

ASIA REPORT 2015



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PAKISTAN

From the Frying Pan, to the Fire



INTRODUCTION

As the year 2015 began, the country was reeling from the massacre of 145 school children of an Army public school in Peshawar. And, instead of instituting a judicial inquiry commission to probe the security lapses of the Pakistan Military, the government succumbed to the security establishment. What followed was a constitutional amendment, institution of military courts, and other retrogressive unilateral decisions.

The government implemented draconian security measures and came up with a 20 point action plan with the stated objective of curbing militancy. In the first phase of implementation, the government lifted the moratorium on death sentences, with effect from 27 December 2014.

The establishment of military courts further corroded the institution of democracy which stands on the principles of trichotomy of power as envisaged in the Constitution. These courts are given all-encompassing power to hold in camera proceedings, setting aside due process and the right to fair trial. The plan has served little purpose to curb the tide of militancy, as the high incidence of violence and terror attacks continue.

Karachi, the capital of Sindh province and the largest industrial city of the country, continues to witness extrajudicial killings while Punjab Province topped the crime rate list in the country. The systematic persecution of religious minority groups continues amidst prevailing anarchy across Pakistan.

The threat of terrorism in Pakistan has been augmented further. Reports of the Islamic State's (ISIS) presence in the country have emerged. Government officials have disclosed that over 600 hardcore terrorists have been arrested since 15 February 2015. Of these 600-plus terrorists, 320 belong to the Taliban (TTP), while 311 have links with the Lashkar-e-Taiba (LeT), Jaish-e-Muhammad (JeM), and Hizb-ut-Tahrir (HuT). Significantly, however, the top leaderships of LeT and JeM continue to roam free, and in many cases, their actions are patronized by the State agencies. The selective counter insurgency measures taken up by the State apparatus are destined to fail, given close and enduring ties with terror formations thriving on Pakistani soil.

While terrorists thrive, extrajudicial killings by state agents are protected and encouraged by the law known as the Pakistan Protection Act (PPA), which provides absolute authority to law enforcement agencies, including military organisations, to shoot at sight any suspect, keep them in custody for 90 days, and torture them to get confessional statements. Since the promulgation of the ordinance in September 2013, daily, on average, at least two persons have been killed in encounters in Pakistan.

Additionally, Pakistan has suffered several economic losses worth billions of dollars due to natural calamities in recent times. The National Disaster Management cell has failed to provide much needed support to affected families who found themselves stranded, left to fend for themselves. Then, the worst heat wave ever in the history of the country hit the Sindh Province in July, with Karachi being the worst affected. More than 1,000 people lost their lives – many due to preventable causes. State apathy has thus been on full display in 2015.

Attack on NGOs

On 12 June 2015, international NGO Save the Children, with over three decades of presence in Pakistan, was given a 15-day ultimatum to wind up operations in the country. Following immense

international pressure, the Pakistani government backtracked from the order. The ban came in the wake of accusations linking the aid agency to a fake vaccination programme used in the hunt for Osama bin Laden.

The government of Pakistan is presently mulling the ‘Foreign Contribution Act, 2015’, to regulate NGOs working in the country and to closely monitor their operations. The Bill was initiated in 2013, but was not implemented due to the apprehension of several NGOs. The government’s motive in banning ‘Save the Children’ was not clear, with differing official statements. But many development experts cited economics as the real motivation to rein in INGOs.

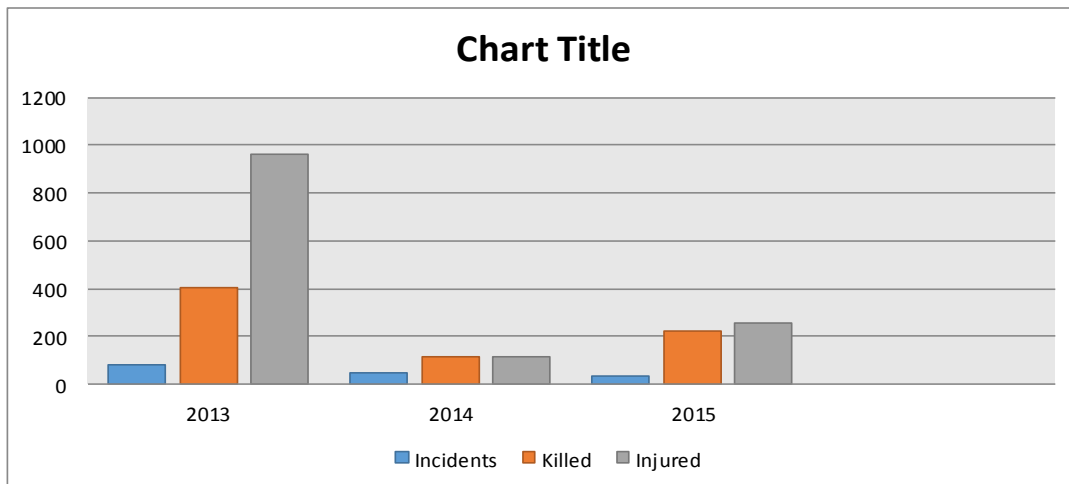
The proposed Foreign Contribution Act is in violation of a UN Human Rights Council resolution of 21 March 2013, which bars governments from putting restrictions on Civil Society Organizations’ access to foreign funds. NGOs in Pakistan are formed independently of the State but get registered voluntarily, in order to obtain authorization to pursue activities intended for public benefit.

Sectarian Violence



The unraveling of the social fabric, combined with sectarian fault lines, has caused unrest and anarchy in the State of Pakistan since inception. The year 2015 was no exception; the people of the country continued to suffer sectarian, ethnic, and religious discrimination at the hands of the powerful and mighty.

On May 13, at least 45 Ismaili Shias¹ were killed and 24 others were injured when unidentified militants opened fire on their bus in Safora Chowrangi area near Dow Medical College in Gulshan-e-Iqbal Town of Karachi, the provincial capital of Sindh. According to media reports, six unidentified assailants on motorbikes opened fire on the bus from all sides.



