

# COUNTRIES AT THE CROSSROADS

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## COUNTRIES AT THE CROSSROADS 2011: PAKISTAN

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### INTRODUCTION

For the past five years Pakistan has struggled to navigate an uneven transition from military to civilian rule while confronting a wide range of religious and regional insurgents. Since 2008 the elected civilian government led by President Asif Ali Zardari and Prime Minister Yousaf Raza Gilani has been confronted with several challenges: the army's efforts to maintain exclusive control over Pakistan's foreign, defense, and security policies, Islamist militant groups' violent opposition to Pakistani military cooperation with the United States, restive ethnic factions' demands for a larger share of the revenues derived from natural resources, and pressure from a diverse array of mainstream political opponents—above all, from the Pakistan Muslim League–Nawaz (PML-N) and its leader, former prime minister Nawaz Sharif, as well as the Pakistan Tehreek-i-Insaf (PTI; Pakistan Movement for Justice) led by Imran Khan.

Political wrangling in the capital has largely focused on the legal changes introduced by military ruler Pervez Musharraf during his period in power (1999–2008). These changes included a 2002 Legal Framework Order (LFO) that allowed Musharraf to serve simultaneously as chief of the army staff and president as well as various measures associated with his March 2007 decision to dismiss Pakistan Supreme Court Chief Justice Iftikhar Muhammad Chaudhry. Both were designed to entrench Musharraf's own power and limit judicial independence. Following Chaudhry's dismissal, however, the political environment became increasingly tumultuous. Civil society activists, thousands of lawyers, and an increasingly energetic press demanded the chief justice's reinstatement, and as the October 2007 presidential election approached, Musharraf was unable to quell massive protests.

Meanwhile, the exiled leaders of Pakistan's most prominent political parties—former prime minister Benazir Bhutto of the Pakistan People's Party (PPP) and Nawaz Sharif of the PML-N—negotiated a joint political platform known as the Charter of Democracy (COD) advocating a return to civilian rule. Bhutto also worked with Musharraf to negotiate a separate

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arrangement, known as the National Reconciliation Ordinance (NRO), allowing Bhutto and her husband, Asif Ali Zardari, to return to Pakistan. She agreed to support Musharraf if he agreed to serve as a civilian president and eliminate several corruption cases pending against her family and other members of the PPP.

Under these terms, Bhutto returned to Pakistan in the fall of 2007, as did Sharif, despite his lack of any formal legal arrangement with the regime. Musharraf was reelected as president in October and, in keeping with the terms of the NRO, he retired from the military. Shortly after her return but before parliamentary elections scheduled for early 2008 could be held, Bhutto was assassinated. Her son, Bilawal Bhutto, became the new leader of the PPP in conjunction with his father, Zardari, and in February 2008 the PPP went on to win the parliamentary elections at the head of a multiparty coalition that included the PML-N. Musharraf, threatened with impeachment, resigned in August and was replaced by Zardari.<sup>1</sup>

Zardari shared Musharraf's concerns about the chief justice's record of challenging executive power, reportedly fearing that if he were reinstated, Chaudhry might nullify the amnesty from corruption charges granted in the NRO. However, Sharif remained determined to secure Chaudhry's restoration—a goal that formed part of the Charter of Democracy he signed with the PPP. He was keen to use the Supreme Court and a sympathetic chief justice to challenge his key rivals, the army and the PPP. Given Zardari's resistance, however, Sharif withdrew from the coalition government in Islamabad and worked with the lawyers' movement to press for Chaudhry's reinstatement, culminating in March 2009 with threats of an indefinite sit-in in the capital. This prompted broad international concerns about the possibility of urban unrest in a nuclear-armed state faced with an opportunistic Islamist insurgency, and General Ashfaq Pervez Kayani, Musharraf's successor as chief of the army staff, intervened to restore order and ensure that Chaudhry was reinstated.

By 2010 the PPP-led government coalition was greatly weakened. It faced criticism on the constitutionality of the NRO amnesty, accusations of incompetence in its response to that year's devastating floods, intensified religious and sectarian violence from Islamist militant groups like the Taliban, and an ongoing insurgency in Balochistan. In the fractious political climate that prevailed after Musharraf's 2008 departure, the primary institutions of the state—the government, the opposition, the judiciary, and the military—battled each other for supremacy. This zero-sum pattern of competition greatly hindered the state's ability to coordinate its approach to several dramatic challenges, from natural disasters and economic crises to violent domestic insurgencies and the security threats associated with neighboring Afghanistan.

## **ACCOUNTABILITY AND PUBLIC VOICE**

Prior to the February 2008 parliamentary elections, the Election Commission of Pakistan (ECP), whose chief was appointed by Musharraf, was accused of failing to investigate numerous complaints detailing the arrest of opposition candidates and the biased allocation of state resources. There were also concerns about impartiality in the election-monitoring role of the judiciary owing to the fact that Musharraf had required all sitting judges to swear an oath of allegiance to the presiding head of state.<sup>2</sup>

Despite significant institutional shortcomings, independent international and domestic election observers concluded that the February 2008 elections largely reflected the popular will, though many insisted, as in earlier elections, that the ECP should be made more transparent.<sup>3</sup> Of

the 272 seats in the National Assembly, the lower house of Parliament, that were filled through direct elections, the PPP secured 97, the PML-N secured 71, and the Awami National Party (ANP), a secular Pashtun nationalist party, took 10. These three parties formed the core of a new coalition government. The Quaid-e-Azam faction of the Pakistan Muslim League (PML-Q), commonly associated with the Musharraf regime, secured 42 seats. The Muttahida Qaumi Movement (MQM) won 19 seats, and the Fazlur Rahman faction of the Jamiat-e-Ulema-e-Islam (JUI-F) came away with six. Smaller parties and independents took the remainder. 60 seats were reserved for women, and 10 for non-Muslim minorities.

After the elections, several winners were accused of lacking the required credentials and exceeding campaign finance limits.<sup>4</sup> A rule imposed by Musharraf to exclude the old guard in many constituencies stated that all members of Parliament must hold a university-level degree. Many older politicians produced fraudulent degrees to meet the criteria. Some were later forced to resign due to their false credentials, but the by-elections to fill the resulting vacancies were also plagued by problems. The ECP was accused of failing to investigate accusations that Prime Minister Gilani used state resources to support his allies.<sup>5</sup> As additional evidence of fraudulent voting emerged throughout the year, there was little or no response from the ECP.<sup>6</sup>

Equal campaigning opportunities were not available to all parties. Some parts of the country, for example, were entirely cut off from party-based campaigning owing to the fact that the 1962 Political Parties Act was not applied in Pakistan's Federally Administered Tribal Areas (FATA).<sup>7</sup>

The February 2008 elections enabled a transfer from military to civilian rule, but the result amounted to a change within the prevailing patronage networks more than a shift from one political ideology to another. Moreover, the policy-making autonomy of the PPP-dominated legislature remained rather severely circumscribed by the military and judiciary. In April 2010, however, both houses of Parliament passed the Constitution Act (18th Amendment) to strengthen the premiership and the legislature while curtailing presidential authority.<sup>8</sup> It rescinded the president's powers to impose provincial states of emergency, unilaterally dissolve the national and provincial legislatures, and appoint the heads of the army and the election commission.

At the provincial level, representatives from Sindh, Balochistan, and the North West Frontier Province (recently renamed Khyber-Pakhtunkhwa) continue to complain that they are marginalized by Pakistan's most powerful and populous province, Punjab, which is home to more than 50 percent of the population. At the local level, ordinary citizens routinely complain that their elected leaders prioritize the interests of politically and bureaucratically well-connected elites over the interests of the public at large. Despite the progress represented by the 2008 elections, the will of the people is often set aside in favor of choices made by a small group of local, provincial, national, and international power brokers.

