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**On the Legacy of Asma Jahangir (1952–2018)
– Insights on Political Power Mechanisms in Pakistan and Beyond**

Abstract

Asma Jahangir, the prominent Pakistani lawyer and human rights activist, who had received several awards for her courageous work, passed away on February 11, 2018. Her untimely death at the age of 66 was mourned by a wide public, not only in Pakistan. The newspaper obituaries particularly highlighted her accomplishments and campaigns on behalf of women, children, religious minorities, poor and disenfranchised communities. The deceased “voice of the voiceless” is probably best known for her advocacy on the rights of the most vulnerable and disempowered sections of society and her uncompromising commitment to democratic principles. However, another aspect of Asma Jahangir’s legacy, her thoughts and insights on political power mechanisms in Pakistan and beyond, has so far been rather neglected. With her long-term experience as a lawyer, an activist, and a UN Special Rapporteur, Asma Jahangir often offered useful reflections on the main causes of human rights abuses in Pakistan and the neighbouring countries. Among other things, she pointed to the detrimental effects of the politics of sectarianization and securitization, and also stressed the ongoing aspiration of a great part of the population in the global South to live a dignified life. On the basis of selected publications, reports, and interviews, this paper will provide a number of Asma Jahangir’s explanations for national, regional, and international shortcomings and structural problems (fragile democracies, undermined rule of law; the influence of militant non-state actors; regional/international interconnections and constraints, etc.) which remain relevant under the current conditions.

Keywords: Asma Jahangir, Human Rights Activist and Lawyer, UN Special Rapporteur, Pakistan, India and South Asia, Intolerance, Polarization of Societies, “War on Terror”

Paying Homage to Asma Jahangir

In the current political climate worldwide, a principled individual and public figure who continues an outspoken fight for human rights and democracy over decades, even in the face of constant threat, seems to be a rare phenomenon. According to her great number of admirers, Asma Jahangir, the prominent Pakistani human rights lawyer and activist, was such a rare exception. When she passed away on February 11, 2018, her untimely death at the age of 66 was mourned by a general public, not only in Pakistan. Her funeral was attended by a broad spectrum of society – “people of all ages, genders, ethnicities, religions and social classes” – and was described as “truly representative of federal Pakistan”.¹ Her funeral was also unusual in other respects, and broke with gender traditions: the funeral prayer was led by an opponent of political Islam, Haider Farooq Maududi,² and men and women participated in carrying the corpse and standing together for the prayers.³ Plenty of media articles, documentaries, comments, and obituaries appreciated the lifework of Asma Jahangir by particularly highlighting her accomplishments and campaigns on behalf of women, children, religious minorities, poor and disenfranchised communities, and by giving her honorific titles such as “the voice of the voiceless”,⁴ “the global icon of human rights”,⁵ and “Pakistan’s social conscience”.⁶ In the following months, friends, fellow campaigners, colleagues, and scholars organised several memorial events in Pakistan, the USA, India, and other countries, to commemorate the achievements and legacy of the renowned human rights activist.⁷ Probably the largest meeting of this

¹ Marvi Sirmed, *Funeral bridges religious and ethnic divides*, “Daily Times”, Viewed 14 February 2018, Viewed 24 February 2020, <<https://dailytimes.com.pk/201679/funeral-bridges-religious-ethnic-divides/>>.

² He is the son of the late Abu al-A’la Maududi (1903–1979), the founder of the fundamentalist party Jama’at-e-Islami in 1941. For an impression of his views see *Jamaat-e-Islami Founder Maulana Maududi’s Son: ‘He Never Let Us Read His Books’; ‘Whenever Religion Was Interpreted In A Political Way, It Killed Humans And it Ruined Humanity’; ‘Religion Is For the People, Not The Other Way Around’*, “MEMRI”, 12 November 2013, Viewed 24 February 2020, <<https://www.memri.org/reports/jamaat-e-islami-founder-maulana-maududis-son-he-never-let-us-read-his-books-when-ever>>.

³ The subtitle of a portrait drawing of Asma Jahangir (“Asma Jahangir smashes patriarchy in death as well”), displayed at the “Asma Jahangir Conference” in Lahore, mentioned below, alludes to the funeral and its description in the newspapers. For pictures of the conference, see Maryam Hussain, *Asma Jahangir Conference: For hands that build and bodies that toil?*, “Naya Daur”, Viewed 17 October 2018, <<https://nayadaur.tv/2018/10/asma-jahangir-conference-for-hands-that-build-and-bodies-that-toil/>>, and Viewed 15 February 2019, <<https://dunyanews.tv/en/Pakistan/462132-Two-Day-Asma-Jahangir-Conference-concluded>>, publ. 15 October 2018.

⁴ E.g., Lubna Jerar Naqvi, *Asma Jahangir – voice of the voiceless*, “The News”, 6 March 2018, Viewed 04 March 2020, <<https://www.thenews.com.pk/magazine/you/288743-asma-jahangir-voice-of-the-voiceless>>.

⁵ E.g., Viewed 03 July 2019, <<https://www.samaa.tv/news/2018/02/asma-jahangir-was-a-global-icon-in-human-rights-usa>> publ. 14 Feb. 2018.

⁶ E.g., Moni Mohsin, *‘An indomitable will’ – why Asma Jahangir was Pakistan’s social conscience*, “The Guardian”, 12 February 2018, <<https://www.theguardian.com/lifeandstyle/2018/feb/12/an-indomitable-will-why-asma-jahangir-was-pakistans-social-conscience>>; <https://mittalsouthasiainstitute.harvard.edu/2018/02/remembering-asma-jahangir-pakistans-conscience/>, 15. Feb. 2018, both Viewed 04 March 2020.

⁷ Cf., for instance, the Memorial held in New York, 30 Sept. 2018, Viewed 15 April 2019, <<https://www.youtube.com/watch?v=LAd4DW9T6hy>>. On other events of this kind in the USA, see Beena Sarwar, *Honouring Asma*

kind was held in Lahore in mid-October 2018 entitled “Asma Jahangir Conference on Justice for Empowerment”. Although the organizers⁸ regarded this conference as a success, the event also attracted criticism. Many observers and participants objected that the Chief Justice of Pakistan (2016–2019), Mian Saqib Nisar, “one of the main architects of authoritarianism in Pakistan today”,⁹ was invited to deliver a speech. Despite its theme, the conference sent the wrong signal of exclusivity (in terms of the location, language, bulk of speakers and audience), as Maryam Hussain commented and she concluded:

“The message that has been delivered, unwittingly perhaps, is that those that were present are all in it together connected not by ideals but by a locus of power and privilege (...). A conference premised on context failed to recognize the context in which it occurred, by its very nature, by where it was held, and by whom it chose to invite and exclude. Regardless of resolutions or well-meaning intent its very insularity may have undermined its purpose (...).”¹⁰

Be that as it may, there is no doubt that Asma Jahangir also belonged to the privileged classes in Pakistan. However, she dedicated almost 40 years of her life to championing the rights of the less privileged, above all the most vulnerable and disempowered sections of society, and to courageously denouncing blatant human rights violations in Pakistan, South Asia and other parts of the world. She raised her voice loud and clear against the political, social, economic and legal shortcomings and abuse of power in her country. Such an activism at multiple levels – in the courts, in the streets, in the media, conference halls, etc. – came at a price. But despite insults,¹¹ harassments,¹² temporary detentions

Jahangir's Legacy, “The Wire”, 14 Oct. 2018, Viewed 04 March 2020, <<https://thewire.in/south-asia/honouring-asma-jahangirs-legacy>>.

⁸ Among them was the “Asma Jahangir Foundation” set up by her family just after her death in order to continue her work.

