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Abstract

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Keywords: Preventive detention, Pakistan, AACPR, International Human Rights Law, International Humanitarian Law, Preventive Detention, Internment

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Title

Preventive Detention in Pakistan

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Abstract

The focus of this article is critical of preventive detention laws in Pakistan, however, with special reference to the Actions In Aid of Civil Power Regulation (AACPR) that was designed to tackle terrorist insurgency in Federally Administered Tribal Areas (FATA) and Provincially Administered Tribal Areas (PATA). The regulation introduced to contain militancy is profoundly worrying because granted the military broad powers, of detention without trial, amongst others, which could seriously endanger human rights and international law. The article delves into the implications of International Humanitarian Law (IHL) and International Human Rights Law (IHRL), particularly in the context of preventive detention and internment procedures under the AACPR. It critically reviews potential violations of constitutional guarantees and Pakistan's international human rights obligations. The study fills in a legal gap and proposes reforms in view of the regulation relating to global human rights standards through an analysis of case law and international conventions.

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Keywords: [Preventive Detention](#), [Pakistan](#), [AACPR](#), [International Human Rights Law](#), [International Humanitarian Law](#), [Preventive Detention](#), [Internment](#)

Introduction

Pakistan's legal and political landscape has undergone a profound transformation through its experience of terrorism in regions of Federally Administered Tribal Areas (FATA) and Provincially Administered Tribal Areas (PATA), insurgency, and

militancy. Their long history of complex tribal structure in a state that is non-existent adding to the fact that there is a state government that makes it very difficult to provide law and order in these areas made them parts of the battleground where the armed groups try to chip away at the state



(Hakeem et al., [2024](#)). This terrorist group, namely Tehrik-i-Taliban Pakistan (TTP), intensified militancy which was taking place at a speed, especially after this group was raised, and Pakistan responded to this militancy by passing the Actions in Aid of Civil Power Regulation (AACPR) in 2011. This regulation was how the military came to assume enormous powers, including the power to intern individuals without resorting to trial. This is the place where such powers were born with the introduction of the preventive detention part of Pakistan's broader counter-terrorism strategy.

The debate as to whether this compatibility works with Pakistan's constitutional protection which is the right to fair trial and compliance with international human rights law has been heated. Controversial and admittedly raising questions about human rights are preventive detention laws that authorize holding people without due process of law, subject only to suspicion of terrorism in the government or military (Iqbal, [2025](#)). But the AACPR grants the military a tremendous and for the most part unfettered discretion to detain, constrain, suppress, annul, or in numerous cases in reality, to debase and all the while deflect individuals speculated of affiliation with terrorism with no preliminary, not exactly a slur of due procedure. Though the rule was advocated that it was supposed to in order to secure national security and fight against terrorism it is far from being in conflict with the constitutional rights that each citizen in Pakistan is entitled to of freedom and immunity from arbitrary arrest which is written in the constitution.

The major problem with the AACPR is violations of the factor of due process and whether it clashes with both International Humanitarian Law (IHL) and International Human Rights Law (IHRL). The International Covenant on Civil and Political Rights (ICCPR) to which Pakistan is a signatory confers on individuals some important fundamental rights that prevent arbitrary detention, and make available access to judicial review and legal representation (Bari et al., [2020b](#)). Like the Geneva Conventions to which Pakistan has signed, such detainees are promised protections that guarantee they are treated according to international standards of human decency and due process.

Confirmation of the internment without trial inherent in preventive detention under the AACPR is the central question that has arisen in light of Pakistan's Constitution and international law. The

regulation's lack of effective judicial oversight exacerbates these concerns. However, under the AACPR, the military has wide discretion to detain persons and the only judicial review is minimal (Sultan et al., [2024](#)). This is an opening to the aptitude to enforce power and detain or violate the abuse of detainees, the arbitrariness of detention, and torture, which is the abuse of fundamental rights. The regulation circumvents the hallmark of democratic governance and the rule of law by delegating the authority to detain primarily to the military.

This article aims to analyze Pakistan's preventing detention laws from a critical perspective taking the AACPR in terms of domestic constitutional protection and international human rights standards. The regulation was devised to counter insurgency and lessen national security anxieties, but it is not in compliance with IHL and IHRL. This discussion will focus on the two main violations of the right to abstention from internment without trial and of judicial supervision violated directly by Pakistan's constitution and its international human rights conventions. However, in contrast to this, these issues are especially serious, when seen in light of the "commitment which Pakistan has given as a party to international treaties and as a participant in global human rights frameworks to uphold these standards.