Under Musharraf, as under previous dictators, local bureaucrats were subject to extensive military oversight. In many cases, military officers were directly appointed to key bureaucratic positions. Since Musharraf's resignation civil servants have been recruited via open, impartial, and competitive examinations, but they remain subject to enormous political pressures. At the district level, for instance, it is not uncommon to encounter reports of politically motivated bureaucratic postings, transfers, promotions, punishments, and dismissals.

In recent years civil society activity has begun to reemerge, attracting a great deal of attention. The number of local, provincial, national, and international nongovernmental organizations (NGOs) has grown substantially, reflecting a wide range of perspectives, from internationally networked feminist organizations to globally linked religious organizations with a

more conservative orientation. The Musharraf administration actively sought the assistance of feminist NGOs like the Aurat Foundation and Shirkat Gah to develop more progressive laws, including the 2006 Protection of Women Act, which protected victims of rape from the possibility of a conviction for adultery. Under President Zardari, local religious groups have also intervened to prevent any change in the country's blasphemy laws amid complaints that these laws are often used to persecute religious minorities or exploited in the context of petty personal disputes.<sup>9</sup>

Local and international NGOs still face many constraints imposed by the government. Under Musharraf, public authorities cracked down on civil society and introduced new methods of official oversight.<sup>10</sup> Under Zardari, NGOs continued to press for changes, arguing, for example, that they should not be subject to complex registration procedures; that, once registered, NGOs should be tax-exempt; and, finally, that foreign donors should be allowed to fund their work without burdensome government oversight.<sup>11</sup>

The press has been especially active in recent years. The media sector is growing, with new private radio and television stations appearing every year. The state, however, continues to own several media outlets, including Pakistan Television (PTV), Radio Pakistan, and the wire service that carries government and international news to local media outlets. The state also maintains a special Office of Inter-Services Public Relations to monitor all military news. As one critic noted, "Pakistan's press enjoys a wide measure of freedom, though unofficial norms backed up by informal pressure [continue to] restrict criticism of the Pakistan Army."<sup>12</sup> The military continues to circumscribe the media's freedoms, shutting down TV broadcasts of news during key events,<sup>13</sup> and, in many cases, leveraging the state's position as the largest single advertiser to reward cooperative outlets.<sup>14</sup>

Beyond traditional media, however, state censorship has also increased on the internet. There have been many efforts to block or take down material on the video-sharing site YouTube that is considered incendiary, destabilizing, or blasphemous. In 2007 the state closed down the website of a mosque accused of disseminating incitements to violence. In 2010, censors banned a page on the social-networking site Facebook that urged people to draw pictures of the prophet Muhammad.<sup>15</sup> Websites are periodically blocked, and some shut down entirely, particularly those with separatist or other sensitive political content. The e-mail accounts of some journalists are reported to be monitored by state authorities.

The state has also been criticized for censoring too little. In particular, the government was admonished for its failure to shut down the Swat-based private radio station of a Taliban-affiliated cleric named Sufi Mohammad, and for declining to respond when various newspaper editorialists endorsed a \$5,500 reward for the murder of a Christian woman at the center of a highly publicized blasphemy case.<sup>16</sup> State censorship targeting religious extremism, in other words, has been quite inconsistent.

Violence remains a major threat to the media. In 2006, the Committee to Protect Journalists (CPJ) drew attention to the case of Hayatullah Khan, a journalist said to have been executed by intelligence agents in North Waziristan in late 2005 after contradicting government accounts in his reporting on antiterrorism efforts.<sup>17</sup> In 2011, a journalist named Saleem Shahzad was allegedly killed by intelligence agents for investigating links between the military and a range of militant groups. CPJ has consistently ranked Pakistan as one of the most dangerous places in the world for journalists to work.

This pattern of intimidation intensified during the 42-day state of emergency imposed by Musharraf in late 2007 to protect his disputed October reelection. With support from the Pakistan

Electronic Media Regulatory Agency (PEMRA) the government pulled several media outlets off the air until they agreed to sign a code of conduct prohibiting “anything which defames or brings into ridicule the Head of State” or armed forces as well as “any material ... prejudicial to the ideology of Pakistan, [its] sovereignty, integrity, or security.”<sup>18</sup> In addition, Musharraf briefly withdrew all public funding from two of Pakistan’s largest newspapers, *Jang* and *The News*, to punish their parent company for the behavior of one of its television channels, GEO News, which hesitated to sign the new code.

Media advocacy organizations like Intermedia highlighted a brutal toll of violence in 2007, counting 357 journalists arrested, 123 assaulted, and 14 killed.<sup>19</sup> These attacks are often not fully investigated and there is perceived record of impunity for those who perpetrate violence against journalists.

After the PPP took power, it introduced legislation to remove Musharraf’s media restrictions. However, the environment for journalists is still dangerous.<sup>20</sup> Conditions vary by province, but some parts of the country, like the FATA, remain unsafe, and journalists there are subject to intimidation from the military, intelligence services, and Islamist militants. While many of the legal protections for media were restored by 2010, journalists were still attacked for their role in exposing the dubious degrees held by individual members of Parliament. Indeed, despite such reprisals, private media since 2008 have continued to criticize the government very strongly—so much so that many have begun to argue that unprofessional and unethical journalism could destabilize the country’s fragile civilian regime.<sup>21</sup>

## CIVIL LIBERTIES

Efforts to protect civil liberties made some progress following the transition from military to civilian rule. Given persistent efforts by various entities to monopolize the political discourse, however, this progress has been limited. In recent years the level of violence perpetrated by state and nonstate actors has increased, particularly along the border with Afghanistan. Concerns have also been raised about extrajudicial executions perpetrated by the military in Khyber-Pakhtunkhwa and Balochistan, as well as attacks carried out by the Taliban. Separately, U.S. forces have reportedly made extensive use of drone aircraft to kill suspected militants in Khyber-Pakhtunkhwa, Balochistan, and FATA, and the procedures whereby Pakistani officials have authorized these attacks remain unclear. These strikes have prompted numerous questions about the use of extrajudicial killings in areas not officially identified as war zones.<sup>22</sup>

The role played by state security personnel in the assassination of public officials has also raised concerns. For example, a police bodyguard admitted to murdering Punjab governor Salman Taseer in early 2011, and an international investigation found, in April 2010, that the Pakistani authorities had obstructed a proper inquiry into the 2007 assassination of former prime minister Benazir Bhutto. Many arrests were made following attempted assassinations of Prime Minister Gilani in September 2008 and Religious Affairs Minister Hamid Saeed Kazmi in September 2009, but there have been no convictions to date. In most cases law enforcement agencies have failed to respond effectively to high-profile attacks on public officials.

Throughout the country there have been problems involving politically motivated violence. In Karachi, the state has failed to prevent hundreds of murders perpetrated by rival political parties. In Balochistan, the state has been implicated in the killing of senior political leaders like Nawab Akbar Khan Bugti, who was slain in a 2006 confrontation with the military.<sup>23</sup>

Similarly, in parts of the Punjab, brutal cases of vigilante justice, often with alleged police complicity or indifference, have attracted special attention. During protests led by thousands of lawyers opposed to the dismissal of Chief Justice Chaudhry in 2007, and again in 2009, the demonstrators were harassed rather than provided with police protection.

Political opposition is both widespread and risky. Dissidents, including those who advocate greater regional autonomy, are subject to enforced disappearance, among other hazards. The state has also resisted full compliance with Chief Justice Chaudhry's orders to disclose the location of several hundred citizens alleged to have disappeared in Balochistan.<sup>24</sup>

In 2010, more than 50 percent of the prison population was said to be held in pretrial detention, often for periods longer than any sentence they might have received if convicted.<sup>25</sup> Additional reports describe cases of preventive detention for up to six months—or longer for those with alleged links to terrorist organizations—notwithstanding laws setting a limit of 90 days, or 180 days with court approval.

