

ASIA REPORT 2016



Photo credit to Shahayar Ali/Express

PAKISTAN

Policing - The Time to Reform Was Yesterday!



On 20 August 2015, the Supreme Court directed the Federal and Provincial Governments to submit recommendations on police reform. Supreme Court Chief Justice, Jawwad S. Khawaja, while hearing a case stated “the police are the biggest problem for the people of Pakistan. If the police are corrected, everything will become correct”.

Justice Dost Mohammad Khan, another judge on the bench reportedly said, “If any police officer is involved in any crime, his fellow policemen declare him innocent within 3 days and free him. We should introduce Police reforms on the pattern of Scotland Yard.”

Each year, The Corruption Perception Index (CPI) shows the Police to be the most corrupt institution in Pakistan. There is no sign of improvement. A lack of political will is an underlying reason why police reforms have not been enacted. The political parties treat the police force as their private guards and/or mercenaries to settle scores with political opponents. A demoralized Police Force and Prosecutors often drag their feet when it comes to investigation. A victim reporting a crime is the first suspect the police interrogate. As interrogation begins with the victim; it adds insult to injury. The modus operandi of police officials is to make it a point to subject the victim to mental torture. Rape victims are a prime example of such treatment.

In societies where the police are corrupt and inefficient, absence of the Rule of Law and chaos are expected. History shows that fair policing practices strengthen democracy and improve the image of a country. The Supreme Court of Pakistan has taken the initiative. And, it must be supported by all proponents of police reform that seek an end to a culture that perpetuates custodial torture.

In earlier times in Pakistan, the Police were principally mandated to meet colonial needs. Today, their main purpose is to safeguard the powerful and maintain the status quo. The police are the first step in any criminal justice process. Without reforming policing first, overhauling of the criminal justice system will remain a distant dream.

In 1947, Pakistan inherited an eighty year old police system from the British. It was designed in 1861 as a system to instill fear in the public. During the last 68 years, 21 commissions and committees have been mandated to recommend police reform!

The Police Act of 1861 was replaced with The Police Order, which came into effect on 14 August 2002. For 55 years, no efforts were made by the government to promulgate police reform from 1947 to 2002. _Unfortunately, The Police Order of 2002 was not implemented due to widespread resistance from the Police, the bureaucracy, and the political leadership.

Originally, the spirit behind the reforms initiated by The Police Order 2002, was to transform the Police from a “force” into a “public service”. The order was significantly curtailed in its intended scope by amendments that were subsequently introduced between 2004 and 2007. While the original 2002 Order was aimed at de-politicizing Police operations throughout Pakistan, the amendments defeated the very purpose of reform.

After the 18th Constitutional Amendment in 2010, the Police have formally become a provincial subject. At present, the amended Police Order, 2002 is applicable in only two Provinces--Punjab and Khyber Pakhtunkhwa (KP). The other two Provinces Sindh and Baluchistan, have actually brought back the Police Act, 1861.

State dependence on the Military to counter terrorism in urban centers, is largely due to its failure to reform the Police. Out-sourcing policing to other law enforcement agencies such as the Rangers and paramilitary agencies has proved to be counterproductive. It is but a short-term solution to a problem created by lack of resources and modern training of police officers. It is a globally recognized fact that a State's Police play a pivotal role as the first line of defense against threats of terrorism and insurgencies. A study conducted by the RAND Corporation, a non-profit global policy Think Tank, published a paper titled “How Terrorist Groups End”. They stated that effective police and intelligence work, rather than the use of military force, deliver better counter-terrorism results.

Civil society has often highlighted the need for police reform. It has actively participated in police training and sensitization of police personnel towards the vulnerable sections of society, including women, children and minorities. Unless the State takes active measures to introduce reform, these efforts will be in vain. The public realizes that enhanced police training is not enough. Structural changes need to be made to form the Police into a people-centered and people-friendly institution.

Police--Mercenaries of the State rather than Public Servants

Corrupt and incompetent police officers have long been protected by their colleagues, the Police Internal Affairs and the Government. March 13, 2007 shall remain forever etched in the collective memory of the Pakistani people. The deposed Chief Justice of the Supreme Court, Iftikhar Muhammad Chaudary, became the victim of police excess and brutal torture. He was dragged by the hair by police officers stationed outside his residence. The power of the Deep State can be gauged by this fact. Despite experiencing police torture first-hand, the Chief Justice, after being reinstated, was unable to herald or even call for police reform.

