place to clarify that the newly created King Edward Medical University, set up in 2004, could not grant affiliation to other colleges.

In March, the federal health ministry ordered five medical colleges to close down,

as they had not met standards. These were the Independent Medical College, Faisalabad; Butta Medical College, Faisalabad; University College of Medicine and Dentistry,



Students faced many uncertainties due to confused policies.

Lahore; MA Jinnah Medical College Sargodha and the Al-Huda Medical College Lahore. Of the 53 medical colleges operating across the country, 21 were asked to upgrade standards and 32 were provisionally recognized.

In April, around 300 students of the Al-Huda medical college staged a protest in Lahore, stating the college administration had failed to inform them of closure, had collected fees and then vanished. Uncertainty continued into July about the fate of other students at colleges that had not been recognized or ordered to close down, with

students and parents staging protests.

Medical professionals meanwhile expressed concern over the standards of education and training being imparted at some of the private colleges.

### **Mental health**

The state of mental health in the country, and the attitudes towards it, were reflected in a report from Peshawar early in the year that in many cases, patients admitted to the Mental Hospital in the city were abandoned by relatives. Hospital staff cited the case of a young woman, left at the facility by her husband, who had since failed to collect her.

In March, the Pakistan Association of Mental Health (PAMH), based in Karachi, appealed to President Pervez Musharraf to prevent the Sindh health department from handing over land of the Sir Cowasjee Jehangir institute of Psychiatry in Hyderabad to the College of physicians and Surgeons. PAMH argued this would prevent expansion of the institute and violated the terms of the trust under which it was set up.

While press reports indicated a continuing rise in levels of depression and other mental illnesses, facilities to treat such conditions were limited. Depression was reported at several seminars to be rising most markedly among young women. Some estimates suggested up to 34 percent of people in the country suffered some kind of mental ailment. Speakers at a workshop on the issue in Lahore in May observed expert counseling and psychiatric treatment could in many cases help such patients avoid tranquilizer misuse.

Laws aimed at improving services for mental health patients were poorly enforced, while the vast majority of such sufferers were in fact not provided treatment due to widespread ignorance and official indifference.

In August, the Chief Minister's Inspection Team ordered action against staff at the Pakistan Institute of Psychiatric Diseases in Lahore, who had been found responsible for the death of a patient. The patient, Rashid Ahmed, apparently died after he was beaten up by a ward boy. Other staff members failed to treat the injured patient.

### ***Recommendations***

1. *The lack of access to healthcare for most people in the country is having an extremely adverse impact on health. To improve the situation, the functioning of BHUs and RHCs must be ensured. Innovative methods need to be used to provide at least basic aid close to homes and to raise awareness on health issues.*

2. *The inadequacy of resources allocated for healthcare remains a major obstacle in the improvement of services available and in expanding health cover. The fact that Pakistan is not even able to match allocations made by some of the most impoverished*

*countries in the world suggests there is a need to redirect priorities towards the provision of better health cover.*

*3. Free healthcare must be acknowledged as a fundamental right of every citizen.. The indications that the government may be attempting to divert more and more responsibility for health to the private sector are highly disturbing, given the grave cost implications. In this context, the complaints of rising costs at public sector hospitals that have been granted autonomy also need to be addressed.*

*4. The calamities arising as a consequence of a failure to take preventive measures are alarming. The growth in water-borne diseases, 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, including immunization programmes and the provision of safe water.*

*5. The worsening nutrition 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*

*6. 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 penalized. Human life must be treated as equally precious regardless of the social standing of the victim.*

*9. Private medical centres and private medical colleges are 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.*

*10. The issue of drug pricing and supply is an increasingly urgent one, with access to vital medicines denied to an increasing number of people due to soaring costs. An independent drug price regulatory authority must be established without further delay and planning improved to avoid the acute shortages of drugs seen repeatedly. The manufacture and sale of sub-quality or spurious medication must be stopped.*

*11. 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.*

*12. The increased instances of the 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 become an urgent need.*

*13. Drug addicts need to be treated not as criminals but as patients in need of specialized 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.*

*14. Deficiencies in the mental health law need to be removed and implementation facilitated in consultation with psychiatrists and public representatives.*

# 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 wellbeing of himself and his family, including ... housing ...*

**Universal Declaration of Human Rights**

Article 25 (1)

While estimates suggested that 500,000 new housing units – in other words a city the size of Multan – were required annually to meet the severe housing shortage in the country, the increasingly dilapidated state of existing housing presented new threats.

At least 70 people died during the year as a result of the collapse of their homes. Others in large cities perished when unsafely stored gas cylinders, chemicals or explosives caused their residential quarters to collapse or catch fire. *[The devastating earthquake that hit Azad Kashmir and northern parts of the Frontier province in October caused thousands deaths, with unsafely constructed structures reported to have contributed to the final toll. The official death count was put at 85,000 while unofficial estimates suggested over 100,000 people had died. Over 2.5 million were rendered homeless, many of them left without adequate tents as winter descended on devastated areas. HRCP has released a separate report on its findings in affected areas.]*

In January, the Pakistan government signed an agreement with a Kuwait-based firm for the construction of the Lyari Expressway. Controversy continued as more forced evictions were carried out from the area in February 2005. The federal government meanwhile called on the Karachi City District Government to speed-up the



process of having land vacated for the building of the highway, and blamed NGOs for triggering resistance to resettlement among the 250,000 people who faced displacement.

Land rights to residents of katchi abadis in the Punjab continued to be granted, though the fate of settlements not yet recognized as katchi abadis remained unclear. In Sindh 1,240 katchi abadis were earmarked for regularization. Across the country, development work in katchi abadis however remained almost non-existent, with water, sewage and other basic amenities unavailable to virtually all abadi residents.

The number of homeless people across the country remained high, especially in city areas, with cheap housing for the urban poor almost non-existent. While banks offered housing finance on easier terms, such loans remained beyond the reach of the poorest of urban dwellers. The House Building Finance Corporation (HBFC) in July and August announced a change in policies, aimed at offering house-building loans to low and middle income groups rather than to groups earning higher wages..

The demand for housing also led to continuing scams. Land mafias were reported to be increasingly active in a number of cities while the soaring price of land, and of construction materials, put housing beyond the reach of most citizens.

The lack of an adequate policy on housing, which could address the needs of the urban poor and which recognized the right to shelter for all citizens added to the difficulties of people. Regulations and policy guidelines that existed were rarely implemented.

### **Problems of quantity and quality**

According to official figures, there was a shortage of five to six million housing units in the country, while around 200,000 new houses were added each year. This of course meant that the backlog continued to mount, with existing dwellings also growing increasingly crowded.

Findings by the public-sector Council for Works and Housing Research (CWHR) stated that of the existing housing, 39 percent consisted of 'katcha' houses (most with no water supply), 40 percent semi-'pucca' houses (without planned sanitation) and 31 percent 'pucca' houses. 'Katcha' houses were generally made of thatching, mud and unbaked brick and 'semi-pucca' houses of baked and unbaked brick, but often without cement. The average household size was 6.6 persons, with average occupancy at 3.3 persons per room.

In many cases, in an attempt to cater to growing family sizes, people had built second or third storeys on their homes. Such additions on unstable structures put buildings at greater risk of collapse, and according to CWHR findings, also led to a deterioration in the quality of life as people lived in increasingly congested conditions with little or no access to sunlight.

A decline in the public-sector budget for housing, from an average of 10.9 percent in the 1960s to 5.9 percent in the 1990s, with limited institutional finance, was held by

experts to be largely responsible for the situation.

In late May, authorities in Lahore declared 506 buildings and 1,056 basements as 'dangerous premises', and held that the lives of the many hundreds living in these buildings, almost all of them located within the Old City of Lahore, were at risk. Houses in katchi abadis were in some cases in a similar, dilapidated state. The residents were advised to move out by city authorities or undertake immediate repairs. However, with owners unwilling to carry out repairs or lacking the resources to do so, and premises often rented out to tenants who lacked housing alternatives, it was unclear how authorities planned to safeguard lives.

During the year, at least 70 people were killed across the country when the roofs of their houses



Is this a safe place to live?

caved in. They included at least 25 children. Many such incidents took place during rains that occurred over many parts of the country both during the winter months and the monsoon season in June, July and August.

Apart from these incidents, at least 135 people died and over 300 lost their homes during rain and flooding in Gwadar, Pasni and other coastal areas of Balochistan in February. *[See also chapter on environment].*

One person was killed and 44 injured in Dadu in February when the roof of a prison barrack at the district jail fell in. A labourer died and several children were injured a month later, in Vehari, when the roof of a newly constructed classroom at a government school collapsed, while nine children and two teachers were injured in a roof collapse at a private school in Lahore, also during the same month.

Inadequate infrastructure, including safe drinking water supplies or sewerage, added to the difficulties of people living in cities. Contaminated water caused multiple deaths in the country. The Punjab government, in July, announced a Rs one billion new sewerage scheme for Lahore. Plans to improve the collapsing sewage and drinking water supply systems in Karachi were also announced. Estimates by the Karachi-based Urban Resource Centre (URC) suggested that almost all katchi abadis in the

country lacked access to clean, piped drinking water and working sewage systems.

The situation in most villages was still worse. A report in August stated that the village of Malianwala, a mere 75 kilometres from Lahore, had no provisions for clean drinking water supplies or drainage.

As per estimates, over 60,000 people slept out in the open around the year in



A deep sleep on hard stone.

Lahore and a similar number in Karachi. This number rose in summer months, with congested housing conditions leading many to sleep in the open. The number of people living without shelter was also stated to be rising in smaller urban centres, including Hyderabad,

Quetta, Peshawar, Multan and Gujranwala.

The vulnerability of people sleeping in the open was exposed in the months of June and July, when a serial killer murdered at least nine pavement dwellers in Lahore by crushing their heads with a brick. The killer was arrested in July, and reported by police to suffer acute psychotic problems.

Early in the year, the Punjab government announced plans to distribute 188,992 plots to homeless people across the province. It was not clear by the end of August if any steps had been taken to implement this plan, while HRC and independent planning experts continued to demand holistic policies be adopted to meet the housing needs of the lowest income groups.

### **Evictions and problems of katchi abadis**

While the process of mass evictions seen in previous years ground to a virtual halt, more isolated threats to residents continued.

In February, 2,000 residents of 'katchi abadis' located in the cantonment area of Multan appealed to President Pervez Musharraf to stop attempts to evict them by the cantonment authorities. 200 houses in three 'katchi abadis' in the area had been declared as encroachments by military authorities, even though residents had lived there for

nearly 30 years. HRCP representatives also visited the area and supported residents in their plea against the demolition of houses. It was announced later in the year that the affected residents would be 're-housed'.

During the same month, 41 Christian families living at the Adhara Christian Colony in Rawalpindi appealed to top officials for protection against 'qabza' groups who they claimed were attempting to drive them away and seize land. In July, complaints were made to HRCP by residents of the Christian community of Yohanabad II that efforts were being made, by land mafias, to persuade them to sell land cheaply and vacate their homes. Land prices in Yohanabad II, established in the late 1990s, had soared over the past year as plans showed the giant Defence Housing Authority (DHA) planned to develop adjacent areas.

