



## **Human rights in Pakistan: six recommendations ahead of the elections**

**April 2013**

While encouraging the democratic reforms undertaken over the past five years by the government led by the Pakistan People's Party,<sup>1</sup> FIDH and HRCP remain concerned regarding the rapid deterioration of Pakistan's human rights situation and the lack of progress on strengthening the rule of law in the country.

***Background:** The general election slated to take place on May 11th will mark the first democratic transition between two elected civilian governments in Pakistan. Following the March 17th dissolution of the National Assembly under article 52 of the Constitution, the Election Commission of Pakistan appointed former judge Mir Hazar Khan Khoso as caretaker prime minister.*

FIDH and HRCP call on all parties concerned to adopt a clear stand on the following issues:

### **1. Maintain democratic governance and rule of law**

FIDH and HRCP feel concerned at the surge in religiosity during the current electoral process and unwarranted invocation of quasi-religious concepts to disqualify a particular category of candidates. Fears have been expressed in well-informed circles that this could be the harbinger of Pakistan's shift towards arbitrary rule and subversion of rule of the law.

The Government of Pakistan and Pakistani political parties should:

- Develop and respect a national consensus on the essentials of a democratic dispensation that must never be compromised.
  
- Allow women across the country to run in and vote during the elections free of fear and intimidation; and implement mechanisms to curb the level of political violence which since 2011 has claimed hundreds of victims in Karachi alone.

### **2. Protect minorities, promote tolerance**

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<sup>1</sup> In particular the adoption of the 18th Amendment to the Constitution of Pakistan, which transferred certain presidential powers to the Parliament and to the office of the prime minister, thus curbing the presidential power that had accumulated under successive military regimes.

The last few years have been characterized by a spike in incidents of violence and intolerance against ethnic and religious minorities across Pakistan. This trend aligned with the failure on the part of authorities to protect vulnerable groups. Minorities, especially Hindus and Christians, have been subjected to forced conversions and socio-economic discrimination.

One of the most recent outbursts of violence affected Shia communities across the country. In the first two months of 2013, a series of bomb attacks on January 10th and February 16th in Quetta killed at least 200 Hazaras, injuring hundreds. In March 3th, at least 48 people were killed following the explosion of a car bomb outside a Shia mosque in Karachi. Authorities have failed to efficiently crack down on Lashkar-e-Jhangvi, the militant group that has openly claimed responsibility for attacking this persecuted community.

Violence against other Muslim minorities and non-Muslims has been persistent. Some of the most striking incidents include the attacks on two Ahmadi mosques on May 28th, 2010, which claimed 86 lives, the desecration of Ahmadi graves in Lahore in 2012, and the recent looting of more than 200 homes at the Christian Joseph Colony in Lahore on March 9th, 2013.

In addition, discriminatory laws that strongly contribute to the persecution of minorities, have not been revised, in particular Sections 298-B and 298-C of the 1984 ordinance, which declare it illegal for Ahmadis to act or look like Muslims, to practice or propagate their faith, and to call their place of worship a mosque.

FIDH and HRCP welcome the fact that, on November 20th, 2012, 14-year old Rimsha Masih, a Christian, was cleared of all charges, a few weeks after her arrest on blasphemy charges. However, reports of reopening of the case in appeal are causing concern and her security and that of the Christian community generally must be guaranteed.

#### The Government of Pakistan should:

- Ensure the effective investigation and prosecution of cases of sectarian violence.
- Enact legislation ensuring freedom of religion and belief for all religious groups and repeal or thoroughly reform the so-called blasphemy law.
- Reinvigorate genuine efforts to build a tolerant and cohesive society.

### **3. End impunity and promote accountability**

While strongly condemning the killing of thousands of members of national security forces by radical groups over the past years, FIDH and HRCP underline that what the Government of Pakistan referred to as “the epic struggle against terrorism” during the country's Universal Periodic Review (UPR) in November 2012 must take place in full accordance with international human rights standards. Summary executions, torture and enforced disappearance are prohibited international law under all circumstances.

HRCP's recent investigations in the province of Balochistan revealed State responsibility in many cases of enforced disappearance, as well as inappropriate government response to the many grievances of the people of Balochistan. Up to 14,000 individuals remain missing in the province, according to reports from Voice of Missing Baloch. The Commission of Inquiry on Enforced Disappearance<sup>2</sup> had received 999 cases as of February 28th, 2013; however the commission still

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<sup>2</sup> Established by the Supreme Court of Pakistan in March 2011 in continuation to a committee set up by the Ministry

lacks authority and resources. Illegal detention and ill-treatment during detention remain widespread, especially in Balochistan and Khyber Pakhtunkhwa.