⁹ M. Hussain, *Asma Jahangir Conference*. The prominent Pakistani journalist and talk-show-host Hamid Mir (Ĥāmid Mīr, *Shorish Kāshmūrī aur Āšima Jahāngīr*, “Jang”, 15 Oct. 2018, Viewed 03 July 2019, <<https://jang.com.pk/news/563536>>), who himself chaired a panel (on freedom of press) at the conference, also mentions the discontent among participants about the chief justice’s speech and refers to those, most of them young people, who were upset that they had no chance to enter the already filled conference hall. – However, M.S. Nisar was also responsible for the final acquittal of Assia Bibi, a Christian woman who had been charged with “blasphemy” and sentenced to death (Roswitha Badry, *The Dilemma of “Blasphemy Laws” in Pakistan – Symptomatic of Unsolved Problems in the Post-Colonial Period?* “Politeja” 16,2 (2019), pp. 91–106, here note 38, p. 100). The acquittal led to massive protests by militants and death threats against the judges involved.

¹⁰ Hussain, *ibid*.

¹¹ She was vilified as a traitor, a foreign spy and agent by Indian and Pakistani commentators (see, for instance, H. Mir, *ibid*).

¹² For a particular disturbing event in 2005, during the mixed-gender marathon she and other activists had organized in order to bring awareness about violence against women, see Anish Gawande, *Asma Jahangir: Through the Years*, 14 Feb. 2018 (no. 10 with a link to an activist’s report), Viewed 03 March 2020, <https://www.chapatimystery.com/archives/asma_jahangir_through_the_years.html>; see also Asma Jahangir in an interview

and house arrest,¹³ and death threats¹⁴ she stayed in Pakistan and never wavered in terms of her determination. What is more, she would defend the basic rights of everyone, even those who opposed and vilified her, as she insisted that like anyone else they have a right to legal counsel and a fair trial.¹⁵

One may ask where this strong commitment and astonishing steadfastness came from. Apparently, her father's ideals and perseverance had a great impact on her own uncompromising personality. While in prison under martial law regulations for speaking out against the army operation in East Pakistan in 1971, her father asked her to contact a lawyer in order to file a writ at the High Court.¹⁶ This is how she, at the age of 18, became the petitioner in the case known as "Miss Asma Jilani [her maiden name] v. the Government of the Punjab". Finally, in 1972, the Supreme Court concluded that Yahya Khan (r. 1969–1971) had usurped power in an unjustified manner and declared his martial law regime illegal.¹⁷ Asma Jahangir later affirmed: "It [i.e., this legal victory] was a rich experience for me. It taught me to follow principles rather than people and that electoral politics is only the first tiny step towards the process of democracy."¹⁸ Moreover, this incident convinced her of the value of a politics of principles and of an independent judiciary as an indispensable prerequisite for a healthy democracy.

Her experiences as a lawyer-activist in Pakistan since the 1980s were to be essential for her further career, and the future of her home country as well as South Asia would remain the epicentre of her activities. Her international obligations from the late 1990s on enabled her to fight injustice on a global scale and sharpened her eye for the interconnectivity of problems in the globalized world. But even as an acclaimed human rights expert, she

(*Walking Together for Freedom*, "Joan B. Kroc Distinguished Lecture Series", 2012, p. 12, Viewed 06 March 2019, <http://digital.sandiego.edu/lecture_series/30>).

¹³ In the era of Zia ul-Haq (1977–1988) and Pervez Musharraf (1999–2008), for participating in the pro-democracy movement and the lawyer's movement respectively. On the latter (as a prodemocracy movement between 2007 and 2009) cf. Sahar Shafiqat, *Civil Society and the Lawyers' Movement of Pakistan*, "Law & Social Inquiry" 43,3 (2018), pp. 889–914.

¹⁴ Cf. M. Mohsin, 'An indomitable will': "In 2012, she [Asma Jahangir] publicly accused intelligence and security agencies of trying to kill her and in so doing turned the spotlight on them." During her career she has received multiple death threats by militants, esp. for defending those accused of "blasphemy".

¹⁵ Politicians like Nawaz Sharif and even militants who had disappeared. Cf., for instance, Asma Jahangir, *Martial Laws in Pakistan*, "Economic Review" 10 (1999), pp. 10–13, Viewed 20 March 2020, <<https://www.thefreelibrary.com/Martial+Laws+in+Pakistan.-a059121551>>. South Asians for Human Rights (ed.), *Tributes to Asma Jahangir: A South Asian Champion of Human Rights*, SAHR, Colombo (August) 2018, p. 53 on a petition the deceased activist filed "for the recovery of about 250 'missing' people in the Supreme Court in Feb. 2007". *Tributes* is a booklet compiled by some of her closest friends and colleagues across South Asia, available online on the SAHR website, Viewed 07 March 2019, <<https://www.southasianrights.org/>>.

¹⁶ See her interview on the occasion of receiving a posthumous award on behalf of her late father in Dhaka: *Malik Ghulam Jilani, Interviewee: Asma Jahangir*, Viewed 09 July 2019, <<https://www.youtube.com/watch?v=GJUc3nRIZ-c&feature=youtu.be>>. And *BD award for Faiz, Malik Jilani*, "Dawn", 10 March 2013, Viewed 16 August 2019, <<https://www.dawn.com/news/print/791607>>.

¹⁷ On the famous case, see Paula R. Newberg, *Judging the State: Courts and Constitutional Politics in Pakistan*, Cambridge Univ. Press, Cambridge, UK 1995, pp. 120–122.

¹⁸ Jahangir, *Martial Laws*, p. 12 (also for the following remark in the text).

would still recall how many lessons she had to learn during her career and how much she owed to her close friends, peers, companions, and colleagues who helped her to manage challenging situations.¹⁹

Short Biography

A brief biographical sketch may shed light on the major turning points in her impressive career.²⁰ Born in 1952 in Lahore, Asma Jahangir completed her whole education there at prestigious institutions. Two years after gaining her law degree from Punjab University in 1978 (LL.B. – Bachelor of Laws),²¹ she began to work as a lawyer,²² though married to a businessman since 1974 with three children (two daughters, one son). As the 1980s were marked by General Zia ul-Haq’s enforcement of the so-called “Rules of the Prophet” (or, “Islamic system”), they also saw the first major involvement of Asma Jahangir and her companions in politics. In 1981 she participated in the establishment of the Women’s Action Forum,²³ and in 1986 she co-founded the Human Rights Commission of Pakistan (HRCP), serving first as its Secretary-General (1987–93) and then as its Chairperson (1993–99). At the same time, Jahangir and her associates at AGHS, now turned into a free legal aid centre (the first in Pakistan)²⁴ which later opened the first independent shelter for women as an alternative to those run by the government, took several cases of those mostly affected by the harsh new laws and ongoing social injustice: women accused of fornication or adultery, children and members of religious minorities accused

¹⁹ Cf., for instance, her interview in Jahangir, *Walking Together*, pp. 8, 9, 10, 16.

²⁰ On her biography see, e.g., next to the obituaries cited above in notes 4–6, Palvasha von Hassell, *Asma Jahangir: Lawyer and human rights activist from Pakistan*, “Orient” 41,4 (2000), pp. 546–554; *Joint Statement – In memory of Asma Jahangir*, 16 March 2018, Viewed 04 March 2020, <<https://minorityrights.org/advocacy-statements/memory-asma-jahangir-ngo-joint-statement/>>; biography with further links at <<https://www.rightlivelikelihoodaward.org/laureates/asma-jahangir/>>, Viewed 04 March 2020; *Remembering the Extraordinary Life of Pakistani Human Rights Lawyer and Activist Asma Jahangir*, “Democracy Now”, 12 February 2018, Viewed 30 June 2019, including excerpts from some of her speeches and an interview with her close personal friend, Professor Ayesha Jalal, Viewed 01 July 2019 <https://www.youtube.com/watch?v=-e9v_ZwH2TM>; Barbara Crossette, *The Legacy of Asma Jahangir*, “The Nation”, 14 February 2018, Viewed 03 July 2019, <<https://www.thenation.com/article/the-legacy-of-asma-jahangir/>>.

²¹ As she noted in interview (Jahangir, *Walking Together*, p. 16), she had actually to study law at home; one of her friends taught her after finishing classes, because she “was told that married women are not welcome” although she was given admission to the law school.

²² Together with her sister Hina Jilani, and two other female lawyers she set up the first-ever all-female law firm in Pakistan; it was called AGHS after the initial letter of each of the founders’ first names.

