

Report

International Fact-finding Mission

"IN MALA FIDE"

Freedoms of expression, of association and of assembly in Pakistan

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*This section of the report takes place in the framework of the mandate of the joint programme of the FIDH and the OMCT: the Observatory for the Protection of Human Rights Defenders.

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PRELIMINARY REMARK

Alerted by reports of Pakistani human rights organisations, the International Federation for Human Rights decided to send an international fact-finding mission to Pakistan. Dr Anne-Christine Habbard (France) stayed in Pakistan from 7 to 20 August 2004 and from 18 November to 8 December, 2004. The aim of the mission was to gather all relevant information on the human rights situation in Pakistan, in particular regarding the freedoms of expression, association and assembly. She is the author of this report.

The mission was preceded by a preparatory mission from 7 to 17 October 2003, composed of Sara Guillet, lawyer (France) and Puravalen Muthu Raman, lawyer (Malaysia).

The FIDH would like to thank all the persons who met our delegates and whose testimonies have been precious in elaborating the present report.

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INTRODUCTION

Since 11 September 2001, few leaders have played as prominent a role on the international stage in the "war on terror" than General Pervez Musharraf. *"It is hard to overstate the importance of Pakistan in the struggle against Islamic terrorism"*, notes the recent 9/11 Commission Report in the United States¹. The US-led war in Afghanistan required, on a political level, that Pakistan cease its decade-long support for the Taliban, and on a strategic one, access to both Pakistan air and land-space. Pakistan's support in the "war on terror" became even more crucial as the fleeing Taliban reportedly moved into Pakistan, through the rather porous border between the two countries, and were said to settle in the tribal areas along the Afghan border. The international community, with the United States at its helm, opted for a near unconditional support of General Musharraf as an indispensable ally in the region - quite a reversal after having chastised him for several years for the military coup in 1999 by which he took power. Musharraf very cleverly used this sudden international need for Pakistan, even if on the national stage, it meant a shift in the army's long-standing alliance with the religious groups, as Musharraf had to distance himself from the traditional allies of the military - the mullahs.

One would - and legitimately could - have hoped that the imperious need for Musharraf as an ally in the "war on terror" would have gone hand in hand with international pressure on him to democratise the country and promote internationally recognised human rights. And one could say that it has to some extent been the case, as pressure grew for the military regime to present a more respectable face to the world.

But unfortunately, this has exactly been the very limit of the whole operation: that the regime would appear more respectable - without committing to any substantial changes. Elections were indeed held in 2002, and some gestures have been taken in the areas of rights of women, minority rights, and freedom of expression. However, these few measures have been outweighed either by severe restrictions in other fields, or by an irregular implementation, or by a clear lack of political will to substantially democratise the regime, or by operating through a "divide and rule" principle in the political field. *"Any steps [Musharraf] has taken to introduce a modicum of democracy have been countered by measures to increase his and the military's power"*, note *Newsweek's* Ron Moreau and Zahid Hussain².

For instance, by all accounts the 2002 elections were fraught with irregularities, in effect providing Musharraf with a rubber-

stamp National Assembly; the two main contenders for the democratic parties, Pakistan People's Party and Pakistan Muslim League -Nawaz faction, were barred from running after questionable legal charges were brought against them; several restrictive ordinances relative to freedom of expression were adopted in 2002; extremely repressive measures were taken against trade unions; harassment of NGO activists, journalists, trade unionists and above all, all opposition parties, continued unabated.... Musharraf tried to legalise his *coup de force*: in August 2002, he introduced a Legal Framework Order (LFO), consisting of 29 constitutional amendments which, among other things, gave the President the right to appoint Supreme Court judges and military commanders. It also institutionalised the role of the army, notably through the military-dominated National Security Council. These amendments substantially modify the nature of the Constitution. Owen Bennett Jones soberly writes: *"The army, then, was in control, and the October 2002 elections were only ever intended to provide the regime with a democratic veneer"*³.