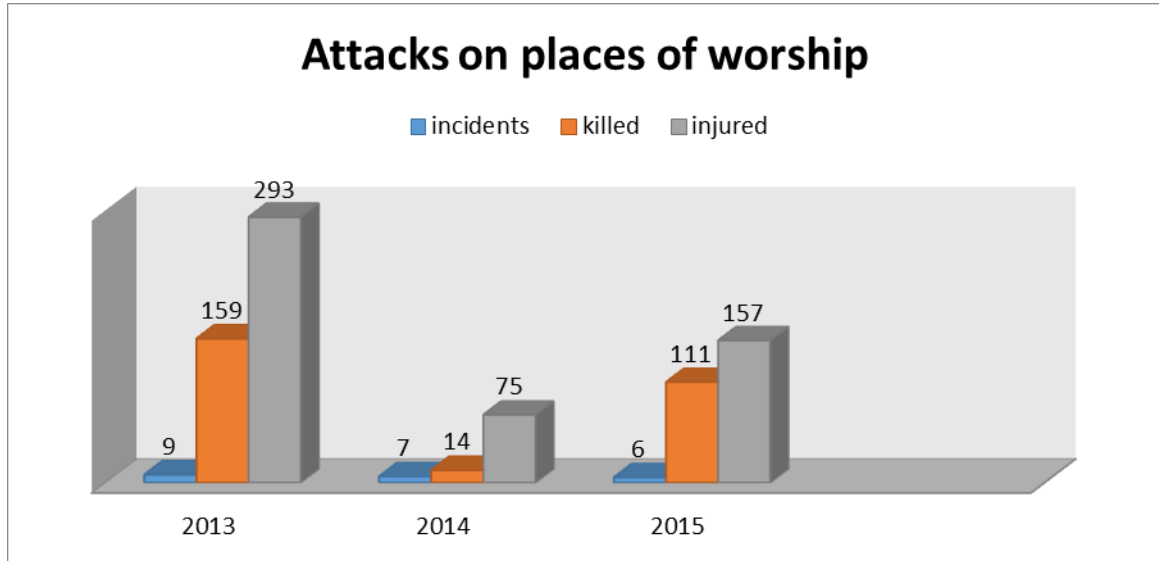
<http://www.satp.org>

¹ <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-076-2015/>

Attacks on Minorities

Religious minorities were persecuted in the year 2015. An increasing number of minority families were forced to flee Pakistan. Minorities, especially Christians, Hindus, and Ahmadis, are being subjected to mass violence, terrorist acts, and abuse of blasphemy laws.

On 13 February 2015, at least 22 Shia persons were killed and another 50 were injured during a gun and bomb attack at an Imambargah in Phase-5 locality of Hayatabad area in Peshawar, the provincial capital of KP. Suicide attackers and gunmen, dressed in police uniform, attacked worshippers offering Friday prayers.



<http://www.satp.org/>

Blasphemy

Minorities continue to bear the brunt of mobs ever eager to band together and attack them on the mere rumour of blasphemy. Mob justice is meted to anyone who dares disagree with the local pesh imam or feudal lord; many a times blasphemy is alleged as a tool to seek vendetta. And, blasphemy charges are hard to fight because the law does not clearly define what is blasphemous. Political parties themselves use blasphemy laws to trick the public, expand vote banks, and please religious groups. Those accused of blasphemy are often lynched and their lawyers have frequently been attacked. Judges have been threatened and attacked for dismissing cases and many of the accused face years in jail as their trials drag on.

On 15 March 2015, the Christian population of Youhanabad, Lahore, was attacked on charges of committing blasphemy. In that attack, 22 persons were killed and two Muslims ended up getting burned. The government, instead of arresting the attackers, arrested 15 Christians on charges of burning alive the two Muslims.

On 24 May 2015², a mob opened fire, and threatened to kill Christians in Dhup Sarri, Sanda area of Lahore, after Humayun Masih, 27, was accused of burning pages of the Holy Quran.

² <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-063-2015>

According to the details gathered, a Christian man, Humayun Masih, alias Faisal, was accused of burning the Holy Quran.

On a Sunday afternoon, Humayun, who is mentally unstable and a drug addict, was burning some newspapers that had printed on them holy verses. Some Muslims at the spot saw him doing this and caught him. The group took him to the Gulshan-e-Ravi Police Station for lodging an FIR. The angry mob blocked the road to protest against Christians, and demanding that the accused be burned alive. The mob soon became violent and began attacking the area, opening fire, ransacking churches, burning houses, and threatening the residents. St. Joseph Church was also subjected to vandalism.

Freedom of Press

According to the freedom index, released by Reporters without Borders, an advocacy group working for media freedom around the world, Pakistan is ranked 159 out of 180 countries. The International Federation of Journalists has cited Pakistan as being the most dangerous country for journalists in the world, with 14 journalists killed in 2014 alone.

On 26 July 2015, *Geo News* Bureau Chief, Fahim Siddiqui, was abducted and subjected to torture before being dumped in Manghopir, the outskirts of Karachi.

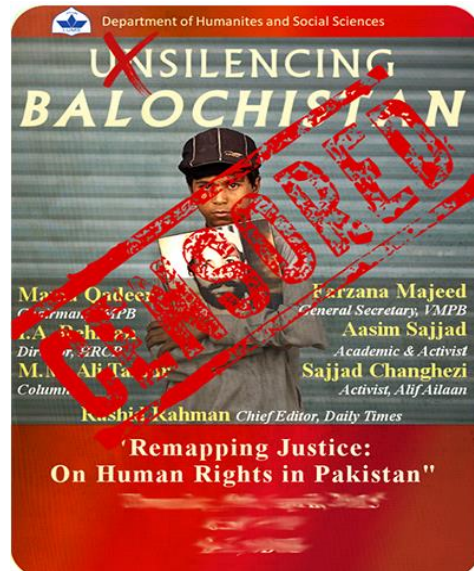
On 29 April 2015, Yasir Rizvi, a prominent journalist and professor at Karachi University was gunned down in his car outside Karachi University. The murder occurred just four days after media and human rights activist Sabeen Mahmud was gunned down in Karachi, immediately after she organized a discussion about violence in Baluchistan. Both the murders have gone unpunished. Four unidentified attackers on two motorcycles opened fire on Rizvi’s car.

In the last two years, Pakistani media and digital platforms have seen an increase in restrictions imposed by both state and non-state actors. Some of these restrictions are directly imposed and some are an indirect result of prevailing impunity for state and non-state actors, who threaten and attack journalists and bloggers for political or ideological expression.

Freedom of Speech

Public discourse and free speech is officially banned. The State is enacting more laws to restrain free speech, such as The Prevention of Cyber Crime Act 2015, to add to the climate of suppression that has engulfed Pakistan with the ad hoc enforcement of black laws such as the Protection of Pakistan Act 2014 and the harsh blasphemy laws.

Freedom of expression is stifled in electronic and print media, especially in the vernacular press, which has deeper penetration among the masses. The government maintains a contemptuous stance on civil liberties, freedom of the press, and free speech. Freedom of expression as guaranteed under the Constitution has repeatedly been suppressed in the name of national security or the



glory of Islam. Writing or speaking against the Military, particularly the ISI (Pakistan's intelligence wing) has been considered taboo and no media house dares to cross the line.