Pakistan's claim to join the Shanghai Cooperation Organization (SCO) as full member sends a negative message in this regard, since the core values of the SCO are to merge the fight against "terrorism, separatism and extremism" in a way that has, in the past, led to numerous human rights violations, including the forced deportation of people at risk of persecution and being subjected to unfair trials in their home country. .

The Government of Pakistan should:

- In line with the government's commitment to effectively implement the recommendations made by UN Member States during its last UPR and to fully cooperate with UN Special Procedures, take effective measures against enforced disappearances by strengthening the Commission of Inquiry and implement all of the recommendations formulated by the Working Group on Enforced Disappearances in its last report on Pakistan<sup>3</sup>, in particular the recommendation to include a new and autonomous crime of enforced disappearances in the Criminal Code.
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

#### **4. Protect women's rights**

Women continue to be victims of widespread discrimination and violence in Pakistan. Legal reforms have been limited. Although the 1979 Hudood Ordinance has been partly revised, deeply discriminatory provisions remain. The criminalization of rape victims, accused of adultery (*zina*), remains a serious concern and many women are thus unwilling to report crimes of sexual violence to the police. Inadequate measures have been taken to implement laws aimed at protecting women's rights, including the Protection Against Harassment at Workplace Act adopted in 2010.

There are increasing barriers to girls' access to education, including violent attacks by non-state armed groups deliberately targeting girls. These acts are carried out with complete impunity. The attempted murder of 15-year-old Malala Yousafzai, who was shot by the Tehrik-i-Taliban Pakistan (TTP) on October 9th 2012 for speaking out in favour of girls' right to education, is unfortunately only one terrible example of such violence.

The government has failed to take measures to fight violence against women and girls, including sexual exploitation and "honour killings". Tribal courts (*jirgas*) continue to issue highly discriminatory judgements against women.

The Government of Pakistan should:

- Repeal all discriminatory laws, including provisions that enable perpetrators of so-called "honour crimes" to escape punishment.
- Take necessary measures to enforce legislation passed by the outgoing National Assembly

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of Interior in April 2010.

<sup>3</sup> A/HRC/22/45/Add.2, Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Pakistan, February 26th, 2013.

aimed at increasing protection for women's rights, such as the Prevention of Anti-Women Practices (Criminal Law Amendment) Act (2011).

- Take measures to establish a unified judicial system, and eliminate all parallel legal systems and informal dispute resolution mechanisms which discriminate against women; make the public more sensitive on the importance of addressing violations of women's rights through judicial remedies rather than parallel justice systems.
- Take urgent measures to increase access to education and employment for women and girls.

## **5. Enhance economic and social rights**

Pakistan remains a poor country, ranked 146th in UNDP's 2013 human development index. Beyond the general economic crisis affecting the country, there is evidence of growing food scarcity, which is linked to the rise in food prices. This affects not just the poor but also the large middle-income segment of the population. These problems are structural and have links with issues of land holdings, shortages of essential inputs (especially water) and a lack of technical and financial capacity, as well as poor education levels, within the farming community.

While recognizing the great challenges resulting from recurrent floods and the flow of internally displaced people in Pakistan,<sup>4</sup> FIDH and HRCP insist on the need to focus on sustainable development rather than only on disaster relief, in order to mitigate the effects of natural disasters in the future.

Although FIDH and HRCP welcome the ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) by Pakistan in 2008, the garment sector – a cornerstone of Pakistan's economy - remains plagued by corruption and mismanagement, which impacts the safety and working conditions for workers, as tragically illustrated by the death of 315 people during a fire at a textile factory near Karachi on September 11th, 2012.

### The Government of Pakistan should:

- In order to protect garment sector workers from the violation of their rights to safe workplaces and other internationally recognised labour rights, enact adequate legislation regarding building, fire and electrical safety standards for the garment sector; ensure remedies for victims of accidents caused by unsafe working conditions and their relatives; and provide the resources necessary to guarantee effective independent labour inspections at garment factories.
- Develop legislative reforms to implement Pakistan's International Labour Standards obligations and guarantee, in particular, the rights of trade union at the federal and provincial levels.
- Implement effective measures to abolish all forms of economic and physical exploitation, based on the National Policy and Plan of Action for the Abolition of Bonded Labour (2001).
- Submit an initial report on the implementation of the ICESCR to the Committee on Economic, Social and Cultural Rights, which has been overdue since 2010, and ratify the Optional Protocol to the ICESCR.

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4 Especially in the aftermath of yearly summer floods throughout the country.

