

21 May 2012

Islamic Human Rights Commission

Pakistan

Submission to the UN Universal Periodic Review

Twelfth session of the UPR Working Group of the Human Rights Council

May 2012



The Islamic Human Rights Commission is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations.

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Executive Summary

In this submission, Islamic Human Rights Commission provides information under section B, C, D and E as stipulated in the General Guidelines for the Preparation of Information under the Universal Periodic Review:

- Under section B, IHRC raises concerns over the ongoing drone attacks in Pakistan that are an attack on the country's sovereignty and also result in the deaths of hundreds of innocent civilians including children.
- Section C highlights IHRC's concerns regarding missing persons who are regularly abducted by the security agencies who are subject to excessive use of force, torture, extra judicial killing and other. It further raises concerns regarding obstacles which relatives of the missing persons face to access justice in the country. IHRC also raises concerns over the plight of Aafia Siddiqui who is subject to ill treatment at the hands of American forces.
- Section D highlights the grave breaches of women's rights taking place in the country. A special emphasis has been placed on domestic violence as many women are subject to cruel treatment at the hands of their male relatives.
- In section E, IHRC makes a number of recommendations for actions by the government in the areas of concern.

B. Drone Attacks

Introduction

Since 2004 the government of United States of America has made a series of attack on targets in the northwest area of Pakistan using drones that are controlled by the CIA¹. The legality and authority of this unilateral act of aggression against Pakistan is questionable by the international community and law. It must be noted that most Pakistanis see the ongoing American drone attacks as a pointless act that only increases the threat of local and global terrorism. According to an investigation by the Bureau of Investigative Journalism for the Sunday Times, the CIA's drone campaign in Pakistan has killed dozens of civilians who had gone to rescue victims or were attending funerals. The report further states that since Barack Obama took office, between 282² and 535³ civilians have been credibly reported as killed including more than 60⁴ children. Another report by the Brookings Institution stated that approximately ten civilians had died in the drone attacks for every so-called militant killed⁵. IHRC strongly condemn these killings and constitutes them as a grave breach of human rights which demands the attention of the world.

Legality of American Drone Attacks

The drone strikes create Anti-American sentiment in Pakistan and the growing questionability of the scope and extent of CIA activities in the region. These ongoing strikes on Pakistani soil are a clear violation of the country's sovereignty and integrity.

CIA's increasing drone attacks in Pakistan without any transparency and accountability raises great concerns about the lawfulness of the policy. The only justification that the Obama administration put forward for the strikes is that these attacks will take out Al Qaeda members wherever they may be hiding. The offered justification is difficult to sustain as it is primarily based on arguments supporting the use of uni-lateral pre-emptive strikes in the anticipation of planned attacks, which is not recognised under international law. The American government is clearly using excessive force in breach of Article 51 of the UN Charter, which only allows the armed attack for self defence only. Additionally, America's use of drones as a self defence is impermissible because it is unnecessary as other peaceful means of facing threat have not yet been exhausted. Instead of solving the problem of terrorism these attacks are in fact intensify the threat of danger further.

¹ Omar Waraich's 'Time and Money running Out for Pakistan', Times, Oct 25 2008, Available at <http://www.time.com/time/world/article/0,8599,1852847,00.html>

² Sikander Ahmed Sgag's 'The legality of the U.S. Drone War in Pakistan' Policy Brief No 50, Institute fro Social Policy and Understanding (October 2011)

³ Sikander Ahmed Sgag's 'The legality of the U.S. Drone War in Pakistan' Policy Brief No 50, Institute fro Social Policy and Understanding (October 2011)

⁴ Sikander Ahmed Sgag's 'The legality of the U.S. Drone War in Pakistan' Policy Brief No 50, Institute fro Social Policy and Understanding (October 2011)

⁵ March 5, 2012 'Deadly Drone Attacks in Pakistan', (online) Available at http://www.brookings.edu/opinions/2012/0305_drones_pakistan_ahmed.aspx

It should be noted that if individuals who are hiding in the tribal areas of Pakistan are militants as claimed by American government then they still have the right to fair trial and due process under the Geneva Convention. If American authorities have evidence against these militants then they must be brought in the court of law rather than being assassinated in drone attacks.

Failure of the Pakistani State

Although the Government of Pakistan publicly condemns drone attacks it is widely reported that they have secretly shared intelligence with the United States⁶. It is clear that the state has failed to protect its sovereignty and the basic human rights of its citizens. The government must understand that they are fighting a proxy war on their own land. The government's focus must be to fight against poverty, corruption etc rather than a vague war on terrorism that does not have any clear target as a proxy.