²³ On this first political women’s organization of Pakistan, see Rubina Saigol, *Feminism and the Women’s Movement in Pakistan: actors, debates and strategies*, FES-Asia, Islamabad 2016, Viewed 03 July 2019, <<https://www.fes-asia.org/news/feminism-and-the-women-movement-in-pakistan/>>, pp. 15, 24 f., 27, 30, 36; see also Khawar Mumtaz and Farida Shaheed (eds.), *Women of Pakistan: Two Steps Forward, One Step Back?* Zed, London-New Jersey 1987, Ch. 8 and 9 on the emergence of WAF; cf. p. 120 (and n. 25, p. 122) on the attack on Asma Jahangir for allegedly making derogatory statements about the Prophet of Islam.

²⁴ Cf. SAHR (ed.), *Tributes*, p. 35. One of the achievements of AGHS Legal Aid Cell was “the training of scores of ordinary women as para-legal community workers”.

of blasphemy,²⁵ and bonded labourers at brick kilns and in agriculture whose conditions constitute a form of slavery.²⁶ Parallel to her work as a lawyer and campaigner for legal, political and social reform, Asma Jahangir co-authored two books, the first (together with her sister Hina Jilani) on the negative impact of Zia's "Hudud Ordinances" (i.e. introduction of a specific version of classical Islamic criminal law) on the marginalized sections of society,²⁷ the second (together with Mark Doucet) on the plight of child prisoners and their inhuman treatment in Pakistani jails.²⁸ The titles of both publications question the compatibility of such legal regulations with the very principles of religion and ethics. Although she never invoked religious arguments,²⁹ she was well aware of the following facts: firstly, there is no consensus on religious laws, and the legislation in Pakistan reflects a selective and narrowly defined interpretation of Islam³⁰; secondly, religious law is often mixed ("confused") with customary law ("tradition"),³¹ as is the case with the so-called "honour-killings",³² for instance; and thirdly, the political power interests of religious parties and militant groups: "The projection of Islam by sundry self-styled 'guardians' of Islam has little to do with piety and more to do with power for the sake of power."³³

As well as the above-mentioned books, Asma Jahangir published several papers in the 1990s on topics such as child labour, bonded labour and slavery, gender and justice, the erosion of the rule of law, and the independence of the judiciary.

From 1998 until her death, Asma Jahangir served in various capacities as a United Nations (UN) Special Rapporteur: from 1998 to 2004 as a Special Rapporteur (SR) on Extrajudicial, Arbitrary or Summary Executions, from 2004 to 2010 as an SR on Freedom of Religion and Belief,³⁴ and finally from November 2016 till her death as an SR on the

²⁵ On the "blasphemy laws" in Pakistan, see Badry, *The Dilemma*.

²⁶ Cf. SAHR (ed.), *Tributes*, pp. 35, 52 (Among other things Jahangir fostered the creation of the first bonded workers union, drafted a law to abolish bonded labour which led to the "Abolition Act on the Bonded Labour System", passed by Parliament in 1992, and bought land from her private pocket "on the outskirts of Hyderabad to temporarily settle the peasants who managed to escape" – p. 52).

²⁷ *The Hudood Ordinances: A Divine Sanction?* Khotas Books, Lahore 1990 (originally publ. in 1988).

²⁸ *Children of a Lesser God*, Vanguard Books, Lahore – Karachi – Islamabad 1993 (originally publ. in 1992).

²⁹ In interview in 2012 (*Walking Together*, pp. 14–15), she explained that she avoided the use of religious arguments because first she is neither a very religious person nor a religious scholar, and second in her opinion the debate is about rights, not about religions.

³⁰ Asma Jahangir, *Human Rights in Pakistan: A System in the Making*, in: S. Power, G. Allison (eds.), *Realizing Human Rights: Moving from Inspiration to Impact*, Palgrave Macmillan, New York 2000, p. 170.

³¹ *Ibid.*, p. 185.

³² Cf. her article *Killing in the Name of Honor*, "Newsweek" 07 Oct. 2016, Viewed 08 July 2019, <<https://www.newsweekpakistan.com/killing-in-the-name-of-honor/>> (on the amendment of the "Qisas and Diyat Law" – on it cf. below – in 2012 prohibiting forgiveness for "honour killings" as a result of campaigns by women's groups and a change of the public opinion. Despite the amendments to the laws, she emphasized that there is still much to be done).

³³ Jahangir, *Human Rights in Pakistan*, p. 182.

³⁴ For her remarks on this new challenging task in 2004, shortly after her appointment, cf. the interview conducted by Nermeen Shaikh of Asia Society: *Interview with Asma Jahangir*, "Asia Society" 27 October 2005, Viewed 15 August 2019, <<https://asiasociety.org/interview-asma-jahangir>>. On special rapporteurs in general and the

situation of human rights in the Islamic Republic of Iran.³⁵ In these functions she carried out missions to a great number of countries in the world (Nigeria, Sri Lanka, India; the Balkans and other European countries such as Russia and France; the Americas; Israel and the Occupied Palestinian Territories) and submitted several (annual and specific) reports as well as some special thematic papers. Although these reports are rather formalistic in tone and style, they clearly show the imprint of the Pakistani lawyer-activist, for example when she often highlights the multiple forms of discrimination women are facing who belong to religious and/or ethnic minorities, or points to the repercussions of hate speech and impunity for the perpetrators of serious crimes of violence. Moreover, Asma Jahangir was the first to address issues like the persecution of sexual minorities (1999, 2000)³⁶ or the use of drones (2002)³⁷ as human rights violations.

In October 2010, at a time when lawyers had come under greater pressure by the judges and the state, Asma Jahangir became the first female President of the Supreme Court Bar Association for the following two years.³⁸

SR on freedom of religion and belief in particular, the mandate and methods, incl. a partial assessment of the first three mandate holders' role and priority, see Carolyn Evans, *Strengthening the Role of the Special Rapporteur on Freedom of Religion or Belief*, "Religion and Human Rights" 1 (2006), pp. 75–96; Michael Wiener, *The Mandate of the Special Rapporteur on Freedom of Religion or Belief – Institutional, Procedural and Substantive Legal Issues*, "Religion and Human Rights" 2 (2007), pp. 3–17.

³⁵ Her latest report was "shared with the Government of the Islamic Republic of Iran" on 25 January 2018, cf. *Advanced Unedited Version of the Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*, UN Doc. A/HRC/37/68 (05 March 2018); and *Human Rights Council discusses situation of human rights in Iran*, Geneva, 12 March 2018, Viewed 10 August 2019, <<https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22796&LangID=E>>. Her first report in this capacity was submitted in March 2017 (UN Doc. A/HRC/34/65), and the second in August 2017 (UN Doc. A/72/322).

³⁶ She was the first to include sexual minorities' rights in her reports as an SR (on extrajudicial, arbitrary or summary executions) to the UNHRC in 1999, and again in 2000 (Robert C. Blitt, *The Organization of Islamic Cooperation's (OIC) Response to Sexual Orientation and Gender Identity Rights: A Challenge to Equality and Nondiscrimination Under International Law*, "Transnational Law & Contemporary Problems" 89 (2019), pp. 89–187, here pp. 148–149 and notes 302, 306); on her participation (as the chairperson of HRCP) in formulating the Yogyakarta principles, a milestone in the promotion of the recognition of human rights of sexual minorities, see O'Flaherty and John Fisher, *Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles*, "Human Rights Law Review" 8,2 (2008), p. 233, n. 136.

³⁷ On her early condemnation of the use of drones, cf. Colum Lynch, *Exclusive: U.S. Boycotts U.N. Drone Talks*, "Foreign Policy" 19 March 2014, Viewed 29 August 2019, <<https://foreignpolicy.com/2014/03/19/exclusive-u-s-boycotts-u-n-drone-talks/#>>: "Asma Jahangir, then the U.N. special rapporteur on extrajudicial, summary or arbitrary executions, asked the United States and Yemen for information the Nov. 3, 2002, missile strike (...). She also expressed concern that 'an alarming precedent might have been set for extrajudicial execution by consent of government.' The United States declined to comment on the specific allegations, but it challenged any suggestion that 'military operations against enemy combatants could be regarded as 'extrajudicial executions by consent of governments.'" See also A. Jahangir, *Militancy and drones*, "Dawn" 16 June 2013, Viewed 29 August 2019, <<https://www.dawn.com/news/print/1018571>> – with a discussion of the arguments put forward in the Pakistani debate, although she emphasizes "the fact that the attacks are illegal and defy humanitarian law".