Prison conditions are appalling. Many prisons have been associated with gross human rights violations and feature chronic malnutrition, extremely tight shackles leading to gangrene and amputation, endemic physical abuse (including rape), and the routine use of torture.<sup>26</sup> In 2006, Pakistan's Parliamentary Commission for Human Rights (PCHR) visited Rawalpindi's Central Jail and found that "most prisoners showed signs of physical abuse," adding that "torture victims were rarely given medical treatment" and, apart from the cells allocated to very wealthy prisoners, overcrowding was a major problem.<sup>27</sup> There are a number of NGOs dedicated to supporting victims of human rights abuses by the state, the most prominent being the Human Rights Commission of Pakistan (HRCP). The courts remain less effective.

In addition to this pattern of abuse perpetrated by the state, there are concerns about the state's ongoing failure to protect citizens from violence perpetrated by nonstate actors, including human traffickers, criminal gangs, and militant groups. The 2002 Prevention and Control of Human Trafficking Ordinance, which aims to prohibit all forms of human trafficking, has focused on international sex trafficking and the trafficking of young boys to work as camel jockeys in the United Arab Emirates and Qatar. The state also uses its 1979 Emigration Ordinance to address the problem of internal trafficking, and Pakistan's Federal Investigation Agency (FIA) maintains a special antitrafficking unit. But, in 2006, several FIA officials were punished for facilitating trafficking.<sup>28</sup>

The most prominent form of violence in recent years has involved a rapidly expanding series of attacks by various terrorist organizations, from sectarian Islamists to affiliates of the Pakistani Taliban. The number of Taliban-related attacks increased dramatically under Musharraf, with one report citing more than 1,400 incidents that left more than 3,000 people dead in 2007 alone.<sup>29</sup> Since then, the number of attacks has continued to mount, with several deadly strikes every month. The targets have included Sufi Muslim shrines, international organizations, police stations, markets, and military facilities.

Several laws in Pakistan permit explicit forms of gender discrimination. The notorious Hudood Ordinances prescribe Qur'anic punishments for certain crimes, and Islamic laws concerning marriage, divorce, and inheritance are also recognized. The World Economic Forum ranked Pakistan 126 out of 128 in 2008, and 133 out of 134 in both 2009 and 2010, in its Global Gender Gap assessment of female economic participation.<sup>30</sup> Women continue to face enormous economic barriers, despite constitutional protection against gender discrimination in public-sector employment. The average wage for men is roughly 3.5 times higher than the average wage for women.<sup>31</sup> In 2009, the National Assembly and the Senate took steps to address this situation,

introducing a 10 percent quota for women's employment in all public-sector entities and passing a law to prevent gender-based harassment in the workplace, including private homes employing domestic servants.<sup>32</sup>

In recent years the state has consistently failed to take proactive measures to combat endemic forms of gender-based discrimination. Exceptions include an effort to amend existing laws concerning rape to ensure that victims are not charged with adultery or fornication, as well as parliamentary declarations aimed at reducing the prevalence of forced marriage.<sup>33</sup> Such rules, however, have not been strongly enforced—a problem that has also thwarted attempts to reduce the incidence of honor killings. Every year human rights organizations document hundreds of cases of women being killed by family members for perceived moral or sexual transgressions.<sup>34</sup>

The state has taken incremental steps to address the needs of ethnic minorities. In April 2010 the North West Frontier Province was renamed Khyber-Pakhtunkhwa in an effort to recognize the heritage of the province's 75 percent Pakhtun majority. However, following the change, violent clashes erupted between Pakhtuns and the province's Hazara minority. Similarly patterns have emerged in Sindh and Balochistan.<sup>35</sup> The National Finance Commission (NFC) sought to redress ethnic grievances at the provincial level by ensuring that the distribution of federal resources would not be defined by population figures alone, but also by different degrees of economic development.

In recent years small efforts have also been made to recognize the rights of sexual minorities. For example, a 2009 Supreme Court decision recognized the basic human rights of transgender citizens known as *hijras*. In a more general sense, however, sexual minorities suffer from serious and often violent forms of discrimination, not only informally, but also formally through colonial-era laws that criminalize consensual adult homosexual activity. The disabled, like women, have a number of very poorly enforced privileges, including a 2 percent quota in federal and provincial government employment.<sup>36</sup>

Pakistan is an Islamic state, but by law citizens of many different faiths are free to worship as they please. The population is made up of Sunni Muslims (70–80 percent), Shiite Muslims (15–25 percent), Hindus (1–2 percent), and Christians (1–2 percent). Historically, the country's various religious communities have coexisted in relative peace, but there are important exceptions to this trend. The first exception is related to a heterodox Muslim sect known as the Ahmadis, who are forbidden under a special 1974 constitutional amendment from identifying as Muslims. The second concerns the legal status of those who convert from Islam to another system of belief. Under existing laws, "apostates" are threatened with death.

As an Islamic state, the government is deeply involved in religious affairs, including the appointment of those who preside over public religious institutions. In recent years, however, the government has also faced considerable pressure—particularly but not exclusively from the United States—to regulate its private religious institutions more aggressively. Under Musharraf some steps were taken to regulate the work of private religious schools (madrasas). For the most part, however, these efforts were ineffective. The state has largely opted to keep its distance from private religious organizations, using hands-off incentives to advance its domestic and foreign policy objectives. With the exception of the Ahmadis, the state has not sought to restrict any specific form of religious practice, but it has failed to protect religious minorities when they are threatened or abused by nonstate actors.<sup>37</sup>

The constitution guarantees a general right of assembly. However, the Ahmadis continue to face restrictions on their right to gather for religious purposes. Freedom of assembly has also been infringed for non-Ahmadi citizens in extraordinary circumstances. The state banned public

assemblies in an effort to prevent mass protests, for instance, during the state of emergency imposed by Musharraf in November 2007,<sup>38</sup> after the assassination of Benazir Bhutto in December 2007,<sup>39</sup> and when lawyers pressed for the restoration of Chief Justice Chaudhry in March 2009,<sup>40</sup> Since March 2009, however, freedom of assembly has not been systematically restricted—not for political parties, nor for those protesting Pakistan’s relationship with the United States, nor for civic and business associations.<sup>41</sup>

In principle, the constitution guarantees a basic right to unionize. In practice, this right has been restricted for various groups, including agricultural workers—who account for nearly 50 percent of the workforce—and those employed in the informal industrial sector.<sup>42</sup> Union organization has also been hampered by legal requirements stipulating that 25 percent of those employed within a given establishment must agree to unionize before the group can be registered. Even the union rights granted under the law have not been protected in practice.<sup>43</sup>

## **RULE OF LAW**

The rule of law was crippled by the Musharraf regime, and while it has begun to recover, it remains very weak. Under Musharraf, and especially during the last two years of his rule, the judiciary was severely constrained. Initially, the courts were called upon to endorse the terms of military rule under a familiar legal justification known as “the doctrine of necessity”; for example, in 2002, a Provisional Constitutional Order (PCO) required Supreme Court judges and provincial High Court judges to swear an oath of allegiance to Musharraf as the presiding head of state. The dismissal of Chief Justice Chaudhry in March 2007, however, set in motion a series of events that led to the collapse of Musharraf’s regime along with a series of efforts to restore the rule of law.

Chief Justice Chaudhry was removed after he indicated his willingness to hear a set of cases that challenged the constitutionality of the 2002 LFO and the military’s conduct more generally; these cases included a series of investigations into the role of Pakistan’s intelligence agencies in the enforced disappearance of several hundred activists as well as the army’s role in approving a U.S. campaign of drone aircraft strikes in Khyber-Pakhtunkhwa and FATA.<sup>44</sup> The lawyers’ movement that emerged to demand Chaudhry’s reinstatement reflected how far the judiciary had moved in the direction of independence, and again the courts sought to assert their autonomy after the military regime was replaced: within just a few months of Chaudhry’s 2009 reinstatement the Supreme Court declared that the October 2007 NRO was legally null and void, challenging the legal protections enjoyed by Zardari.