The aim of this research will be to critically analyze the legal framework of preventive detention applied in Pakistan and the effects of the AACPR in line with the obligations it had to provide the protection of human rights and compliance with international law in Pakistan. It would also study lapses in the law that cause violations of right core and proffer reforms to make the same beams with International human rights standard. In other words, the article will make a contribution to the broader debates about the balance of national security interests and individual rights, and it will discuss the human rights implications of the counterterrorism laws in a post 9/11 world.

All in all, this paper intended to stress the significance of such a framework as regards safety as well as freedom. Fighting terrorism is of paramount importance for Pakistan's stability, however bringing changes to a democratic society that is based on such basic rights shield of a democratic society, is not a legitimate tool to combat terrorism. The reforms in this article are suggested to be for the strengthening of Pakistan's

legal framework on counter-terrorism in line with human rights and the principle of International law.

Literature Review

The preventive detention laws in Pakistan, as per the Actions in Aid of Civil Power Regulation (AACPR), are diverse and voluminous in literature and though there's literature available on the current preventive detention laws, no reference was available with respect to AACPR. The initial study addresses the historical context of the military rule in Pakistan with specific reference to FATA (Federally Administered Tribal Area) and PATA (Provincially Administered Tribal Area), which, according to many, has been recognized as highly volatile and susceptible to terrorist activities. These regions are well aware as being made in military focus for a very long while because of their military importance for the larger geopolitical and counterterrorism scenario. The military has essentially adhered to this to the extent that in such areas governance has been dominated by the military by restraining civilian judicial processes and a unique legal system that prioritizes national security over civil liberties (Bari & Naz, [2020](#)).

Federally Administered Tribal Area (FATA) of Pakistan: Study of a fable model of governance is a major work in discussing this situation. I take the information from Ullah's analysis to provide a historical description of the governance model used in FATA which is based on Scottish and British colonial law and regulates the Frontier Crimes Regulation (FCR). The political agent had enormous latitude under the FCR to be sure not to be conducted in a normal judicial fashion and to make people or families collectively not liable. This framework made the existence of military domination in the governance of FATA and made the military domination come with tribal customs. According to Ullah, this type of special model of governance with minimal civil and judicial oversight, has made quite a contribution to the nature of the current legal and political system in the region (Baig et al., [2025](#)). The AACPR's rule of the military in these legal practices amounts to military domination on the legalese for the sake of counter-terrorism, which can also be used to further military grip on legalese in the name of counter-terrorism.

My inferences are similar to Maryam Shahid's research, which looks at the impacts of preventive

detention under the context of AACPR, and the latter socializes my arguments as well. By giving the military so much power to detain without trial, Shahid's analysis brings the analysis of the regulation of the military to a very critical position. Both leading human rights activists' concerns about the detention process, the lack of judicial oversight, and the lack of due process. As he also notes, the provision of internment without trial as provided under the AACPR runs afoul of the fundamental constitutional rights of an individual in violation of the right to a fair trial and prohibition of arbitrary detention. Such provisions, bring out some very important questions regarding the compatibility of such a provision with international human rights law, especially the International Covenant on Civil and Political Rights (ICCPR) as well as the Universal Declaration of Human Rights (UDHR), both of which ensure due process and protect the freedom of the individual. Thus, Shahid's work proves itself a fruitful critique of military powers that have neither been controlled nor can be wielded with human rights violations in mind as to the AACPR.

Paula R. Newberg in 'Judging the State: Courts and Constitutional Politics in Pakistan' provides a more general discussion about the role of the judiciary in Pakistan's constitutional development. Newberg says that the interference with judicial independence and human rights protections is systematic, for instance, due to military involvement in the governance of FATA. One of her arguments is that military dominance in the legal and political systems in this field has prevented civilian and legally accountable governance from emerging (Bhat, [2020](#)). Further applications of Newberg's argument hinge on the argument that the military supersedes judicial review and that the AACPR continues a process where the authority of the military trumps legal protections laid forth in the Constitution. This amounts to its violation of all laws in Pakistan that deal with due process and fundamental rights domestically and internationally.

