



Unrepresented Nations and Peoples Organization (UNPO) Individual Stakeholder Submission to the Office of the High Commissioner for Human Rights regarding the Universal Periodic Review of the Republic of Pakistan during the 14th Session, 22 October- 5 November 2012

Background of Ethnic Minorities of Pakistan

1. **Sindh:** The Sindhi people are mostly located in Sindh in southeastern Pakistan. This province has historically been recognized as a separate political territory, and it practiced territorial autonomy under British colonial rule. During the Pakistan-Indian separation, the Sindhi agreed to join Pakistan in exchange for the promise of autonomy. Since that time, Sindh has seen a loss of provincial autonomy, endangering the distinct culture and language of the Sindh.

2. **Gilgit-Baltistan:** Gilgit-Baltistan is an area located in the north of Pakistan disputed by India and Pakistan. Because of its isolated position between the Karakoram Mountains, the area has developed and preserved its unique history, cultural values, and traditional political identity. The area where an estimated 1.8 million people reside is governed directly by Islamabad, despite a landmark verdict in 1999 which ordered Pakistan to extend fundamental freedoms to the Northern Areas.

3. **Balochistan:** The region of Balochistan stretches out over parts of Iran, Afghanistan and Pakistan. After the British occupation of the region, and the subsequent independence of Pakistan, the land of the Baloch was partitioned. According to official estimates, 7, 9 million people are currently living in the Pakistani part of the Balochistan. Many Baloch live in a climate of fear characterized by rising rates of enforced disappearances, extrajudicial killings, and arbitrary detention.

Main Issues of Concern

A. Enforced Disappearances

4. At the previous Universal Periodic Review (UPR) in 2008, the issue of enforced disappearances was raised, and Pakistan announced that it was close to acceding to the relevant conventions.¹ However, enforced disappearances have remained among the main areas of concern during the course of the current review period, especially in Sindh and Balochistan. Enforced disappearance violates, among others, the right to recognition as a person before the law and the right to liberty and security of the person, and it is a grave threat to the right to life.² Enforced disappearance is also a crime under international humanitarian law, and it is explicitly mentioned in the Rome Statute. While UNPO welcomes Pakistan's recent ratification of the

¹ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review (Pakistan)* (4 June 2008) A/HCR/8/42, para 30, 83, 104.; UN Human Rights Council, *Summary Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15 (c) of the Annex to Human Rights Council Resolution 5/1* (3 April 2008) A.HRC/WG.6/PAK/3, paras 4, 12, 19.

² *Declaration on the Protection of all Persons from Enforced Disappearance* (18 December 1992) UNGA Res 47/133 1(2).



International Covenant on Civil and Political Rights³ and the Convention Against Torture,⁴ as was recommended in its last review during the 2nd UPR session, concern remains due to the fact that under Pakistani national law, enforced disappearance is not a specific crime. Although some components are covered in laws on unlawful detention, wrongful restraint and confinement, kidnappings, and abductions,⁵ the Anti-Terrorism Act of 1997, along with its 1999 amendments, undermines constitutional protections against unlawful detention.⁶ Despite long-noted criticisms to the 1997 law which “invite serious human rights violations by placing wide ranging powers in the hands of law enforcement personnel who are known for their frequent recourse to torture and extrajudicial executions”⁷ and the recommendations it accepted during its last review⁸, Pakistan has not taken any steps to address this legislation.

5. According to the latest report of the Working Group on Enforced or Involuntary Disappearances, the continuing rise of the number of enforced disappearances demonstrates little political will in Pakistan to address the situation. The National Commission of Inquiry on Enforced Disappearances received 333 new cases in the past year, bringing the total number to 471.⁹ Pakistani authorities give out varying information, with estimates ranging from 1,100 cases in 2008¹⁰ to 55 cases in 2011.¹¹ Human rights observers claim that the occurrence of enforced disappearance is much more widespread than these numbers show.

6. In Balochistan, the campaign of enforced disappearances seems to be mainly targeted towards ethnic Baloch that are suspected of being involved with the Balochistan nationalist movement.¹² In a recent report on enforced disappearances in Balochistan, Human Rights Watch noted that the majority of the disappeared were men in their mid-20s to mid-40s. Witnesses described the perpetrators as belonging to the intelligence agencies, and, in some cases, uniformed personnel of a paramilitary corps of the Interior Ministry were involved.¹³ Many of the abductions detailed above happened in broad daylight, where the perpetrators acted openly and did not feel threatened by the presence of witnesses.¹⁴ This signals the existence of a

³ *International Convention on Civil and Political Rights* (ICCPR) (16 December 1966; entry into force 23 March 1976; Pakistan ratification 2010) GA Res 39/46, see art 2, 6, 7, 9, 14, 16, 24.