Legislative and judicial elites in Pakistan continue to debate the most appropriate degree of judicial independence. Chaudhry’s tenure, for example, fed concerns that the Supreme Court was increasingly acting without regard for the primacy of the National Assembly in Pakistan’s constitutional system. In fact questions about who should be responsible for appointing and dismissing judges were at the center of a particularly enduring contest between the chief justice and the National Assembly. Those who, like Zardari, found themselves threatened by the restoration of corruption cases following the nullification of the NRO tended to favor the legislature. Under a constitutional compromise reached in 2010, however, a judicial commission chaired by the chief justice was charged with identifying nominees for judicial positions. These selections must pass through a new parliamentary committee, meeting in camera, before being endorsed and formally appointed by the prime minister. If a nominee is rejected, the reasons

behind the decision are subject to review by the courts.

The ability of each court to enforce its decisions, however, remained weak even as the judiciary began to carve out a greater degree of independence at the highest levels of the state. In 2007, for instance, Chief Justice Chaudhry struggled to compel the national security establishment to disclose the location of citizens who had disappeared, and in 2009 he was unable to enforce an order requiring the government to notify authorities in Switzerland that the amnesty initially granted to Zardari had been annulled. Arguing that incumbent presidents were constitutionally immune from prosecution, the PPP-led government failed to contact the Swiss, leading many to argue that the PPP was acting in contempt of court.<sup>45</sup>

Judicial and law enforcement agencies are often beholden to political, bureaucratic, and military elites. Local judges and police officers routinely complain that they are powerless to resist the influence of local notables with close ties to more senior figures. In many cases, they feel compelled to take bribes, as their basic remuneration package is not sufficient to provide adequate housing for their families. The weakness of most judges also allows the legal system to be exploited for extralegal purposes.<sup>46</sup> Many prisoners are held on trumped-up charges as a form of economic or political leverage until a compromise can be reached outside of the courts. Citizens reportedly bribe police officers to detain others in the context of personal disputes, and some officers arrest individuals on false charges to extort bribes for their release.<sup>47</sup>

One of the clearest challenges to the rule of law in Pakistan is reflected in the increasing number of blasphemy cases. Any action that may upset religious feelings, in particular any offense to the prophet Muhammad or his family, can be characterized as blasphemy. In many cases, however, judges involved in such cases fear for their safety in the face of credible threats issued by local notables and religious leaders. They often find it impossible to resist convictions based on flimsy evidence and the imposition of extremely harsh sentences including the death penalty. It is not uncommon for those convicted of blasphemy in the lower courts to spend several years on death row, after which they are almost invariably released by the higher courts on appeal.<sup>48</sup> No one has yet been executed for blasphemy, although some of those accused or convicted have been killed by vigilantes in local jails, courts, and communities. The practices surrounding blasphemy laws amount to a clear crisis for the Pakistani legal system, in which the interconnectedness of local courts, elites, and religious organizations comes at the expense of fair and impartial justice.

By law, prisoners are considered innocent until proven guilty, but this basic principle has not been guaranteed in practice. The most familiar exceptions have involved those tried by the National Accountability Bureau (NAB), where a presumption of guilt prevails,<sup>49</sup> as well as female victims of rape, who, until the promulgation of the Protection of Women Act in 2006, were often considered guilty of adultery or fornication on the basis of medical evidence indicating sex outside of marriage. Human rights organizations noted that some 80 percent of all female prisoners at the time of the law's passage were awaiting trial for adultery-related offenses.<sup>50</sup>

State officials and others have also raised concerns about due process. Officials have complained of unexplained disappearances and the transfer of detainees via extraordinary rendition to places like the U.S. military base in Guantanamo Bay, Cuba. In addition, the practice of false "encounter" killings, in which accused criminals are killed extrajudicially in staged gun battles, remains all too common.<sup>51</sup> Informal justice mechanisms, including private jails, are also maintained outside of the judicial system. For example, in the summer of 2008, two senators defended the work of an informal dispute-resolution forum in Balochistan after it sentenced five women to death without any resort to the formal legal system whatsoever.<sup>52</sup>

By and large, litigants have access to independent legal counsel, though there is some regional variation. In FATA, for instance, tribal councils (*jirgas*) must be convened by government-appointed political agents without the presence of lawyers, and of course those detained in secret facilities are denied access to legal counsel. Even open courts with defendants represented by the most powerful lawyers in the country often struggle to ensure the procedures they encounter are fair.

Members of the parliamentary opposition have argued that ongoing public-accountability campaigns are but a vehicle for politically motivated witch hunts. This accusation received some support when the list of those prosecuted by the National Accountability Bureau (NAB) under Musharraf was made available in 2006, showing that opposition politicians were more likely to be prosecuted.<sup>53</sup> Former NAB chief Shahid Aziz, a retired general, explained in an interview with *Dawn* that he was often pressured to close cases against pro-Musharraf politicians and businessmen. He was also instructed to abandon cases against top opposition figures like Benazir Bhutto because influential diplomats from the United States and the United Kingdom were working on a political reconciliation between Bhutto and Musharraf.<sup>54</sup> This pattern of politically motivated legal proceedings also extended to prosecutions for tax evasion, which is reportedly rampant among the country's elite.<sup>55</sup>

Before 2008, there was no effective civilian control over the military. Even after Musharraf's resignation most state policies pertaining to defense and security were still tightly controlled by the army. When Prime Minister Gilani ordered the head of Pakistan's Directorate for Inter-Services Intelligence (ISI) to meet with his Indian counterparts after the terrorist attack on Mumbai in November 2008, his order was ignored. Similarly, when Gilani expressed his support for a generous aid package from the United States that called for greater civilian control over the military, the military launched a massive public relations campaign to suggest that the civilian government sought to compromise the country's sovereignty.<sup>56</sup> The offending clauses in the bilateral aid agreement were later diluted with the help of an explanatory memorandum.

The Pakistan Army still functions almost as a parallel regime, following a parallel system of rules.<sup>57</sup> Musharraf has not been tried for any of the crimes he may have committed during his time in power. Instead he has simply gone into exile. Efforts to prosecute him are seen as a threat to the military as a whole, and given the enduring role of senior officers in the political life of Pakistan, any threat to the military has so far been deemed politically inadvisable. During his tenure, Musharraf sought to shift local control over district-level police officers from unelected bureaucrats toward elected representatives, particularly in the context of a large-scale administrative restructuring program known as the Local Government Plan (LGP). This push for electoral oversight, however, was blamed for exacerbating the politicization of the police. After the return to civilian rule in February 2008, the LGP was scrapped.<sup>58</sup>

The state is broadly committed to the enforcement of civil contracts and the protection of property rights; however, at the local level, enduring patterns of debt servitude and bonded labor leave some citizens unable to secure their property at all. In addition, many property documents are fraudulent: for example, landowners routinely conspire with bureaucrats to misrepresent the size of their landholdings.<sup>59</sup>

Land-seizure mafias known as *qabza* groups also operate on the margins of the federal and provincial bureaucracy to deprive private citizens of their land. These organizations bribe officials responsible for maintaining land records to create new documents that can withstand a common sequence of litigation in the courts, with some of the associated financial gains passing to locally elected representatives who agree to relax their oversight of the bureaucracy. In due

course, the courts simply issue a judgment based on the documentary record before them to provide a measure of formal legal cover for the fraud.<sup>60</sup>

In recent years, some effort has been made to strengthen the judiciary through training focused on reducing delays, judicial administration, and gender issues, in particular through a legal reform program funded by the Asian Development Bank from 2001 to 2009. Even despite such efforts, however, the rule of law remains deeply contested from many different angles.

## ANTICORRUPTION AND TRANSPARENCY

Anticorruption efforts in Pakistan have been highly politicized. State agencies tasked with investigating corruption have been consistently pressured into complying with regime directives or staffed with partisan officials. Under Musharraf the ostensibly autonomous NAB was widely criticized for its blatant partisanship.<sup>61</sup> Since the shift to civilian rule, elected officials within the PPP have hesitated to reinforce existing anticorruption efforts because they could face charges themselves, particularly after the elimination of the amnesty included in the NRO.