Law enforcement agencies rule the roost. They call the shots in a country of 189 million people. Fear and intimidation tactics routinely used by the men in uniform has inculcated fear in the hearts and minds of the people.

We are a country where human rights are disposable propositions to be sacrificed at the altar of national security. And the use of torture is a functional tool to shock and terrorize a



repressed populace. The persistent rise in trends of extra-judicial killings, custodial torture, enforced disappearances, and arbitrary arrests by the State, speaks volumes about the state of Human Rights in Pakistan.

Lahore police are considered the most notorious for police excess. On 3rd December 2014¹, Lahore police baton-charged and injured numerous blind protestors. They were staging a rally on Davis

Road to advocate for their rights in view of World Disability Day. In June, at least 11 Pakistan Awami Tehreek (PAT) workers were killed and over 100 people injured during a clash with police personnel in Lahore. Incidents of police brutality continue unabated. Barbaric laws like Pakistan Protection Ordinance (PPO) and the military courts afford law enforcement personnel additional impunity and unchecked power.



Not even schoolchildren are immune from police brutality. On January 23, 2015 Police transcended their authority. They unleashed cruel and violent behavior on school children. They were demanding that their school, run by a Trust, be re-opened with a non-governmental Administration.

¹ AHRC-STM-020-2015

Torture is a systematic tool of oppression in Pakistan. Fundamental rights are a luxury. They are afforded only to those who are on the right side of the State. Religious and ethnic minorities are overlooked when it comes to ensuring citizen equality. The Punjab police are notorious for their ill-treatment of detainees belonging to religious minorities. Many death-row inmates have accused police of extracting a confession through third degree torture. Torture is the norm. It is the beginning and the end of the judicial process in Pakistan. It is a travesty and miscarriage of justice. In extreme cases it causes the deaths of innocent persons, like Ghulam Brother². By the admission of the Court, many were hanged despite their pending appeals.

In Police custody (legal custody by the State), it should constitutionally and ideally be the safest place for individuals. Yet, for the citizens of Pakistan, it is the most dangerous place. Deprived of all their constitutional rights, the alleged accused is at the mercy of his captors. Political interests and personal vendettas often use the Police to subdue their opponents. Their purpose in torturing is not only to obtain information, but to inculcate fear.

² AHRC-STM-166-2016

The impediment in eliminating torture is that it is considered an indispensable part of police investigation

To state that torture is endemic and rampant in Pakistan would be an understatement. Torture has become a lifestyle. It is a norm that is the beginning and the end of the judicial process in Pakistan. Thousands suffer torture every day--yet they dare not report their ordeal. Law enforcement agencies that are responsible for this torture have been given undue powers to use and abuse persons, through laws such as the Pakistan Protection Act (PPA). As a result, torture narratives by victims read as gruesome and inhuman horror stories

Torture is routinely employed by the Police as the only means of investigation. Rather than beginning an investigation with circumstances and evidence, the police usually start their investigation by arresting and extorting confessions from innocent by-standers. The lack of uniform policing laws has created legal lacunas that hinder the reprimanding of police officers. Those who routinely indulge in torture during investigation do so with no fear of any action being taken against them. Internal enquiry by the police is a farce that does little to curb the tide of custodial torture.

There is also an overall societal acceptance of torture that impedes its eradication. Even senior lawyers and judges feel that torture is sometimes necessary to deal with hardened criminals. The catch 22 lies in defining who is a hardened criminal?

Pakistan pledged to the UN Human Rights Council that it would change its laws to comply with UNCAT. It has instead enacted additional repressive laws such as the Pakistan Protection Ordinance (PPO). These laws will give absolute power to law enforcement agencies, thereby increasing the incidence of torture

¹ AHRC-STM-166-2016

Torture is a manifestation of corruption in the Police Institution

The police stations in Pakistan have become bastions of corruption where torture reigns supreme. Throughout the country, there are some 1300 police stations. Every day at least one person undergoes physical torture in every police station, in addition to the many cases of mental torture. It would be unimaginable for a person who is arrested to be spared physical or mental torture. The top-to-bottom corruption in the policing system has made it impossible for the common man to approach the police for redress. People are afraid to seek help from the police. They would rather not report a crime which results in an increase in the crime rate throughout the country.