## 6. Protect human rights defenders<sup>5</sup> and journalists

HRCP and FIDH are extremely concerned by the growing insecurity of human rights defenders and journalists investigating human rights violations in Pakistan. HRCP has lost three district coordinators in 2011, namely Siddique Eido, who was abducted by men in security agency uniforms, Naeem Sabir in Balochistan, and Zarteef Afridi, who was killed in Khyber Agency.<sup>6</sup> On February 2nd, 2013, Malik Jarar, HRCP's council member and member of the Shia community, was shot dead by unknown assailants. On March 13th, 2013, Ms Perveen Rehman, a highly respected social activist working vigorously for the emancipation of the poor and marginalised people in Karachi through the "Orangi Pilot Project", was also brutally shot dead by unknown assailants.<sup>7</sup>

Sixteen journalists were killed in 2011, at least ten in 2012. Pakistan ranks third most dangerous country for journalists. Five journalists have already been killed since the beginning of 2013, the latest being Malik Mumtaz, killed on February 27th in Miranshah, South Waziristan.

### The Government of Pakistan should:

- Guarantee the physical and psychological integrity of all human rights defenders in Pakistan.
- Carry out an effective, thorough, and impartial investigation into the above-mentioned killings, abductions, threats and attacks, in order to identify all those responsible; bring them before a civil, competent, and impartial tribunal; and apply to them the penal sanctions provided by Pakistani law and in line with international human rights law.
- Conform in all circumstances to the provisions of the Declaration on Human Rights Defenders, adopted on December 9th, 1998 by the United Nations General Assembly, in particular:
  - Article 1, which states that “everyone has the right, individually or in association with others, to promote the protection and realization of human rights and fundamental freedoms at the national and international levels.”
  - Article 6 (c), which states that “everyone has the right, individually and in association with others to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.”
  - Article 12.2, which states that “the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.”

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5 FIDH monitors the situation of human rights defenders in the framework of a joint program with the World Organisation Against Torture (OMCT): the Observatory for the Protection of Human Rights Defenders (The Observatory).

6 See Joint Open Letter to the authorities co-signed by the Observatory on May 13th, 2011.

7 See Urgent Appeal of the Observatory, PAK 002/0313/OBS 025 on March 19th, 2013.

## Annex: FIDH/ HRCP recommendations to the European Union

The European Union (EU) should:

- Discuss as a matter of priority the above-mentioned challenges in the upcoming political, strategic, technical and human rights dialogues with Pakistan. Recall the commitment made through the 2012 EU-Pakistan five-year engagement plan to ratify and effectively implement international conventions; draw particular attention to the necessity for Pakistan to ratify ICCPED and OP-ICESCR; adopt a moratorium on the death penalty, repeal discriminatory laws and adopt positive measures to ensure equality of all citizens in law and practice, provide for adequate investigation and remedy for sectarian violence, torture, summary killings (including of HRDs and journalists) and enforced disappearance.
- Ensure that the the above-mentioned challenges figure as priorities for EU action within the Human Rights Country Strategy for Pakistan, which should then serve as a basis for post 2014 programming.
- Regularly discussed with CSOs in the framework of the establishment of strategic relations ('roadmap for engagement') to identify long term objectives of EU cooperation with CSOs, as foreseen by the Communication and Council Conclusions on Europe's engagement with Civil Society in external relations.
- Prepare, through its Delegation, Member States and High Representative for the Common Foreign and Security Policy, and in conjunction with the EU Election Observation Mission (EOM) for early warning reaction to secure the election process, with a special focus on sectarian, political and gender violence/harassment.
- Regularly meet, through the EOM, with the various stakeholders and include the civil society's contribution (including local observers) in the drafting of EOM's recommendations.
- Adopt, in line with the EU Guidelines on Human Rights defenders, a proactive approach towards the harassed Human Rights defenders and journalists whose life has been threatened. In particular, give the threatened defenders visible recognition; receive and consult them in relation to actions and demarches which might be contemplated ; undertake demarches towards the Pakistan authorities to obtain an adequate response to the threats, both concerning individual cases and a wider strategy to ensure protection of HRDs.
- Ensure the prioritisation of Human Rights within the Pakistan-EU Steering Committee on Counter-terrorism. Ensure that EU counter-terrorism capacity building include Human Rights in the planning and implementation phases, in particular as regards the respect of due process requirements. Ensure that counter-terrorism capacity-building be devised in coordination with EU support to other sectors, notably the Justice sector. Recall the primacy of Human Rights standards, including non-refoulement, in the context of Pakistan's potential accession to the Shanghai Cooperation Organisation.
- Put in place a solid framework to ensure corporate responsibility and that business enterprises respect of Human Rights and labour law, due diligence, mandatory non-financial reporting.