⁴ *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* [Torture Convention] (10 December 1984; entry into force 26 June 1987; Pakistan ratification 2010) GA Res 39/46.

⁵ Criminal Procedure Code (1898), Chapters V-VIII, XIII, XIV, XIX; Pakistan Penal Code (1860), Chapter XVI.

⁶ Amnesty International, *Pakistan: Legalizing the Impermissible; the New Anti-Terrorism Law* (October 1997) available at: < <http://www.amnesty.org/en/library/asset/ASA33/034/1997/en/d5abe31b-e99a-11dd-b3a1-f9ff1fd9b4a5/asa330341997en.pdf> > [last accessed 5 March 2012]; UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review (Pakistan)* (4 June 2008) A/HRC/8/42, para 71; UN Human Rights Council, *Summary Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15 (c) of the Annex to Human Rights Council Resolution 5/1* (3 April 2008) A.HRC/WG.6/PAK/3, para 37; Human Rights Watch, *We Can Torture, Kill, Or Keep You For Years; Enforced Disappearance By Pakistan Security Forces In Balochistan* (July 2011) available at: < <http://www.hrw.org/sites/default/files/reports/pakistan0711WebInside.pdf> > [last accessed 5 March 2011] 22.

⁷ See footnote 6

⁸ Human Rights Council (2008) Report of the Working Group on the Universal Periodic Review: Pakistan. (A/HRC/8/42) para.106.22

⁹ ‘333 Cases of Missing Persons Reported’ *Dawn* (Islamabad, 6 March 2012) available at < <http://www.dawn.com/2012/03/06/333-cases-of-missing-people-reported.html> > [accessed 7 March 2012].

¹⁰ Saleem Shahid, Syed Irfan Raza, ‘Over 1100 People Missing in Balochistan, Says Malik’ (28 August 2008) available at: < <http://archives.dawn.com/2008/08/28/top10.htm> > [accessed 7 March 2012].

¹¹ Integrated Regional Information Networks (IRIN), *Pakistan: Balochistan mourns its missing* (17 November 2011) available at: < <http://www.unhcr.org/refworld/docid/4eca006b2.html> > [accessed 7 March 2012]

¹² Human Rights Watch, *We Can Torture, Kill, or Keep You For Years* (n 9) 2.

¹³ Human Rights Watch, *We Can Torture, Kill, or Keep You For Years* (n 9) 3.

¹⁴ Human Rights Watch, *We Can Torture, Kill, or Keep You For Years* (n 9) 32. See examples ‘Sindhi Nationalist Goes Missing’ (8 March 2012) available at: <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/national/08-Mar-2012/sindhi-nationalist-goes-missing> [accessed 9 April 2012]; Wasim Iqbal, ‘Targeted Killings In Sindh, Balochistan: NA Body Summons All Agencies On 29th’ (4 February 2012) available at: <http://www.brecorder.com/top-news/1-front-top-news/44708-targeted-killings-in-sindh-balochistan-na-body-summons-all-agencies-on-29th-.html> [accessed 9 April 2012]; Qazi Asif, ‘But Where Is Babar Jamali?’ (17 February 2012) *Pakistan Today* available at: <http://www.pakistantoday.com.pk/2012/02/17/city/karachi/but-where-is-babar-jamali/> [accessed 18 April 2012].



culture of impunity. In some cases, the disappearances are part of a larger military operation. Baloch human rights group report that 21 people were abducted in the weekend of the 7th of April during a shelling attack against tribesmen in Barkhan district.

7. Enforced disappearances are also a common problem in Sindh province. In the past year, there were reports of at least 14 victims of enforced disappearances.¹⁵ The victims are mainly Sindhi nationalists who were targeted by intelligence agencies because of their activities in protest against the authorities.¹⁶ In Gilgit-Baltistan, enforced disappearances are common in the valley of Hunza, where over fifty people were disappeared last summer after anti-government riots.¹⁷

8. Despite repeated protests by family members and other supporters, the Pakistani authorities have neglected to take effective action at any level of the administration to put an end to the system of enforced disappearances. On the judicial side, provincial high courts as well as the Supreme Court have failed to take effective measures, such as upholding *habeas corpus*.¹⁸ While the Supreme Court has repeatedly spoken out against enforced disappearances, its focus on retrieving the disappeared, rather than on bringing those responsible to justice, effectively contributes to a sense of impunity for security agencies.¹⁹ The weakness of Pakistan's judicial systems was a recurrent theme in the country's first UPR,²⁰ but recommendations related to this have not yet been implemented.