Torture is very commonly used for extortion--to demand bribes. Torture and extortion are well connected. Torture is not only used to get information. The purpose is generally extortion. People pay the bribe even if they are tortured, to lessen the degree of torture. After taking accused persons into custody, the police do not formally arrest him/her for several days. They then ask for a bribe to file a case under a bail-able offence. If the bribe is not paid, the person is arrested for a heinous crime. This is the punishment for not agreeing to pay the police the amount demanded.

Until the police internal affairs system starts prosecuting and firing a substantial number of corrupt and incompetent police officers, reforms in the policing system shall remain a distant castle in the sky.

Rapist in uniform

On 6 April 2016, Station House Officer (SHO), Digri Police Station, Badin District, Sindh Province, picked up a 20-year-old mentally challenged woman from her home. Later, on the victim's complaint of rape, an FIR (No. 42) was registered against Digri SHO Mohammad Aslam Jamali, under Section 376 of the Pakistan Penal Code. Jamali was suspended and later arrested. However, with the help of his colleague, he managed to escape from police custody in Mirpurkhas District of Sindh Province.

Proving rape is in itself a difficult task. However, when the law enforcement agencies are involved in such crimes, it becomes next to impossible for the victim to seek and attain redress. Even in most of the cases that garnered media attention, the matter was hushed-up after the initial uproar and media frenzy.

On 3 September 2015, six policemen raped a 22-year-old woman for three days while keeping her intoxicated. The victim told the police that Constable Shahzad Warraich, along with Zulfiqar and his four accomplices, kidnapped her at gunpoint. She said that the accused took her to a hotel and continually raped her after administering intoxicants. She alleged that the accused had taken gold ornaments from her worth Rupees 150,000.

Under administrative jurisprudence, an act of a State functionary amounts to the act of the State itself. The State is responsible to protect and compensate its citizens if he/she is victimized by such actions. But, as there is no semblance of the Rule of Law in Pakistan, the State feels no duty towards its citizens. The status quo, in the garb of democracy, is perpetuating and unleashing terror upon citizens by giving unchecked impunity to guardians of the law. State-sanctioned violence against women and sex-discrimination by law enforcement authorities is a denial of the fundamental right of access to justice to women.

Cases of torture

Death in custody is a common occurrence inside a jail. Sindh Parliamentary Affairs Minister, Nisar Ahmad Khuhro, recently informed the Sindh Assembly that as many as 104 prisoners have died in different Sindh jails in the past three years. The high number of deaths is attributed to natural causes... However, the fact remains that the inhuman conditions prevalent inside Pakistani jails is tantamount to torture, causing inmates to die in large numbers. Karachi Sindh Province Central Prison is notorious for the torture and ill-treatment of their inmates. In 2016, some forty Muttaida Qoumi Movement (MQM) workers were beaten up in the Central Prison in Karachi by para-military forces in order to extract 'favorable' statements from them

The LEA officials deem themselves above the law and one routinely finds extreme cases of torture in custody. In a case reported by the AHRC in its Urgent Appeals³ 03-4-2016, two generations of a family from Punjab Province suffered the wrath of police officials. The crime of the family--they dared to use their civil rights. They complained against police atrocities, torture and failure to retrieve hundreds of thousands of extorted monies from police officials. As a result, the officers threaten that they will be killed in encounters. They want them to withdraw their complaints from the High Court in Lahore, and from other authorities including the Anti-Corruption Directorate.

This case is a classic example of how the criminal justice system in Pakistan fails to protect the rights of its citizens from abuse of power. A family is made to suffer the wrath of police officers who think of themselves as above the law. They are free to perpetuate atrocities in the name of maintenance of law and order. This case is also an example of how police from different police stations unite to protect their brothers in uniform.

³ AHRC-UAC-034-2016

Half Fry, Full Fry Modus Operandi

“Half-fry” and “full-fry” are terms used predominately by police in the interior parts of Sindh Province. They are code words for extra-judicial killings or injuring a suspect to cripple him. The use of the term “full-fry,” to indicate extra-judicial killings, showcases how common and open this extreme practice by law enforcement officials has become. Judges and murderers all rolled into one! Extra-judicial killers, in uniform, have been using the pseudonyms of ‘half-fry’ and ‘full-fry’ to indicate the physical condition of a suspect.