On 16 April 2015, the Vice-Principal of a medical college in Karachi, Ms. Debra Lobo, an American national, was shot and seriously injured. And, on 18 September 2014, a Muslim scholar Dr. Muhammad Shakil Auj, who had been accused of blasphemy in relation to a speech delivered in the United States, was shot and killed in Karachi. He was the Dean of Islamic Studies at Karachi University. It is pertinent to note, the deceased, Dr. Waheed Rehman, completed his PhD under guidance of Professor Auj.

On 24 April 2015, Sabeen Mahmood, the Director of T2F, a popular gathering place for poets and intellectuals in Karachi, was shot dead by unidentified assailants. She was killed for hosting the lecture on Baluchistan at T2F that was previously cancelled at LUMS. Sabeen, shot five times, died on the way to the hospital, while her mother sustained critical injuries. Sabeen was very vocal about the problems of Baluchistan and had gone ahead with the event titled "Un-silencing Baluchistan Take 2", despite having received death threats. Though a number of journalists and outspoken activists had been targeted earlier, the intelligence agencies intended to send a clear message by killing Sabeen. They have sought to instill fear in the upper and middle-class citizens who have more recently become politically vocal for rights and equality. They have wanted this group to remain silent. The killing is thus a direct attack on freedom of expression.

On 6 March 2016³ Vice Chairperson of Voice of Baloch Missing Persons (VBMP) , Mr. Abdul Qadeer, known as Mama Qadeer, General Secretary, Ms. Farzana Majeed and one activist, Ms. Faiqa Baloch were barred by the government from proceeding to New York, USA, to attend a conference on human rights violations in Baluchistan and Sindh. The government has put the names of Mama Qadeer and Farzana Majeed abruptly in the Exit Control List (ECL) without mentioning the reasons to bar them from travelling outside the country. Barring Mama Qadeer and others from attending the conference is a clear violation of ICCPR, Article 12 and has been condemned as a curb on freedom of speech by rights activists.

Prevention of Electronic Crime Bill

The Prevention of Electronic Crime Act (PECA)⁴, which has been sent to the Parliament for approval and which has been severely criticized by civil rights activists, can prove to be the last nail in the coffin for freedom of expression in Pakistan. Such draconian laws will make it impossible for citizens to express their views without fear of repercussion or backlash from law enforcement agencies. What is even more alarming is that the country's Judiciary, the bastion of equality and protector of fundamental rights, is becoming a party to the injustice.

Women's Rights

According to Thomson Reuters Foundation poll⁵, Pakistan is the third most dangerous country for women after Afghanistan and Congo. The report cited cultural, tribal and religious practices harmful to women, including acid attacks, child and forced marriage and punishment or retribution by stoning or other physical abuse as a reason for the ranking. The report also stated that 90% of women in Pakistan face domestic violence.

³ <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-036-2015>

⁴ <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-174-2015>

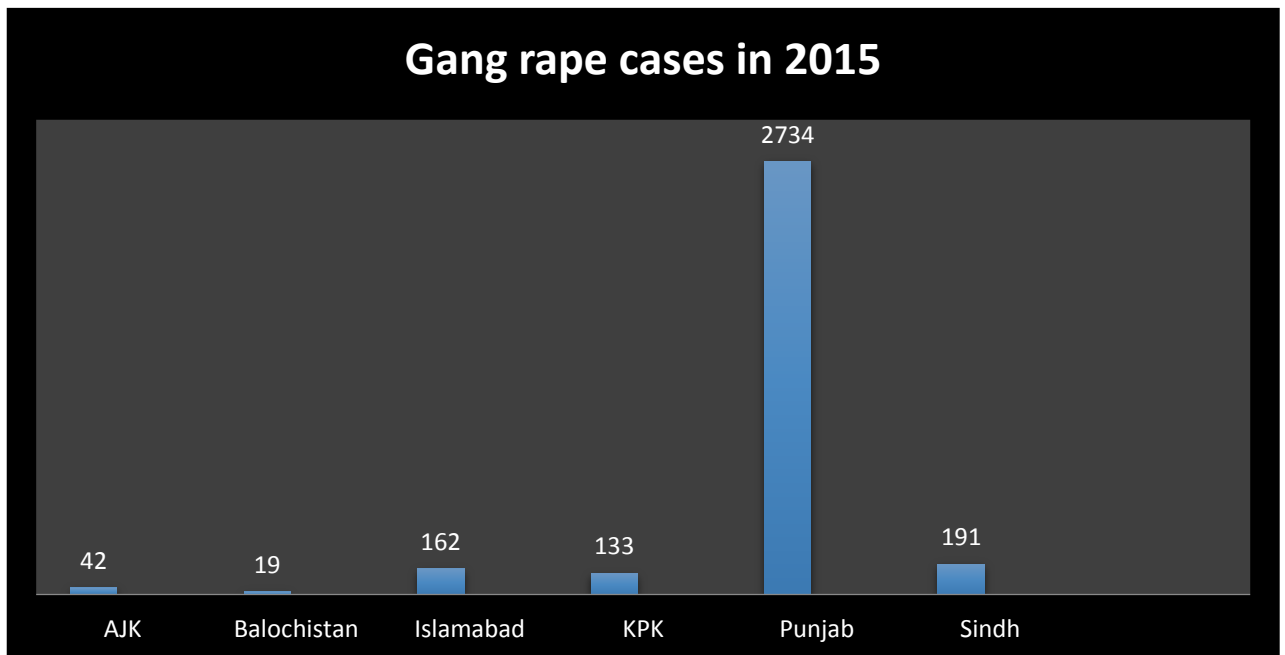
⁵ <http://tribune.com.pk/story/189294/pakistan-ranks-3rd-on-list-of-most-dangerous-countries-for-women>

In a so-called Islamic state like Pakistan, rape is a punishable crime, with a zero conviction rate. The true intentions of the State and its people are exposed in a land where a rape occurs every two hours and a gang rape every eighth hour. The unavailability of justice is why we see victims attempting public self-immolation. No implementation of the law has resulted in rampant rape and further led to an indescribable social chaos, where the new normal is horrific.

In recent years, in gang rapes, the rapists have been filming the act, and have later been threatening the victim with dissemination of the video if he or she dares to report the crime.⁶ As there is no specific law to force websites to take down videos, and there is a lack of political will, victims are usually silenced, bowing to the demands of the rapists.