³⁸ On the reasons for her candidature, cf. Jahangir, *Walking Together*, pp. 19–21; and on her election campaign, cf. 19 Oct. 2000, Viewed 15 March 2020, <<https://dashbored.wordpress.com/2010/10/19/interview-with-asma-jahangir/#more-294>> (link to the interview given by Gawande, *Asma Jahangir*, no. 12).

The prominent lawyer received numerous awards, notably the Alternative Nobel Prize (“Right Livelihood Award”) in 2014,³⁹ and (posthumously in 2018) the UN Human Rights Prize⁴⁰ as well as the “Nishan-e Imtiaz” medal, the highest civil award in Pakistan.⁴¹

Focus and Sources

The many features of Asma Jahangir’s legacy notwithstanding, I will focus in the following on her thoughts and insights on political power mechanisms in Pakistan and beyond. These have so far been rather neglected in the comments on her legacy. Nevertheless, I suggest, they remain relevant under the current conditions. The HRCP’s “State of Human Rights Report 2017”, published in March 2018 and dedicated to the memory of its former chairwoman, referred in its introduction to Asma Jahangir’s “ability to grasp the essence of political happenings earlier than many others”,⁴² and other observers and colleagues also acknowledged and praised her analytical mind, her clarity of thought, her deep insights and political farsightedness.⁴³

With her long-term experience as a lawyer, an activist, and a UN SR, Asma Jahangir often offered useful reflections on the main causes of human rights abuses in Pakistan and the neighbouring countries. Among other things, she pointed to the detrimental effects of the politics of sectarianization and securitization,⁴⁴ and also stressed the ongoing aspiration of a great part of the population in the global South to live a dignified life.

As sources I will mainly use a selection of her more recent publications – among them reports to the UNHRC (before 2006 CHR), interviews, and public speeches to a wider audience. In contrast to the rather formalistic reports arguing strictly on points of law, the interviews and speeches offer her explanations for national, regional, and international shortcomings and structural problems in a more outspoken, sometimes provocative or even essentialising rhetorical way. Nevertheless, they could be more effective and inspiring than political and social scientists’ abstract theories and complicated constructions or the language of legal experts, and therefore have to be assessed as quite refreshing in their

³⁹ For the explanation of the jury members’ decision (“... for defending, protecting and promoting human rights in Pakistan and more widely, often in very difficult and complex situations and at great personal risk”), cf. Viewed 30 June 2019, <<https://www.rightlivelihoodaward.org/laureates/asma-jahangir>>.

⁴⁰ Cf. HRCP, *Asma Jahangir to be honoured with UN Human Rights Prize*, 26 Oct. 2018, Viewed 30 October 2019, <<http://hrcp-web.org/hrcpweb/asma-jahangir-to-be-honoured-with-un-human-rights-prize>>.

⁴¹ Cf. Cecil Shiraz Raj, *Asma Jahangir: A phenomenon of engaged resistance*, “Mondiaal Nieuws” 27 March 2018, Viewed 03 July 2019, <<https://www.mo.be/en/essay/asma-jahangir-phenomenon-engaged-resistance>>.

⁴² HRCP (ed.), *State of Human Rights in 2017*, 29th ed., Lahore 2018 (available as PDF on the website of HRCP, Viewed 10 February 2020, <<http://hrcp-web.org/hrcpweb/>>, dedication (p. 5 of the PDF).

⁴³ Cf. SAHR (ed.), *Tributes*, pp. 21, 32, 40; Crossette, *The Legacy* (with regard to her assessment of the situation in India).

⁴⁴ Both terms indicate the use and exploitation of sectarian conflicts and talk on “national security” as a political tool by a great variety of governments. For a recent publication on these intertwined phenomena, cf. Nader Hashemi, Danny Postel (eds.), *Sectarianization: Mapping the New Politics of the Middle East*, Hurst, London 2017.

pointed overstatement. Her eloquence as a spokesperson is noteworthy.⁴⁵ It is conspicuous, and may be a result of her training as a lawyer and activist, that she knew how to tailor her style to her audience. Thus, her statements in Urdu (as a guest on TV-political talk shows on everyday politics in Pakistan and/or in the region, or as an activist on demonstrations) may sound more passionate and determined than in English. Moreover, the public speeches in English, mostly to an academic audience, are interspersed with anecdotes of her life, and demonstrate charm and a good sense of humour.⁴⁶

Diagnosis and Aetiology: Increased Discrimination, Intolerance, and Violence as a Global Dilemma

One of the major concerns in the later part of Asma Jahangir's life was the increase in intolerance and in polarization within societies worldwide, which in turn has given rise to greater discrimination against at-risk groups and vulnerable persons, to more violence, and – due to the failures and double morality of political decision makers – to the undermining of the rule of law, the erosion of democratic values and standards, and often to the impunity of perpetrators of human rights abuses and thus even greater injustice. In her view, the post-9/11 (2001) announcement of the “war on terror” constituted a major shift in global politics because many countries adopted policies, legislation and practices in the name of both the fight against terrorism and the protection of national security, which affected the enjoyment of virtually all human rights.⁴⁷ To her, the Pakistani experiences served as a prime example of the dynamics that were released by the interconnection and interplay between domestic and external factors.

In delivering the Amartya Sen⁴⁸ lecture in 2017, Asma Jahangir made the question of tolerating intolerance the basic topic of her speech. She started with a short and

⁴⁵ See also Gawande, *Asma Jahangir* (in his introduction to the collection of sources on her life), or SAHR (ed.), *Tributes*, p. 40 (“... clarity of thought and forceful expression in the three languages she spoke, Punjabi, Urdu, English”) for the acknowledgment of this talent of hers. Likewise, the recorded speeches and discussions show her as an attentive listener and quick-witted discussant.

⁴⁶ Her great sense of humour, sharp wit, and talent for mimicry is also attested by her close friends and comrades. Cf. SAHR (ed.), *Tributes*, pp. 32, 36, 40, 45, 53.

⁴⁷ Asma Jahangir, *Rule of Law, peace and security, development and human rights*, “World justice project” 2013, Viewed 01 March 2020, <https://worldjusticeproject.org/sites/default/files/think_piece_jahangir.pdf>; eadem, *Religionsfreiheit und Meinungsfreiheit* (Übers. aus dem Engl. F.-J. Hutter), in: H. Bielefeldt et al. (eds.), *Religionsfreiheit: Jahrbuch Menschenrechte 2009*, Böhlau Verlag, Vienna–Cologne–Weimar 2008, pp. 117–122, here p. 118. See also her remarks to William Dalrymple, *Days of Rage*, “The New Yorker”, 16 July 2007, Viewed 29 October 2019, <<https://www.newyorker.com/magazine/2007/07/23/days-of-rage>> – On several occasions, e.g. in her report on her mission to Israel and the Occupied Palestinian Territory 2008 (UN Doc. A/HRC/10/8/Add. 2), A. Jahangir emphasized that “States must ensure that any measure taken to combat terrorism complies with their obligations under international law, especially human rights and humanitarian law” (para. 30). This is in contrast, for instance, to “terrorist-profiling” practices (ibid., para. 43).

⁴⁸ On her friendship with Amartya Sen (b. 1933, Indian economist and philosopher, recipient of the 1998 Nobel Prize in Economics), see his own obituary (*Asma Jahangir, my fearless friend*, “The News”, 22 Feb. 2018,

succinct statement by saying that “Democracy and religion never went hand in hand”, as the experience in Pakistan and other parts of the world has demonstrated. And later on, she warned, also with reference to her home country, that “one should be careful while bringing religion into legislation, because the law itself can become an instrument of persecution”.