In effect, the government is playing 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, by all means possible.

Indeed, the regime seems to have no long-term policy but that of entrenchment of its power, working by *ad hoc* political expediency when need be, 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. This has made human rights defenders, in the broad sense of the term, more vulnerable both to legal attacks, to economic or social pressure, as well as to outright rough-handed intimidation. 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 come under near complete political control of the Executive. The recent hardening of the antiterrorism law, modified on October 18, 2004, because it has often been used to repress dissenting individuals and groups, bodes ill for the future.

There is now unfortunately little doubt that the Musharraf administration is engaged in a mala fide approach to democracy and human rights issues - a double-sided, double-standard, false commitment. In the words of Abid Saqi, a leading human rights lawyer from Lahore, *"Musharraf's claim*

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*to be a democrat is fake, fabricated and misleading*⁴. And the signs about the future do not allow for much optimism in this respect, were it not for a most vibrant civil society, which has reached most impressive levels of professionalism and courage, especially given the military rule they have to face.

Historical background - a heavy and contradictory legacy

Pakistan, which became independent in 1947, has suffered ever since its foundation from a double ambiguity: an ambiguity as to the nature of its institutions, and the other as to the role of Islam in the state-machinery. Both are intertwined, and both are linked to the question of identity, with which Pakistan has grappled ever since independence: what is the basis of Pakistan's identity? What are the elements of Pakistani nationhood? If Islam was the primary justification for Pakistan's independence, it was never enough to create a sufficiently binding force in the nation-building process and unify the widely differing ethnic populations living on Pakistani soil: the Punjabis, the Sindhis, the Baloch, the Pushtoons, and the newly-arrived Mohajirs⁵. A Pushtoon dryly summarises: *"I have been a Pushtoon for 5000 years. I have been a Muslim for 1400 years. And I have been a Pakistani for only 50. Where do you think my primary allegiance goes to?"*⁶

The problem of defining a new national identity in the face of various nationalisms has had far-reaching consequences in terms of democracy and human rights, as it has allowed for a surprisingly wide conception of "national interest" (which has always remained vague and undefined not just for political purposes, but precisely because of this lack of definition of what constituted the national identity) - and hence, an obsession with national security. The importance of national security meant that the army gradually took it for granted that it had the right to intervene in both foreign and domestic politics; and the obsession with national identity meant that Islam was repeatedly used to try to unify a most diverse population. The combination of military rule and Islamisation dealt a near deadly blow to human rights and democracy. The space for fundamental freedoms, notably of expression and association, has been thus greatly reduced. Pakistan sadly follows the pattern of many countries where the pretext of national security is invoked to stifle all dissident voices - but its peculiar history has made it particularly prone to an overextended use of it.

a) Civilian or army rule?

Although the founder of the country, Muhammad Ali Jinnah, had originally wanted the country to be dominated by the rule

of law and democratic principles, and although the consecutive constitutions all lay the ground for the institution of a parliamentary democracy, Pakistan has *de facto* been dominated by military rule ever since its foundation, enjoying only brief interludes of democracy in its tormented history - interludes all the more brief that no elected government has been allowed to complete its term in office. In fact, *"democratic transitions have failed to consolidate primarily because of military intervention. The Pakistan army has repeatedly stepped in to promote its political and economic interests and the interests of its leaders"*, notes the ICG⁷. In spite of a recurrent rhetoric justifying military rule in order to achieve a supposedly "genuine" democratic reform - a tradition Musharraf has dutifully followed -, such history of military rule has had its impact in terms of fundamental liberties, and the current restrictions on freedoms of expression, of association and of assembly can be viewed as just another legacy from this turbulent history. The peculiar conditions of the creation of Pakistan means that the army had from the outset a large degree of influence - which it progressively strengthened as the decades went. The army was, and remains, the main power broker and power holder in Pakistan. Even in times of civilian rule, the military has not hesitated to continuously interfere in foreign and domestic policy, as the military officers have generally believed to be the sole guardians of the "national interest and security".