On 26 February 2015, *BBC News* reported the case of a teenage girl from rural Punjab who was subjected to gang rape and then the rapist had posted the video of the crime on social media. The video showed her being raped by four men, while she pleaded for mercy. It spread rapidly through the towns and villages of Punjab. The video was circulated freely while Pakistan Telecommunication Authority (PTA) did nothing to take down the video. This is the same PTA that had blocked YouTube in Pakistan for the past two years.

The official figures however, hardly scratch the surface of the deep rooted problem; the actual figures can be much higher as many incidents go unreported.



POLICE

The Corruption Perception Index each year shows the police to be the most corrupt institution in Pakistan. There is no sign of improvement. The Khyber Pakhtunkhwa Provincial Police is said to be working actively towards efficiency, but the results of the effort are yet to be seen.

⁶ <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-170-2015>

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 countries. The Supreme Court of Pakistan has taken initiative and must be supported by all proponents of police reforms seeking an end to the thana culture that perpetuates custodial torture.

The former Supreme Court Chief Justice Jawwad S. Khawaja, while hearing a case on 20 August 2015 reportedly 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 also said, “If any police office[r] is involved in any crime, his fellow policeman declares him innocent within 3 days and frees him. We will have to introduce reforms in police on the pattern of Scotland Yard.”

The latest Directive of the Supreme Court for implementing police reform might be the first step towards achieving police reform; it can be hoped that the State will take serious measures to implement one single Act to regulate the police institution and earnestly depoliticize the force to ensure transparency and accountability in the police force.

Torture



Aftab Bahadur Masih (AHRC File Photo)

In Pakistan, the justice system is riddled with gaping problems related to fair trial and with conviction after conviction based on statements extracted by the police through torture and other forms of ill-treatment. A staggering proportion of the accused have reported facing custodial torture, which is a serious indictment of due process of law in Pakistan and the fairness of its criminal justice system.

In Pakistan, the investigation process that relies heavily on torture has caused miscarriage of justice in several cases. A recent case is that of Aftab Bahadur Masih.⁷ He was implicated in the crime by his co-accused Ghulam Mustafa, who later maintained that

he was tortured into “confessing” to Aftab’s involvement in the crime while in police custody. Aftab Bahadur was sent to the gallows on 10 June 2015 despite pleas of mercy from different rights groups. Before his death, Aftab Bahadur wrote a heart-wrenching letter depicting his trials and tribulations at the hands of the criminal justice system⁸.

Half Fried, Full Fried

The formation of the Apex Committee in Sindh Province, ushering an increased presence of the Military and the Pakistan Rangers, has made the terms “half-fry” and “ full-fry” common in the ranks of the police and other law enforcement agencies.

⁷ <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-083-2015>

⁸ <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-082-2015>

The term half-fry is colloquial for maiming a person for life. For example, if officers are convinced that the arrested suspects are involved in crimes, they will shoot the suspects in the leg to render them disabled before they are sent to jail. This practice of maiming suspects gained notoriety during the tenure of former SSP Farid Jan Sarhandi of Hyderabad. The term “full-fry” on the other hand is used when the person is extrajudicially murdered.

The use of the term “full-fry” to indicate extrajudicial killings showcases how common and open this outrageous practice by law enforcement officials has become. According to media reports, during the first six months of 2015, about 26 persons have been “full fried”, whereas 120 persons have been “half fried”.

On 10 April 2015, a psychiatrist from Sindh was half fried by police officers, who mistook him for a wanted criminal. Dr. Deepak Raj⁹, a psychiatrist, lost his leg, which received 12 bullets, while his other leg and arm were also badly damaged. Dr. Raj was grilled by the police in relation to the Hyderabad police being 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 had been paying for his treatment. However, they have stopped paying his medical bills after media reports circulated. The influential officers have threatened to withdraw all financial support if Dr. Raj takes the case to the media.

On 26 June 2015, a final year student in University named Toqier Mashori¹⁰, was tortured to death in the Central Prison of Hyderabad, Sindh, within three days of his arrest. His family was asked by the police and prison authorities to pay large bribes for Mashori’s relief or else he would be “full fried”.

Two of his fellow students were released after they paid the bribes. The victims were taken in custody on charges of impeding the official duty of the police. However, when the family could not comply with the bribe demand, Mashori was booked in a case for drug peddling. The victim was continuously tortured for three days, up to 18 hours a day. The torturers put him in conditions of scorching heat and beat him mercilessly. His corpse bears the marks of torture. Senior police officials pressured the family to bury the corpse, without conducting a post mortem.

In August 2015, the Asian Human Rights Commission (AHRC) received information regarding the arbitrary arrest, illegal detention, and torture of two young men by the Jacobabad District Police, Sindh. One of the victims, Mohammad Suleman Shah, aged 32, was a schoolteacher. The Magistrate Court refused to take action against the police officials despite evidence of torture. The Jacobabad police, notorious for illegal arrest, extortion, and killing of detainees in fake encounters put *choona* (lime mortar) in the mouth and nose of the victim to force him to pay a bribe of Pakistan Rupees 250,000.

In another case, the Jacobabad Police illegally arrested another jobless young person, Naveed Ahmed, and “half fried” him when he could not arrange the bribe amount. They shot at his knee inside the Police Station and portrayed this event later as an encounter. The man has been disabled for life. The Magistrate Court refused to take action against the police in this case as well. Local citizens say the District Police Officer (DPO) is influential, and that he declares every

⁹ <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-123-2015>

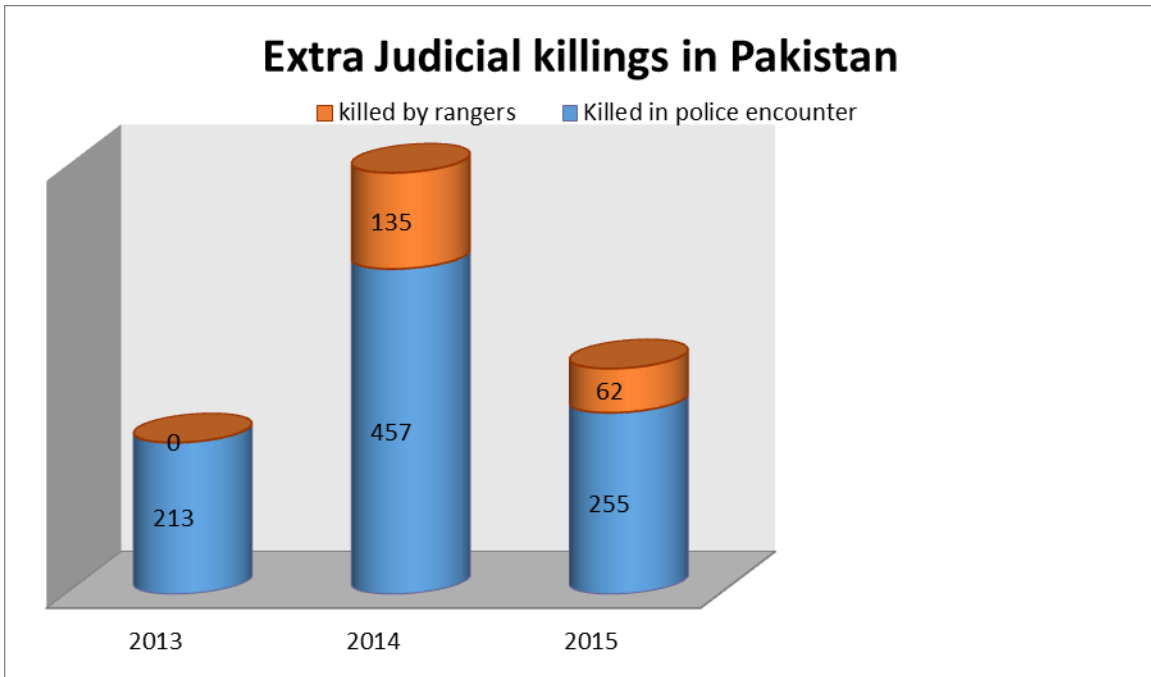
¹⁰ <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-081-2015>