Police in Sindh consider encounter killings as the perfect way of getting rid of hardened criminals. They do not consider it a gross violation of human rights. Instead, they see it as an effective way of delivering justice.

On 7 March 2015, in a press briefing that was recorded by *Dawn* newspaper, the Deputy Inspector General of Sindh, Sanaullah Abbasi, claimed that extra-judicial killings are the best modus operandi to curb crime. A Government Official said that...

“Extra-judicial killings and other actions cannot be justified officially. But society has come to accept this ‘modus operandi’ of the police to eradicate crime and make the streets safer. It is not necessary for an encounter to be seen as genuine, only if a policeman loses his life in it. You can see that the police have restored peace and order in the city through this modus operandi.”

The AHRC reported the case⁴ of a “half fry” in October 2015. A psychiatrist, Dr Deepak Raj, was maimed for life by police officers, who mistook him for a wanted criminal. Dr. Deepak Raj, was shot in the leg with 12 bullets. He lost the leg. His other leg and arm were badly damaged. Dr. Raj was grilled by the police in relation to the Hyderabad police assignment. They were given the task of arresting or killing a notorious robber, Shareef Panhwar, who has a bounty of Rupees 2.5 million on his head.

Dr. Raj is currently under treatment at the Jinnah Post Medical Centre, Karachi’s largest, state owned hospital. He has lost his means of livelihood and has been maimed for life. The police officers admitted their mistake and have been paying for his treatment. However, after media reports circulated, they stopped paying his medical bills. Influential officers have threatened to withdraw all financial support if Dr. Raj takes his case to the media.

Update on Anti-Torture bill

Despite its obligations under UNCAT to enact an Anti-torture law, the Pakistani government has been dragging its feet in promulgating such an Act. The AHRC has been very vocal on the conspicuous absence of this law and has been lobbying for its enactment for some time. Due to the lack of political will, the Bill has not received presidential approval. The Senate passed the Anti-Torture Bill with some changes in the AHRC proposed bill. The Bill against custodial torture has been pending before the National Assembly since 2015. It is has been waiting for final approval from both houses of Parliament. Despite a two-thirds majority, the ruling party, PML-N, has resisted putting the Bill up for discussion. It is said that the security establishment does not want to pass an Anti-torture Law. Although the Senate has passed the Bill, it cannot be implemented until both houses pass it.

⁴ AHRC-UAC-123-2015

Extra-Judicial Killings

Extra-judicial killings and deaths in custody are the norm. The AHRC reported⁵ the death in custody of a 20 year old man. In January 2015, Syed Faraz Alam, was illegally detained for five days and was severely tortured to obtain a confession. He was arrested officially after five days of illegal detention. The post-mortem report on the deceased revealed severe torture marks on different parts of the young man's body. Police say he died of a heart attack when his case was taken to Court.

A similar incident concerns Mr. Anisur Rehman Soomro, 17 years old, the son of Mr. Anwer Soomro. He was a 10th grade student, and a Sindhi national. He was arrested and illegally detained for eleven days. He was tortured in full view of his father after demands were made for a large sum of money. Later, he was shot dead by the Police on the pretext that he was a member of the Taliban. According to his father, the enraged police officer had taken the boy and three other young men, to an Afghan refugee camp in late afternoon. He shot the boy, point blank, killing him on the spot. The police released a statement saying that the killing had taken place in a skirmish with Taliban forces. Explosives were recovered from their possession, following the incident. The AHRC has regularly been reporting on incidents of extra-judicial killings at the hands of the Police. See Urgent appeals [AHRC-UAC-069-2014](#); [AHRC-UAC-105-2014](#); [AHRC-UAC-097-2014](#); and [AHRC-STM-238-2013](#)

Throwing the notion of civilized governance on the back burner, the State is pro-actively coming down hard on all dissenters. Not even social media activists and bloggers are safe anymore. The recent spate of enforced disappearances of five, left-wing activists has sent a wave of terror across the country. Not even those supporting these activists on social media and micro-blogging sites were spared. On 17 January 2017, a student at the University in Lahore, Punjab Province was tortured. He was confined for over three hours by activists of a religious-political Student Union for tweeting for the safe recovery of the missing bloggers

⁵ AHRC-UAC-004-2015

Impunity

The State routinely indulges in torture and ill-treatment with complete impunity, although it is a signatory to UNCAT and other international conventions. Despite torture and ill-treatment being extremely rampant, the State denies all involvement. It maintains the false stance that the victim is lying to absolve himself of criminal charges. The Courts, especially the lower judiciary, in cases of alleged torture, are particularly susceptible in allowing erring officers of Law Enforcement Agencies to go scot free.