In January, hundreds of residents of the Alipur Farash Colony, to which people evicted from three katchi abadis in Islamabad had been shifted, complained of a failure to provide basic amenities



Most urban dwellers lived in such abadis.

such as electricity, water and gas, despite the promises made at the time of the shifting.

The All Pakistan Alliance of Katchi Abadis also pointed out that development promised in katchi abadis remained extremely slow across the country, and demanded that this be speeded up.

Housing rights to katchi abadis residents continued to be handed over in the Punjab, under a 1985 law implementation of which had been laid down in the Katchi Abadis Policy of 2001. The fate of 550 katchi abadis in the province, that had not been recognized, however remained uncertain.

The Sindh Katchi Abadi Authority (SKAA) declared in March that 1,240 settlements in the province were being regulated, and development work at them speeded up.

The federal government expressed continued determination to construct the controversial Lyari Expressway in Karachi, despite opposition from civil sector

organizations, urban planning experts and the 250,000 residents of the area along the Lyari banks who faced eviction. Hundreds more were added to the thousands already evicted forcibly, and resettled at inadequate schemes located far away from central Karachi, at Hawkesbay. Almost all the families shifted were adversely affected. Many were unable to retain jobs, access to schools or health services.

### **New threats and housing sector problems**

While dilapidated houses continued to pose a risk, new threats to existing housing also emerged in urban areas. In May, the death of 29 people when a three-storey building collapsed in Lahore's Allama Iqbal Town after a gas cylinder stored in the basement triggered off multiple blasts, highlighted the dangers inherent in the presence of illegal warehouses and factories where dangerous material were kept within residential areas. Those killed in the building collapse were mainly labourers living in small rooms rented out above the warehouse.

Only weeks earlier, two private homes had been burnt after a fire broke out at a factory using chemicals along Multan Road. Also in May, blasts caused by a gas cylinder blast killed two children at a Multan madrassah.

Subsequent newspaper reports stated that in almost every city and larger town, hundreds of illegal factories and warehouses existed in congested residential areas, with multiple cases of gas leakages reported over the past three years. Press reports also stated that 95 percent of buildings in Lahore were susceptible to fire. Regulations regarding fire exits were almost universally ignored, as became obvious when fires gutted commercial centres in Gulberg and Ichhra, causing five deaths.

In Lahore and Faisalabad, ill-planned digging to construct plazas had caused the walls of neighbouring houses to collapse. Such high-rise buildings increasingly cropped up in residential areas. It was reported in Lahore early in the year that digging for a giant plaza at New Garden Town had caused the collapse of the sewerage system, creating acute problems for hundreds of residents.

The Sindh High Court (SHC) in March ordered the demolition of a six-storey building in the Saddar area of Karachi. The petitioner had claimed the building owner had permission to build only three floors, and the unsafe plaza also threatened other shops and flats in the area.

Increased commercialization in urban centres also affected the privacy of citizens. In Lahore's Model Town area, residents staged a rally in April against permission to build shops, schools and other facilities along residential streets.

Continuing scams in the private housing sector meanwhile claimed more victims. While the federal and provincial governments launched investigations and pledged steps to prevent such frauds, problems continued to arise. Action against at least three housing societies, declared by authorities to be fraudulent, began in Islamabad in May as offices were raided and documents seized. In Rawalpindi, 36 housing societies were in May

declared illegal by the Tehsil municipal administration. In the same city, nine persons were injured a month earlier when a stampede broke out as people queued to obtain forms for a popular housing scheme. A similar incident had taken place in Lahore a few months previously, with forms for the scheme being sold in the black, at many times their original price. Such instances pointed to the desperate desire of people for housing.

25 housing schemes in Faisalabad were in July declared to be fake.

In February, President Pervez Musharraf issued a presidential ordinance to establish the Defence Housing Authority (DHA) in Islamabad. Many sought plots in the scheme.

Complaints about fraudulent housing schemes also surfaced in Multan, Peshawar and other cities. A sharp rise in cement prices in January made construction more expensive, while the prices of land remained elevated, despite government efforts to bring them down to more rational levels by adjusting interest rates.

Bank funding for house building expanded, enabling a growing number of middle-income earners to build homes. However, regulations regarding the furnishing of security made such finances virtually inaccessible to those earning lower wages. Altering previous policies of extending loans mainly to middle income groups, the HBFC stated it would be targeting the lowest income earners. In July, the HBFC stated it was looking for suitable land on city outskirts to set up low cost housing projects. In August, the public sector institution also announced plans to set up small offices in 60 towns across the country, to allow people easier access to funding and information.

Prices of real estate continued to fluctuate due to speculation adding to the existing housing backlog by putting plots beyond the reach of most citizens.

The activities of land mafias continued in most urban centres. Some of these mafias were reported to have patronage from senior police officials or others in influential positions.

### ***Recommendations***

1. *Forced evictions from katchi abadis and demolition of houses by various State 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 caused.*

2. *Safety standards when constructing buildings must be adhered to. For this purpose, strict building laws must be drawn up and uniformly enforced.*

3. *People who have legally leased or bought land must not be summarily evicted from it without fulfilling the due legal procedure, including adequate compensation. 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.*

*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 1985 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. Special attention must be given to meeting the needs of the urban poor, thousands of whom are currently living without any shelter. Low cost hostels could serve as one means to offer them housing. Successful initiatives in the housing sector, such as 'Khuda ki Basti' or the Orangi Pilot Project could be emulated and the necessary human resources developed to make this possible.*

*6. Basic infrastructure, including sewerage, lighting, schools, health centres and transport links must form a pari of all housing projects and must be extended to all katchi abadis.*

*7. 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 needed by them to tackle problems in this sector must be provided.*

*8. More research is required into local technologies to build low-cost houses and benefit from the considerable progress made in this sphere by other countries in the region.*

*9. 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.. Given the threat to human life this situation presents, public sector intervention is essential.*

*10. 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.*

*11. The increased activities of land mafias or 'qabza' groups must be halted.*

*12. Housing policies must be based on the realization 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

Worsening environmental pollution and the failure to enforce laws aimed at controlling the contamination of natural resources, notably water, took a growing toll on the lives of people.

Outbreaks of epidemic illnesses caused by polluted water were reported from Rahimyar Khan, Karachi, Sukkur, Lahore, Gujranwala and other cities. At least 100 lives were lost. Floods, in Balochistan, the NWFP, the southern Punjab and parts of Sindh inflicted suffering on thousands.

The pace at which land in Sindh's coastal areas was eroded by the sea grew more rapid. Land loss was especially severe in the Thatta area, with flawed drainage systems and a lack of foresight when devising policies contributing significantly to the problem.

The unwillingness and inability of government to ensure steps aimed at protecting the lives of people were implemented was especially marked, as pollution of the air and water grew more acute in all major cities.

*[The October 8 quake: The devastating earthquake that hit the country on October 8, 2005, taking a toll on thousands of lives and causing widespread destruction, especially in Azad Jammu and Kashmir and northern parts of the NWFP reduced many*



towns to rubble. The disaster represented the worst natural calamity faced by the region in over 30 years, while a lack of disaster preparedness contributed to the immense loss of life. HRCP has released a separate report on its fact-finding in quake affected areas].

### **Polluted water**

Contaminated water posed the biggest threat to life.

A study by the Swiss Coalition of Development Organizations showed that only a quarter of people in Pakistan had access to safe and sufficient drinking water. In rural areas access was 23.5 percent and in urban areas 30 percent.

During a six week period, from May to July, at least 100 people across the country died as a result of drinking poisoned water.

In Rahimyar Khan, 14 people died as an epidemic of gastroenteritis over took the city. Over a 1,000 others were hospitalized. The total number of victims was unknown. All fell ill after consuming water piped in by the municipality. The Punjab government ordered an inquiry.

A few weeks later, in Lahore, complaints of cholera poured in from various low-income areas of the city. At least 14 people, most of them children, died as a result of



Such means of disposing caused large scale pollution.

the sickness. Contaminated water was held responsible, and WASA began supplying water in tankers to the affected areas, fearing sewage from burst pipes had entered drinking water supplies. As a storm over the issue broke out,

health camps were set up to treat thousands of victims. The City District Government (CDG) after testing water samples, however denied water was contaminated. Press reports suggested this denial was aimed only at covering up the failure to provide citizens with safe water. *[See also chapter on health].*

In Zhob, tainted stored rain-water, the main source of water in the area, caused dozens of deaths during the same period. Local authorities stated they lacked the means

to test the water.

Complaints of illness caused by polluted water also came from cities across the Punjab and Sukkur, where two children died in August. *[In September, at least nine people died after an epidemic caused by contaminated water hit the Landhi area of Karachi. At least 850 were hospitalized. The Sindh health minister ordered an inquiry.]*

A survey by the City District Government in Lahore in April found that 142 illegal industrial units located along Multan Road were releasing untreated effluents into waterways, poisoning ground water. Ten out of 11 samples of water collected in the area were found to be contaminated, with fluoride and arsenic levels dangerously high both in these samples, and in others taken from locations in and around Lahore.

Press reports in May stated that the release of water laden with toxins into Kalri Lake in Sindh was filling its waters with poison. The water from the lake was a main source of the supply piped to Karachi and Thatta. It was feared that a situation was being created similar to that which occurred in 2004, when dozens died in Hyderabad after consuming poisoned water.

Pollution levels in the Rawal Lake near Islamabad continued to rise, while numerous press reports detailed high levels of toxins in the Ravi, Kabul, Indus and other rivers.

The Pakistan Council of Research and Water Resources (PCRWR) estimated that 40 percent of all illnesses in the country were water-related. 200,000 children were reported to die due to water-related stomach ailments by international agencies. The Pakistan Institute of Development Economics (PIDE) found that an average of around 90 working days each year were lost in poor households due to illness, which in turn, was in many cases linked to unsafe water.

Concern over the rapid contamination of existing ground water supplies continued to be raised at seminars and conferences on the issue. While the government pledged a network of purification plants and safe piped water supplies by 2008, many feared the toll taken by contaminated water would continue to rise in the absence of policies to check industrial effluent emissions and safely dispose household sewage.

### **Water resources**

Apart from the safety of water, concerns about water scarcity continued. Per capita water availability of 1000 cubic metres was described by the UNDP as a chronic stress mark, suggesting the country lacked sufficient water resources to meet current or future needs. Over 5,000 cubic metres of water had been available per capita in the 1950s, indicating the pace of the depletion of water resources over the past five decades as the population size grew.

In July, Sindh reported water shortages in many areas, and requested the Indus River System Authority (IRSA) to grant it more water. IRSA turned down the request,

arguing Sindh had already received its allocated share. Many Sindhis held the province had in fact been deprived of its rights to water as a result of manipulation by the Punjab and the centre. Opposition members also raised the issue in the provincial assembly.

In August, representatives of Sindh and the Punjab clashed at an inter-provincial



No safe drop to drink?

meeting in Islamabad on water planning, with Sindh seeking the release of more water downstream of Kotri, on the grounds that this was essential to prevent sea-water intrusion into delta areas. The Punjab opposed the release of more water, with

both sides presenting different studies to back their stance.