such encounter as action against terrorists, and puts pressure on the Judiciary through his political connections.¹¹

Extrajudicial Killings in Karachi

According to a report released by the Human Rights Commission of Pakistan, 318 people were killed by the law enforcement agencies in the first six months of the year 2015, while, during the same period in 2014, this figure stood at 258, reflecting an increase of 19% in 2015. Of these 318, 255 were killed in an encounter with the police and 62 in a shootout with rangers. According to the families of several alleged victims, security forces have carried out mass arrests, and some of those detained have faced a stark choice: pay or be killed.

A senior police officer, Rao Anwer, who has allegedly killed 60 people in a single fake encounter, was quoted by Reuters¹² to have stated that “This is a state of war and there are always gray areas in such matters. When the justice system fails to convict suspects then these things happen.”



The ‘Karachi Targeted Operation’ was initiated by the Federal government, in partnership with the Sindh provincial government, on 5 September 2013. The Pakistan Rangers have been given powers of arrest and detention of suspects, including powers to shoot at sight. To monitor the operation, an apex committee has been formed consisting of personnel from the Military, Rangers, State spy agencies, and the Sindh government, including the Chief Minister and the Governor. The result is that the police and LEA have bypassed every legal method to maintain law and order, and have been using brutal force.

¹¹ <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-103-2015>

¹² <http://www.reuters.com/article/2015/08/10/us-pakistan-police-killings-insight-id>

The French News Agency, AFP, in a report on March 30, has stated that “rights activists and medical examiners who have followed the killings closely voice grave doubts and concerns. At the city's main Jinnah Hospital, a senior official who asked to remain unnamed pointed out that most victims of “fake encounters” have telltale signs quietly ignored in reports¹³:

“Most of them are gunshot wounds. It's usually not from an actual fight. The question to be asked is if 10 people were killed, why wasn't a single cop shot? Why wasn't a single cop injured?” the official said. Another medical official with extensive experience of the cases said victims were often shot at close range through a piece of tyre, which shields the body from residue and gives the impression the shot was fired from a distance.”¹⁴

Child Rights Violated

Children in Pakistan are most vulnerable and prone to being beaten, sexually exploited, forced into bonded labor and murdered. Child sexual abuse in particular cripples Pakistan and its future. Cases go unreported as the subject is taboo and attracts the wrath of the religious clergy. Sexual abuse is perceived as shameful and hence hundreds of innocent children live their lives in the shadow, reliving memories and trauma of the assault.

Worst of all, no matter how heinous the crime, few victims in Pakistan want to report the incident to the police, and this is the tragedy of the nation. The nature of the police and the justice system that awaits the victims, is the foremost reason why such crimes go unreported and unpunished.

The country witnessed the unearthing of the worst child abuse scandal¹⁵ this year in Kasur District. More than 200 children were filmed while being sexually abused from 2009 onwards, and the kind of policing in the area ensured that the perpetrators continued destroying innocent lives. The victims were between the ages of 8- 14 and the gang used to extort money from the victim or his or her family, threatening to leak the videos if they didn't meet the gang's demand. In one instance, the father of one of the victims was blackmailed into paying PKR 1.2 million to the abusers, who had threatened to release a video of his son being raped.

Baton-Charging School Children

On January 23 police¹⁶ transcended their authority and baton charged school children, who were demanding that their school run by a trust be reopened and administration of the school not be handed over to the government.

The students of Government Islamia High School near Bhati Gate Lahore, along with their parents, were protesting outside the school against the school's takeover by the government.



¹³ <http://tribune.com.pk/story/861178/targeted-operation-anger-in-karachi-over-staged-executions/>

¹⁴ <http://tribune.com.pk/story/861178/targeted-operation-anger-in-karachi-over-staged-executions/>

¹⁵ <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-135-2015>

¹⁶ <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-020-2015>

According to one of the students “the police charged upon us unprovoked”. The police officers, according to several eye witnesses, baton charged, without any discrimination, resulting in injury to student Fahad Ilyas. His father was, however, later forced by the police to take back his statement that his child was injured due to police excesses. Police officials later said that the child’s father had given Bhati police a written statement that his son had been injured in the melee that had ensued after police clashed with the protesters. He said that he did not want to pursue an inquiry against the policemen.

Honor Killing

Honor killings maintained their occurrence in Pakistan, aided and abetted by the police. Tahira Khoso is a case in point. On 19 March 2015 Tahira Khoso¹⁷ was killed by her husband and brother-in-law, who claim to have been acting to defend "honour". The woman was murdered in front of her father and brother. The young woman was first locked in a storeroom for three days, without food and water. Then, she was tortured viciously, and killed in front of her father and brother.

Rather than apprehend the murderers, the local police of Jacobabad, Sindh Province, helped them flee the scene and take shelter in another province at the house of a politician. Furthermore, the Larkana Deputy Inspector General of Police (DIGP), Mr. Saeen Rakhio Meerani, transferred the case to another city in an effort to provide impunity to the killers. No one was arrested a month after the murder.

A jirga, the illegal and unconstitutional court run by feudal lords of different tribes, is pressuring the woman’s family to withdraw the case filed against the perpetrators.

But, the story does not end there. Police often mistreat the victims who dare report crime. Oftentimes, it is the victim and their family that is treated as the culprits. Tahira Khoso’s murder case is one such example of countless cases where the victim’s family continue to be victimized at the hands of the police.