The conventional view holds that such inordinate role of the army (unparalleled in the rest of South Asia) was made inevitable because of the history of nationalist movements in the country, which always threatened the unity of Pakistan - especially after Bangladesh's secession in 1971. In this view, a strong, authoritarian and centralist power was necessary to prevent the break-up of a nation whose centrifugal tendencies always were a problem - this would explain in part why the various devolution plans have never been genuinely implemented, and why the successive leaders never granted the provinces the autonomy which would have seemed politically and legally legitimate.

But the army also deliberately managed to perpetuate the myth of its indispensability; it increasingly participated in all aspects of the state's life - the economy, the daily politics, the legislature, etc... -, extending an octopus-like power which the civilian leaders, for reasons of political expediency, unfortunately contrived to entertain.

The history of military coups and imposition of martial law starts in 1958 with Ayub Khan's take-over and abrogation of the 1956 Constitution⁸. The first decade of independence,

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during which Pakistan was a nominal democracy, had, however, already witnessed severe restrictions of fundamental freedoms: in particular, very restrictive laws, often inherited from the British rule, restrained freedoms of association and assembly, notably in the political field; for instance, in 1949, the Public and Representative Office Disqualification Act (PRODA) allowed the government to disqualify persons found guilty of "misconduct," a vague term that became used against opposition politicians; similarly, the Security of Pakistan Act 1952 expanded the powers of the government in the interests of public order.

Though Ayub Khan is credited with having improved the situation of women, and leading a rather "mild" military rule, he nonetheless concentrated on consolidating power and intimidating the opposition. The PRODA prescribed fifteen years' exclusion from public office for those found guilty of corruption. The Elective Bodies Disqualification Order (EBDO) authorised special tribunals to try former politicians for "misconduct," an infraction not clearly defined - but massively used against politicians, as about 7,000 individuals were "EBDOed." Furthermore, the Press and Publications Ordinance was amended in 1960 to specify broad conditions under which newspapers and other publications could be commandeered or closed down. Trade unions and student groups were closely monitored and cautioned to avoid political activity. More generally, as Owen Bennett Jones puts it, "[Ayub Khan's] coup not only led officers to believe that they had a right to be involved in the country's governance but also made all future civilian leaders nervous that they, too, would be thrown out of office"⁹.

In 1969, martial law was again proclaimed; General Yahya Khan, the army commander in chief, was designated chief martial law administrator (CMLA). The 1962 Constitution was abrogated. Zulfikar Ali Bhutto assumed power in 1971, and although he proclaimed the principle of civilian leadership, and indeed formally lifted martial law in 1972, he nonetheless assumed near complete decision-making powers.

Pakistan's third Constitution was formally promulgated on independence day, August 14, 1973, providing for a federal structure and a formal parliamentary system in which the executive was responsible to the legislature. Supposedly in the interests of government stability, provisions were also included that made it almost impossible for the National Assembly to remove the prime minister. National Assembly Elections were held in 1977, which the opposition claimed were rigged - a mass protest movement ensued, which led to the army's intervention in July, taking all political leaders,

including Bhutto, into custody, and proclaiming, once again, martial law. After a mock trial, Bhutto was condemned to death and executed.

General Mohammad Zia ul-Haq, chief of the army staff, "perhaps the only one of Pakistan's four military rulers to deserve the epithet 'dictator'"¹⁰, took control of Pakistan. His rule ended with his still unexplained death in an air crash in 1988. After elections were cancelled by decree on March 1, 1978, Zia banned all political activity. The same month, some 200 journalists were arrested, and a number of newspapers were shut down. During his 10-year rule, repression and severe violations of human rights sadly constituted the norm. "Zia was the darkest figure in our history, says Abid Saqi, a human rights lawyer, because under his reign, violence was institutionalised through legislation"¹¹. Martial law was lifted in January 1986, but only after adoption of the 8th Amendment to the Constitution, which provided that laws and orders passed during martial law, including the new Islamic laws and amendments granting the President increased power over the National Assembly and judiciary, be exempt from review by any court.