Further, Aman Ullah and Samee Uzair, in their collaborative work "Derogation of Human Rights under the Covenant and their Suspension during Emergency and Civil Martial Law, in India and Pakistan", delve into the balance between national security and human rights during times of emergency. This is to what extent under crisis state can violate human rights obligations but to what extent such violation can be said to be

proportionate and needed. According to the authors Ullah and Uzair, measures such as the AACPR go too far and above what is needed to ensure security, and most of the time, they use means that violate basic human rights principles. However, according to them, deviations should be in principle allowed, provided only strictly controlled, so as not to cause the permanent destruction of fundamental rights. The AACPR is regarded as campaigning for indefinite detention without trial, which takes such departure from the degree allowed by Pakistan's ICCPR and international law commitments.

The international legal framework defining preventive detention is also examined in order to understand the challenge of the question of the AACPR. Human Rights Watch and Amnesty International have repeatedly criticized Pakistan's use of preventive detention under the AACPR. These organizations can be divided into the ones that indicate the lack of accountability mechanisms, as well as the absence of effective judicial oversight, allowing for human rights violations, such as arbitrary detention, torture, and denial of the right to legal counsel (Bari et al., [2020a](#)). The reports argue that the right to a fair trial and the right to representation – among other things – are forbidden by international treaties that Pakistan is required by international law to uphold. The fact that it is military led governance in parts of FATA & PATA areas where Human Rights abuses would commit with impunity especially as there is no human rights review.

There are serious doubts about Pakistan's adherence to international human rights law as it grants the military its unchecked powers, omits it from public institutions and processes, lacks due process, and fails to put in place accountability mechanisms. This study for the next sections will be based on these insights about the legal gaps within the AACPR and propose reforms to it and deal with the real national security concerns of Pakistan (Azeem, [2025](#)).

Research Question

The aim of this research is to explore key questions relating to the application and consequences of preventive detention laws in Pakistan including climaxing on the Actions in Aid of Civil Power Regulation (AACPR). The questions that this study focuses on are the following:

1. First, how does the AACPR align with international human rights law, and specifically International Covenant on Civil and Political Rights (ICCPR), and International Humanitarian Law (IHL), with respect to preventive detention?
 - The aim of this question is to assess whether the military's detention powers under the AACPR comply with the global standards of human rights. Therefore, it will evaluate whether preventive detention measures are compatible with the principles enshrined in ICCPR for the right to a fair trial, prohibition of arbitrary detention, and the right to legal remedies.
2. The importance and constitutional implications of the AACPR's limits on the protection of fundamental rights in Pakistan, especially as it relates to the right to detention without trial and judicial oversight.
 - In this question, I want to explore the link between Pakistan's Constitution which vests fundamental rights, and the role of the military in governing through the AACPR. The research will assess how much, and how, the rule ensures that the constitutionally protected rights of the right to have the process determined by the law, and the right to freedom from arbitrary detention are violated by the rule.
3. How can the legal reforms be suggested that are consistent with both the country's own constitutional protection and international human rights law regarding Pakistan's preventive detention law?
 - The aim is to identify and propose legal reforms that could ensure greater accountability, due process, and judicial oversight in cases involving preventive detention while maintaining a balance with national security needs.

Research Objectives

Important goals of this study include:

1. Examine the legal framework of preventive detention laws in Pakistan and examine the compatibility with Pakistan's constitutional requirements and international human rights obligations of such laws; particularly, the law of the Anti-Terrorism Act of 1997 (AACPR).

It will entail a serious review of the powers that the military is being given under the AACPR and how they differ from provisions in the Bill of Rights of Pakistan.

- 2. Examine the implications of preventive detention under the AACPR in relation to International Humanitarian Law (IHL) and International Human Rights Law (IHRL).

This objective will involve a comparison of Pakistan’s preventive detention practices with the legal frameworks established by the Geneva Conventions and ICCPR to determine the extent of compliance with international norms.

- 3. Assess the impact of the AACPR on the human rights protected by the African Charter on Arbitrary Arrest and Detention (ACCPR), particularly arbitrary detention and lack of judicial oversight and the right to a fair trial.
 - The specific outcome this will require taking a look at are real cases wherein the AACPR has been implemented and whether or not human rights abuses have been experienced due to such provisions.
- 4. Proposing reforms to this Acp later for ensuring better coexistence between national security issues and the rights of the individual under the constitutional law and the international human rights standards of Pakistan.
 - The objective outlined here will consist of describing reforms that include judicial oversight and accountability mechanisms in order to prevent human rights violations during counterterrorism work.