Since the very beginning of her career as a lawyer-activist, Asma Jahangir was a keen observer of political development in Pakistan and, over time, she became determined to aim at structural changes within state and society by criticizing the background factors that led to the deterioration of human rights. She frequently recalled that the original rationale for establishing Pakistan was to allow the Muslims of the subcontinent to practice their religion and that the rights of religious minorities were guaranteed.⁴⁹ This, however, changed, as she argued, when this rationale was translated into “making Pakistan a model Islamic state”, although the debacle in East Pakistan, which then became Bangladesh, had demonstrated the fragility of the original idea. Consequently, the vision of an inclusive (integrative) citizenship in Pakistan, as envisaged by its founder, Muhammad Ali Jinnah (1875–1948), himself a secular Shiite, a lawyer educated in England, became increasingly distant in the decades following independence.

Like many other analysts, Asma Jahangir emphasized that the era of General Zia ul-Haq and the reorganisation of the state institutions had the most long-lasting impact on the future of Pakistan. In contrast to the promises of the military dictator and his allies (Islamic parties and societies), she made clear that, “[T]he institutionalization of Islam into state and judicial mechanisms has not enhanced social justice but rather terrorized people into submission and silence.”⁵⁰ Islamization had definitely created a climate of fear and insecurity, in particular among the religious minorities, the main victims of the new anti-blasphemy laws (1980, 1984), and finally contributed to the escalation of sectarian violence, and thus “has served to polarize an already fragmented society”.⁵¹ Ever since the Islamization under Zia ul-Haq, Asma Jahangir was a staunch opponent of military regimes and martial law. Many Pakistanis reproached her for criticizing the military regime more harshly than civil governments. But, her criterion for this distinction was in terms of accountability; at least, politicians are elected and accountable to their constituencies, whereas the military should be under civil control. As she pointed out in a media article: “Military rule can never, by definition, deliver fundamental rights and the rule of law

Viewed 29 October 2019, <<https://www.thenews.com.pk/print/283993-asma-jahangir-my-fearless-friend>>, and note in von Hassell, *Asma Jahangir*, p. 553. The 2017 Amartya Sen lecture (A. Jahangir, *Religious Intolerance and its Impact on Democracy*, London School of Economics and Political Science, 17 Jan. 2017), Viewed 04 April 2019, <<https://www.youtube.com/watch?v=NMMEwiiceUg&feature=youtu.be>>.

⁴⁹ Jahangir, *Human Rights in Pakistan*, p. 169, 180; see also her newspaper comment, *Wholly unjust. Letter from Lahore. Blasphemy laws in Pakistan endanger lives as well as freedom of speech*, “New Statesman”, 11 April 2011, p. 50 (written in reaction to the killing of two outspoken opponents of the blasphemy laws, the governor of Punjab and the minister of religious minorities affairs; see also Badry, *The Dilemma*, p. 103).

⁵⁰ Jahangir, *Human Rights in Pakistan*, p. 182.

⁵¹ *Ibid.*, 170.

because it is based on a bedrock of illegality.”⁵² Likewise, she had never denied the existence of civil autocrats (in pre- and post-Zia times), who also used religion as a political tool.⁵³ Moreover, she had highlighted the fact that no government had been able to undo Zia ul-Haq’s constitutional and legal changes, though they remain controversial to this day. Instead, the following decades saw further Islamization and militarization, pushed forward by the new Federal Sharia Court⁵⁴ and the diverse Islamic traditionalist and fundamentalist groups, which had been bolstered by Zia ul-Haq and took advantage of the political instability following his death.

Asma Jahangir was also explicit about the other factors that helped to exacerbate the structural problems of Pakistan’s post-colonial system so that they became chronic.⁵⁵ In an article of 2000, she illustrated the decay in political culture and the problem of co-optation and opportunism by using the example of the judiciary: “The steady loss of judicial independence in favor of Islamization was not just a consequence of state coercion but was also due to the acts of individuals who were more concerned with career enhancement through politics than with the exercise of justice.”⁵⁶

In addition, the lawyer-activist was aware of the external factors, first and foremost the Afghanistan conflict and the shift in international geopolitics, that were advantageous for both military rulers, first General Zia ul-Haq (1977–88), and then Pervez Musharraf (1999–2007): The backing of the USA and their allies (among them Saudi Arabia) allowed the Pakistani Army and its Intelligence Service (ISI) to develop into a state within the state. Their organization and control of the anti-Soviet jihad in Afghanistan, which was funded by US and Saudi intelligence agencies, and supported by many Islamist groups from outside with the knowledge of the government and its intelligence agencies, were to have long-term consequences for Pakistan and the region. The rise of Islamist movements and militant groups with an ultra-conservative and extreme restrictive view of Islam⁵⁷ was only the most obvious result.⁵⁸ What is more, the nexus between military

⁵² Jahangir, *Martial Laws*, p. 13.

⁵³ For instance: Zulfikar Ali Bhutto before Zia, and Nawaz Sharif after Zia.

⁵⁴ On the parallel Islamic juridical system created by Zia cf. Badry, *The Dilemma*, p. 96 and n. 19. – For instance, the “Qisas and Diyat Ordinance” was promulgated by the president after the FSC had declared the existing law relating to murder and bodily hurt to be contrary to Islam. As a result, Asma Jahangir (*Human Rights in Pakistan*, p. 184) complains, “...crimes have been personalized”.

⁵⁵ Jahangir, *Martial Laws*, p. 13. – In other contexts, the lawyer-activist also highlighted the role of both education (still-high illiteracy rate, Islamisation of curricula and textbooks under Zia ul-Haq, mushrooming of “Islamic schools”) and the media (e.g. A. Jahangir, *Human Rights in Pakistan*, p. 189).

⁵⁶ Jahangir, *Human Rights in Pakistan*, p. 173.

⁵⁷ Aside from violent attacks they became best visible in the spread of Islamic schools (*madrasas*, “schools” in Arabic, which in this context implied a highly restrictive Islamic curriculum), sponsored by foreign as well as domestic sources. Cf. Tahir Kamran, *The Genesis, Evolution and Impact of “Deobandi” Islam on the Punjab: An Overview*, in: J. Syed et al. (eds.), *Faith-Based Violence and Deobandi Militancy in Pakistan*, Palgrave Macmillan, London 2016, pp. 65–92, here esp. 80–81 (Tables 3.1 and 3.2 on the Madaris of various sects in the provinces, and the evolution of Madaris in Pakistan).

⁵⁸ A. Jahangir spoke of an “Arabization” in Pakistan since the 1980s (cf., e.g. in 2009, *Will Pakistan’s Democracy survive*, Fifth Marek Nowicki Memorial Lecture, Central European University, 02 Nov. 2009, publ. 04 November

and Islamists, established under Zia ul-Haq, was to continue, as it seems, even when democratic governments were in power and regardless of the “war against terror” rhetoric (by Musharraf, for instance).⁵⁹ Another factor that benefited the military since the 1980s was its economic empowerment. As Asma Jahangir put it in an interview (in 2007): “The Army is into every business in this country.” The only exception she mentioned was hairdressing.⁶⁰

The new millennium witnessed a new dimension in the dismantling of the rule of law in an already fragile democratic state: “Since 9/11 and Guantánamo, the security forces feel they have a free hand,” Asma Jahangir remarked in the same interview, adding that “then there is the interference of the executive in the judiciary, which has been constant and unbearable”.⁶¹ The disproportionate use of force in the “war against terror” (extra-judicial killings and forced disappearances of suspected terrorists, drone strikes which also killed civilians, including children) was counter-productive, as it produced more hate and violence. There was equally no accountability and no transparency with regard to the number of fatalities and injured.⁶² The introduction of a new anti-terrorism law⁶³ in July 2014, known in Pakistan under its abbreviation POPA (for “Protection of Pakistan Act”) gave the law enforcement agencies extensive powers, easily misused because of broad and vaguely defined provisions. Six months later military courts were empowered to hear terrorism-related cases. The result was a further deterioration of the human rights situation in the country with secret (and also preventive) detentions and enforced disappearance of individuals, extra-judicial killings, and an accelerated number of death penalties⁶⁴ among the main consequences. As the anti-terrorism measures did not address the structural shortcomings of the political and judicial system, but rather enhanced them, they were counter-productive.