1988 to 1999 saw a relative democracy flourish, though all the governments, be that of Benazir Bhutto of the Pakistan People's Party (PPP) or of Nawaz Sharif of the Muslim League (PML-N), never gained a stability that would have allowed them to modify in depth the political structure of the regime and tackle the fundamental obstacles preventing the adoption of human rights norms in the country. Neither was Nawaz Sharif allowed to finish his term in office. In 1999, general Pervez Musharraf, in yet another military coup d'Etat, designated himself Chief Executive, once again suspended the Constitution, the Parliament, and the national and provincial assemblies, declared martial law, and was sworn in as President in June 2001.

Sadly enough, Nawaz Sharif's preceding government had violated human rights and attacked individual freedoms to such an extent that very few democrats actually shed tears upon his removal from power. The office of the President, which mainly is ceremonial, was retained. The government bureaucracy continued to function - however, at all levels, the functioning of the Government after the coup was "monitored" by military commanders. In 2000 the Supreme Court ruled that the Musharraf Government was constitutional and imposed a 3-year deadline - starting from October 12, 1999 - to complete a transition to democratic, civilian rule. Though parliamentary elections were held in 2002, they were widely considered to be unfair and "seriously flawed"¹², as the

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government used massive propaganda to bolster its campaign and the opposition parties suffered from severe restrictions, including, in the case of both PPP and PML-N, seeing their leaders banned and/or indicted.

The three-year deadline has now long expired, and not only has the power not returned to civilians, but Musharraf has solidified his power as well as, more generally, that of the army. The inherent contradiction of his rule - having assumed power illegally, and through military might, while arguing that he alone could bring democracy to the country - has not been solved.

b) The role of Islam

The other - and probably major - difficulty in Pakistani history has been its ambiguous relationship to Islam, a relationship which has also had its impact on human rights, and specifically on freedom of opinion and of expression, as well as on women's rights; it has made the situation of minorities increasingly vulnerable. There is an intrinsic link in Pakistan between the army's seemingly irremovable hold on power and the Islamisation of the country.

Pakistan was formed with the aim to fulfil the Indian Muslims' right to self-determination on the basis of a "two-nation theory" propounded and fought for by the All India Muslim League, which described Hindus and Muslims as two different nations living in India; the creation of Pakistan meant carving out a state encompassing Muslim majority areas from the subcontinent - which also entailed massive transfers of Hindu, Sikh and Muslim populations from areas where they were in minority to provinces where they constituted a clear majority. *"A complete transfer of population, however, could never take place nor was it intended. Therefore, with the creation of the Pakistani nation-state, the Muslims who stayed back in India became Indians by default, challenging the whole premise of Indian Muslim nationhood from the very outset"*, writes Harris Khalique¹³. Having achieved their objective of a separate state for a portion of the Muslims of South Asia, Pakistan's new leaders were already facing tremendous obstacles in defining the Islamic character of the new-born nation, which nonetheless was - and remained - the core identifying element in Pakistani nationhood. Pakistan is hence one of the very few nations founded not on a cultural, "ethnic" or historical unity, but solely on a religious one. And indeed, Pakistan's constitution establishes the country as an Islamic Republic; its president has to be Muslim, and no law can be adopted if not in conformity with the Qur'an¹⁴.