Public concerns about lack of accountability extend to all levels of the government, from suspicions of large-scale graft among top leaders to petty corruption by police and local bureaucrats. Local political elites also enjoy privileged access to specific forms of impunity, and lawbreakers in general are often able to bribe authorities to avoid punishment.

Aside from the military the state itself is not deeply involved in proactively managing the economy. Since a reversal of efforts to nationalize industrial production in the 1970s, the number of state-owned enterprises has remained small—by most accounts fewer than 10.<sup>62</sup> However, the 2006 sale of the state-owned Pakistan Steel Mills drew attention to corruption within the privatization process. Almost immediately after the move to privatize the mills, allegations of corruption began to swirl around Musharraf and his prime minister, Shaukat Aziz, who were accused of drastically undervaluing the assets for sale and granting tremendous tax breaks to the buyer.<sup>63</sup> The Supreme Court later struck down the sale.

The growing relationship between public-sector agencies and local organized criminal groups is a serious problem. In addition to collaboration with land-seizure groups, public agencies are often enlisted in the illegal trade of natural resources. A number of officials in North West Frontier Province were arrested in 2007 for colluding with criminals engaged in harvesting timber from protected forests.<sup>64</sup>

The most prevalent form of corruption, however, centers on tax evasion. This problem has increased since 2008, primarily due to the lack of up-to-date land revenue surveys and the fact that so-called agricultural income is scarcely taxed at all. The agricultural law has led many urban residents, including industrialists, bankers, and bureaucrats, to secure small plots of land and report their business income as agricultural income.<sup>65</sup> In 1997 the World Bank compelled the Punjab provincial government to introduce a modest agricultural income tax as a condition for a major loan. But, according to one report, very few landowners actually paid.<sup>66</sup> The situation has only worsened, and by 2010 even U.S. Secretary of State Hillary Clinton contended that “Pakistan cannot have a tax rate of 9 percent of [gross domestic product] when landowners and all of the other elites do not pay anything or pay so little it’s laughable.”<sup>67</sup>

In addition to this international focus, internal agencies have also reported on the prevalence of tax fraud. In 2010, the auditor general assigned blame to the Federal Board of Revenue (FBR) and its perceived inability to generate accurate data. The auditor’s office found

that the FBR aided tax evasion by underestimating tax liabilities and accepting false claims of losses. In Karachi alone 28 individuals were reported to have evaded more than \$199 million in taxes this way—a loss to the treasury that exceeded the country’s total education budget for the year.<sup>68</sup> In 2008, the *Nation* reported that “tax evasion has been estimated at [\$8.1 billion], which was almost half the total collected and roughly equivalent to the country’s annual deficit.”<sup>69</sup> By 2010, this total had risen to nearly \$9.5 billion, or \$1.2 billion more than the projected deficit.<sup>70</sup> Tax evasion continues to plague Pakistan and stands as a glaring example of the government’s inability to enforce the law consistently.

In an effort to stem corruption by elected officials members of Parliament are legally required declare their assets to the ECP each year. This process is relatively transparent, but in many cases official declarations lack credibility. In 2010, several politicians were taken to task for the content of their declarations. They included former prime minister Sharif, who reported that he paid no income tax at all for the three years prior to 2007, and Prime Minister Gilani, who noted that he paid just \$1,000 in the 2008–09 fiscal year. Neither case was subjected to further scrutiny.<sup>71</sup>

In 2010 the Pakistan Institute for Legislative Development and Transparency (PILDAT), an NGO, prepared a report entitled *How Rich Are Our MNAs?* It revealed that the average net worth of a Pakistani lawmaker was roughly \$900,000, leading others to report that this figure had “nearly doubled from [that] ... of the previous parliament.”<sup>72</sup> Several politicians complained that the reporting was biased, demanding to know why PILDAT did not publish similar details regarding the military, the judiciary, and the bureaucracy. The institute simply noted that the data regarding these other groups were not yet subject to legally mandatory forms of disclosure.<sup>73</sup> PILDAT’s reports, however, show a shift toward a more open dialogue on anticorruption and transparency efforts.

In general, the state has done a poor job of enforcing a clear separation between public and private interests. Incumbent officials, for instance, have often used their influence to stifle investigations of corruption. The most egregious cases emerged in the wake of two major natural disasters: a devastating earthquake in 2005 and record-breaking floods in 2010. In both cases, important questions were raised about the extent to which public-sector relief funds were diverted to serve the private interests of lawmakers living in the affected areas. Several allegations of corruption involving the Earthquake Reconstruction and Rehabilitation Authority (ERRA) were referred to a special standing committee within the National Assembly for review.<sup>74</sup> During the 2010 floods, after noting that many corruption-wary citizens had decided to bypass the prime minister’s flood relief fund in favor of local religious organizations, even the U.S. Agency for International Development (USAID) commissioned Transparency International (TI) to follow and report on the fate of its bilateral flood aid.<sup>75</sup>

Pakistan’s ranking in TI’s annual Corruption Perceptions Index has not improved since 2007. In 2008, just one year the country ratified the UN Convention against Corruption (UNCAC), Pakistan was ranked 134 out of 180. It fell to 139 out of 180 in 2009, and 143 out of 178 in the 2010 index.<sup>76</sup>

The primary institution responsible for addressing corruption, the National Accountability Bureau, remains heavily politicized, but Pakistan’s auditor general has recently moved to fill the gap. In 2010 the auditor unearthed more than \$3.8 billion in financial irregularities among federal ministries and departments, particularly in the FBR.<sup>77</sup> Unfortunately, the auditor’s annual report is often buried in the Public Accounts Committee of the National Assembly and forgotten, ensuring that actual prosecutions and convictions, even at the lowest

levels, are rare.

Private media outlets, however, are increasingly emerging as effective government watchdogs—particularly at the district and subdistrict levels. However, journalists and activists who attempt to expose high-level cases of corruption do so at great risk. In 2010 the leader of TI-Pakistan, Syed Adil Gilani, received numerous death threats for his efforts to uncover cases of malfeasance, including \$2 billion worth of bidding irregularities at local power plants and a scandal that disgraced the chairman of a steel mill.<sup>78</sup> Officials also blamed TI for “undermining the country’s sovereignty” by giving Pakistan a low score in the Corruption Perceptions Index. Lawmakers in Sindh went so far as to pass a resolution calling TI’s index “a conspiracy against the country.”<sup>79</sup> While media outlets are making some progress in combating corruption, in other words, they are limited by a hostile state bureaucracy.

There are few official avenues through which citizens can complain of graft. Since 1983 there has been a federal ombudsman tasked with investigating complaints of corruption in education, employment, and health services, and today, complaints can be lodged online or via a toll-free telephone hotline.<sup>80</sup> Claims focused on other parts of the state, however, are less welcome, and those relating to defense remain completely off limits. Official means of redress remain highly underdeveloped, although they have been used successfully in a few cases. Most complaints do receive a response within a year, but again, the office of the ombudsman has limited enforcement power. If the ombudsman concludes that a department has failed to implement his orders, he can only refer the matter to the president, at which point political considerations often trump anticorruption goals.<sup>81</sup>

In 2002 Pakistan became the first country in South Asia to supplement existing constitutional provisions on freedom of information—for example, Article 19A within the 18th Amendment—with an explicit Freedom of Information (FOI) Ordinance. The ordinance was introduced at the behest of the Asian Development Bank as a condition for a loan package, but it remains largely perfunctory. In particular, it excludes provincial records as well as anything related to defense. In fact the ordinance is rarely used by citizens to obtain access to state-based information.<sup>82</sup>

The federal budget-making process is largely transparent, allowing for extensive scrutiny by the legislature. However, the discretionary portion of the budget is very small, with basic debt servicing and classified allocations for the military accounting for nearly 50 percent of the budget. Civil society organizations like PILDAT have led recent efforts to render the budget-making process more accessible, in many cases by sponsoring tailored briefings for lawmakers from each major party.<sup>83</sup>

Unlike discretionary budget allocations, however, records of actual public-sector expenditures remain hidden. The bidding processes for government contracts are also a matter of great public concern, particularly in the wake of reports detailing bidding irregularities at Pakistani power plants and devastating media interviews that exposed enormous improprieties, such as a 2008 interview conducted by GEO News with former Pakistan Steel Mills chairman Abdul Qayyum, a retired general.<sup>84</sup> The most prominent case of irregular government contracting, however, grew out of a series of arms deals with France during the 1990s. After these deals—along with their commissions and alleged kickbacks—were cancelled, eleven French engineers were killed in an attack on their hotel in Karachi. The case is still under investigation in France.