2011, Viewed 29 August 2019, <<https://www.youtube.com/watch?v=2ymOIJEkBY8>>, a term which is also used by other Pakistani observers but is far from clear. In addition to Saudi “petrol-dollars” the impact of Pakistani migrant workers returning home after working in the Arab Gulf countries and the financing of *madrasas* by public taxes (under Zia ul-Haq, for instance, a part of the *zakāt*-tax revenues was used to establish *madrasas*) and private donors/sponsors should not be neglected.

⁵⁹ Jahangir, *Interview* (“Asia Society” 2005).

⁶⁰ Jahangir, as quoted by Dalrymple, *Days of Rage*.

⁶¹ *Ibid.*

⁶² Jahangir, *Militancy and drones; Interview* (“Asia Society” 2005).

⁶³ The first anti-terrorism law was enacted in August 1997 under Prime Minister Nawaz Sharif as a response to the escalation of politically or religiously motivated violence in Punjab and Sindh. This law was also criticized by Amnesty International (see report by HRCP-member Aziz Siddiqui) as seriously flawed and contravening several legal safeguards of the Pakistani constitution and law and international HR standards. Asma Jahangir (cf. von Hassell, *Asma Jahangir*, p. 549) saw in the introduction of the 1997 Anti-Terrorism Act “a growing risk of a ‘civilian dictatorship’”. – On the new law enacted in 2014: Reema Omer, *POPA: an ineffective law*, “Dawn”, 19 July 2016, Viewed 30 June 2019, <<https://www.dawn.com/news/1271630>>. For statements by Asma Jahangir see *A Human Rights Perspective on Pakistan: A Conversation with Asma Jahangir* (Hudson Institute, Washington, D.C., publ. 19 May 2016, Viewed 15 June 2019, <<https://www.youtube.com/watch?v=I0MwekzwY3w>>).

⁶⁴ Asma Jahangir had always been a staunch opponent of the death penalty. She had criticized Pakistan, but also USA and Iran for the high number of death sentences.

In her later statements, Asma Jahangir always spoke of the “(security) establishment”⁶⁵ that controls Pakistan; an (oligarchic) elite with vested interests whose interconnections have intensified in the new millennium in order to preserve the status quo.⁶⁶ According to her previous comments, the elite consists of a “[p]artnership of the feudal and affluent classes of Pakistan with religious orthodoxy and the armed forces”.⁶⁷ Although it is an open secret in Pakistan, Asma Jahangir did not hesitate to say it bluntly in public: Actually, power is held and decisions are taken by the military, though there is a civilian government.⁶⁸ The military, she argued, used the fight against terrorism to strengthen its position and seems to have managed, through co-optation and manipulation, to have parliament and the judiciary on its side. As an indicator of this suspected constellation she referred to the fact that both institutions approved military courts, and thereby, in her words, “committed a blunder”.⁶⁹ In the context of the removal of Prime Minister Nawaz Sharif from office in mid-2017, she openly criticized the (widely assumed) involvement of the military and the Supreme Court’s decision. She repeated⁷⁰ her objection to the increased infiltration of the administration by the military and the security service and the problematic role of the judiciary over the years. She recalled, as she had done on previous occasions, that the defence budget could not be discussed in parliament, and asked provocatively why only politicians were held to account in Pakistan, while judges never ruled against “military or land mafia”.⁷¹ Even before this she had warned that “the drive toward further Islamization or militarization” would not only harm Pakistani citizens but also “poison the region’s political atmosphere”.⁷²

After the ousting of Nawaz Sharif in 2017, she once again urged the country to initiate a dialogue and engage India on different issues before finally going for a solution to the

⁶⁵ See, e.g. Jahangir, *Will Pakistan’s Democracy Survive*. In addition, see Jahangir’s interview with Shafiq Naqi Namie of BBC Urdu, Viewed 20 June 2019, <<https://www.youtube.com/watch?v=UMzMZ3y8uoU&feature=youtu.be>> (orig. 28 Dec. 2016).

⁶⁶ Cf. Badry, *The Dilemma*, p. 103 and note 49.

⁶⁷ Jahangir, *Human Rights in Pakistan*, p. 168. “Religious orthodoxy” is a problematic term in Islam because there is no church or highest institution which sets a dogma. In the Pakistani context the term seems to refer to religious parties and groups which propagate a form of Hanafite law, the dominant Sunnite law school in the country.

⁶⁸ Jahangir, *A Human Rights Perspective on Pakistan*; and *Will Pakistan’s Democracy Survive*: The military should be under civil control.

⁶⁹ As quoted in Ikram Junaidi, *Asma Jahangir lashes out at the powers that be*, “Dawn”, 04 August 2017, Viewed 30 June 2019, <<https://www.dawn.com/news/1349491>>; see also Jahangir, *A Human Rights Perspective on Pakistan*.

⁷⁰ See also, e.g., von Hassell (*Asma Jahangir*, p. 549) and Dalrymple, *Days of Rage*; A. Jahangir, *Democracy under threat*, “Dawn”, 18 June 2012, Viewed 29 August 2019, <<https://www.dawn.com/news/print/727633>>, in the context of another problematic judgment by the Supreme Court: “The establishment has played its cards well. It has masterfully used the hands of civilian institutions to cut each other down to size”.

⁷¹ As quoted in Junaidi, *Asma Jahangir lashes out*; see also *Exclusive Interview of Asma Jahangir with Nasrullah Malik* (in Urdu), 30 July 2017, Viewed 01 July 2019, <<https://www.youtube.com/watch?v=BTUhGgnH9PM>>.

⁷² Jahangir, *Human Rights in Pakistan*, p. 188.

long-term dispute on Kashmir,⁷³ as she was convinced that a lasting peace between the two would have a great impact on the other countries in the region. She wondered why Pakistan agreed to sit down with the Taleban⁷⁴ who committed crimes against humanity, but resisted starting a dialogue with India⁷⁵; the arguments put forward by the Pakistani government regarding Kashmir, she regarded as a double standard or hypocrisy.⁷⁶

Conscious of the common historical legacy of South Asian countries and of their similar post-colonial challenges, she believed in the great potential of collective, multinational initiatives on the bilateral as well as regional level. Since 1990 she had supported regional platforms and dialogue forums, and was, among other things, involved in regional peace and anti-nuclear campaigns. Her most significant contribution was the co-founding of the SAHR (South Asians for Human Rights)⁷⁷ in 2000/2001. During her co-chairmanship she put special emphasis on bringing India and Pakistan together.⁷⁸

When she visited India in 2008 in her function as a UN SR in order to report on issues of concern with regard to intolerance and discrimination based on religion or belief, this was a highly sensitive mission. She was eager to collect as much information as possible, and not only spoke with representatives of various religious or belief communities and civil societies, but also met controversial politicians from Hindu nationalist parties.⁷⁹ The emotional reaction by Pakistani newspapers was to be expected, but the SR was equally aware that her report had to be objective. Though she recognised the efforts made by the Indian government, she repeatedly focused on sectarian-based violence, particularly in certain Indian states (Gujarat, Orissa, Punjab, and Jammu and Kashmir). In retrospect,

⁷³ In 2017 (same sources as mentioned in note 71), she recommended to start and/or strengthen (legal) trading relations with India and other neighbouring countries rather than relying on smuggling; in 2000 (Jahangir, *Human Rights in Pakistan*, p. 190) she proposed a bilateral treaty between India and Pakistan to protect the respective religious minorities in both countries as a first step forward. In 2005 (*Interview*, “Asia Society”), she highlighted the cultural exchange and cooperation between the peoples despite governments, but repeated the necessity to open cultural centres across South Asia.

⁷⁴ In 2009 (*Will Pakistan’s Democracy Survive*), she asked, what is the meaning of “moderate Taleban”?

⁷⁵ See also Jahangir, *A Human Rights Perspective on Pakistan*.