B. Lack of Government Action Regarding Floods

9. In the past four years, Pakistan has been hit by several natural disasters. The government's response in some of the affected areas has not been sufficient, especially in areas populated by ethnic minorities. The 2010 floods affected large areas of Balochistan, Gilgit-Baltistan and Sindh and claimed 1500 lives in the first weeks. It affected over 21 million Pakistanis, of whom 8 million were in need of immediate humanitarian assistance.²¹ The floods were partly caused by mismanagement of the rivers in the affected areas. The break of one of the major dykes, which led to the spread of the flood into a different province, may have been connected to negligence by the irrigation department in the preceding years.²² During Pakistan's last UPR review in 2008, governmental development policies in Sindh were found to have caused massive environmental and economic devastation to a region dependent on agriculture, which resulted in the deterioration of canals and deforestation of forests and hills. Pakistan's continuing neglect of the

¹⁵ Khalid Hashmani, 'Who Will Demand Justice For Sindhi Victims Of Enforced Disappearances?' (26 February 2012)

¹⁶ See Rights Now Pakistan: 'Three More Enforced/Involuntary Disappearances in Sindh...Will That Ever End?' (23 November 2011) *Rights Now Pakistan Online* available at: <<http://rightsnowpak.wordpress.com/2011/11/23/three-more-enforced-involuntary-disappearances-in-sindh-will-that-ever-end/>> [accessed 20 March], World Sindhi Congress, 'WSC Appeal For an to Investigate the Murders and Disappearances for Sindhi Political Activists at UN' (10 November 2011) available at:

<http://www.worldsindhicongress.net/index.php?option=com_content&task=view&id=347&Itemid=1> [accessed 20 March 2012], Balawaristan National Front, 'Four Activists Also Disappeared After Their Abduction by the Law Enforcement Agencies' *Balawaristan National Front Online* available at <<http://www.balawaristan.net/Latest-news/four-activists-also-disappeared-after-their-abduction-by-the-law-enforcement-agencies.html>>

¹⁷ Senge Sering, 'Enforced Disappearances Continue in Pakistan-controlled Gilgit-Baltistan', available at: <http://www.expertclick.com/NewsReleaseWire/Enforced_Disappearances_Continue_in_Pakistancontrolled_GilgitBaltistan,201137487.aspx> [accessed 23 March 2012].

¹⁸ Amnesty International, *Denying the Undeniable: Enforced Disappearances in Pakistan* (23 July 2008) available at: <<http://www.amnesty.org/en/library/asset/ASA33/018/2008/en/0de43038-57dd-11dd-be62-3f7ba2157024/asa330182008eng.pdf>> [accessed 32-33]. See also Human Rights Watch, *We Can Torture, Kill, or Keep You For Years* (n 9) n 183.

¹⁹ See Amnesty International, *Denying the Undeniable* (n 21); Human Rights Watch, *We Can Torture, Kill, or Keep You For Years* (n 9).

²⁰ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review (Pakistan)* (n 1) para 107.15, 19.

²¹ World Health Organization, *The Humanitarian Health Cluster Response to the Pakistan Floods* (14 September 2010) available at <http://www.who.int/hac/crises/pak/pakistan_health_cluster_response_14sept2010.pdf> [accessed 8 March 2012] 1.

²² Naseer Memon, 'Root Causes of Floods' (21 June 2011) *Dawn Online*, available at: <<http://www.dawn.com/2011/06/21/root-causes-of-floods.html>> [accessed 8 March 2012].



environmental and infrastructural damage ultimately allowed the 2010 floods to cause enormous destruction.²³ Immediately after the floods, concerns were voiced about the threat of waterborne and other deadly diseases, and the provision of relief items; the provision of emergency shelter was so slow in some areas that flood victims blocked the highway in protest against the government.²⁴ Because of restrictive regulations implemented by the National Disaster Management Authority (NDMA), parts of Sindh and Balochistan were closed off to international aid, causing local administrators to appeal to the international community directly for aid.^{25 26} After the immediate effects of the flood were negated, the help for these regions remained very slow. Two months after the floods, many victims in Sindh remained untouched by aid efforts.^{27 28}