The challenges that Pakistan faces are characteristic of highly centralized states suffering from extremely low levels of public legitimacy. State power is both socially shallow and closely

tied to the use of violence. The state is ubiquitous, but its writ is constantly defied by elites. The past five years have featured high levels of political instability, as competing military and civilian factions have struggled to capture the state. Future years should be used to establish a wider distribution of political power coupled with a general commitment to freedom and the principles of civilian rule.

### *Recommendations*

- Complete an up-to-date voter registration list and strengthen both the independence and transparency of the ECP.
- Remove exclusionary requirements for elected representatives (for example, the rule stipulating that members of Parliament must hold a university-level degree).
- Extend the application of the Political Parties Act to FATA.
- Simplify the registration process for NGOs and allow registered NGOs to enjoy tax-exempt status in exchange for rigorous auditing procedures.
- Vigorously prosecute cases involving the physical abuse of journalists.
- Take steps to address enforced disappearances and cases of arbitrary detention.
- Radically improve existing prison conditions.
- Eliminate bonded labor.
- Deploy every available economic and political resource to reduce the violence perpetrated by militant groups affiliated with the Taliban.
- Remove the legal restrictions that are used to target religious and sexual minorities.
- Promote civilian control over foreign policy.
- Create a balanced committee of military and civilian representatives to oversee existing intelligence services.
- Tie generous salary increases for district-level judges to rigorous performance incentives established by the Supreme Court.
- Revise existing blasphemy laws to make the registration of new cases more difficult and punish those who lodge allegations that are fraudulent.
- Computerize existing land records after negotiating redeployment or severance contracts with local recordkeepers.
- Strengthen the revenue base of the country by restoring the accuracy of existing land-revenue records and taxing agricultural income.
- Enhance public scrutiny of the FBR.
- Extend asset-declaration requirements to military officers, senior bureaucrats, and superior court judges.
- Reinforce the strength of the auditor general's office.
- Improve access to information through a strengthening of the Freedom of Information Act and publish federal and provincial government expenditures online.

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<sup>1</sup> In Pakistan, presidents are elected indirectly by an electoral college composed of members of the Senate, the National Assembly, and the provincial assemblies.

<sup>2</sup> Human Rights Watch (HRW) reported “extensive government transfers and postings of judges” in violation of “legal provisions banning postings and transfers after the announcement of the election schedule.” The Election

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Commission, however, insisted that it was powerless to act if local judges failed to pass along complaints. See HRW, “Pakistan: Election Commission Not Impartial,” news release, February 12, 2008, <http://www.hrw.org/news/2008/02/10/pakistan-election-commission-not-impartial>; European Union Election Observation Mission (Pakistan), *Preliminary Statement: Pakistan Holds Competitive Elections Despite Significant Problems with Election Framework and Environment* (Islamabad: European Union, February 20, 2008), 5, <http://www.euempakistan.org/PDF/preliminary/Preliminary%20Statement%20Pakistan%2020%20February2.pdf>.

<sup>3</sup> See Democracy International, *U.S. Election Observation Mission to Pakistan: General Elections 2008* (Bethesda, MD: Democracy International, May 2008), 2, <http://www.democracyinternational.com/sites/default/files/U.S.%20Election%20Observation%20Mission%20to%20Pakistan%20General%20Elections%202008%20Final%20Report.pdf>; European Union Election Observation Mission (Pakistan), *Preliminary Statement*, 5; HRW, “Pakistan: Election Commission Not Impartial.”

<sup>4</sup> European Union Election Observation Mission (Pakistan), *Preliminary Statement*, 7; Democracy International, *U.S. Election Observation Mission to Pakistan*, 5.

<sup>5</sup> Pakistan Institute of Legislative Development and Transparency (PILDAT), “Prime Minister’s Continuing Election Rallies and Election Commission’s Inaction Are Severely Damaging the Credibility of Democratic Process,” news release, August 24, 2010, <http://www.pildat.org/eventsdel.asp?detid=397>.

<sup>6</sup> “Sporadic Violence, Heavy Police Presence, Incidents of Fraudulent Voting Mark Vehari By-Election,” Free and Fair Election Network (FAFEN), May 15, 2010, <http://www.fafen.org/site/v4/content.php?id=575>; Amir Wasim, “Observers Denied Entry into Polling Stations,” *Dawn*, August 27, 2010; “FAFEN Sees Irregularities in NA-184 By-Polls,” *Dawn*, September 6, 2010; “Low Turnout, Heavy Police Presence Mark NA-178 By-Polls,” *Pakistan Observer*, November 14, 2010.

<sup>7</sup> In practice, religious parties like the Jama’at-e-Islami and the Jamiat-e-Ulema-e-Islam are able to mobilize voters in the FATA without significant restrictions. See Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2008 Country Reports on Human Rights Practices* (Washington, DC: U.S. Department of State, February 2009), <http://www.state.gov/g/drl/rls/hrrpt/2008/sca/119139.htm>. Representatives elected from the FATA—ostensibly on a nonpartisan basis—sit in the National Assembly, but decisions regarding governance of the tribal areas are made by the president rather than the National Assembly.

<sup>8</sup> “Reforming Pakistan’s Electoral System” Crisis Group Asia Report. March 30, 2011. No. 203, 13

<sup>9</sup> See Prud’homme, Jo-Anne, “Pakistan” in *Policing Belief: The Impact of Blasphemy Laws on Human Rights*. (Lanham, MD: Freedom House. October 2010)

<sup>10</sup> Ibid.

<sup>11</sup> Many nongovernmental organizations (NGOs) complain that there are conflicting registration requirements under different laws, such as the Societies Registration Act of 1860, the Social Welfare Agencies Registration and Control Ordinance of 1961, the Cooperative Societies Act of 1925, the Charitable Endowments Act of 1890, the Companies Ordinance of 1984, and the Trust Act of 1882. Some effort has been made to replace these laws with a common set of rules under the Social Welfare Agencies Control and Regulation Ordinance of 1994, the Social Welfare Agencies Registration and Regulation Act of 1996, and the Foreign Assistance Control Act of 1998.

<sup>12</sup> Hijab Shah, “The Inside Pages: An Analysis of the Pakistani Press,” *South Asia Monitor* (Washington, DC: Center for Strategic and International Studies, December 9, 2010), 1, 3, <http://csis.org/publication/inside-pages-analysis-pakistani-press>.

<sup>13</sup> See “Pakistan” in *Freedom of the Press 2010* (Lanham, MD: Freedom House 2010).

<sup>14</sup> Interview with journalist via e-mail, January 8, 2011.

<sup>15</sup> Some websites run by Baloch nationalists, such as Walochwama, were also banned. See Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2010 Country Reports on Human Rights Practices*.

<sup>16</sup> Shah, “The Inside Pages,” 2.

<sup>17</sup> Bob Dietz, “The Last Story: Hayatullah Khan,” Committee to Protect Journalists, September 20, 2006, <http://cpj.org/reports/2006/09/khan.php>.

<sup>18</sup> Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2007 Country Reports on Human Rights Practices* (Washington, DC: U.S. Department of State, March 2008), <http://www.state.gov/g/drl/rls/hrrpt/2007/100619.htm>; Adnan Rehmat, *Murder and Mayhem: The Worst Year Ever*

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for *Pakistani Media* (Islamabad: Internews, May 2008), 4–5,  
<http://www.internews.org/pubs/pakistan/StateofMediainPakistan-AnnualReport2007-08.pdf>.