However, in spite of Islam's unique role in the foundation of the nation, and in its Constitution, there has been much debate about the original intent of its founder, Mohammad Ali Jinnah: did he envisage a secular, democratic country, as stated in his famous speech before the members of the Constituent Assembly on August 11, 1947, in which he said that *"You may belong to any religion or caste or creed and that has nothing to do with the business of the State. You will find that in course of time, Hindus would cease to be Hindus and Muslims would cease to be Muslims, not in the religious sense, because that is the personal faith of each individual, but in the political sense as citizens of the State"*¹⁵? Or was Pakistan always intended to become the Islamic Republic that Ali Jinnah's successors made it to be? Is Pakistan a Muslim state, or a country for Muslims to live in? The tension between the two interpretations has yet to be solved. In fact, the domination of Islam in Pakistani identity has not gone without its own problems, as noted by H. Khalique: *"We see a constant tension between an Islamic identity - the legitimising identity of dominant institutions - and ethnic resistance identities throughout the history of Pakistan"*¹⁶.

The issue was not just political and religious, it also very concretely became a means for Pakistan's leaders to maintain and/or justify their hold on power: as Pakistan's first generation of leaders faced growing challenges from Bengali, Baloch, Sindhi and Pushtoon nationalisms, they found it expedient to appeal to Islam as a means of countering the ethnic or cultural diversities arising in the country. Unfortunately, Islam has more often than not been instrumentalised for narrow political purposes.

What is certain is that Pakistan, ever since its foundation, progressively lost its secular credentials, as it progressively became, and for all sorts of reasons, Islamicised. Liaquat Ali Khan, prime minister from August 1947 till October 1951, might be considered in the "modernist" camp - however, even the Objectives Resolution¹⁷ have been understood as a first step on the path to Islamisation, if only by recognising that *"Sovereignty belongs to Allah alone but he has delegated it to the State of Pakistan through its people..."*¹⁸ - the very definition of theocracy.

In keeping with this line, the 1956 Constitution provided, in its article 197, that the President would set up an organisation to assist in the reconstruction of Muslim society on a truly Islamic basis, and article 198 provided that no law would be enacted which was in conflict with the injunctions of Islam, and that the laws then existing in Pakistan would be brought into conformity with those injunctions. Zulfikar Ali Bhutto did

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not fall out of this line - however modernist and secular he might have been in many respects, he always pandered to the Islamic groups whenever it might help him politically. He contributed to the entrenchment of religion in state and government structures, if only by sheer cynicism in his use of religion. It is for instance during his rule that Ahmadis were declared non-Muslims in 1974, after massive pressure from the religious groups.

There is little doubt, though, that the true Islamisation of the country occurred during Zia Ul-Haq's rule. Zia's reign marked the consecration of the mullahs' power, as well as of military power in the state machinery - hence paving the way for an increasingly intolerant authoritarian state.

In 1979 Zia decreed the establishment of a parallel legal system, the Shari'a courts, to try cases under Islamic law. That same year, the Hudood ordinances were adopted. In May 1980, the separate Shari'a benches were reorganised and centralised under the Federal Shari'a Court, with responsibility for ensuring that all legislative acts and judicial pronouncements are compatible with Islamic law. As a parallel judicial system, the Shari'a Court has had the effect of weakening the jurisdiction of the Superior Courts, and acts as a "super-legislature", as it can order immediate revision of national laws, and its rulings are binding on high and lower courts. The same year, Islamic punishments were assigned to various violations, including drinking alcoholic beverages, theft, prostitution, fornication, adultery, and bearing false witness. Zia also began a process for the eventual Islamisation of the financial system. "*Zia Ul-Haq is responsible for the complete take-over of Pakistan by religious fundamentalists*" says Tahira Mazhar Ali, a historic figure of civil society and trade unions in Pakistan, "*and he thus engineered nothing less but the ruin of the unity of Pakistan*"¹⁹. The increasing support for Islamic fundamentalists in Afghanistan and in Kashmir also bear witness to the alliance between the military and the mullahs, although that support was obviously also dictated by political and geopolitical expediency. Since he consistently rewarded Jamaat-e-Islami (JI) for its political support by handing JI officials positions in all sectors of the state machinery, the radical Islamic agenda of Zia's lived on long after he died. Zia is thus the true instigator of the still-existing collusion between the army and the religious groups, which explains the intrinsic link between the lack of democratic rule and the incremental Islamisation of the country. "*There is little that the Islamic movements and parties do and say that the military-controlled state itself has not supported (...). Instead of confrontation, the military has (...) often favoured and promoted Islamic movements and causes*", explains the ICG²⁰.