Waqar Umrani, Tahira Khoso’s husband, was later found murdered in Balochistan Province. The Jacobabad police, under pressure particularly from the ruling party of the province, implicated Tahira’s four brothers, a cousin and one uncle in the murder of her husband¹⁸.

Curbing Crime. Only for Statistics

Crime was under reported in 2015 by law enforcement agencies according to crime analysts, though the State appears to be claiming that the NAP is yielding results. Experts have however contended that the police are not winning the fight against crime, and that crime is simply adapting to the changing contours of the law enforcement terrain. It is a widely held understanding in Pakistan that less than 10% of street crimes are reported and that the police avoid registering crimes, even serious crimes, to maintain a low crime rate.

The Interior Ministry informed the National Assembly on 12 November 2015 that the highest rate of robberies and street crime has been reported in Punjab¹⁹, while the incidence of murders and

¹⁷ <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-035-2015>

¹⁸ <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-009-2015>

¹⁹ <http://www.geo.tv/article-203828-Punjab-has-highest-rate-of-robbery-street-crime-Interior-Ministry>

targeted killing in Karachi has gone down. Incidentally, Punjab also has the highest number of rapes and gang rapes reported in 2015.

Enforced Disappearance

The new anti terrorism antic of the law enforcement agencies is enforced disappearance. The issue of ‘disappearances’, the continuing recovery of dead bodies, and the mounting numbers of missing persons continue to haunt the country. Pakistan’s Attorney General (AG) Salman Aslam Butt, on 10 February 2015, told a two-judge bench of the Supreme Court hearing an application filed by Voice for Baloch Missing Persons (VBMP) Chairman Nasrullah Baloch, that 4,557 dead bodies had been recovered from all over the country over the preceding five years, and that 266 of these were unidentified.



The Interior Ministry of Baluchistan has recently stated that it has arrested 8,363 Baloch over the span of nine months. The Chief Minister of Balochistan, Dr. Malik Baloch has said that those arrested will be dealt with in accordance with the law. No further details pertaining to the arrested have been revealed.

The provincial interior minister told reporters at a press conference that 1,800 targeted operations were conducted in the Province between December 2014 and September 2015. The Minister attributed the rise in targeted operations to implementation of the National Action Plan.

There are more than 19,000 people who have been subjected to enforced disappearance in Balochistan, and none of them have been recovered yet, according to VBMP. The government has done nothing, except to release those who were detained for a brief period. VBMP had submitted a detailed report to the United Nations with evidence regarding missing persons.

Incidentally, on 12 January 2015, the Pakistan Supreme Court directed the Federal government, through Attorney General Salman Aslam Butt, to submit comprehensive data within 10 days, regarding the number of missing persons in the country.

Balochistan’s former Chief Minister Sardar Akhtar Jan Mengal, has, in a statement to the Supreme Court, claimed that the current civil disturbances in Balochistan are a direct result of enforced disappearances.

PROSECUTION

The prosecutor, being a State agent, and due to the lack of adequate legal aid, is forced to act as a lawyer for victims. Being overburdened and overworked, the prosecutor is unable and unwilling to take victims into confidence in their own cases. The victims are generally not conversant with the legal nuances and are not aware of their rights. They are only informed about the development of the case through court notices. The victim thus becomes an illegitimate child in the whole proceeding that no one wants to deal with.

A demoralized police and prosecution often drags its feet when it comes to investigation. The victim reporting the crime is the first suspect the police interrogate. The interrogation begins with the victim, adding insult to injury. This is the modus operandi of the police officials, who make it a point to subject the victim to mental torture. Rape victims especially suffer such treatment. In such a system, where perpetrators invariably get away with their crimes, it is easier for a dysfunctional prosecution to blame the victim for “inciting” or “provoking” a certain reaction.

The prosecution, for its part, relies heavily on the police investigation and has no mechanism to conduct an independent enquiry. The Judiciary, too, suffers from huge backlog of cases, pending for years. Redressal thus becomes a distant dream for victims who die waiting for justice.

Corruption & Inefficiencies

According to a US State Department report, Pakistani courts release three of every four terror suspects. The report said that Pakistan is incapable of prosecuting terror suspects, as three in four defendants are acquitted. The report complains that Pakistan’s “weak implementation” of a UN Security Council resolution, which lists banned terrorist organizations, remained a concern.

The failure of the prosecution in establishing their cases puts a question mark over the performance of the investigating agencies, particularly those meant to deal with serious crimes such as murder, terrorism, and kidnapping for ransom and extortion.

The failure of the investigators in cases relating to attacks on law enforcement personnel, given the increasing killings of policemen in targeted attacks, further demoralizes the force and encourages criminals.

The Sindh Prosecutor General’s Office, which is duty bound to assist the investigating agencies in proving their cases in the trial courts, has yet to act on the matter.

The anti-terrorism courts in Karachi have exonerated suspects in nearly 50 cases relating to militancy in the past three months. The provincial government, however, appears to be unmoved by these acquittals and subsequent release. The anti-terrorism courts had ruled that the Karachi police and its various specialized investigation agencies had “failed” to prove the allegations leveled by them against the accused.

JUDICIARY

On 30 July 2015, the Chief Justice of the Sindh High Court, Faisal Arab, dismissed three judges on charges of corruption.²⁰ And, on 8 October 2015, the Lahore High Court dismissed 12 judges of Punjab’s subordinate judiciary over corruption charges. According to media reports,²¹ these are seven additional session judges, two senior civil judges, and three civil judges that have been dismissed. The dismissal of members of the lower Judiciary has given the impression that the Judiciary is working towards accountability.

²⁰ <http://arynews.tv/en/three-shc-judges-dismissed-on-charges-of-corruption/>

²¹ <http://en.dailypakistan.com.pk/pakistan/many-judges-of-subordinate-judiciary-dismissed-over-corruption-charges/>

While addressing the Senate for the first time in the country's history, on 3 November 2015, the Chief Justice of Pakistan, Anwar Zaheer Jamali said that the elected representatives are answerable to the people and that the requirements of the mandate are not being fulfilled. He said that state policies must ensure supremacy of the law and that the government needs to ensure a conducive environment for the same. And, he also admitted that supervision to check the quality of judgments delivered is lacking.²²

What prevents justice in Pakistan is deep institutional ailments within the Judiciary and the environment that the government and the powers fail to provide to ensure an independent and accountable Judiciary, bolstered by respect for the supremacy of law. One reflection this year was the re-establishment of Military Courts.