⁷⁶ Cf. note 71 for the references; for the double standard position towards Kashmir, see also Jahangir, *Whither are we?* (“Dawn”, 02 Oct. 2000, Viewed 10 July 2019, <http://insaf.net/pipermail/sacw_insaf.net/2000/000736.html>); on the one hand, Pakistani authorities expressed concern regarding the human rights situation in Kashmir, but on the other, they did nothing to improve the domestic record of human rights. In 2007 (as quoted in Dalrymple, *Days of Rage*), she pointed to the army’s sending of Jihadists to Kashmir.

⁷⁷ Cf. the website of the organization (Viewed 07 June 2019, <<https://www.southasianrights.org/>>), incl. links to the history and current campaigns.

⁷⁸ Cf. SAHR (ed.), *Tributes*, pp. 48, 49.

⁷⁹ Such as the late Bal Thackeray (d. 2012), then chief of the extreme right activist party Shiv Sena, and Narendra Modi, currently Prime Minister, then Chief Minister of Gujarat, whose personal involvement in the Gujarat riots (“massacre” as it is termed in the report by Asma Jahangir) of 2002 has continued to be debated. – For her meeting with Thackeray, the reaction in Pakistan, and a summary of her report see also: *Asma’s meeting with Bal Thackeray was a damning indictment of state complicity in India’s communal problem*, “Naya Daur”, 11 Feb. 2019, Viewed 10 June 2019, <<https://nayadaur.tv/2019/02/asmas-meeting-with-bal-thackeray-was-a-damning-indictment-of-state-complicity-in-indias-communal-problem/>>.

her warning at that time was far-sighted⁸⁰: “Organized groups claiming adherence to religious ideologies have unleashed an all-pervasive fear of mob violence in many parts of the country”, she wrote in her report. She predicted that violence on a large scale could happen again “unless political exploitation of communal distinctions is effectively prevented and advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence is adequately addressed.”⁸¹

At a time when hate speech and societal polarization is a worldwide phenomenon, partly as a result of populist right-wing movements which have gained prominence almost everywhere and nowadays even challenge the stability of the so-called “free world”, it may be of interest to listen to the words of Asma Jahangir who was concerned, if not alarmed, by the extent of the watering down of the ideals of liberal democracy and universal inalienable human rights, particularly in recent decades. In her Amartya Sen Lecture in 2017 she remarked: “Today, even mature, established democracies are falling apart” and witness an erosion of democratic values. According to her analysis, double standards had become more visible after “9/11”, and turned into a tool in the hands of extremists and polarized societies. Liberal politics, as she went on to say, have missed the opportunities to build a greater partnership across the world to resist the turnaround of values, to protect the universality of basic values that are the only sustainable foundation for democratic systems. First of all, she put the blame on the societies, including herself, that let intolerance breed and prosper in their respective countries, giving rise to a polarized world. At the same time, she recommended building a public opinion that says no to double standards, and called on the societies “to rethink the way our democracies work” because actually, “they should be a springboard for people with ideas and conscience, not for opportunists like today”. In case of failure, she warned, “we’ll be living in a more and more oppressive world”.⁸²

In a number of speeches and interviews in the USA, the outspoken lawyer-activist reminded the audience of their government’s support for autocrats and military dictators

⁸⁰ On the relentless communal polarization and violence against minority and marginalised communities (Muslims, Dalits) experienced in India ever since the advent (2014) of a majoritarian government led by PM Narendra Modi, see the documentary film *Lynch Nation* (2018, 43 minutes, directed by Ashfaque E J, Shaheed Ahmad, Furqan Faridi, Vishu Sejwal) which documents seven incidents of mob lynching in rural North India in the past few years, recording testimonies of survivors and their families. The film was shown at ICAS 11 in Leiden where I originally presented my paper on Asma Jahangir. For the trailer see: Viewed 08 June 2019, <<https://filmfreeway.com/LynchNation607>>; cf. article in “Sabrangindia”, 30 Nov. 2018, Viewed 15 August 2019, <<https://sabrangindia.in/article/lynch-nation-documentary-makes-you-confront-lynch-mob-survivors>>.

⁸¹ UNHRC, *Report of the Special Rapporteur on freedom of religion or belief Asma Jahangir, Addendum: Mission to India* [3–20 March 2008], A/HRC/10/8/Add.3 (“late submission”, 26 Jan. 2009), paras. 63–64 (p. 21), see also “Summary” (p. 2) and para. 17 (p. 8). – In the same vein, she also criticized Sri Lanka, Burma/Myanmar and other South Asian countries for human rights abuses. See, for instance her remarks on Burma, the discrimination of Rohingya, and the disappointing reaction (unwillingness of protecting the Muslim minority) by the former Nobel Peace Prize laureate Aung San Suu Kyi: Jahangir, *Religious Intolerance*.

⁸² Jahangir, *Religious Intolerance*.

in her country and elsewhere.⁸³ When she was once asked by a discussant, what would be the best way the United States could help human rights defenders in Pakistan, she did not hesitate to suggest that the US should first of all improve their own human rights standards there.⁸⁴ If the US is following an agenda, that agenda will be followed by other countries as well, she noted during another lecture delivered in the States,⁸⁵ where she also suggested that there “cannot be given impunity to national leaders who spew hate”.⁸⁶ In many societies she saw the need to enact a law against incitement to violence in the name of religion (and other belief systems). In this matter she always referred to the “Report on incitement to racial and religious hatred” she prepared for the Human Rights Council in September 2006 together with Doudou Diène (lawyer and political scientist from Senegal), then (2002–2008) SR on “Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance”. This often-cited report has to be seen in the context of a long-standing debate in the UN on an initiative launched by the Organization of Islamic Conference (OIC) which called for the establishment of an international norm prohibiting the defamation of religions. The position of the Special Rapporteurs was clear: the protection has to be of people, not of religions as such or any other subjective concepts or beliefs. There is a critical distinction between defamation and incitement, and between racist statements and an act of defamation of religion as well. Freedom of expression can legitimately (cf. Art. 20, para. 2 ICCPR) be restricted for advocacy that incites to imminent acts of violence or discrimination against a specific individual or group.⁸⁷

⁸³ *Asma Jahangir: Personal Journey to Justice*, Pennsylvania Law School, 15 May 2016 (publ. 13 June 2016), Viewed 15 May 2019, <<https://www.youtube.com/watch?v=V-eFuYwlgGeg>>; Jahangir, *A Human Rights Perspective on Pakistan*, etc. In her Amartya Sen Lecture (Jahangir, *Religious Intolerance*), she pointed out, as she had done previously, that under such (religious and secular) autocratic regimes legal opposition (by political parties and civil society) was shut down, only Islamic groups could continue to grow in the form of a mosque movement; as a result, after the toppling of the autocrats, the religious organizations were better organized than other political and civil organizations. As the best example for such a development she mentioned Egypt. At the same time, she made clear, that “democracy cannot be transplanted and brought with preconceived concepts”.

⁸⁴ Jahangir, *A Human Rights Perspective on Pakistan*.

⁸⁵ Jahangir, *Walking Together*, p. 32.

⁸⁶ *Ibid.*, pp. 42–43.

