

A 75 pages report

On freedoms of expression, association and assembly in Pakistan

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International Federation for Human Rights (FIDH). Press Release and Executive Summary / Publication of a Report (only available in English).

Paris, 17 January 2005: The report is the result of two international fact-finding missions carried out respectively in August and November 2004. Through an in-depth study of the situation of journalists, trade unions, NGOs, religious minorities as well as opposition parties, the report draws a picture of the state of human rights in the country.

The report shows that the Musharraf government has skilfully used the sudden need for Pakistan as a strategic ally in the "war on terror" since 2001 to play a fool's game - pretending to play by human rights rules, pretending to present a democratic façade to the regime, pretending to allow freedom of expression... in order to gain some national and international legitimacy, when it is actually putting all its energy in maintaining its grip on power. The regime is working by /ad hoc /political expediency, as again shown by Musharraf's decision to renege on his commitment to step down as Chief of Army Staff at the end of December 2004. Such erosion of the rule of law since 9/11 has been compounded by a growing lack of independence of the judiciary, which has in effect become under near complete political control of the Executive.

"Musharraf carries out a double-sided policy: his gestures in favour of human rights and democracy are of very limited scope: in the meantime, he adopts measures which seriously violate fundamental freedoms, while undermining the rule of law by organising the impunity of allies and friends. This is true not only with regard to the struggle against extremist religious groups, but also in the areas of women and minority rights, as well as of freedoms of expression and association", says Dr. Christine Habbard, author of the report.

More generally, *"Musharraf's mala fide manner to tackle power has had direct consequences on individual freedoms in Pakistan, and in particular on freedoms of expression, of association and of assembly. This means that journalists, human rights activists, human rights lawyers, trade unionists... have seen their margin of manoeuvre dwindle incrementally in the past years - they are increasingly exposed to judicial harassment, to economic or social pressure, as well as to outright rough-handed intimidation. We are far from the "true democracy" promised by Musharraf",* adds Dr. Christine Habbard.

Sadly enough, in spite of that blatant disregard for democratic principles and human rights since September 11, Musharraf benefits from the full support of the international community. *"In its "war on terror", the international community has, in a very short-sighted and narrow vision, decided to remain silent in the face of human rights violations committed by Pakistan, as a "strategic ally" - without realising that in the long run, they end up consolidating their enemy rather than weakening*

it, while at the same time alienating the moderate, democratic groups and parties”, concludes Sidiki Kaba, President of the FIDH.

“IN MALA FIDE” - Executive Summary

Freedoms of expression, association and assembly in PAKISTAN

Freedoms of expression and information

In spite of a few positive steps, the regime uses a variety of methods to limit freedom of expression in Pakistan:

1. The **harsh legislation**- be it media-specific or general laws -, aimed at curbing free expression in the country. Indeed, Musharraf has not hesitated to pass through ordinances (i.e. without parliamentary scrutiny) five repressive laws specific to the media.
2. The **outright ban** of publications and media outlets when too critical of the regime. The government has also blocked internet sites on politicised grounds.
3. The **heavy-handed tactics** of the police, the army and the intelligence services, designed to intimidate journalists perceived to have gone “too far”. It is to be noted that foreign journalists are often limited in their displacements in the country, and there is a prohibition for all journalists to report from parts of the tribal areas, notably Waziristan.

The pressure is compounded by a tradition of secrecy within Pakistani politics, and an extremely wide understanding of “national interest”, which make it particularly difficult to investigate on and/or divulge sensitive matters. The limitation of the current Freedom of Information Act of 2002 is somewhat despairing in this regard, given the intrinsic and specific link between freedom of expression and freedom of information in Pakistan.

4. A **more subtle, yet unmistakably systematic, pressure to force journalists into conformity**, such as preventing them from attending press conferences. There is little doubt that the independence of the press is not viewed positively by the authorities, which expect it to be compliant and an instrument of the government’s position. The government does not hesitate to put massive pressure on chief editors and/or journalists to force publication of its own positions, or to prohibit publication of dissenting views.
5. The **structural vulnerability of press groups**, especially smaller ones, which makes them more likely to yield under pressure from the Executive, as they heavily depend on government advertisement for their financial viability. The government has thus not hesitated to use the financial levy against media groups critical of its policies by banning official advertisement in newspapers.
6. The **economic insecurity of journalists**, at the mercy of their hierarchy and thus subject to various pressures, limits their ability to express dissenting views.
7. The *de facto* **impunity granted to religious groups** who themselves pressurise and/or intimidate journalists.