Military Courts

On 6 January 2015, the government, through a constitutional amendment, established Military Courts to try alleged militants. The Military Courts have been given power to try enemy combatants, in a clear violation of the trichotomy of power, as envisaged under Article 29 of the Constitution of Pakistan.²³

The government has created parallel systems within the justice system. Not only is it against the right of fair trial, as provided in ICCPR Articles 14 and 16, it is against the fundamental right of fair trial and due process as enshrined in Article 10A of the Constitution of Pakistan. The principal of *salus populi suprema lex esto* (the welfare of the people shall be the supreme law) has been abused to pass arbitrary laws citing necessity.

The government is clueless about how to curb the tide of terrorism. It first created the ATA, then overthrew the same by creating more courts, and finally undermined the entire judicial system by creating Military Courts. The established constitutional principal dictates that military tribunals remain subordinate to the civilian appellate courts and not vice versa; the right to appeal should vest with civilian judges. The establishment of Military Courts has taken away the fundamental rights guaranteed in the Constitution, which are non-derogable.

On 26 August 2015, the Military Courts were surreptitiously given power to try suspects languishing in internment centers located in the Khyber Pakhtunkhwa Province and the Federally Administered Tribal Areas (FATA). The Military Courts are given the power to decide the fate of militants declared 'black', a term that has not been clearly defined in the Pakistan Army Act, 1952. On 11 November 2015²⁴, the National Assembly approved an amendment to the Pakistan Army Act (PAA), 1952. This amendment provides legal cover to arrests already made by law-enforcement agencies, including the Army.

According to media reports, the Bill amends Section 2 of the PAA, allowing military courts to hold in-camera trials and conceal the names of court officials "for the protection of witnesses, president, members, prosecutors, defending officers and other persons concerned in court proceedings".

²² <http://dunyanews.tv/en/Pakistan/306862-CJ-in-1st-address-to-Senate-elected-representativ>

²³ <http://www.humanrights.asia/news/ahrc-news/AHRC-ART-002-2015>

²⁴ <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-184-2015>

The idea that these Courts will only operate for two years, or that they will not be involved in non-terrorism related cases, does not change the fact that a democratic government has chosen to relinquish a considerable amount of space to the Military.

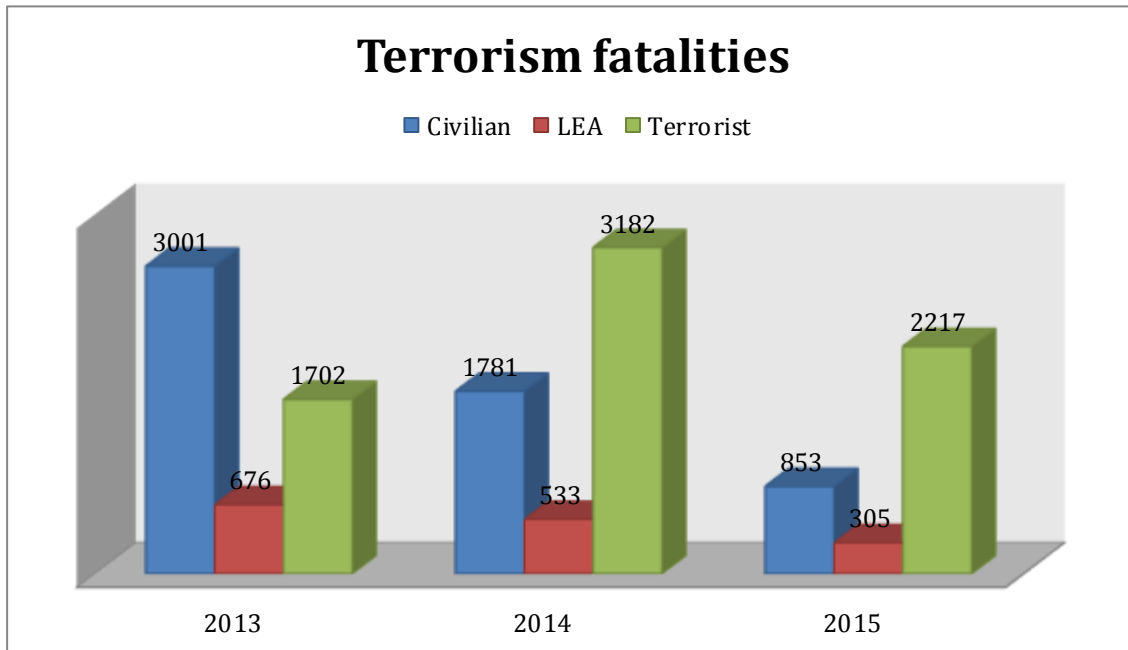
For the better part of its existence, the country has borne witness to a rising tide of intolerance, bigotry, militancy, and sectarian violence. Setting up of Military Courts as a “fast track way to justice”, sidelining the Judiciary and civilian law enforcement agencies, is hardly the way a democratic government should handle intolerance.

Undermined Judiciary

The law enforcement agencies (LEA) in Pakistan including the Army and Pakistan Rangers, have been given unbridled power to control terrorism through many draconian laws which empower them to raid any place without search warrants, shoot suspects on sight, keep suspects in custody for 90 days for further investigation, and even select the cases which can be tried before Military Courts.

The judiciary and fair trial procedure have been totally undermined and ridiculed as the law enforcement agencies, particularly the police, are always making complaints against the Judiciary that the courts let off the suspects who the police apprehend after considerable investigation. The judicial response to such allegations is that investigations are often faulty and the prosecution fails to prove the case beyond doubt.

Therefore, in their campaign against fair trial and the judicial process, the law enforcement agencies have come all out for absolute power. The authorities, instead of reforming the criminal justice system, have undermined the rule of law further, by establishing military courts: a supposed one stop solution for all problems of heinous crimes such as terrorism, target killings, and murder. The Military Courts are, in fact, a blanket legal cover for extrajudicial killings as the suspects are handed out capital punishment after a summary trial.



Terror incidents continued unabated despite beefing up security measures; in fact, the state appears clueless on coherent policies to curb violence. The state resorted to laughable means to stop terror incidents such as asking roti sellers to keep an eye on people buying more than 20 rotis, and shutting down mobile networks during Muharram. At the same time, the organizations propagating sectarian and religious hatred are allowed complete impunity, while the common man is not allowed freedom of speech. The state policy is in fact creating a new breed of frustrated and agitated educated youth that will eventually take up arms against the state. Given the fact that these youth are highly qualified, they will cause more damage to the country and will make it even more difficult for the LEA to control them.