The Kalabagh Dam and Greater Thal Canal projects continued to be opposed in Sindh and Balochistan. Government members stated several times during the year that the controversial Kalabagh Dam would be built despite the strong reservations of the smaller provinces.

Heavy winter rains and monsoons averted drought in 2005. However, the threat of such a calamity continued to lurk, with resources of potable water present in the country continuing to decline.

### **Air pollution**

There was no decline in air pollution levels across the country. Indeed, official studies conducted by EPDs in Karachi, Peshawar, Lahore, Faisalabad and other cities found a steady worsening in air quality. Even in Islamabad, an official survey early in 2005 found air pollution to exceed safety standards set by the WHO.

An EPD survey in Lahore in March found that pollution levels at busy intersections,

such as Charing Cross and Qartaba Chowk was up to 692 percent above WHO set standards.

The average increase of 12 percent per year in the number of vehicles plying roads across the country was for a large part seen as a major factor in air pollution. Unregulated industries, located within urban limits in Karachi, Lahore, Peshawar, Faisalabad, Multan and other centres contributed immensely to the problem.

Efforts to remove smoke emitting rickshaws and other vehicles from the streets in Lahore had only limited success. Unions of rickshaw drivers resisted the move, arguing

it would place undue hardship on a large number of drivers. In August, the Punjab environmental tribunal, hearing a complaint voiced by the Eco Watch Trust, an NGO, sought an explanation from the



Belching out poison.

provincial government as to why it had failed to curb the sale of polluting two-stroke rickshaw engines, as it had announced early in the year. The Punjab government banned sales a few days later.

Press reports stated the official policy of encouraging the use of Compressed Natural Gas (CNG) engines for public transport vehicles had not had significant impact and had done little to improve air quality.

Air quality in Peshawar was reported to have worsened significantly, largely due to the use of rubber from discarded tyres as fuel at brick kilns. Considerations of cost and the fact that rubber burnt untended for a long time were behind the choice of fuel.

In its report on the state of environment in the country, released in June, the International Union for the Conservation of Nature (IUCN) described unplanned urbanization as a major culprit in deteriorating air quality. As the human populations of cities expanded rapidly, they placed huge strains on resources.

Lung diseases, asthma, allergies and other serious health complaints were all said

to be on the rise due to air pollution. In Islamabad, elevated pollen levels in March posed an additional threat to allergy sufferers. The felling of paper mulberry trees, which authorities argued were mainly responsible for the allergies afflicting residents of the capital, was speeded up early in the year.

Hundreds of trees were felled in Lahore, Karachi, Faisalabad and other cities to accommodate development works. In Lahore, most trees fell to make way for an underpass at Dharampura. Environmentalists maintained that the cutting of 5,000 over the past three years in the city, as four new underpasses were built, had reduced bird populations and had an adverse impact on air pollution. Reports from Peshawar early in the year also reported the cutting of at least 550 trees, mainly to widen roads.

The seizure of open spaces, including children's parks, by land mafias and diminishing green spaces in cities as a result of rapid development contributed to a worsening of air quality and living conditions in urban centres. Complaints from residents were heard through the year about the seizure of a children's park in Satellite Town, Rawalpindi, by land mafias.

### **Natural disaster management**

Thousands of lives were lost and tens of thousands affected by flooding and other natural disasters during 2004-05. *[The earthquake of October 8th was of course the biggest natural disaster].*

Rain and snowfall during the winter months claimed at least 1,000 lives.

Heavy rains in Balochistan in February caused the Shadi Kor Dam in Pasni to burst, causing the death of an estimated 700 people. They included at least a dozen truck drivers who were carrying water supplies along the Makran Coastal Highway when the flood washed them away to sea. In a statement, HRCP called for an impartial inquiry into the dam collapse and transparency in relief operations. It also sought information about the precise number of people killed and reminded authorities of the need not to abandon the area as soon as the media spotlight swung away. HRCP expressed grave concern over the lack of transparency regarding the tragedy in Balochistan, especially at a time of acute political tension, and speculation that the Shadi Kor Dam and a smaller reservoir had been deliberately breached as water levels rose, disregarding the threat presented to thousands of local people. *[See also Chapter on Political Participation].*

At least 350 other lives were lost as a result of the torrential rains, snows and avalanches in the NWFP in early 2005. Widespread damage was also caused to crops

and homes, with dozens of structures collapsing.

The severing of road and communication links with many northern areas meant people faced severe food shortages for days. Villages beyond the northern Punjab hill resort of Murree were cutoff from the outside world for up to two weeks in February, causing acute food shortages.

HRCF received numerous complaints that the suffering of people in Balochistan had been added to by the long delay in beginning relief work in the devastated Pasni area. After a visit to the area in February, President Pervez Musharraf announced compensation of Rs 100,000 to the family of each victim.

With rains continuing into May, lives continued to be lost. Press reports in March pointed out that much of the relief promised to victims in Chitral district and other areas had in fact never reached them. A lack of official interest in rescue work was also reported from Dera Ghazi Khan, Murree, Zhob and other calamity hit areas. 200 victims, whose homes had been washed away by hill torrents, were stated to be living under open skies in Dera Ghazi Khan in May.

With the monsoon arriving in full force by the end of June in the NWFP, more flood damage was caused with dozens of villages flooded. However, somewhat better organized rescue efforts this time round meant loss of life was largely avoided as floods hit Dera Ismail Khan, Charsadda, Chitral, Swat and other areas. Thousands of people were evacuated and over 30,000 displaced.

Rain in Lahore early in July claimed at least ten lives, due to house collapses and electrocution incidents. Floods also hit Leiah, Chiniot and other Punjab areas, as flood waters flowed downstream from India. 300,000 people were stated by middle July to be displaced in the Punjab. 11 deaths were also reported from villages in the Leiah area inundated by flood. Damage to houses and crops and the heavy loss of livestock affected thousands. Over 100 villages in Sindh were also flooded, and large tracts of crops destroyed. *[At least 11 deaths caused rain-related incidents were reported after 48-hours of heavy rains in Karachi in September. Most deaths occurred due to electrocution or collapsing houses].*

A heat wave in June led to 200 deaths across the country, mainly in Sindh and the southern Punjab, due to heat stroke, dehydration and other heat-related illnesses.

### **Land loss**

The rapid loss of fertile land due to erosion by sea, water-logging and salinity remained a problem of gigantic scale.

This was especially so as the agricultural sector continued to employ the highest

number of people in the country and contributed over 23 percent of the GDP. In the Economic Survey for the year, it was estimated that 38 percent of irrigated land across the country was water logged. Meanwhile, loss of fertile land due to salinity grew, with the problem most acute in the lower Indus basin areas of Sindh and the southern Punjab.

Official estimates suggested about 100,000 acres of land become infertile each year due to water logging and salinity. An unlined canal irrigation network, aging drainage channels allowing a large amount of water seepage and the installation of tube-wells without long-term planning all contributed to the problem.

Equally grave was the issue of land loss due to sea erosion in coastal areas of Sindh. Flawed drainage systems and irrigation policies, which resulted in low water supply to the areas, had contributed to the problem, with mangrove forests and agricultural lands along the coast becoming increasingly infertile due to water-logging and salinity. This in turn encouraged sea water to move inland, stealing away large tracts of land.

A team of politicians and water experts who undertook a three-day study tour of the Thatta coastal area in February found that 2.2 million acres of fertile coastal land had been devoured by sea. The team stressed the need to build embankments to safeguard land areas, to increase mangrove cover and to review irrigation policies.

In July, Pakistan and international agencies including ADB and the UNDP signed an agreement on tackling issues of water logging and salinity, with the agencies agreeing the project should begin with an initial survey of the situation.

Official documents stated 11 million hectares of land across the country were affected by water erosion and 3-5 by wind erosion. Water logging affected 15.5 million hectares of land and salinity five million.

### **Solid waste**

The proper disposal of the millions of tonnes of solid waste churned out across the country remained a mounting problem.

It was estimated that 125,000 lakh tones of waste was produced each year by the largest cities of the country. Of this, barely 25 percent was properly disposed off.

Karachi produced at least 8,500 tonnes of waste daily, with a vast amount ending up in the sea. The Karachi coastal belt was, as result, believed to be among the most polluted anywhere in the world [*See also section on poisoned food*].

It was noted in Press reports that the ban imposed on the manufacture of black

plastic bags remained ineffective in most parts of the country, with the toxic smoke produced by the burning plastic adding to air pollution. Burning remained a means of disposing of garbage in all major cities despite a ban imposed on the practice nearly five years ago in an attempt to improve air quality. Reports from Peshawar in February stated that black plastic bags continued to be marketed despite the ban imposed in September 2004.

Press surveys suggested that people in Lahore found no improvement in garbage collection over the year, and blamed the City District Government for poor performance in this regard.

Hospital waste, with only a tiny percentage of the amount produced by hospitals and



Most garbage was not properly disposed off.

clinics properly disposed off in incinerators, posed a still bigger threat. Hearing a plea seeking the safe disposal of such waste by Eco Watch, the Punjab environmental tribunal observed in February that up to 80,000 people countrywide could be falling victim to HIV and hepatitis infection due to the failure to use incinerators to dispose of infectious material. Top provincial health officials were summoned by the tribunal to explain the situation. The case was still pending in August.

It was reported from Nawabshah in January that the Peoples Medical College Hospital was disposing infectious hospital waste on an open heap almost daily, with scavengers often sifting through the contaminated piles and removing items that could be re-sold. In Karachi, the 25,000 hospitals and clinics in the city were estimated to be producing 15,000 to 20,000 tonnes of waste annually, out of which only a tiny proportion was improperly disposed of.

An official survey in Faisalabad in March detected unsafe dumping of hospital



waste by at least 14 clinics.

Scandals involving the re-sale of discarded syringes, blood bags etc continued to come to light. It was reported from various locations, including Lahore, Peshawar and Islamabad, that even incinerators installed at hospitals were either malfunctioning or were improperly used.

### **Poisoned food**

A lack of clear-cut regulations, and a failure to enforce the ones that did exist, made it difficult to detect how acute the issue of contaminated food was.

However, numerous press reports suggested that vegetables and other food products grown on land in and around major urban centres often contained high levels of toxins, which had leached into ground water from industrial effluents and in turn entered the human food chain. There was also growing concern about contamination caused by the widespread and uncontrolled use of fertilizers and pesticides. The use of fertilizers increased as pressure on existing land resources grew.

Early in the year, the PCSIR found that sea-life off the Karachi shore contained dangerously high levels of zinc, mercury and lead. The levels found in crabs and shrimp almost tripled safety limits set internationally.

In response to complaints from certain European Union (EU) buyers about the quality and hygienic standards of some sea food items exported by Pakistan, the Ministry of Food, Agriculture and Livestock in the middle of the year imposed a ban on exports of these items to EU countries. An EU team that visited the Karachi harbour area in June expressed concern about polluted waters and the hygienic standards under which fish was processed. They threatened a complete ban on sea food imports from Pakistan unless these issues were addressed.

Companies processing sea food for export, as well as fishing communities, meanwhile complained in July that the ministry ban had simply allowed competitors from India and South East Asia to take over markets previously supplied from Pakistan. They also pointed out nothing had been done to address the core issues by improving facilities to store fish etc. The Pakistan Fisherfolk Forum (PFF) continued to demand steps to prevent the pollution of the sea in and around Karachi, which had also caused a massive loss of sea life and reduced the daily catch of fishermen.