This study focuses on how exercises of preventive detention in Pakistan that are not in alignment with international law affect human rights. Achieving these objectives would allow the study to contribute to a better understanding of how the implementation of the preventive detention laws in Pakistan violates human rights and offer solutions through ways of securing compliance with the international law.

Research Methodology

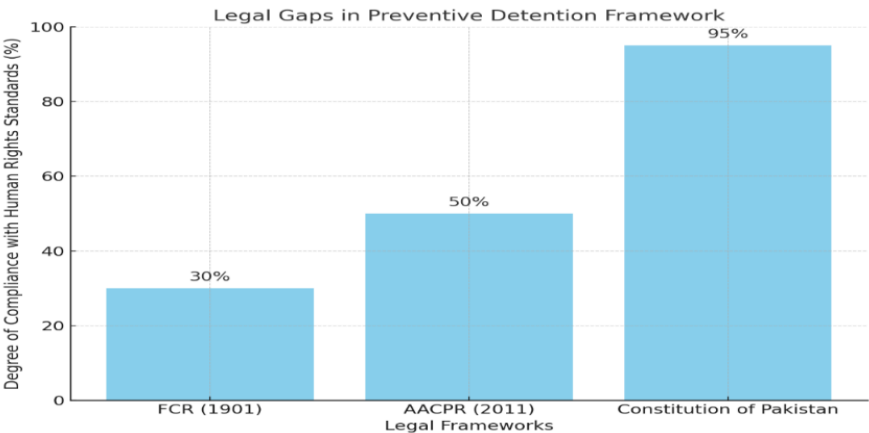
The research methodology employed in this study is a qualitative and doctrinal approach to research by legal analysis, case law, and documentary review to examine critically the preventive detention laws in Pakistan, with specific reference to AACPR. To enable a comprehensive study of the legal, constitutional, and human rights consequences of preventive detention, in particular in terms of international humanitarian law (IHL) and international human rights law (IHRL), this approach is adopted (Ami et al., 2024).

Primary Sources:

Legal Texts

- Being AACPR (2011) the core regulation that constitutes the legal mantra of preventive detention in Pakistan (as far retain terrorism efforts are concerned).
- Articles 9 Focal Provisions of Constitution of Pakistan (1973): Fundamental right to life and liberty; Article 10 A In respect of fair trial; Article 10 B Protection against arbitrary detention and arrest.

Figure 1
Legal Gaps in Preventive Detention Framework



- The above bar chart displays the level of human rights standards compliance to FCR (1901), AACPR (2011), and the Constitution of Pakistan. As can be observed in the partial compliance results, the highest compliance with the Constitution is observed while lowest compliance is with the FCR.
- Examines Pakistani court decisions pertaining to preventive detention and counterterrorism, and those pertaining to the validity of the AACPR under Pakistan's constitutional protections and international law.
- Examples of arbitrary detention, lack of judicial review and human rights violations through case studies of detention practices under the AACPR.

Case Law

Table 1

Comparison of Legal Frameworks and Their Impact on Human Rights

Legal Framework	Origin	Key Provisions	Human Rights Concerns
FCR (1901)	Colonial Era	Collective punishment, military jurisdiction	Lack of due process, violation of individual rights
AACPR (2011)	Pakistan	Military-led governance, internment without trial	Arbitrary detention, lack of legal safeguards
Constitution of Pakistan	Post-independence	Guarantees of fundamental rights and due process	Potential clash with emergency powers and military intervention

Secondary Sources

1. Scholarly Articles: Scholars including Aman Ullah, Paula R. Newberg and Maryam Shahid have used theirs and other analyses of the legal framework surrounding FATA, PATA and preventive detention in Pakistan.
2. Reports from Human Rights Organizations: Human Rights Watch and Amnesty International reports, which have empirical evidence about the human rights abuses facilitated by the AACPR as well as the impact of preventive detention.
3. Government Reports: Ideas of how official reports on counterterrorism operations in FATA and PATA, including detention procedures, are justified in the AACPR.