Restriction on Belief

Officially, the Constitution and other laws and policies restrict freedom of religion. The Constitution establishes Islam as the state religion, and mandates that all laws in Pakistan have to be consistent with Islamic teaching. At the same time the Constitution also guarantees freedom to profess religious faith, “subject to law, public order, and morality”. This has created legal mire with regard to this freedom. And, the Judiciary has played its part in failing to protect the freedom of belief.

Violent extremists demand that all Pakistanis adhere to their authoritarian interpretation of Islam, with threat of dire consequences for those that don't. The Pakistani state has allowed these groups, most of which maintain armed outfits, to operate with impunity. These military factions target the moderate, educated, and enlightened Muslims who dare to speak against authoritarian interpretations of Islam; several journalists and social activists have been threatened and are now in hiding or self-exile.

On 19 June 2015, media reported that a 15-year-old Hindu boy was abducted from home and forcibly converted by a local religious leader. According to the report, Pawan Kumar, son of Gopal Daas, of Tando Allah Yaar, Sindh District, went to play cricket with his friend on 15 June 2015 and did not return. When the family tried to contact him, they found his phone was switched off. Later, that same night, the family received a call from Pawan, who said that he had been abducted. Pawan's family immediately reported the incident to the police. Upon investigation, Pawan's whereabouts were traced to the seminary of Mir Ayub Jaan Sirhandi, a religious leader at Umerkot Samaro in Sindh District. The next day, the family heard about the news of Pawan's conversion to Islam from the ticker on the local TV channel.

In a number of such cases of forced conversion, the Judiciary has failed to protect the interests of the minorities. In the case of Rinkle Kumari, the Supreme Court judge congratulated the perpetrator of forced marriage and termed the actions as a great service to Islam.

PENAL SYSTEM

Pakistan's criminal justice system is hypocritical and elitist, punishing the poor man caught in a petty crime, while allowing those with deep pockets to get away with murder. This selective administration of justice has caused massive overcrowding of prisons.

According to the International Centre for Prison Studies, an international research organization focused on the state of prisons in the world, currently Pakistan has 97 prisons. Of these 32 are in Punjab, 26 in Sindh, 22 in Khyber Pakhtunkhwa, and 11 in Balochistan provinces, and 6 are in Gilgit Baltistan, a newly demarcated territory of Pakistan. The collective authorized capacity of

these prisons is 42,670. However, 78,328 prisoners are housed in these prisons. Thus, the jails throughout Pakistan are housing 35,000 more prisoners than their designed capacity.

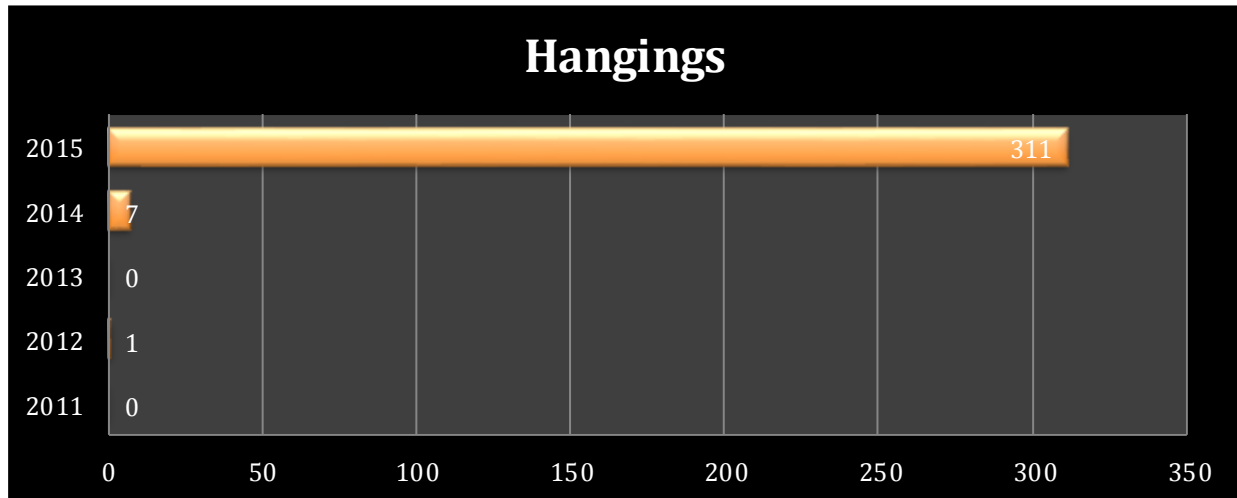
Thousands of prisoners are awaiting trial for petty crimes such as theft, substance abuse, drinking, and possession of drugs and alcohol. Prisoners languish in jail for many years for petty crimes having maximum punishment of two years, often because they have failed to pay the bail bonds or fines amounting to a few thousand rupees (15 to 20 USD). These petty criminals are kept in the same barracks as hardened criminals. This environment sets many of them up for a life in crime and they emerge from prisons as a potential threat to the society.

Pakistan’s criminal justice system isn't known for rehabilitation of victims; this is an alien concept in Pakistan. Perhaps it is impractical to expect such an advanced concept in a criminal justice system that did not undergo reform since colonial rule and is now on the verge of collapse.

Death Row

The number of hangings in Pakistan has already crossed the 300 mark in 2015, and there are still about four months left in the year. An estimated 8,000 people, the largest in the world, are on death row in Pakistan.

On March 17, Pakistan executed 12 people, the highest number of executions in a single day in almost a decade. Within no time this record was broken on April 21, when 15 people were hanged. Of the provinces, Punjab has taken the lead; 170 executions have taken place in Punjab in 2015.



Pakistan is one of eight countries in the world – along with China, the Democratic Republic of Congo, Iran, Nigeria, Saudi Arabia, United States, and Yemen – that has, since 1990, executed prisoners under 18 years old at the time of commission of the alleged crimes.

One of the prisoners on death row is Khizar Hayat, a schizophrenic, whose mental state deteriorated due to the 17 years he has spent on Pakistan’s death row. Due to relentless efforts by the Justice Project of Pakistan (JPP), a group working for prisoners on death row, and the District and Sessions Judge Tariq Iftikar Ahmad, the execution of Khizar’s death warrant has been delayed to allow for a proper medical evaluation. But the State remains determined to hang him till his death.

Though Khizar has temporarily been saved from the gallows, another disabled man, Abdul Basit, a paraplegic, faces the gallows. The wheelchair bound prisoner at Lahore jail, Basit, 43, was convicted and sentenced to death for murder in 2009. In 2010, he contracted tubercular meningitis in prison.

The prison authorities did not provide him sufficient health care, which left him paralysed from the waist down. Despite a government-appointed medical board having confirmed the continuing severity of his condition, last month a “black warrant” was issued for Abdul Basit’s execution.