8. The **decreasing independence of the judiciary** (further constricted under Musharraf) has not helped counterbalance the bias against freedom of expression in Pakistan, as proper judicial remedies have not been available to *bona fide* media practitioners.

9. **Similar pressure stems from local and provincial authorities** as well. The heavy-handed tactics used by the federal government against the media, combined with its political alliance with the MMA, means that a near-complete impunity is also granted to provincial and local authorities when they, too, decide to impose *de jure* or *de facto* restrictions on the media.

10. The combination of the preceding measures and restrictions has led to **self-censorship** on the part of the media outlets as well as journalists. The sensitive issues not to be broached are:

- (i) Questioning the military, especially in stories relating to its corruption.
- (ii) The conflict zones and the operating areas in FATA
- (iii) The presence of terrorist groups on Pakistani soil and the fight against Al-Qaeda
- (iv) Questioning Islam.

Such limitations of freedom of expression hold true for academics and NGOs as well. Human rights NGOs, especially those working in the field of women's rights, have faced increased hardship in recent years.

Freedoms of association and assembly

Unfortunately, the Musharraf regime has imposed on freedoms of association and assembly similar restrictions than on freedom of expression: enacting repressive laws, and using heavy-handed tactics to violently harass or intimidate groups or individuals defending or exercising these very freedoms. Non-state entities, mainly fundamentalist groups, have also had a near free hand to pressurise and intimidate human rights defenders.

The government makes an immoderate use of Article 144 of the Code of Criminal Procedure, which makes any gathering of more than four people subject to police authorisation, in order to limit freedom of assembly. This is particularly true for opposition activists, who are systematically targeted, thus further weakening the already fragile situation of democracy in Pakistan.

The report draws the attention to the plight of Pakistani trade unions, which face severe hardship. Government policies of interference in union politics, co-optation of leaders, setting up of rival unions ("yellow unions") to break the strength of more autonomous unions, exclusion from all consultative processes, the use of undue influence in union elections, added to a lingering feudal mindset and a mind-numbing slowness of labour courts, have weakened and factionalised trade unions in Pakistan. But the newly-adopted Industrial Relations Ordinance 2002, which adversely affects trade union rights, probably constitutes one of the severest blow to trade union rights in Pakistan.

Rights of religious minorities

If Musharraf has to be commended for setting up a joint electorate for minorities, their situation, especially in the case of Ahmadis, remains precarious. In practice, religious minorities (Christians, Hindus and Ahmadis) are increasingly targeted by local and provincial authorities as well as by fundamentalist groups, in total impunity. In addition, Musharraf has not moved against the "Blasphemy Law", which has been repeatedly condemned by national and international observers as

severely contradicting freedoms of opinion, of expression and of religion, and which is repeatedly used against minorities in an often most arbitrary manner.

The Tribal Areas of Pakistan

Last but not least, the report denounces the situation in the Tribal Areas of Pakistan known as the Federally Administered Tribal Areas (FATA). The Tribal Areas have a semi-autonomous status, administered through a separate legal system, known as the Frontier Crimes Regulation, which has remained unchanged since 1901. The result is the absence of the fundamentals of any sound democracy: elected government, separation of executive, judicial and legislative; judicial review and human rights protections. Though part of Pakistani territory, the inhabitants of FATA are denied the guarantees enshrined in the Constitution of Pakistan - in effect, not all citizens are equal in Pakistan. The FCR blatantly contravenes many of the provisions of the Universal Declaration of Human Rights. In particular, the FCR provides for collective criminal responsibility, meaning that the whole family or village of a fugitive can be punished until his surrender or punishment by his own tribe.

Foreigners and journalists are prohibited from entering into FATA, especially in the zones where military operations are taking place, thereby severely limiting the flows of news from that region.

The report includes a series of recommendations addressed to the Pakistani authorities as well as to the international community.

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