There were reports that river fish caught in the Punjab contained high levels of toxins, which entered the food chain since crushed fish was a part of the feed often provided to farm-reared poultry and other animals.

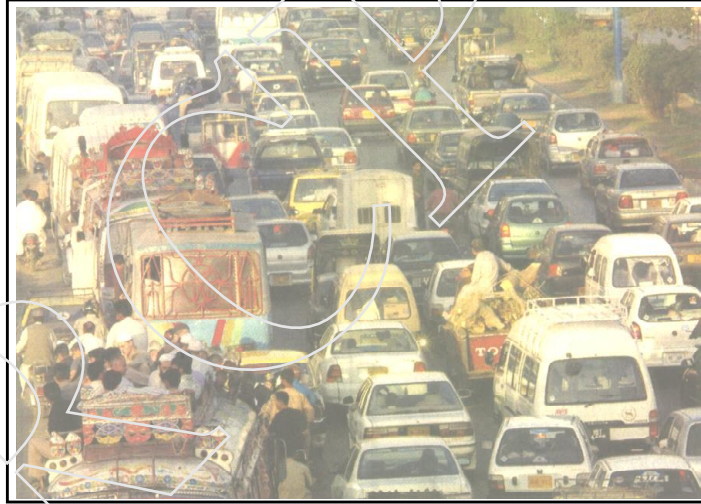
The Punjab government conducted a campaign through much of the year to ban the storage of milk or other items in drums that had previously been used to keep

chemicals. It was reported the dangerous chemical residues were contaminating food due to the widespread use of the drums.

### **Noise pollution**

Levels of noise at busy intersections in all cities were far above the safety standards set by the WHO. It was also reported that levels of noise pollution were increasingly affecting hearing, with hearing disorders growing according to doctors in many parts of the country. Some studies suggested up to 50 percent of people in the country suffered some degree of hearing loss.

As against the WHO safety standard of 65 decibels, noise levels at the Chauburji crossing and the Charing Cross crossing in Lahore



An unbearable din.

exceeded 75 decibels. In Karachi, noise levels of up to 90 decibels were recorded in locations with a high concentration of rickshaws.

Noise pollution caused by industrial units, some in residential areas, was also high.

### **Forests, natural habitats and wildlife**

Forest cover across the country remained under four percent, with the rate of deforestation estimated by the WWF to be among the fastest in the world.

International standards recommended forest cover of at least 11 percent across the country.

Despite this situation, officially sanctioned felling of trees continued. In a letter in June, the IUCN warned the Punjab chief minister of a grave threat to the environment and the eco-system posed by the planned New Murree project. The IUCN pointed out that no environmental assessment had been carried out, as required under the Environmental Protection Act of 1997, before planning the project near the northern

Punjab hill resort of Murree. A rapid environmental assessment carried out by the IUCN indicated at least 11,000 trees or eight percent of forest cover in the 4,111 acre area over which the New Murree resort was planned, would have to be cut to accommodate it. The Punjab government persisted with its plans to build the resort, intended as a tourist attraction. *[In September, the Chief Justice of Pakistan took suo muto notice of the issue. The Supreme Court sought a report from the Punjab government and ordered no work on the project be begun until it could reach a decision on the matter.]*

Press reports stated that the 12 percent area that had been declared national parkland was often extremely poorly managed, while timber cutting occurred even inside it. In July, a leopard was shot dead near Abbotabad after reports of the killing of two women. Wildlife experts pointed out the problem had arisen because of the loss of the animal's natural habitat and poor wildlife management policies, forcing it to move closer to human populations.

Timber smuggling operations continued in Malakand and other forested tracts, it was alleged often with official connivance. In May, forest fires in the Margalla Hill Tracts caused considerable damage.

Damage to mangrove forests in coastal areas, due to poorly planned development activity and water pollution also took a heavy toll on the eco system and natural habitats of these wetland regions.

### ***Recommendations***

1. *The contamination of ground water and other water sources presents a grave threat to population, as evidenced by the hundreds of deaths that have taken place and the grave illnesses affecting thousands. 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 in to meet community needs. The provision of safe drinking water must be seen as an urgent, and immediate, need of people.*

2. *Laws put in place to protect the environment must not be ignored by provincial or federal governments. No major developmental project should be undertaken without conducting an independent environmental assessment. The controversial New Murree project must be reviewed in view of the many concerns raised.*

3. *The failure to implement laws remains a serious issue. The reasons for the poor functioning of provincial EPDs need to be assessed. The environmental tribunals handling cases involving the environment must be made more effective in all the provinces and their running streamlined by appointing full time judges to hear cases. The tribunals*

*in the NWFP and Balochistan have remained largely ineffective. Agencies must be empowered to act against industrial polluters when they present a hazard of any kind and new laws put in place if required. Corruption within government departments must be checked.*

*4. Despite the growing evidence that environmental degradation is of great concern to many communities in both rural and urban areas, the government routinely allocates less than one percent of the public sector development budget for the environment. Given the immense estimated expenditures on removing pollution and the massive totals for healthcare on diseases caused by pollution, this sum must be increased and far greater priority given to environmental issues.*

*5. Relief operations carried out in all parts of the country must be completely transparent and full information provided about any calamity that occurs. Attempting to downplay suffering or death created by floods, drought or other hazards serves no purpose and acts to create uncertainties. A disaster readiness plan is vital to tackle situations arising from natural calamities. Systems to predict such hazards, warn people in advance, carry out evacuations when necessary and minimize loss of life or damage must however be put in place.*

*6. 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.*

*7. 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.*

*8. The dumping of waste in fresh water channels and the sea presents an increased threat to fishermen who depend on their catches for 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. Shipping off the Karachi coast also needs to be regulated to avert potentially disastrous oil spills.*

*9. Air pollution levels 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.*

*10. Hospital waste must be disposed of only in properly installed incinerators and punitive action taken against those who fail to ensure this. An effective solid waste collection and disposal plan is also required for all major cities.*

*11. Awareness about environmental pollution must be raised, especially among children. Only community involvement can control the use of plastic bags, the burning of garbage or the indiscriminate dumping of household waste on open ground.*

*12. Tree felling must be banned in cities and communities dependent on timber for fuel provided alternative means to meet domestic needs.*

# 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

While the UNHCR stated early in 2005 it had repatriated 1.6 million Afghan refugees since 2002 in what was stated to be the largest such programme in recent times, another three million remained in the country according to official figures.

The UNHCR, at the end of August, announced nearly 400,000 refugees had returned to Afghanistan from Pakistan in 2005, under the voluntary assisted repatriation programme.

Those that remained generally consisted of the poorest, most vulnerable refugees – unable to meet the costs required to go home even with UNHCR assistance, and uncertain of their future in a country still stricken by years of war and political instability. Some groups of refugees also remained unwilling to return due to fears of persecution based on their ethnicity, or simply because, after years of endeavour, they had been able to establish small businesses in cities across the country that they were now unwilling to abandon.

The issue of persons displaced within the country, mainly due to development projects, and also military operations, remained unresolved, and figured only rarely in discourse at public forums.

Relative peace in Kashmir however meant an improvement in the security situation for people on both sides of the divide. People displaced by shelling were in many cases able to return to homes near the Line of Control (LoC), and as the first bus between Srinagar (in Indian-controlled Kashmir) and Muzzafrabad in Azad Jammu and Kashmir

rolled across the LoC, contact between Kashmiris on both sides of the divide became somewhat easier.

## Afghan refugees

As international aid and concern dwindled away, the plight of the over one million refugees still living in camps in Pakistan worsened sharply. Many of these refugees were sick or disabled. A large number were women and children – some of whom had no means to support themselves.

Severe food shortages were reported, as well as a sharp decline in the quality of health care available to the refugees as funding for programmes dried up. In May,



U N H C R  
G o o d w i l l  
Ambassador and  
H o l l y w o o d  
actress Angelina  
Jolie, after a visit  
to refugee  
c a m p s ,  
expressed grave  
concern over  
the plight of  
refugees, and the  
desperation of  
women and  
small children  
living in such  
h o s t i l e  
conditions.

The long journey home begins.

There were also reports of a resurgence of tuberculosis and other potentially fatal illnesses at refugee camps.

A UNHCR census of Afghan refugees, conducted in February and early March with the support of the Pakistan Ministry for States and Frontier Regions (SAFRON), found that there were over three million refugees still based in the country, most of them in the NWFP. Among the cities, Peshawar and Quetta hosted the largest refugee populations.

There were reports that conducting the census had been problematic, as many Afghans refused to register voluntarily, fearing forced repatriation. This gave rise to some concern over the reliability of figures.

In July and August, hardships for refugees increased as Pakistani authorities stepped up efforts to evict them. Camps on the Pak-Afghan border and in tribal areas were

closed down, creating immense difficulties as refugee families awaited repatriation, sometimes for days, at UNHCR offices. Refugees in all cities reported increased harassment by police in an effort to evict them. *[In early September a UNHCR office in Peshawar was attacked by refugees frustrated by long delays and alleged mismanagement of the repatriation process].*

In July, Pakistan rejected a request from the Kabul government to permit Afghan nationals studying at madrassahs in the country to complete their education. The Afghans were asked to leave, alongside other foreigners enrolled at madrassahs.

Through the year, refugees continued to face harassment and intimidation. In April, civic authorities in Islamabad announced plans to shift the 44,000 refugees based in and around the city to camps near the borders. Refugees feared that this would result in a loss of jobs and schooling for children. 600 refugees were arrested in Rawalpindi soon after the announcement. A delegation of refugees that met HRCP representatives in Peshawar and Islamabad called on the organization to take up the matter with the UNHCR and SAFRON. HRCP issued a statement condemning the arrests and displacement of refugees, and continued contacts with authorities on the issue.

Afghan refugees in August complained no arrangements had been made to allow them to participate in the Afghan election, held in September.

### **Internally displaced persons**

The most serious displacement of people was said to be taking place in the Waziristan tribal area, as operations against militants continued. The Geneva-based Global IDP (Internally Displaced Persons) Project, which monitored internal displacement globally, reported in 2005 that an estimated 50,000 people had been displaced in the area in 2004. Many remained displaced into March 2005. It was also reported that till late 2004, no humanitarian assistance was available to them, with relief agencies in some cases prevented from entering the region. Other reports stated that by October 2004, the International Red Cross (IRC) and some other groups had been allowed in to offer medical care and other essential aid. *[Large-scale displacement of populations followed the quake of October 8th. HRCP continued to monitor the risks faced by vulnerable people into December 2005].*

The strict restrictions on access to the area and the secrecy surrounding operations meant more precise information was not available. Nor was it clear if further displacements had taken place during fierce fighting reported in Miranshah and other areas in 2005.

Large-scale displacements also took place from the Dera Bugti area of Balochistan early in 2005, as troops battled tribesmen with ordinary citizens caught up in the battle. *[See Chapter on Political Participation].*

An HRCP fact-finding mission comprising leaders and council members of the



organization, which visited Gilgit, Skardu and Dir in August 2005, found that some people displaced by the Kargil conflict of 1999 were still living in camps in other parts of the Northern Areas.