Data Analysis

The research will also make use of content analysis to analyze the legal texts and court judgments of the legal gaps and violation of human rights related to preventive detention under the AACPR. We will also thematic code in case law and human rights reports about detention practices and violations of themes arising therefrom.

The comparative research will also assess the Pakistani law of preventive detention against the

international human rights standards, to show that such laws conflate between individual rights protections and national security issues. The use of such methodology will contribute to the elaboration of the legal and human rights implications associated with preventive detention in the most magnified fashion (Fazi, [2020](#)).

Result Findings

The findings of this research highlight significant gaps in the implementation of preventive detention laws in Pakistan, particularly under the Actions in Aid of Civil Power Regulation (AACPR). The main findings are:

1. Not in violation of Fundamental Rights: Regarding this, the AACPR has also been observed to be in violation of many Fundamental Rights as prescribed by the Pakistan Constitution, e.g. no violation of due process, freedom from arbitrary detention, and right to a fair trial. The powers conferred on the military by the regulation are these and contradict, in their very nature, Pakistan's Bill of Rights under Article 10A, which affords a fundamental right under Article 10A to the right to have a fair trial.

- 2. But the saddest finding is that the detentions under the AACPR have no judicial supervision. It has been arbitrary detention and detentions without a reasonable and sufficient legal justification. Given that such oversight arising from the failure of such a country to meet the International Covenant on Civil and Political Rights (ICCPR) with its requirement of the state to offer effective judicial remedies for the cases of arbitrary detention is absent in such a country.
- 3. The studies demonstrate how the AACPR has a negative impact on human rights by discussing how human rights abuses exist within areas that the AACPR governs. All of these amount to torture, inhumane treatment, and denial of access to legal counsel, and are straight violations of Pakistan's constitutional framework and international human rights standards.

The findings underscore the need for legal reforms to bring Pakistan's laws regarding preventive detention in line with constitutional protection, and human rights obligations.

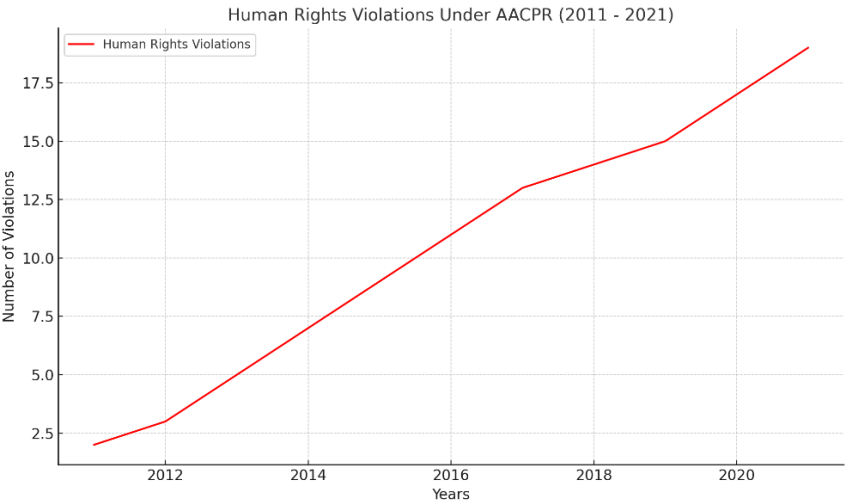
Discussion

Consequently, this research argues for the difficult debate from the perspective of Pakistan in crossing

the balancing act of two important security concerns i.e. protection of fundamental rights as enshrined under international law. It includes the Actions in Aid of Civil Power Regulation (AACPR) that was brought in about militancy in FATA and PATA provinces to grant powers to detention without trial under the pretext of counterterrorism. But, unfortunately, despite the fact that this regulation has brought a lot of questions about human rights violations and the compliance of this regulation with the national constitutional guarantees and the international human rights law (Bhat, 2022).

Right from the 1980s, preventive detention in Pakistan has been a hotspot. The military's involvement in governance, especially in conflict zones such as FATA and PATA where the civilian authorities are sidelined and the decisions made during the course of legal procedures, is the reason. Wide-ranging powers to intern people for terror-related offenses have been given to the military under the AACPR. However, in this process absence of judicial oversight has prevented the observation of the individual's rights. Detention without trial, lack of legal recourse, and suspension of due process have occurred as a result of the erosion of human rights in those regions under the purview of the AACPR (Abbas et al., 2022).