<sup>19</sup> Rehmat, *Murder and Mayhem*, 10.

<sup>20</sup> Democracy International, *U.S. Election Observation Mission to Pakistan*, 37; Salman Masood, “Pakistan Government Proposes Lifting Media Restrictions,” *New York Times*, April 12, 2008; Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2010 Country Reports on Human Rights Practices*.

<sup>21</sup> Shah, “The Inside Pages,” 2; Rehmat, *Murder and Mayhem*, 9–10. Between 2005 and 2009, the Human Rights Commission of Pakistan (HRCP) documented 107 cases in which journalists were imprisoned for libel without any trial (reported to author via e-mail, January 20, 2011).

<sup>22</sup> According to one report, the military killed 1,150 civilians in the FATA and North West Frontier Province during 2009. Militant attacks killed another 825. Bureau of Democracy, Human Rights, and Labor, “Pakistan,” *2009 Country Reports on Human Rights Practices* (Washington, DC: U.S. Department of State, March 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136092.htm>.

<sup>23</sup> Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2006 Country Reports on Human Rights Practices* (Washington, DC: U.S. Department of State, March 2007), <http://www.state.gov/g/drl/rls/hrrpt/2006/78874.htm>.

<sup>24</sup> In December 2009 the Home Department in Balochistan presented a list of more than 990 “missing persons.” See Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2009 Country Reports on Human Rights Practices*.

<sup>25</sup> Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2010 Country Reports on Human Rights Practices*. Pakistan’s National Accountability Bureau (NAB) may hold suspects indefinitely so long as judicial concurrence is granted every 15 days. Many of the children held in prison are pretrial detainees. Most are acquitted after one to three years owing to a lack of evidence. Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2006 Country Reports on Human Rights Practices*.

<sup>26</sup> Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2006 Country Reports on Human Rights Practices*. In 2009 an NGO cited 2,300 cases of police torture, most of them in Punjab. Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2009 Country Reports on Human Rights Practices*.

<sup>27</sup> “Torture Becoming Routine at Adiala Jail,” *Daily Times*, May 7, 2006; “Senate Committee on Women for Improving Jail Conditions,” *Nation*, July 3, 2008. Rawalpindi’s Central Jail was built to house roughly 2,000 prisoners, but in 2008 it held nearly 6,000.

<sup>28</sup> In 2009, authorities registered more than 4,500 cases of human smuggling. Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2009 Country Reports on Human Rights Practices*.

<sup>29</sup> Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2007 Country Reports on Human Rights Practices*.

<sup>30</sup> “Pakistan Lags Behind in Skilled Women Labour Force,” *Nation*, May 1, 2009; Adam B. Ellick, “Necessity Pushes Pakistani Women into Jobs and Peril,” *New York Times*, December 25, 2010.

<sup>31</sup> “Pakistan Lags Behind in Skilled Women Labour Force,” *Nation*.

<sup>32</sup> “NA Passes Bill to Protect Women at Workplace,” *Nation*, November 5, 2009; “Government Set to Empower Women,” *Nation*, March 9, 2010; Ellick, “Necessity Pushes Pakistani Women into Jobs and Peril.”

<sup>33</sup> Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2006 Country Reports on Human Rights Practices*.

<sup>34</sup> Human Rights Commission of Pakistan, “Violence against women rose 13pc in 2009.” February 2, 2010, <http://www.hrcp-web.org/shownews.asp?id=41>

<sup>35</sup> Farhan Hanif Siddiqi, *The State and Politics of Ethnicity in Post-1971 Pakistan: An Analysis of the Baloch, Sindhi, and Mohajir Ethnic Movements* (unpublished doctoral thesis, University of Karachi).

<sup>36</sup> In lieu of this public-sector quota for the disabled, private employers can make a donation to the treasury, but this provision also remains poorly enforced. Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2006 Country Reports on Human Rights Practices*; I. A. Rehman, “Rights of the Disabled,” *Dawn*, May 20, 2010;

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“Disabled People Demand Increase in Job Quota,” *Nation*, January 28, 2009; “Plight of the Disabled,” *Dawn*, July 9, 2009.

<sup>37</sup> Between 2005 and 2009, the HRCP reported that 729 Shiites, 33 Ahmadis, and 9 Christians had been killed (communicated to author via e-mail, January 20, 2011). The number of religious minority members killed increased dramatically in 2010, with more than 100 Ahmadis and 8 Christians killed in the Punjab village of Gojra alone.

<sup>38</sup> Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2007 Country Reports on Human Rights Practices*. Some reports cited as many as 6,000 detentions.

<sup>39</sup> *Ibid.*

<sup>40</sup> Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2009 Country Reports on Human Rights Practices*.

<sup>41</sup> NGOs were required to register under the Cooperative Societies Act of 1960, but in recent years no prominent NGOs have encountered problems with this requirement. In fact, some apparently failed to register and faced no legal repercussions. Exceptions include several organizations banned for “religious extremism,” including Lashkar-e-Taiba (renamed Jama’at-ud-Dawa) and Jaish-e-Mohammad (renamed Tehreek-ul-Furqan, or Al-Rehmat Trust). See Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2010 Country Reports on Human Rights Practices*. See also note 11 above.

<sup>42</sup> “A Trade Union Leader and His Brother Are Murdered During Strike Negotiations,” Asian Human Rights Commission, July 8, 2010, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-099-2010>; Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2010 Country Reports on Human Rights Practices*.

<sup>43</sup> “APTUF Protests for Labour Rights,” *Daily Times*, January 7, 2010; Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2010 Country Reports on Human Rights Practices*. In 2010, the existing provisions of the 2008 Industrial Relations Act expired, leading to the promulgation of several different provincial laws. Unfortunately, this patchwork of provincial laws has made it nearly impossible to register the all-Pakistan unions previously recognized by the now defunct National Industrial Relations Commission. See Aziz Malik, “Trade Unions in Limbo after Expiry of IRA,” *Dawn*, July 25, 2010.

<sup>44</sup> These cases concerned the extent to which such attacks amounted to violations of Pakistani sovereignty, or, given the possibility that they were authorized by the government, the extent to which they violated existing laws prohibiting extrajudicial assassinations in territories not officially defined as war zones.

<sup>45</sup> Associated Press, “Pakistan Court Orders Government to Probe Graft,” Fox News, September 27, 2010, <http://www.foxnews.com/world/2010/09/27/pakistans-president-supreme-court-demands-action-graft-charge/>.

<sup>46</sup> Matthew J. Nelson, *In the Shadow of Shari’ah: Islam, Islamic Law, and Democracy in Pakistan* (New York: Columbia University Press, 2011).

<sup>47</sup> Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2009 Country Reports on Human Rights Practices*.

<sup>48</sup> Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2010 Country Reports on Human Rights Practices*; Karin Brulliard and Shafiq Hussain, “Blasphemy Trials in Pakistan Reveal Broken System,” *Washington Post*, December 11, 2010; Alex Rodriguez, “Pakistan’s Blasphemy Law Seen as Tool of Oppression,” *Los Angeles Times*, December 27, 2010; Salman Masood, “Pakistanis Rally in Support of Blasphemy Law,” *New York Times*, December 31, 2010.

<sup>49</sup> Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2010 Country Reports on Human Rights Practices*.

<sup>50</sup> *Ibid.*; Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2006 Country Reports on Human Rights Practices*.

<sup>51</sup> Asad Jamal, ed., *Revisiting Police Laws* (Lahore: HRCP, 2011), 2.

<sup>52</sup> Baseer Naveed, “Jirga Justice: Getting Away with Murder,” Human Rights Solidarity, August 12, 2008, <http://www.hrsolidarity.net/mainfile.php/2008vol18no04/2666/>; Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2008 Country Reports on Human Rights Practices*.