Major development projects, including the port at Gwadar, threatened to displace



Kashmiri refugees enjoy a respite from shelling.

over 70,000 people. There were reports that still more could be displaced if the controversial Kalabagh Dam was constructed. President Pervez Mushrraf, on several occasion during the year, reaffirmed his commitment to the dam. Some reports on the dam published

over the last decade had stated over 100,000 could be displaced due to it. Protests against the dam continued in Sindh and Balochistan.

In April, Rs 26 billion were allocated to the estimated 44,000 people in Azad Jammu and Kashmir who faced displacement by a project to raise the height of the Mangla Dam. Affected people throughout the year kept up demands that details of the compensation and resettlement plan be disclosed to them.

Their anxieties were heightened by the fact that 20,000 people, affected by the building of the Tarbela Dam in the 1970s and others affected by the Mangla Dam building even before this had still to receive promised compensation.

Other development projects, such as the Chotiari Dam in the Makhi area of Sanghar district in Sindh also threatened to displace at least 6,000 people.

At least 200,000 people in the Dera Ghazi Khan, Leiah, Rajanpur and Muzaffargarh areas of the southern Punjab were in July 2005 displaced after heavy floods in the Indus River and overflow from the Taunsa Barrage inundated hundreds of villages and agricultural lands.

Over 50,000 people were reported to have been displaced in the NWFP and tribal areas in 2005 by river torrents caused as heavy winter snows melted and monsoon

rains fell in June and July.

While many flood-affected people were reported by August to have moved back to their villages, food shortages, caused by loss of livestock and agricultural products persisted. In July, the World Food Programme (WFP) began relief efforts to aid the worst affected in the NWFP.

### **Other refugees and aliens**

The improved ties between India and Pakistan meant that many Kashmiris, displaced from their homes on either side of the Line of Control (LoC) were able to move back as shelling subsided. There were estimated to be some 15,000 Kashmiri refugees who had fled Indian-held Kashmir, still living in camps in Azad Jammu and Kashmir.

The largest scale operation against aliens in the country came in July, as thousands of foreign students enrolled at madrassahs were forcibly evicted. [*See also chapter on Education*].

African nationals present in the country, some on valid study, tourist or business visas, complained of harassment by police, apparently on suspicion of involvement in militant activities or drug smuggling.

An Iranian couple, Ryan and Setareh, who remained in Islamabad in July, complained that no progress had been made by the UNHCR on their request to be granted asylum. They had applied for UNHCR protection in March, after escaping Iran, and had been given a letter of protection.

Bengali and Bihari speakers in Karachi meanwhile continued to complain they were denied Computerized National Identity Cards (NICs) or passports by NADRA officials, who refused to accept them as Pakistani nationals, apparently solely on the basis of the language they spoke. The Muttahida Qaumi Movement (MQM) made repeated complaints about this discrimination during the year. [*See also Chapter on Freedom of Movement*].

### **Biharis in Bangladesh**

There was no official progress to determine the future of the estimated 300,000 or so people in Bangladesh who called themselves Biharis. These persons claimed Pakistani citizenship under the Citizenship Act, and maintained that till Bangladesh emerged as a separate country in 1971, they had been Pakistani nationals.

Groups within the country continued to demand their repatriation. The Pakistan government held the Biharis were likely to be granted Bangladeshi nationality, as per court decisions taken in that country.

The Lahore High Court (LHC) continued its hearing during the year on a petition seeking the repatriation of Biharis. In July, it sought clarification on whether the children

of these Biharis, born and raised in Bangladesh since 1971, in fact had any interest in moving to Pakistan.

### ***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 be fully respected. The dwindling number of refugees still housed at camps must be provided adequate food, water and medical care with international support. These camps must not be forcibly shut and refugees must not be evicted without prior warning and alternative provisions for shelter.*

2. *Pakistan must adhere to international instruments in its treatment of refugees and sign the UN convention on refugees. Humanitarian concerns must be placed uppermost on the agenda when devising policies for refugees.*

3. *Pakistani border guards, police or government officials found guilty of harassing refugees based in cities or those attempting to return, extracting bribes from them or conniving in corruption must be penalized under relevant laws.*

4. *The concerns of the increasing number of people displaced within the country need to be addressed. A survey is required to assess the precise numbers of those displaced by military operations, development schemes or natural disasters so that a strategy to rehabilitate them can be finalized. Those displaced as a result of the construction of water reservoirs, must be adequately compensated and provided with alternative places of residence and development projects initiated only after the building of a consensus including local communities.*

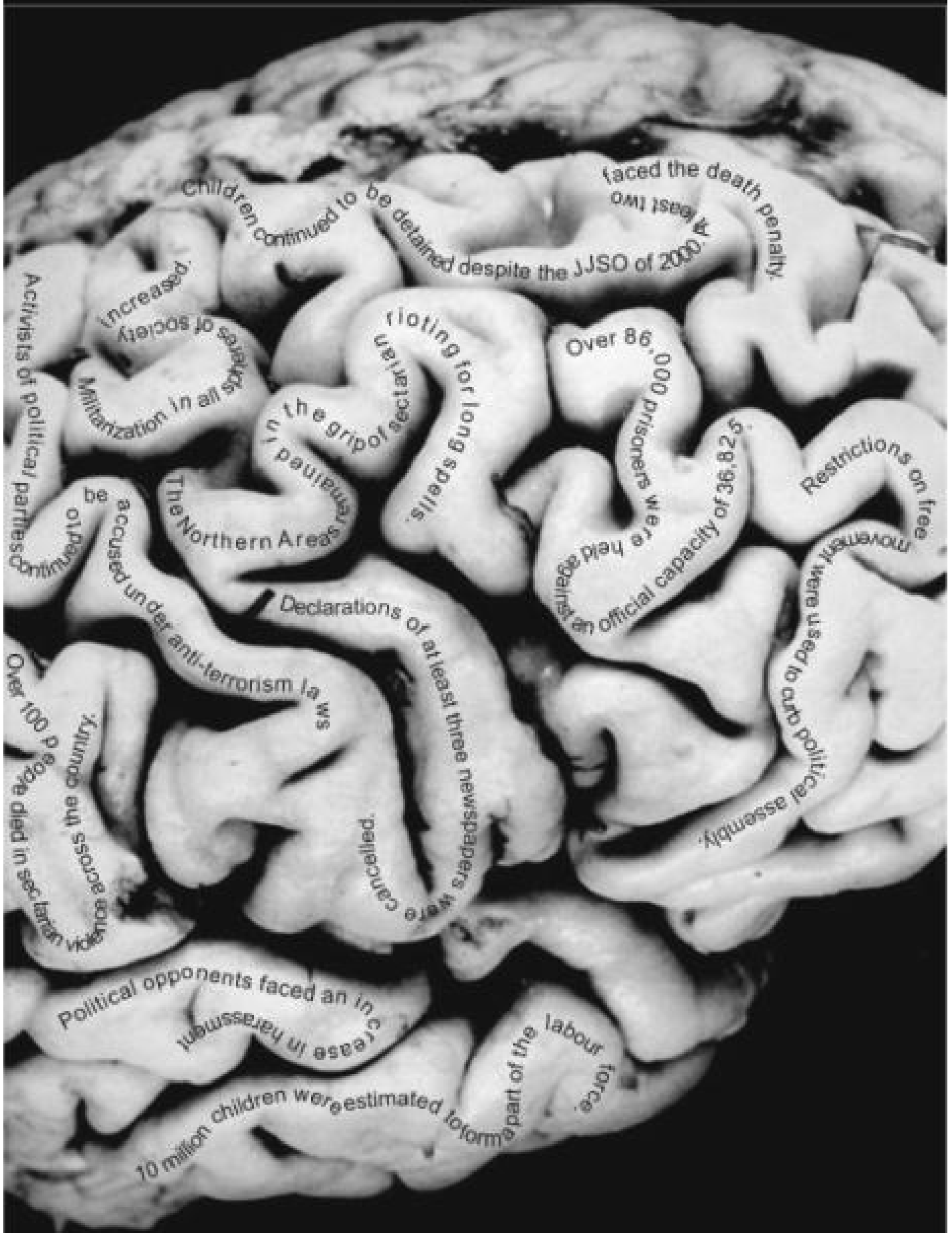
5. *Steps must be taken to streamline the procedure for the grant of visas to Afghans and Pakistanis seeking to cross the border. Grave difficulties have been caused because of the problems being faced in obtaining visas for nationals of both countries. These have increased since a tightening of border security.*

6. *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.*

7. *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. The arrest of hundreds of aliens, under guise of anti-terror efforts, is unjustifiable.*

*8. 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.*



# Appendices

HRCP

## *Appendix - I*

# **HRCP activities**

HRCP continued to make efforts to raise awareness about issues affecting the human rights of people, to monitor the situation regarding the access of people to fundamental rights and hold consultations, seminars and workshops on a wide range of concerns facing people.

Fact-finding missions, including one led by HRCP Council Members to the Northern Areas in August 2005, were conducted through the year. HRCP also watched the polling process during the first two phases of balloting in the local government elections.

The Centre for Democratic Development (CDD) in Islamabad organized meetings and workshops to help inform participants, including parliamentarians, about various issues on the national human rights environment. Monitoring of parliamentary proceedings continued.

HRCP expressed concern through the year over the lack of democratic freedoms in the country, and particularly the situation in Balochistan. HRCP also participated in consultations held to discuss the chain of events in the province and in other rallies, meetings and protests staged jointly with other civil sector organizations.

After the quake of October 8, HRCP remained engaged in a process of monitoring, assessing protection needs and modest relief work. An HRCP fact-finding mission visited affected areas in November. HRCP also set up base camps at Muzaffarabad and Mansehra during the same month.

At least 146 persons utilized newspaper clipping files at the HRCP reference section.

The Complaints Cell received 619 complaints from across the country, and also from Pakistanis based overseas.

A growing number of people wrote in after viewing HRCP's website, with many

posting comments, suggestions or observations on the rights environment in the country. The concern of Pakistanis based overseas regarding the situation was particularly noteworthy.

A segment on the local government polling process, the relevant laws and names of nazims was placed on the HRCP electoral watch website.

HRCP continued to bring out its regular publications, as well as brief reports, pamphlets and posters on specific issues that arose during the year.

Some of the activities between November 2004 and August 2005 were as follows:

### **Northern areas mission**

**Dir/Skardu/Hunza:** An HRCP fact-finding mission to the northern areas was carried out by HRCP leaders and council members from August 28 till September 2, 2005.

### **Token marathon race:**

**Lahore:** In May, HRCP staged a token marathon race to demand civil liberties for citizens and rights for women. The first symbolic race, on May 14<sup>th</sup>, was brutally broken up by police.

### **Election watch**

**May 28:** Panjgur: Bye-election, in Panjgur monitored.

**July:** Karachi: Three consultations were held at the Karachi office with activists regarding the local body elections.

**August:** Karachi/Lahore/Quetta/Peshawar: HRCP observed local bodies elections in some cities of all the four provinces. Core group activists had in July been requested to monitor pre-poll rigging and send in details of their findings.