Figure 2
Human Rights Violations Under AACPR (2011 - 2021)



- This line graph is the number of human rights violations reported in the regions by the

AACPR from 2011 to 2021. Violations appear to be on an upward trend over the years.

The international human rights community has threatened to raise human rights concerns about Pakistan's preventive detention laws, on account of their incompatibility with the International Covenant on Civil and Political Rights (ICCPR). The ICCPR guarantees individuals the right to freedom from arbitrary detention, the right to a fair trial, and access to legal remedies in cases of detention. However, it violates both protections provided by the AACPR with its provision for indefinite detention without trial. Moreover, the Geneva Conventions forbid the torture and inhumane treatment of detainees, but human rights organizations report that detainees are subjected to torture on the territories that fall under the AACPR jurisdiction (Minhas, 2024).

Meanwhile, lack of accountability has also caused impunity for military personnel responsible for detention operations. Indemnity clauses in the AACPR that grant military personnel immunity from prosecution provide 'good faith' to insulate them from prosecution while in the course of using preventive detention and undermine the rule of law and transparency of its application. This has led to arbitrary detention and abuses unchecked, and rising levels of widespread human rights violations.

In fact, Pakistan has obligations to the international legal framework of counter-terrorism, as far as counter-terrorist measures do not undermine essential human rights. Whereas countries may derive from human rights whilst the emergency lasts, the ICCPR allows for derogation only on grounds of necessity or proportionality. The regulation fails to meet these criteria because the powers that the military can exercise under the regulation are very distressing as compared to what is needed in tackling militancy as a security challenge.

Several times international community, organizations such as Amnesty International and Human Rights Watch have urged reform of counterterrorism measures in Pakistan so that they respect international human rights standards. The reporting of arbitrary detentions, torture, unlawful killings, and impunity in the detention process have been met by these calls (Ahmed, 2020). If Pakistan is to comply with international law and persuade the world that its counterterrorism efforts are legitimate, then its reform of the AACPR is critical, not only to using the Third Geneva Convention as it applies to both Pakistan and of course Iraq, but also

to judicial oversight, and accountability, and respect of human rights.

The discussion implies that the AACPR can be a necessary tool to fight terrorism in some of the regions, but not at the cost of most rights. Reforms in the law must be made to ensure that principles of justice and the due process of law are upheld. They should instead be replaced with civilian judicial systems and indefinite detention should be time-limited by clear legal standards and subjected to judicial scrutiny. Furthermore, accountability mechanisms should be established for military personnel engaged in detention practices that would not tolerate human rights abuses.

Conclusion

This paper critically read on legal framework of preventative detention in Pakistan by utilizing the example of Actions in Aid of Civil Power Regulation (AACPR) and examined the implication of AACPR to human rights under International Humanitarian Law (IHL) and International Human Rights Law (IHRL). However, the analysis is more worrisome regarding the impact of the regulation in question on individual rights, for example, it is against an individual right to a fair trial, protection against arbitrary detention, and due process.

However, critics had warned that the AACPR was also being used as a reason to curtail growing militancy in FATA and PATA, something which would ultimately rob troops of power, including that of detention without trial. There have been rife severe violations of fundamental rights in the absence of judicial oversight and the lack of effective accountable mechanisms. In particular, the indefinite detention provided under the AACPR has also violated a number of particularly key human rights standards set out under both the ICCPR and the Geneva Conventions.

This research has shown that in the name of national security, human rights do not possess any room for compromise. Yet, Pakistan's compliance with both the parameters of constitutional guarantees and international human rights obligations must be ensured in the process of reforming Pakistan's counterterrorism laws such as the AACPR. Such key reforms include judicial oversight, restraint on the use of military powers, transparency in the practice of detention, and

mechanisms of accountability for military personnel.

In particular, the conclusion of the study recommends amendments to Pakistan's preventive detention laws so as to be in accordance with international standards of human rights. There

must be challenges to challenge the right to national security, right to liberty, right to fair trial, and protection against torture. It would not only improve Pakistan's international credibility when Pakistan is trying to keep security in the conflict zones by ensuring that counterterrorism measures are conducted in line with fundamental rights.

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