⁸⁷ Asma Jahangir, Doudou Diène, *Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, further to Human Rights Council decision 1/107 on incitement to racial and religious hatred and the promotion of tolerance (A/HRC/2/3)*, esp. paras. 36–39, 44–47. For short references to the report in speeches and articles by Asma Jahangir (*Speech by Ms Asma Jahangir*, “Religion and Human Rights” 2 (2007), pp. 37–43, here pp. 38, 39; *Address of Asma Jahangir, UN Special Rapporteur on Freedom of Religion or Belief*, “Fides et Libertas” 2007, pp. 20–21, here 20: “As such, the right to freedom of religion or belief does not include the right to have a religion or belief that is free from criticism or from all adverse comment”; *Religionsfreiheit und Meinungsfreiheit*, pp. 120–122; *Walking Together*, pp. 34–35). For the debate on a law against the defamation of religion, cf. Robert C. Blitt, *Defamation of Religion: Rumors of its Death are greatly exaggerated*, “Case Western Reserve Law Review” 62.2 (2011), pp. 347–397, on the report by Jahangir/Diène see, esp., pp. 357–359 (n. 47, 49), and Marloes van Noorloos, *Criminalizing Defamation of Religion and*

Approaches to Solutions: Need for a Common Ethos and Ongoing Activism

“However flawed democracy here [in Pakistan] is”, Asma Jahangir once told the *New Yorker*, “it is still the only answer”. Despite this unshakable optimism, at the same time she had “no illusion about our elected politicians”.⁸⁸

Like her friend Amartya Sen, the lawyer-activist was convinced that secular democracy offers the best conditions for economic, political and social achievement,⁸⁹ and that economic rights go hand in hand with political rights.⁹⁰ Both criticized the arms race between Islamabad and New Delhi, which has wasted much needed financial resources, instead of investing them in social services (health, education, etc.).⁹¹ Asma Jahangir realized the real barrier for peace is the “industry of war” with its “very powerful allies” which “prosper to a point that it makes peace impossible”.⁹²

Despite darkening perspectives, Asma Jahangir never gave up calling for democratization and hoped the independence of the judiciary and civil society activism could be strengthened. Likewise, she emphasized the need for a common ethos (or ground)⁹³ at the national, regional, and international levels in order to protect democracy, human rights, and peace. In her reports to the UN on her mission to various countries she never forgot to mention encouraging signs best exemplified by the deep commitment and “vigour” of civil society but also by courageous individuals who despite ongoing conflicts and antagonisms are challenging discrimination and hate speech.⁹⁴ She herself urged the promotion of a counter-narrative to the mainstream discourse, and the continuing of the non-violent struggle for human rights. In doing so, she followed as it seems the words her father had told his children in the past: “(...) [b]e patient since freedom never just dropped from the heavens ... it could only be won through perseverance”.⁹⁵ Her speeches also included recommendations to future human rights advocates:⁹⁶ as personal requirements she mentioned the necessity to have a political mind, to be politically aware of what is happening and to have a “genuine case”. To fight one’s own prejudices she

Belief, “European Journal of Crime, Criminal Law and Criminal Justice” 22,4 (2014), pp. 351–375, on the 2006 report by the SRs, cf. p. 372.

⁸⁸ Jahangir, as quoted in Dalrymple, *Days of Rage*.

⁸⁹ von Hassel, *Asma Jahangir*, p. 553.

⁹⁰ Jahangir, *Religious Intolerance*; and *Human Rights in Pakistan*, p. 189.

⁹¹ von Hassel, *ibid.*; and *Exclusive Interview of Asma Jahangir with Nasrullah Malik* (in Urdu), 30 July 2017: her call to cut Pakistan’s defence budget.

⁹² Jahangir, *Walking together*, p. 43.

⁹³ *Ibid.*, pp. 35–36; Jahangir, *Will Pakistan’s Democracy Survive*.

⁹⁴ *Report on India*, paras. 3 and 65. *Mission to Israel and the Occupied Palestinian Territory*, para. 73. *Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, Mission to Nigeria* (UN Doc. E/CN.4/2006/5/Add. 2), para. 7. And UN-OHCHR, *Iran: UN expert acknowledges encouraging signs in “deeply concerning” human rights situation* (= summary of her second Iran-Report, 25 Oct. 2017), Viewed 05 March 2020, <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22306&LangID=E>>.

⁹⁵ Jahangir, *Martial Laws*, p. 10.

⁹⁶ Jahangir, *Walking Together*, pp. 35–36, 40–41 (Speech). See also *ibid.*, pp. 19, 26 (Talk with students).

also recognized as an essential precondition. As nobody is able to achieve the objectives set on his or her own, the human rights defender has to build linkages and to engage in lobbying activities (contacting parliamentarians for instance). With regard to practical work, the veteran activist particularly emphasized the need to be more strategic, to plan and to build support, to keep the efforts going and to choose the right timing in order “not to take the case out of context and blow it out of all proportions”. To reach a wider public and to convince them of the organisation’s ideas, credibility and respect for the target groups are indispensable prerequisites. Moreover, she underscored a more effective use of the mainstream media,⁹⁷ because “the right-wing – those people and those lobbies that do not believe in a democratic culture, in peaceful coexistence – use the media very effectively”.⁹⁸

Asma Jahangir as an Exception and Inspiring Role Model

A great number of her friends, companions and admirers have described Asma Jahangir as an exceptional and inspiring person who had a great impact on them and many other activists, especially among the young generation.⁹⁹ Obviously, she was inspiring and convincing because of her credibility she had gained by not only speaking but also acting according to her principles. Thus, I suggest that Asma Jahangir’s most precious legacy is her uncompromising principled position, as may be best illustrated by her provocative questions and critical statements on a wide range of national, regional and global topics – without fearing the consequences of being excluded, attacked, vilified, and threatened.

In an interview she confessed: “To stay committed to your values and principles is a very difficult thing to do – I think the most difficult thing to do – especially in an environment where temptations outnumber the sacrifices you have to give”.¹⁰⁰ However, as she also admitted, sometimes small compromises may be necessary, “without bending your principles”, but in order to protect individuals.

In her last speech, two days before she passed away, the lawyer-activist addressed young Pashtuns from the “Federally Administered Tribal Area” (FATA), who had gathered in Islamabad to agitate against extrajudicial killings and enforced disappearances.¹⁰¹ Asma Jahangir had frequently pointed to the plight of areas in Pakistan which have a special

⁹⁷ Cf. SAHR (ed.), *Tributes*, pp. 24–25: Asma Jahangir very early recognised the importance of the media, and AGHS Legal Aid Cell was among the first organisations to set up a media branch.

⁹⁸ Jahangir, *Walking Together*, p. 41.

⁹⁹ Cf. the personal memories collected in SAHR (ed.), *Tributes*, pp. 26, 48; or the comment of the historian and one of her close friends, Professor Ayesha Jalal from Tufts University, in *Remembering the Extraordinary Life*; and several obituaries, for instance: Ammara Ahmad, *Asma Jahangir, my heroine*, “NewsLaundry”, 12 Feb. 2018, Viewed 03 July 2019, <<https://www.newsLaundry.com/2018/02/12/asma-jahangir-dead-my-heroine-pakistan>>.

¹⁰⁰ Jahangir, *Walking Together*, p. 9 (Interview).

¹⁰¹ For Jahangir’s speech to #PashtunLongMarch, Viewed 28 August 2018, <<https://www.youtube.com/watch?v=IZ6aPcEhRvM>>; on her last speech see also Sirmed, *Funeral bridges religious and ethnic divides*; Crossette, *The Legacy*; on the protesters’ demands see, e.g., Mehreen Zahra-Malik, *In Pakistan, Long-Suffering Pashtuns Find*

status (in addition to FATA this concerns Gilgit/Baltistan¹⁰²) or are marginalized and discriminated against in other respects (like Baluchistan).¹⁰³ FATA borders Afghanistan and is a region outside the laws of the nation, which became a front in the war on terrorism after “9/11”. In her short speech she encouraged the protesters by saying that it is their right to be treated as equal citizens of Pakistan. One of the protesters’ major demands included: Stop this stereotyping of Pashtuns as militants. Further statements by the so-called “Pashtun Long March” movement, for instance its commitment to democracy and human rights, seem to reflect Asma Jahangir’s impact.

In response to those who present her as an exception, Asma Jahangir may have insisted, as she did in one of her interviews: “It’s not exceptional to raise your voice against something that you see is so blatantly unjust”,¹⁰⁴ but, one may add, such a position presupposes empathy and sincere human feelings and requires a high degree of courage and energy.

Their Voice, “The New York Times”, 06 Feb. 2018, Viewed 01 July 2019, <<https://www.nytimes.com/2018/02/06/world/asia/pakistan-pashtun-long-march.html>>.

¹⁰² Cf. Katja Mielke, Conrad Schetter, *Pakistan: Land der Extreme*, C.H. Beck, Munich 2013, pp. 160–163 (Gilgit and Baluchistan), 172–173 (FATA).

¹⁰³ Jahangir, *A Human Rights Perspective on Pakistan; Will Pakistan’s Democracy Survive; Interview* (“Asia Society” 2005).

¹⁰⁴ Jahangir, *Walking Together*, p. 11 (Interview).