C. Missing People

Introduction

IHRC is concerned about the way Pakistani citizens are abducted by the local security agencies because of their tribal affiliation and political views. Enforced disappearance is a crime both under international law and the domestic law of Pakistan. The authorities kidnap individuals and detain them at unknown places. These missing persons are often subject to torture, prolonged periods of beating, food and sleep deprivation and other forms of ill treatment, even extra judicial killings⁷. Despite the grievous nature of the crime it is not possible to give accurate figures on how many people are currently missing as the agencies keep denying responsibility for enforced disappearances. However, according to the recently formed Commission of Inquiry for missing persons approximately 134⁸ people are currently missing. These kidnappings by the state authorities do not only violate basic human rights of detainees but also force their families to live in anguish for decades without knowing the whereabouts of their loved ones and thus breach their right to family life.

Alongside missing persons, IHRC demands the attention of the international community for Dr Aafia Siddiqui who was kidnapped from Karachi by security officials in 2003 and later transported to America after 5 years of illegal detention in Afghanistan. . After being charged with assault and attempted murder of US officials she is detained in federal prison in Texas where she is being denied access to any medical facilities, impartial tribunals and free trial. Pakistan's role in facilitating this abuse is another example of the state's failure of international obligations.

⁶ Pakistan Institute for Peace Studies, "Pakistan Security Report 2009", 10 January 2010; The International Institute for Strategic Studies, Pakistan (Online) Available at http://acd.iiss.org/armedconflict/MainPages/dsp_AnnualUpdate.asp?ConflictID=218&YearID=1209

⁷ 'As if Hell Fell On Me', Amnesty International (Online) Available at <http://www.amnesty.org/en/library/asset/ASA33/004/2010/en/1ea0b9e0-c79d-4f0f-a43d-98f7739ea92e/asa330042010en.pdf>

⁸ Griff Witte and Karen DeYoung, 'Pakistan holding thousands in indefinite detention, officials say', *Washington Post* (Online) Available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/04/21/AR2010042102658.html>

Breach of International and Domestic Law

Enforced Disappearance is a crime under the **International Convention for the Protection of All Persons from Enforced Disappearance** which prohibits the deprivation of liberty of any individual followed by the concealment of his whereabouts by state authorities. IHRC is particularly concerned with disappearances because it involves multiple human rights breaches. A person who is abducted by intelligence services is deprived of a right to fair trial, protection from torture, right to recognition as person before law and in some instances he/she is also deprived of right to life. These are rights that are protected under ICCPR. Although Pakistan ratified ICCPR in 2010 but it has failed to implement and protect the rights mentioned in the covenant. The practice of enforced disappearance involves arbitrary detention and arrest in relation to which is a direct breach of ICCPR covenant which requires states to specify the legal basis on which individuals are deprived of their liberty, right to inform the family and access to a lawyer⁹.

Enforced disappearances also violate the Pakistani constitution which guarantees liberty of a person and prohibits arbitrary detention.

D. Violence against women

IHRC is apprehensive about the rising violence against women in Pakistan. Physical torture, abuse, forced abduction; acid attacks, forced marriages, sexual attacks and other forms of brutal practices are common in the country. Unfortunately the government's plans to secure the rights of women with the introduction of 'Domestic Violence Act 2012 is of no use.

According to Madadgar, a local NGO, in the year 2010-2011, 539¹⁰ women were raped and then killed.

E. Recommendations

Drone Attacks

IHRC calls on the government of Pakistan to:

- Disclose the details of the legal and factual basis for the authorisation of lethal use of drone attacks in Pakistan.
- Pakistan with immediate effect should monitor civilian casualties which are a direct result of drone attacks and seek redress on behalf of the victims from the USA.
- End the facilitation of drone attacks.
- Redress the civilian victims of the attack by providing them compensation as a result of its own complicity

Enforced Disappearances

IHRC calls on the government of Pakistan to:

- Ensure prompt, impartial and thorough investigation of alleged enforced cases and publish the results for the public.
- Instruct police to register the cases of abduction even if it involves the security officials.

⁹ Imtiaz Ali, "Khyber Tribal Agency: A New Hub of Islamist Militancy in Pakistan", Terrorism Monitor, Volume: 6 Issue: 11, Jamestown Foundation, 29 May 2008

¹⁰ World Health Organization (1996) 'Violence Against Women'. WHO Consultation, Geneva: WHO.

- Take appropriate action against the officials who have been found to be involved in abductions.
- Provide appropriate counselling and compensation to the families of the victims
- Release all such persons over whom the government or its agencies have control

Violence against women

IHRC calls on the government of Pakistan to:

- Pass and implement the passed domestic violence and protection against harassment of women bill to provide protection to women against physical assault.
- To engage NGOs, religious and social scholars, ordinary women living at local level and formulate a long term policies for the welfare of women that respect the women's belief and aspirations