### **Fact-findings**

At least 72 fact-findings, mainly into cases of blasphemy, sectarian killings, police torture, rape, honour killings, jirga decisions, domestic violence, minority issues, political victimization were conducted in all four provinces by HRCP offices and task forces.. The fact-findings included a monitoring of the situation in April 2005, as hundreds of political activists were rounded up on the occasion of PPP leader Asif Ali Zardari's return to the country.

### **Socio-economic rights**

**January 6:** Peshawar: Meeting with the director of Bibi Mariam High School on school problems

**January 28:** Multan: Meeting on primary education and lack of facilities

**February 17/18:** Multan: Meeting on primary education

**February 23:** Multan: Demonstration to seek universal primary education



**March 23:** Multan: Meeting of education committee

**March 25:** Peshawar: Meeting with the Director of Aryana University regarding problems at the university

**April 9:** Quetta: HRCF members meeting held at Balochi Academy to discuss the situation of peace in the province and private hospitals and schools in Quetta

**April 22, 27 and May 16, 30 :** Multan: Meetings on human rights education programmes.

**April 24:** Hyderabad: Consultation on Primary education: budget and administration.

**May 23:** Multan: Meeting on the system of sanitation in Katchi Abadi Mumtazabad

**June 18:** Multan: Meeting on lack of educational facilities

**July and August:** Multan: Three meetings on primary education

### **Rights of women**

**January 3:** Dera Bugti: Dr Shazia gang rape case – fact-finding and discussion.

**February 12:** Multan: Seminar and demonstration against rape of Dr. Shazia

**February 12:** Quetta: Meeting to mark Pakistan women’s day and express solidarity with Dr. Shazia.”

**March 8:** Quetta: Seminar on International Women’s Day

**March 29:** Multan: Discussion after study on the marriage customs of Tariqabad Katchi Abadi

**April 16:** Multan: Meeting arranged between gang-rape victim Mukhtaran Mai and District Bar Association

### **Rights of children**

**May 26:** Multan: Meeting ahead of 4<sup>th</sup> June, International Day of Innocent Children victims of Aggression

**June 4:** Multan: Child Labour Cricket Tournament held at Qasim Bagh between child labourers

### **Jirga system**

**January 8- 9:** Sukkur: Consultation and two-day workshop conducted in collaboration with Church World Service on the impact of jirgas in violence against women. Similar consultations were held in Shikarpur and Larkana, Jacobabad and Ghotki in January and February.

**January 10:** Mohmand Agency: Consultation on FCR

**September 12:** Peshawar: Consultation on FATA, national and international Laws

**November 4, 2004:** Karachi: A summary of the report ‘Jirgas: Parallel Justice System in Sindh’ was prepared. HRCF participated in a Joint Action Committee workshop

on jirgas and presented the report.

### **Jails, police and juvenile justice**

**January 17:** Quetta: Visit with Indian High Commissioner to District Jail Quetta, District Jail Nasirabad, Central Jail Gaddani, sub-jail Jafarabad and sub jail Killa Abdullah.

**April 6: Multan:** One day police training workshop

**May 4:** Multan: Protest rally against beating of journalists by police and excesses against political workers

**May 16:** Hyderabad: Protest demonstration against excesses of Punjab police

**September 6:** Lahore: Consultation on the Status of Juvenile Justice Ordinance 2000. [In November 2005, HRCPC published the first Urdu translation of the Jail Manual.]

### **Refugees**

**January 3:** Peshawar: Visit to the Capital City police office Peshawar to collect information about Afghan refugee prisoners.

**March 15, 2005:** Peshawar: Interview with Afghan journalist Najeeb Amer of Radio Azadi regarding Afghan prisoners in Pakistan.

**April 1, 2005:** Peshawar: Visit to the Central Jail, Peshawar regarding Afghan refugee prisoners.

**April 1, 2005:** Islamabad: Meetings with refugee representatives over evictions from federal capital.

**May 17, 2005:** Peshawar: Participated in a dialogue for finding durable solutions, devising strategies and policies regarding the future of afghan refugees in Pakistan.

**August 2, 2005:** Peshawar: Visit to the UNHCR voluntary repatriation centre to compile a report on the Afghan refugees repatriation process.

**August 8, 2005:** Peshawar: Mr Afrasaib Khattak delivered a lecture on repatriation of refugees and their rights at a workshop at Khyber Medical College, Peshawar.

### **Fundamental rights**

**January 4-7:** An HRCPC team visited District Nasirabad, District Jafarabad and District Bolan to assess the political situation and peace in these areas. .

**January 9:** Multan: Meeting on encroachments in Multan, Cantonment and forcible evictions of people

**January 31:** Multan: Demonstration against Cantonment Board

**March 11:** Hyderabad: Protest rally regarding the human rights violations in agriculture sector

**March 28:** Multan: Survey to examine the living standards of residents of Katchi

Abadi Odaan Wali

**April 10:** Multan: Lack of civil amenities in katchi abadi Chenab Club and marriage custom in the locality.

**May 4:** Sibi: Meeting with political activists staging a 'hunger strike' against official policies.

**May:** Multan: Surveys on lack of civic amenities in five katchi abadis.

**May 25:** Multan: Discussion on property rights of residents of katchi abadi under Railway bridge. Other surveys were held to assess the situation in other settlements.

**June 10:** Multan: Assessment of law and order situation in Katchi Abadi Muhammadi Mohallah

### **Centre for Democratic Development (CDD), Islamabad**

The Centre for Democratic Development (CDD) made efforts to sensitize parliamentarians to a range of issues by adopting various approaches that included networking, regular working groups on human rights issues, monitoring of the Senate and the National Assembly sessions and arranging for the provision of information and documents on key issues to them.

In addition to parliamentarians, diplomats, NGO representatives, academicians, national and foreign journalists participated in the working groups, seminars, and meetings on issues such as democracy, the electoral processes, women's representation in parliament and local government, education, LFO, judiciary, child rights, labour rights, women's rights, police reforms, media rights.

CDD held various meetings with NGOs, government officials and foreign missions. It also monitored the election for members of the House of Representatives in Thailand.

Ahead of local government polls, CDD arranged a meeting of parliamentarians, civil society representatives and academicians to study the electoral process, election laws, procedures and finalize the recommendations aimed at ensuring free and fair election.

The Center monitored the proceedings of the Senate and the National Assembly with a specific focus on human rights issues and matters related to public interest discussed in the parliament. Debates on human rights issues and of public importance were published in the CDD Newsletter.

CDD also performed as a resource centre and disseminated HRCP publications and other material to parliamentarians, NGOs, international groups, UN organizations, diplomats, researchers and human rights activists.

### **Special Task Force, Sindh**

The Special Task Force at Hyderabad continued its efforts for the release of hundreds of haris. STFS held consultations and protests on several other issues such as police

excesses and education, and documented the release of haris, complaints received from them and other issues. It also conducted fact-findings into various rights abuses reported in the area. *[See Chapter on Labour for details].*

### **Special Task Force, Multan**

The Special Task Force Multan held seminars, meetings and demonstrations on a range of human rights issues such as education, violence against women, excesses against journalists and rights of children. It also joined with other organizations in staging protests and meetings when the need arose. *[See sections above for details]*

### **Afghan desk**

The Afghan Desk at Peshawar monitored the situation of Afghan refugees and held meetings and consultations on problems faced by refugees. It responded to applications from Afghan refugees, assessed the situation of Afghan prisoners being held in jails in Peshawar and contacted authorities on the issue. The desk also participated in dialogues aimed at finding solutions to the problems faced by Afghan refugees.

The Afghan Desk monitored the repatriation processes in the Hayatabat center in Peshawar on March 2, 2004 and also monitored Afghan refugee's problems in Kacha Ghari Camp on August 2, 2004.

### **Surveys and reports**

#### **Sindh:** Scheduled Caste Survey

A survey of the condition of scheduled caste Hindus in Sindh was conducted in November and December 2004. Core group activists conducted the survey in eight districts of Sindh.

#### **Karachi:** Medico-Legal Survey

This project is being conducted in conjunction with two other organizations, Aahung and WAR.

#### **Karachi:** Corporal punishment in educational Institutions

Several officials and students from Cosmos Public School, North Nazimabad, were interviewed for this survey.

**Multan/Sukkur/Malakand /Turbat:** Study and survey on the performance of local governments and the perceptions of people regarding this.

### **Establishment of new core groups**

HRCP established new Core Groups at Dalbandin, Noshki, Jaffarabad, Pashin, and Awaran districts.

Core group conventions were held at Mohmand agency, Malakand, Lower Dir, Upper Dir, Swat, Khyber Agency, Swabi and Kohat. In The Punjab, conventions were held from between January and April 2005 at Jhang, Okara, Gujranwala and Attock.

Core group activists in all provinces remained closely involved in HRCP activities, including projects on budget-tracking in primary education, local government surveys, poll monitoring and other activities. Detailed fact-findings and reports from core group activists came in through the year.

### **Internship programme**

During 2005, HRCP took in interns from universities and colleges both within and outside the country, and facilitated them with research on projects linked to HRCP's work. During 2005, the HRCP head office at Lahore hosted interns from the Lahore University of Management Sciences (LUMS), Kinaird College for Women, the University of the Punjab, the Lahore College for Arts and Sciences, Lahore Grammar School, McGill University, Montreal, Kings College London, the University of Copenhagen and The University of Aix Marseille-3.

The interns undertook detailed research projects on the misuse of anti-terror laws, corporal punishment in schools in and around Lahore, suicides among young people, the civic situation at katchi abadis, the performance of district councils and issues affecting democratic development in the country.

Other interns were based at the Karachi and Islamabad offices.

HRCP received dozens of applications from students seeking placements with the organization. It was not able to accommodate all those seeking to assist with HRCP projects.

### **Joint activities**

Through the year, HRCP joined in protest demonstrations, meetings, consultations and rallies staged by civil sector organizations. Issues taken up included violations of the rights of women, the disenfranchisement of women in parts of the NWFP, harassment of activists and other issues affecting the basic rights and liberties of people.

### **Complaints cell**

Total complaints received	619
Letters written to authorities	211
Responses	25

#### ***Nature of complaints***

Bonded labour	168
Police /administration excesses	33
Excesses by influential individuals	25
Violence against women	36
Political victimization	45
Complaints from abroad	19
Miscellaneous	293

## Reference section

The reference section aided at least 146 persons during the last months of 2004 and the first ten months of 2005 by providing material on a range of rights issues. Students, researchers, journalists and academicians were among those that visited the section during the year. Many travelled from outside Lahore to utilize the immaculately maintained facilities, with some researchers based overseas also visiting. The reference section received the largest number of visitors among the departments at HRCP's head office in Lahore.