Recently a case of police torture was reported from Gigit Baltistan. It was initially reported by the Pakistan desk at the AHRC⁶ and later taken up by the International Press. The victim, Mr. Shabbir Hussain, son of Jaffer Ali, is a resident of Chalat Bala district Nagar. He was beaten causing severe bruising for refusing to heed a Jirga verdict. Mr. Hussain had a dispute with his cousin, Fida Ali, on the use of common space between their houses. While Mr. Shabbir was in

Dubai, the dispute was presented before a Jirga of local elders who ruled against him.

Because of the Jirga verdict, Mr. Shabbir was required to make major changes inside his house. This took time, infuriating Fida, who lodged a complaint at the Chalat police station. According to the police account, Mr. Shabbir was asked to visit the police station a number of times. He refused to oblige. On 26th June 2016, the police invaded his house. He was arrested without a warrant, taken to the police station, illegally detained and beaten with long sticks by Constable Iftikhar and Station House Officer (SHO) Iqbal.

⁶ AHRC-STM-119-2016

Another example of Pakistani Police negligence is that of Nasira Parveen, a 50 year old victim of police torture, **excessive** and inhuman torture. She has been seeking justice for the past six years. The Pakistan desk at the AHRC has followed up her case through several Urgent appeals.⁷

On April 2016, Ms. Nasira Parveen, attempted self-immolation after her case for action against the Station House Officer, Kasowal Police Station, Punjab, was dismissed by a civil judge. The delinquent officer was exonerated of all charges. Disheartened by the injustice, Nasira poured petrol over herself, but accidentally set the courtroom door on fire. This was Nasira's third attempt to kill herself. The victim has been seeking redress for the past 6 years, despite the odds. Needless to say, the judicial system has failed her at every step. Frustrated by the incessant injustice meted out to her, Nasira had been forced to take dire steps to protest against the injustice.



⁷ AHRC-UAC-148-2015

Police Excesses On Transgender Communities



There are an estimated 500,000 ‘third-gender’ citizens in Pakistan, including cross-dressers, transsexuals, eunuchs, hermaphrodites, and transvestites. They are regularly harassed by the police. The police of the conservative province of KPK easily resort to violence against vulnerable communities. In July 2016, the AHRC issued an Urgent appeal reporting the rape of seven transgender persons⁸. They were arrested and reportedly sexually abused by the Cantonment police in Nowshera, KP

Province. They were in illegal confinement for almost 10 hours (a whole night) and forced to dance in front of the policemen. The Inspector General of Police (IGP) refused to take action against Station House Officer (SHO). He forced the transgender persons to expose their body parts during the dance and if they refused-- tortured them. According to media reports, the transgender persons accuse the police of raping them and making jokes about them.

On 17 February 2016, the AHRC reported⁹ on a group of armed men. They were led by a member of the Khyber Pakhtunkhwa Elite Police Force, who forcibly entered the house of a transgender, Human Rights Defender, Chocolate. They attempted to kidnap her. Chocolate is a Human Rights Defender and joint secretary of the Transaction Alliance. It is a group defending the rights of the trans-communities in the Pakistani province of Khyber Pakhtunkhwa (KPK).

When Chocolate tried to register an FIR at Gulbahar police station, the police officer at the station refused. Instead, he only entered the incident in the Roznamcha (a temporary file where cases are registered and can only be investigated upon the court’s order). He refused to include that the group of men were led by a member of the Khyber Pakhtunkhwa Elite Police Force.

⁸ AHRC-UAC-092-2016

⁹ AHRC-STM-023-2016

Minorities and the Desensitized Police of Pakistan

The failure of the State is not only in failing to provide protection to religious minority groups. It is also failing by providing patronage to killers of minorities by not investigating the murders. Personnel in the Police and other Law Enforcement Agencies are so biased that they avoid investigating murders of a member of a minority community.