10. In 2011 another flood struck in Balochistan and Sindh, affecting five million people.²⁹ Despite the opportunities to learn from experiences of previous years, the government was again slow in responding to the crisis. Observers reported that in Sindh province, districts where the government had little support were ignored in aid efforts.³⁰

11. As demonstrated in this section, government policies not only amplified the destruction caused by the floods, contrary to the Rio declaration on environment and development,³¹ but also exacerbated problems by its slow response, thus endangering tens of thousands of lives. Moreover, the aid efforts of the government were discriminatory in their focus on certain parts of the country. The lack of government action in the regions of Sindh, Balochistan and Gilgit-Baltistan increases the marginalization of the people in those areas. With a lack of access to food, water and other resources, it becomes nearly impossible to rebuild the local infrastructure and economy.

C. Recommendations

12. The Unrepresented Nations and Peoples Organization strongly urges Pakistani authorities to consider the following recommendations:

Ratify without reservation the International Convention for the Protection of All Persons from Enforced Disappearance, and bring national legislation in accordance with accepted definitions of enforced disappearance

²³ Unrepresented Nations and Peoples Organization, *UNPO Members Join In Calling For Action On Indus Flooding* (23 August 2010) available at < <http://unpo.org/article/11547>> [accessed 8 March 2012].

²⁴ Emma Varley, 'Difficult Times' (11 August 2010), *Dawn* available at: <<http://blog.dawn.com/2010/08/10/diary-from-gilgit/>> [accessed 21 March 2012] 'Affectees Protest Against Delays in Relief' (17 August 2010) available at <<http://tribune.com.pk/story/40199/affectees-protest-against-delays-in-relief/>> [accessed 12 March 2012]; 'Flash Floods Affect 1.5m People In Balochistan, (4 August 2010) *The News International Online*, available at <<http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=254717&Cat=2&dt=8/4/2010>> [accessed 12 March 2012].

²⁵ Sanaullah Baloch, 'Balochistan Ignored' (23 August 2010)

²⁶ Mohammad Zafar, 'Nari River Threatens More Balochistan Areas' (11 August 2010) *Daily Times Online*, available at <http://www.dailytimes.com.pk/default.asp?page=2010\08\11\story_11-8-2010_pg7_23> [accessed 12 March 2012].

²⁷ United Nations High Commissioner for Refugees, 'Pakistan Floodwaters Recede, Urgent Humanitarian Needs Remain' (5 October 2011) *UNHCR Online* available at < <http://www.unhcr.org/4e8c55909.html>> accessed 8 March 2012].

²⁸ Unrepresented Nations and Peoples Organization (n 30).

²⁹ 'Pakistan Flood-hit Areas Declared Calamity Areas' (6 September 2011) *BBC News Online* available at: <<http://www.bbc.co.uk/news/world-south-asia-14803203>> [accessed 24 March 2012].

³⁰ Zamir Sheikh, 'PPP Seems Selective in Relief Provision' (4 October 2011) *The Nation Online* available at: <<http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/national/04-Oct-2011/PPP-seems-selective-in-relief-provision>> [accessed 24 March 2012].

³¹ UNGA, 'Rio Declaration on Environment and Development' (12 August 1999) A/CONF.151/26 (Vol I) annex I.



Immediately surface all disappeared persons and begin transparent investigations of each case of alleged enforced disappearance. Ensure that perpetrators are identified and prosecuted in a transparent manner and in accordance with the International Covenant on Civil and Political Rights

Make public and records of all detentions and arrests, including all people currently in detention

Revise laws that give a broad mandate to the police forces to arrest and detain suspects without clearly defined charges, including the Anti-Terrorism Act of 1997 and practices that hamper judicial procedures in accordance with international legal standards, such as not upholding habeas corpus .

Improve infrastructure in areas populated by ethnic minorities to assist their sustainable growth and development in an environmentally sensitive manner and in accordance with international standards

Take action to provide assistance to the flood victims that remain internally displaced after the floods of 2010 and 2011

Ratify without reservation the 1951 Convention relating to the Status of Refugees and the 1967 Protocol and consider their measures for addressing protection and humanitarian assistance when faced with natural disasters affecting indigenous ethnic minorities