## Publications

### *Regular publications:*

- HRCP annual report: State of Human Rights in 2004; 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
- CDD Newsletter: quarterly (4 issues) in English

### *Special publications:*

- Education Budget in Pakistan
- Budget-tracking manual
- FCR: A bad law
- Running for freedom: Marathon for civil liberties
- Guidelines for fact-finding missions (in Urdu)
- Quake: Many miles to go (Fact-finding mission report)
- Operational guidelines on Human Rights protection in areas affected by the October 8 earthquake (English / Urdu)
- Jail manual (Urdu)
- Guidelines for fact-finding missions (Urdu)

### *Other publications:*

- Postcard to the Foreign Minister, demanding Pakistan ratify the Convention against Torture
- Zalzaley key maray bay yar-o-madadgar bachey aur hamari zamidari (Poster)
- Zalzaley key maray bay yar-o-madadgar bachey aur hamari zamidari (Broucher English / Urdu)

## ***Appendix - II***

# **HRCP stands**

HRCP continued to draw attention to issues facing citizens and to raise its concerns on various matters.

A summary of some of the stands on global and national developments taken by HRCP in the last two months of 2004 and from January to August 2005 follows:

### **State of governance, militarization and the plight of people**

***March 18, 2005:*** The loss of life and violence in Dera Bugti, as a result of the paramilitary operation on Thursday, can only be condemned in the strongest possible terms.

The worsening of the situation is the inevitable result of the way in which the crisis in Balochistan has been mishandled over many months. In the context of the militarization of Pakistan, the over-militarization of the province has had terrible consequences, many of which are visible in the chaos seen today.

The government must realize that everything cannot be excused as necessary to protect national assets or as a part of the war against terror. The most precious asset of any nation is its citizens. Assets acquired or built on the dead bodies of people can never endure.

***March 20, 2005:*** The Annual General Meeting (AGM) of HRCP was held on March 20 at Lahore. Excerpts from the statement issued on the occasion follow:

**Plight of people:** The deteriorating situation of ordinary people across the country is a matter of immense concern. The growing desperation of citizens is reflected in the fact that an average of at least 900 has committed suicide each year over the past three

years. The AGM demands that priority be given to the concerns of poor people. Perhaps most crucially of all, the skewed budgetary allocations need to be remedied and more money directed to social services, including education, health, sanitation and the provision of safe drinking water.

**Violence against women:** Two recent cases, those of Mukhtaran Mai and Dr Shazia, once again expose the vulnerability of women to violent crime. The AGM reiterates its position that until the prevailing impunity available to the culprits is ended and until cosmetic promises are converted into a genuine official commitment to safeguarding women's rights and raising their status in society the situation cannot change.

**Balochistan:** It is clear that the violence unfolding in Balochistan is not incidental, but part of a plan carefully devised over many years. The AGM reiterates the demand that all violence be immediately ceased and the siege of Dera Bugti and Sui ended. It expresses full solidarity with the people of Balochistan.

**Transparency in governance:** There has been a discernible decline over the past few years in the access available to citizens to various parts of the country, as well as to prisons. Governance has become increasingly secretive. The AGM demands greater openness and access to the working of government, and seeks that the people of the country be provided with the full facts concerning national events.

**Freedom of association:** The increased use of official coercion, including crony organizations, to threaten the liberties of civil society organizations is alarming.

**Judicial independence:** The continued decline of public faith and trust in the judiciary is an outcome both of its own shortcomings and of the interference of the executive in its working. The increased intervention of the government in judicial matters must end, so that the state of judicial independence and integrity can be improved.

**Return to democracy:** The return to civilian rule is more vital at this time than ever before. As is evident in Balochistan, the military is willing to resort to increasingly desperate means. The increase in the monopoly of the armed forces is also in contradiction to the government policy of privatization. The AGM demands that civil rule be restored in the country and the military relinquish its role in national politics.

**Growth of religious extremism:** The culture of extremism, intolerance and fanaticism, which has been in place now for two decades, cannot change unless the root causes of the problem are addressed with genuine political will, adequate political measures adopted for this and unless the establishment makes a break with obscurantist forces.

**FATA:** Despite the official rhetoric, there has been no judicial, administrative or political reform in FATA. Steps to empower people have not been taken. Local body



elections in the area were held on the basis of a 'jirga' agreement. The unjust FCR must be abolished and replaced with normal laws of the land.

Increasing insecurity: The worsening state of law and order across the country has added greatly to the suffering of people. The state of law and order cannot improve until democracy and the rule of law are restored.

**July 15, 2005:** As expected, the frontier government has steam-rolled the controversial Hasba Bill through the provincial assembly.

The bill is discriminatory in nature and will impose a totally arbitrary system of government, dependent on the whims and fancies of an unelected 'satrap'.

Pakistan must not allow a handful of mullahs to blight the future of all Pakistanis, whether they live in the country or elsewhere in the world. Recent history evidences the near disaster the Mullah-military governance brought to the country by fostering extremist militant forces in order to further their own objectives on a wider global scale. By doing so, they undermined the most basic interests of the State and its people.

### **Victimization of political opponents and curbs on democratic rights**

**April 6, 2005:** Several recent instances, in which leaders of opposition parties, including members of the national assembly and provincial assemblies, in both Sindh and the Punjab, have been booked under laws pertaining to terrorism and produced before Anti-Terrorism Courts (ATC) are extremely alarming.

HRCP believes that the draconian law is being used in an attempt to intimidate members of the political opposition and prevent them from participating in public rallies. Reports that threats have also been made that anyone participating in a protest will be tried under ATA provisions add to our concern.

HRCP would like to emphasize that peaceful protest is an essential democratic right and the refusal to allow people to assemble to draw attention to issues that concern them can only add to the dangerous air of repression prevailing in the country.

**April 14, 2005:** The arrest of hundreds of political workers in the city, apparently to prevent them from greeting Asif Ali Zardari, spouse of Pakistan Peoples Party (PPP) chairperson Benazir Bhutto at the airport Saturday is deeply disturbing.

The actions of the authorities against activists, the bar placed on public assembly through the use of the notorious Section 144 and the harsh language used by the Punjab administration in warning PPP leaders not to attempt any public gathering proves that democratic rights remain brutally repressed in the country.

**April 16, 2005:** The brutal treatment meted out to thousands of political activists

on the occasion of the return to the country of PPP leader Asif Ali Zardari is shocking.

An HRCP fact-finding team, which visited the airport, Bilawal House and police stations across the city has been dismayed by the ruthless force to which party workers have been subjected. Those arrested included a large number of PPP parliamentarians. MNAs held at police stations complained to HRCP that, in a violation of the law, they had not been permitted to inform the Speaker of the National Assembly of their arrest. Railway bookings of PPP activists were cancelled by the authorities and those traveling to Lahore were picked up and subjected to severe brutality. Journalists also suffered harassment while attempting to cover events.

HRCP demands the prompt release of all those detained and compensation for those detained and maltreated. The government must allow freedom of expression and movement for all political forces without any exception.

**May 14, 2005:** By using brute force to prevent a peaceful attempt to draw attention to violence against women, the authorities have demonstrated their anti-women bias and contempt for basic liberties.

Those arrested in the action taken against participants in a planned marathon race include HRCP Chairperson Asma Jahangir, Secretary-General Iqbal Haider and Punjab Vice Chairperson Hina Jilani.

The brutality of police in preventing what was intended as a peaceful event has unmasked the true face of the State. HRCP demands the immediate release of all its leaders and activists. It also demands the lifting of Section 144, which has repeatedly been used to suppress basic rights, and demands that the authorities give-up their anti-women policies.

**August 10, 2005:** Keeping in view its longstanding interest in democratic norms and the electoral process, HRCP has accepted an invitation from the Alliance for the Restoration of Democracy (ARD) to attend the All Parties Conference convened by it on 11<sup>th</sup> August (today), as an observer.

HRCP hopes that attending the meeting will enable it to gain a broader understanding of the prevailing political situation, especially the crucial local government electoral process.

**August 26, 2005:** HRCP today released a brief report on chaotic and rigged local government elections. It was noted the manipulation of the process made elections virtually meaningless.

### **Checks on media freedoms**

**December 1, 2004:** The brutal beating meted out to senior newsman Zaheer

Mahmood Siddiqui by police goons at the Punjab Civil Secretariat is an alarming continuation of an unconscionable police raj seen throughout the year. HRCP condemns the incident in the strongest possible terms. More shocking still are the reports, quoting a senior official at the secretariat, that the chief secretary himself had ordered a bar on Siddiqui's entry. All those involved in the incident must be punished under the law.

**February 8, 2005:** The death of two newsmen and severe injuries to a third in Wana, after unidentified gunmen opened fire on their van, is only the latest in a series of incidents in which journalists have been threatened, intimidated or subjected to violence. The attack again highlights the anarchy the authorities have allowed the area to descend into.

HRCP is deeply angered by the consistent failure of authorities to offer due security to reporters or to act against those endangering their safety. The prevailing environment means that the right to free expression has in fact been severely repressed in the country for many months. It would also appear the situation is worsening by the day.

**May 4, 2005:** The attack by police on rallies organized by journalist's bodies to mark Press Freedom Day in Lahore and Islamabad proves that barbarianism is now the norm. It is inconceivable that the brutality inflicted by police on media persons took place without the knowledge of senior officials. HRCP condemns the assault on journalists. It is clear the attack on journalists was a part of an orchestrated campaign to silence critical voices, suppress the basic right to assembly and to use State power to intimidate journalists, even while claiming that press liberties are being fully protected in the country.

**May 30, 2005:** While the crackdown against the Press has grown increasingly blatant over the past year, efforts to restrict freedom of expression appear to be assuming increasingly sinister dimensions.

HRCP condemns the registering of cases against two Karachi-based reporters, under laws relating to defamation and inciting public fear, as a direct effort to punish anyone expressing views critical of authorities. It once more reiterates its warning that restricting basic freedoms, even while cosmetic laws purporting to allow freedom of information remain in place, can act only to create a still greater environment of suffocation in the country.

**July 25, 2005:** The series of incidents seen over the last few weeks, targeting individual journalists and newspaper organizations, are obviously intended to suppress and gag the media.

HRCP joins media organizations across the country in strongly condemning the campaign of harassment. Most recently, this has come in the form of the arbitrary

detention of Rashid Channa, reporter for the daily 'Star' in Karachi. The subsequent release of Mr Channa in no way mitigates the offence.

The policy of suppression and the silencing of critical voices being pursued with increasing vigour are quite obviously suicidal.

### **NGOs under attack**

December 28, 2004: The attack on the offices of the Aga Khan Foundation in Chitral, killing two members of staff and damaging vehicles and property, underscores official unwillingness to act against the violent elements behind such criminal activity. HRCP condemns the incident and reiterates its concern that the growing climate of intolerance is making it increasingly difficult for NGOs to carry out routine work.

**June 4, 2005:** The Chairperson of the Human Rights Commission of Pakistan, Asma Jahangir, is aghast at the open vindictiveness shown by the Chief Minister of Sindh. He had publicly threatened, HRCP Council member, Jam Saqi, of further victimization and virtually admitted that Saqi's arrest was connected to the HRCP Fact Finding Mission led by him to the village of the Chief Minister. To make true his threat, the Chief Minister has had Jam Saqi's wife and niece arrested. This act of vindictiveness can only be condemned in the strongest terms as it shows that Dr. Arbab Ghulam Rahim uses his "Wadera" tactics in his office as Chief Minister.

HRCP is an independent body and, like several human rights organizations, monitors human rights violations where ever they take place in Pakistan. As such, fact findings are a vital activity of any such organization and HRCP has every right to do fact findings on receipts of complaints. HRCP demands that Jam Saqi's family be released immediately and that the CM address the abysmal human rights, record in his home village rather than cover it up by perpetuating further abuses of human rights.