In Sindh, Police have failed to protect minorities by not taking any effective action. They left the Hindu Community with two choices--barricade themselves in their homes or migrate to Karachi or Punjab. The AHRC reported on the escalating violence that engulfed the city of Daharki in the interior of Sindh. On the pretext of blasphemy, two innocent Hindu youths lost their lives, as the police watched on as silent spectators.¹⁰ No effort has been made by the Pakistan Government to sensitize the Police on vulnerable religious and ethnic communities. Religious minorities particularly the Ahmedis suffer the wrath of the police who often blatantly refuse to register the case of a murder of an Ahmedi victim.

In December 2016¹¹, an Ahmadi place of worship in Chakwal district of Punjab province was attacked by an enraged mob. The mob, armed with batons and weapons, threw stones and fired inside the premises. The mob was "attempting to seize Ahmadiyya property". The police allowed the mob to besiege the Mosque. The attackers later burned the property and rugs within the building to "bring it under Islamic influence

¹⁰ AHRC-STM-112-2016

¹¹ AHRC-STM-191-2016

Observations

The demand for re-engineering and overhauling the criminal justice structure in Pakistan is capricious without reforming the policing in the country. Logical steps should be taken when resolving any issue. This entails first recognizing the existence of the problem. Secondly, correct identification of the core problem area is essential. By contrast, the demands for reform in the policing structure have always been made without identifying the ill will within the system, that is corruption and politicizing. They have eroded the foundation of the policing system in Pakistan.

In 1947, Pakistan inherited an eighty-year-old British police system. Designed in 1861, it was a tool that was aimed at frightening the public. The colonial-era policing, though apt for its time, has not kept pace with the complexities of modern urban crimes. Meddling in police affairs by the bureaucracy and politicians has contributed to difficulties in keeping crime in check.

Pakistan's 18th Constitutional Amendment of 2010, provided that the Police formally became a Provincial subject. Today, the amended Police Order, 2002 is operational in two Provinces--Punjab and Khyber Pakhtunkhwa (KP). The other two Provinces, Sindh and Baluchistan, have brought back the Police Act of 1861!

The AHRC Pakistan Desk recommends the following:

1. The Police Order of 2002 was not implemented throughout the country. This was due to resistance from the Police, bureaucracy and political leadership. This lack of political will can be resolved by political CONSENSUS. This should ensure that all political parties are participating. Only then can they arrive at an Administrative Decision to finally promulgate the order and clear up the ambiguity.

2. Structural changes are required from the Constabulary to the Inspector General of Police (IG) level within the Policing System. As most of the appointments are made on a political basis, the Police are resisting the reform. It would seem that the first step towards reform should come through de-politicization. The State should refrain from using the police force as its mercenary. All appointments and promotions should be made through a public, transparent system of vetting to select the most eligible, competent and deserving officer.

3. Community participation in policing should be made through citizen policing-committees (aka complaint and liaison committees). These committees could be set up in each district to ensure that all questionable police actions are reviewed by a board. Ideally, it should be comprised of retired civil servants, retired senior police officers, legal practitioners and academics of impeccable character and reputation.

4. Officers, no matter how good their performances were, who used tortured or abetted torture, should never be promoted. Rather, they should be blacklisted by Compliant and Liaison Committees.

5. Installing CCTV in interrogation rooms and making it compulsory for officers on duty to wear a body camera, should aid in keeping the incidents of torture in check.

6. To bring down the trend of corruption in individual policemen/women, the Committee will be tasked to check on the financial statements of police staff in their jurisdiction.

7. Priority for positions should be given to neighborhood residents of the Province. Appointments of a local police officer will benefit the public, as they have a better understanding of the neighborhood and its law and order situations.

8. The practice of giving unchecked powers of Law and Order to the police and para-military forces in emergencies should be abolished. Experience shows that all-out police action can further escalate tension and violence. All such action should have prior approval from senior officers. They should deliberate with the District Liaison Committee on possible consequences. Only then should police actions be taken in unavoidable circumstances.

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The Asian Human Rights Commission (AHRC) works towards the radical rethinking and fundamental redesigning of justice institutions in order to protect and promote human rights in Asia. Established in 1984, the Hong Kong based organisation is a Laureate of the Right Livelihood Award, 2014.

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