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- <sup>53</sup> Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *2006 Country Reports on Human Rights Practices*.
- <sup>54</sup> Khalid Kiani, "Musharraf Stopped Probes, Says Ex-Chief of NAB," *Dawn*, December 6, 2009.
- <sup>55</sup> Sabrina Tavernise, "Pakistan's Elite Pay Few Taxes, Widening Gap," *New York Times*, July 18, 2010, <http://www.nytimes.com/2010/07/19/world/asia/19taxes.html>.
- <sup>56</sup> Anwar Iqbal, "US Note Dilutes Some Conditions in Kerry-Lugar Bill," *Dawn*, October 14, 2009; "General Kayani Foiled US Plan for Civilian Control Over Army," *Pak Tribune*, December 1, 2010.
- <sup>57</sup> Ayesha Siddiqi, *Military, Inc.: Inside Pakistan's Military Economy* (London: Pluto, 2007).
- <sup>58</sup> After 2008, police reported directly to the inspector general in each province.
- <sup>59</sup> Nelson, *In the Shadow of Shari'ah*.
- <sup>60</sup> *Ibid.*
- <sup>61</sup> Typically, the partisan orientation of the NAB is traced to the appointment of its membership. Members are generally drawn from the civil service, which has been affected by high levels of political interference since the 1970s.
- <sup>62</sup> PILDAT notes that these public-sector enterprises are "bleeding profusely and as such have emerged as a serious burden to the national exchequer." The group's report says that roughly 245 billion rupees (\$2.9 billion) in public funds were injected into the companies in 2009–10 to keep them afloat, adding that the government had treated them as a source of "unproductive jobs" for its "favorites." See PILDAT, *Analysis of the Federal Budget 2010–2011* (Islamabad: PILDAT, April 2010), 8.
- <sup>63</sup> Sabihuddin Ghausi, "Pakistan Steel Sold at Throwaway Price," *Dawn*, April 6, 2006.
- <sup>64</sup> NAB, "NAB Arrests 2 Senior Officers of NWFP Forest Department," news release, November 15, 2007. Apparently, the provincial forest department provided exaggerated figures regarding the growing stock of private forests, allowing the criminals to claim that the timber they harvested from government forests was a part of their own private quota.
- <sup>65</sup> Nelson, *In the Shadow of Shari'ah*.
- <sup>66</sup> Tavernise, "Pakistan's Elite Pay Few Taxes."
- <sup>67</sup> J. J. Sutherland, "Hillary Clinton Wants Pakistan to Start Paying Its Fair Share," National Public Radio, September 29, 2010, <http://www.npr.org/blogs/thetwo-way/2010/09/29/130210444/hilary-clinton-wants-pakistan-to-start-paying-its-fair-share>.
- <sup>68</sup> Shabbaz Rana, "Tax Evasion of Rs21.7b Unearthed," *Express Tribune*, October 7, 2010.
- <sup>69</sup> Shabbaz Rana, "Tax Evasion Peaks to Half of Total Revenue Collection," *Nation*, July 14, 2008.
- <sup>70</sup> Farzana Shah, "Rs. 796 Billion Tax Evaded in Pakistan: WB Report," *Asian Tribune*, September 7, 2009. Shah cited a World Bank report prepared by the FBR entitled *Pakistan Tax Policy Report 2009: Tapping Tax Base for Development*.
- <sup>71</sup> Dawn News, "Gilani Paid Only Rs82,873 Tax in 2008–2009," Awaz.tv, March 6, 2010, <http://www.awaz.tv/newsdetails.asp?pageId=4631>. With reference to Sharif, "a spokesman ... said he had been in exile and had turned over positions in his companies to relatives." Tavernise, "Pakistan's Elite Pay Few Taxes."
- <sup>72</sup> Tavernise, "Pakistan's Elite Pay Few Taxes"; "Assets Declaration Is a Farce," *Pakistan Tribune*, February 28, 2010; Irfan Ghauri, "Stark Contrast in Assets of BA Members," *Daily Times*, March 4, 2010.
- <sup>73</sup> Rahimullah Yusufzai, "Our MNAs' Assets," *The News*, September 28, 2010, <http://thenews.com.pk/TodaysPrintDetail.aspx?ID=7060&Cat=9>.
- <sup>74</sup> "NA Refers ERRAs 'Corruption' to Standing Committee," *Daily Times*, April 18, 2008.
- <sup>75</sup> Rob Crilly, "US Hotline to Tackle Aid Fraud in Pakistan," *Daily Telegraph*, November 30, 2010; Ahmed Rashid, "Pakistan's Troubles Start to Stack Up Ominously," British Broadcasting Corporation (BBC), October 7, 2010. In September 2010, the Pakistan branch of Transparency International (TI) signed a five-year, \$2.9 million contract with USAID to act as a clearinghouse for corruption complaints. The move came after international donors and UN Secretary General Ban Ki-moon warned that Pakistan's transparency efforts regarding flood relief were insufficient.

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<sup>76</sup> TI, “Persistently High Corruption in Low-Income Countries Amounts to an ‘Ongoing Humanitarian Disaster,’” news release, September 22, 2008,

[http://www.transparency.org/news\\_room/latest\\_news/press\\_releases/2008/2008\\_09\\_23\\_cpi\\_2008\\_en](http://www.transparency.org/news_room/latest_news/press_releases/2008/2008_09_23_cpi_2008_en).

<sup>77</sup> Amir Wasim, “Auditor General’s Office Detects Rs. 323bn Bungling,” *Dawn*, May 4, 2010; Asian News International, “Auditor General Report Unearths Massive Irregularities in Pakistan’s Defence Expenditure,” Pakistan Defence, September 25, 2010, <http://www.defence.pk/forums/world-affairs/74143-auditor-general-report-uneearths-massive-irregularities-pakistans-defence-expendit.html>.

<sup>78</sup> TI, “Transparency International Expresses Strong Concern about Intimidation of TI in Pakistan,” news release, November 4, 2010,

[http://www.transparency.org/news\\_room/latest\\_news/press\\_releases/2010/2010\\_11\\_04\\_ti\\_pakistan](http://www.transparency.org/news_room/latest_news/press_releases/2010/2010_11_04_ti_pakistan).

<sup>79</sup> Alex Rodriguez, “Officials Go After Pakistani Who Ferrets Out Corruption,” *Los Angeles Times*, December 11, 2010.

<sup>80</sup> Additional ombudsmen have emerged in the taxation and banking sectors. In 2001, the Local Government Plan (LGP) sought to introduce similar offices at the local (district) level.

<sup>81</sup> Mustafa Qadri, “Pakistan’s Ombudsman Tackles Injustice and Unaccountability,” Common Ground News Service, October 27, 2009, <http://www.commongroundnews.org/article.php?id=26631&lan=en&sid=1&sp=0&isNew=1>.

<sup>82</sup> Bureau of Democracy, Human Rights, and Labor, “Pakistan,” in *2007 Country Reports on Human Rights Practices*; Mukhtar Ahmad Ali, *Lack of Transparency and Freedom of Information in Pakistan: An Analysis of State Practice and Realistic Policy Options for Reform* (Budapest: Open Society Institute, 2006); “Right to Information Legislation: A Comparison of Pakistan’s Freedom of Information Ordinance 2002 and Indian Right to Information Act 2005,” Centre for Peace and Development Initiatives, Pakistan, September 2005.

<sup>83</sup> PILDAT, *Budget Process Guide: Effective Parliamentary Budget Process in Pakistan* (Islamabad: PILDAT, October 2010). This and other PILDAT publications are available at <http://www.pildat.org/publications.asp>.

<sup>84</sup> “Ex-Chief of Steel Mills Spills the Beans,” *The News*, May 25, 2008, Exposes Shaukat-Musharraf Corruption in the Privatization Issue,”

<http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=14911&Cat=13&dt=5/26/2008%2012:00:00%20PM>;

“Reporter\_REVEALING FACES BEHIND DACOITY OF PAKISTAN STEEL MILLS \_EP\_85\_Part 2\_Clip\_1,”

YouTube video, 10:01, from an edition of the Dawn television program *Reporter*, posted by “dawnnewspakistan,” December 8, 2010, <http://www.youtube.com/watch?v=7HUWSqH14Ls&playnext=1&list=PL2B061CBB8D23E413>.