**June 15, 2005:** The remarks made by a minister of state in the Senate recently, on the role of NGOs indicate the real thinking of government.

The State Minister for Interior, Dr Shahzad Waseem, and the advisor to the Prime Minister on Women's Affairs, Neelofer Bakhtiar, is in the first place guilty of misleading the house by telling them that Mukhtaran Mai is free. In fact, her movements remain restricted, and at a Press Conference in Islamabad Tuesday, she was repeatedly prevented from speaking freely. HRCP demands the resignation if both members of government for lying to the Senate

By attacking NGOs and their leaders for immorality, corruption and anti-national actions, the government has made it plain what it thinks of civil society groups, and indeed all individuals or organizations who express dissent from official opinion.

**July 6, 2005:** The gunning down of Zubaida Begum, 40, an activist for Aurat

Foundation in Dir, along with her teenaged daughter proves the scale of the threat to all NGO workers, particularly women. A fact-finding by HRCP shows that the terrible act was carried out by criminal zealots, determined to keep women in the dark ages. HRCP demands the immediate arrest of the killers of the two women. It also demands steps to ensure the safety of hundreds of activists working across the NWFP, who face a heightened threat after the latest atrocity in Dir.

### **Militancy and abuses under the 'war on terror'**

**November 19, 2004:** The reports of the resurgence in activities by banned extremist groups in the NWFP, most recently evidenced by the bomb blast at a cinema in Mingora that killed two and left 29 injured, highlights the lack of official commitment to eradicate violent trends and the threat posed to citizens by terrorists. HRCP has repeatedly asserted that militancy cannot be effectively tackled by merely arresting a handful of 'wanted' terrorists, even as others continue to be trained.

**December 22, 2004:** The death of two Pakistanis held at the Pul-e Charkhi jail near Kabul, apparently while trying to escape, highlights the plight of Pakistanis still held in Afghanistan. Responsibility for the deaths cannot be disowned by the Pakistan government. HRCP has learnt on good authority that Afghan authorities have offered to hand back all Pakistanis detained in the country, but this has been prevented by the lack of concurrence from Islamabad.

**July 18, 2005:** The death of women and children during what authorities call 'anti-terrorist' operations in Miran Shah is a matter of grave concern. The fact that Press reports state 15 of the 17 people killed were in fact women and children, casts grave doubts over the nature of the actions

It is essential that an inter-parliamentary mission be sent to visit the Waziristan area, and assess whether human rights abuses have been carried out. In particular, it needs to be determined if extra-judicial killings have taken place, and if so, on what scale.

**July 20, 2005:** In the aftermath of the London bombings, it is vital to reassess the strategies being adopted to combat terror and violence in all forms.

However, we are concerned over some of the measures being adopted to tackle terrorism. In particular, we question the wisdom of the British government in seeking a solution by calling a conference of the very forces which have played a major role in breeding and promoting militancy. The 'fatwas' used to instigate suicide attacks cannot and should not be used in an attempt to counter them.

**July 21, 2005:** The forced entry by scores of policemen into a women's seminary

in Islamabad, and the injuries to some of the students as a result of the action cannot be condoned.

HRCP strongly believes it is an obligation of government to tackle terrorism, provided this is done while keeping within the law. The suspension of several of the officers involved in the raid is not enough. Intimidation and harassment of women, and failure to respect their basic rights and dignities, have increasingly emerged as a pattern in recent months.

### **Growth of intolerance**

April 21, 2005: The horrifying report from Nowshera of the killing of a man who was accused, after a domestic spat, of blasphemy, again confirms the State is now in the grip of anarchy. The collapse of the rule of law in the State and the license given to persons of violence to take matters into their own hands now threatens to reduce society to chaos. Growing intolerance has already led to numerous deaths, while the failure to act against those guilty of such acts can only encourage a still more rapid descent into a state of complete lawlessness, where might reigns supreme and right has no place.

*May 3, 2005:* HRCP dispatched a letter to the Foreign Minister of Pakistan today, requesting urgent intervention in the case of the 40 Pakistani Christians held in Saudi Arabia after staging a religious meeting at a private home. HRCP demanded Pakistan urge the Saudi authorities to release the detained Christians.

### **Police excesses and custodial violence**

*December 27, 2004:* The death of five people on Friday, including a child, in Qambar, as police turned their guns on people protesting the merger of the town into the newly created district of Shahdadt, again shows that there is apparently no limit to police brutality.

HRCP mourns the needless deaths and demands a judicial inquiry into the opening of fire on unarmed citizens.

*April 1, 2005:* Human Rights Commission of Pakistan (HRCP) has been distressed to learn about a blasphemy case, under Section 295-C, against Professor Zahid Hussein Mirza, who has remained in detention in Mirpur since June 1999, and denied treatment for stomach cancer.

In a letter dispatched on April 1<sup>st</sup> to the President of Azad Jammu and Kashmir, HRCP has drawn the attention of authorities to the case.

According to the information available with HRCP, Professor Mirza is currently in prison custody in Mirpur. He has needed hospitalization due to stomach cancer, and

due to a lack of facilities at the hospital where he is being kept, he is unable to obtain the required treatment for his condition. The radiation therapy he urgently requires has already been delayed by more than 12 weeks, although timely treatment is of essence in saving lives in cases of cancer.

HRCP has appealed to the President and Prime Minister of AZK to look urgently into the case and ensure Professor Mirza is not denied humane and just treatment.

**April 29, 2005:** The death of a woman, Tasleem Bibi, in a police lock-up at Ahmedpur Sharqia, and the reports that marks of violence have been found on her body, go only to highlight the fact that police torture is endemic. HRCP demands an independent inquiry into the death.

### **Rights of women**

**February 7, 2005:** Human Rights Commission of Pakistan (HRCP) is deeply concerned about the pressure being put on first-year MBBS female students of Khyber Medical College (KMC) for the segregation of the campus. HRCP fully appreciates the concern of the female students about their academic careers and supports them in their demand that they not be forced off the campus.

**March 4, 2005:** The acquittal by a Lahore High Court division bench of five out of six men convicted for the 2002 gang-rape of Mukhtaran Mai on the orders of a 'jirga' in Meerwala, again highlights some of the factors behind the continuously soaring rate of crime against women. The lack of sensitivity to women's rights displayed in this case is not different to the handling of issues concerning crimes against women in the official bill on 'honour' killings. It is hoped that this case will not end here, and that the persons guilty of so great an atrocity will be prevented from going unpunished for their crime.

**March 19, 2005:** The manner in which Dr Shazia, victim of a rape at Sui, has been handled by the government has raised many questions.

The HRCP council, the decision making body of the organization, which deliberated the issue at length during its meeting, is concerned over official claims that Dr. Shazia has been sent abroad by an NGO. To the best of our knowledge, this is untrue. HRCP is concerned that the sending of Dr Shazia abroad is yet another part of the design to cover-up the case.

**March 24, 2005:** While authorities continue each day to promise policies of 'enlightened moderation', whatever precisely this term may mean, these claims are in fact becoming increasingly irritating.

The two latest incidents reflecting official attitudes come in the ban by the district government on hiring women telephone operators in Haripur and the recommendation

by a Cabinet Committee that the column stating religious belief be restored in national passports. Such actions show that policies remain hostile to women, and to religious minorities.

**April 4, 2005:** The violent attack in Gujranwala Sunday by Muttahida Majlis-e-Amal (MMA) activists on participants in a marathon race is simply outrageous.

HRCP demands that those behind all such acts of violent intolerance be punished under the law. Their brutal attempts to restrict the activities of women, and indeed other vulnerable groups, must not be permitted to succeed.

**April 17, 2005:** Human Rights Commission of Pakistan (HRCP) is deeply concerned about the fate of Shaikhah Muhammad, an Arab woman from United Arab Emirates, who is married to a Pakistani. The Pakistani Police is conducting raids on their house to arrest her and throw her out of the country. HRCP demands the government of Pakistan to immediately stop the action against the couple.

### **Rights of vulnerable groups**

**June 14, 2005:** The government's choice of brute force to deal with Pakistan Telecommunications Corporation Limited (PTCL) employees can only be condemned in strong terms. Rather than using State force to quash attempts by PTCL employees to draw attention to their demands, it is important that the process of reaching an agreement be carried out in an environment of mutual give and take.

**August 29, 2005:** Since April this year, at least 500 Pakistani 'camel kids' have been rescued from appalling living circumstances in the Gulf and brought back home. HRCP commends the government action to bring home the children, and reunite them with their families. HRCP also urges the Pakistan government, and all international agencies involved in the effort to rescue the children, to also extend the action being taken to cover all categories of children working as forced labour and those who have 'disappeared'.

### **Other issues**

**February 14, 2005:** The situation created in many parts of the country, especially Pasni and Makran in Balochistan, by heavy rains, snowfall and floods, presents significant humanitarian challenges to authorities. HRCP is grieved over the loss of at least 350 lives across the country. As in the case of most natural catastrophes, it is once more the most vulnerable sections of society who have been worst hit. It is crucial too that displaced people are not abandoned as soon as the media limelight swings away from current crisis.

**February 21, 2005:** While the high costs of private education have long put such learning beyond the reach of most citizens, there is now growing evidence that in a



quest to earn more profits, public sector education too is to be reserved only for the wealthy. The most recent complaint concerns a rise in fees for the Post Graduate Diploma in Public Administration at the University of Karachi. Sadly, it would appear, senior university officials are reluctant even to meet students to discuss the issue. HRCP reiterates its oft stated position that education is a basic right of every citizen. As such, it is the primary duty of the State to ensure it is provided, without discrimination.

**April 5, 2005:** Human Rights Commission of Pakistan (HRCP) has learnt that about 2,500 refugees have recently been arrested in Rawalpindi, under the notorious Foreigner's Act, and are being held at Adiala Jail in appalling conditions. Refugees living in Islamabad are also facing harassment at the hands of the Capital Development Authority (CDA), which has demolished some of their homes. A delegation of refugees who brought the matter to the attention of HRCP, sought urgent official intervention in the matter. HRCP demands the harassment be stopped.

### **HRCP tributes**

**November 12, 2004:** HRCP is shocked and grieved at the passing away of Mr. M. L. Shahani, a former member of the governing body of the Commission and a former judge of the Sindh High Court. Mr. Shahani was a well-known defender of the human rights of all citizens, especially members of the minority communities and working people. As a practicing lawyer he conducted several important cases on behalf of trade unions and minority communities. He remained steadfast in his commitment to human rights while working as Advocate General of Sindh. His career as a judge of Sindh High Court was unfortunately cut short in circumstances that appeared to be less than fair.

As a member of the governing body of HRCP Mr. Shahani spared neither time nor effort while pursuing the causes of the disadvantaged.

HRCP condoles his death and shares the sorrow of the bereaved family's grief.

### **October 8<sup>th</sup> quake**

After the quake that devastated northern parts of the country and Azad Kashmir, HRCP remained engaged in a process of monitoring protection needs. It put forward its stands in a series of press releases and reports based on its findings in affected areas.