In that sense, the current alliance between Musharraf's military rule and the Islamic parties (ironically called the Military-Mullah Alliance, in reference to the MMA, the Muttahida Majlis-e-Amal, a coalition of six major religious parties which scored relatively impressive gains in the national elections in October 2002 and won power in two provinces) is also a legacy of the contradictions of Pakistan history. There is indeed an important gap between Musharraf's public commitments to end religious extremism and the concrete steps taken by the Pakistani authorities - a gap so wide that, far from lowering militancy, the authorities' policy in a number of fields appears to have contributed to its promotion²¹. Undoubtedly, Musharraf's alliance with these parties is also a political calculation, designed to undermine the secular moderate parties; as such, it bears witness to the political double-sidedness of Musharraf's policies since he rose to power, and more specifically since 9/11. The marriage of convenience between the army and the mullahs ("*the military and the mullahs are simply the two sides of the same coin*" says a human rights lawyer²²), aiming at silencing political opposition, is unfortunately unquestionable, and the non-enforcement of laws aiming, directly or indirectly, at reducing the scope of militancy (e.g. the near complete lack of implementation of the law regulating the madrasas) is merely a sign thereof.

Musharraf's double-sidedness

On 14 October, 1999, Musharraf issued the Proclamation of Emergency, in which clause (f) disposed that "*the whole of Pakistan will come under control of the Armed Forces of Pakistan*"... The same day he also issued Provisional Constitutional Order (PCO) n° 1, which stated that presidential orders would henceforth supersede all other legislation, including the Constitution, and that the military government could not be challenged in court. Using the PCO as legal cover, the government suspended all basic rights and freedoms enshrined in the Constitution. In a now famous speech, he berated the "sham democracy" that supposedly had preceded his military take-over. He also set out seven key points to be tackled by his military administration:

- The "improvement of national morals"
- The "restoration of national cohesion"
- Reviving the economy
- Strengthening law and order
- Depoliticising state institutions
- Devolving power to the regions
- Bringing about "swift and across the board accountability".

Musharraf then proceeded to significantly weaken the judiciary, through the Oath of Judges Order 2000, which

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superseded their oath to the 1973 Constitution and dispossessed them of their right to question any act of the military government: in effect, not only did Musharraf reduce the independence of the judiciary to next to nothing, but he also ensured that the judges provided legal sanction for his take-over.

Promising to introduce "true democracy" in some undefined future, Musharraf held a referendum in April 2002 to extend the presidential term by 5 years. In August the same year, the Legal Framework Order (LFO), which amended 29 articles of the Constitution (including important ones that altered the basic character of the document), validated all acts and decrees of his government, including a five-year extension to his presidential term, gave him power to dismiss the National Assembly, approve appointments of justices in superior courts, and establish a National Security Council that will legalise the military's political role²³.

Though parliamentary elections were held in October 2002, steps had been taken to undermine moderate parties, especially the main ones - the PPP and the PML-N -, thus reducing the legitimacy of the elections, which were furthermore marred by multiple frauds and irregularities, and a massive use of state-owned media to promote the PML-Q (a breakaway action of the PML loyal to Musharraf), and its allies. In July 2002, Musharraf had issued Chief Executive Order n° 19, ("Qualification to Hold Public Offices Order", 2002), barring anyone who had served two terms as Prime Minister from holding the position again - this applied to both Benazir Bhutto and Nawaz Sharif²⁴.

The Human Rights Commission of Pakistan concludes that *"measures to restore democratic role, such as the 2002 referendum and election, failed to do so as a result of widespread poll rigging and was a constitutional manipulation which precluded the possibility that power would be transferred to a civilian government"*²⁵.

Musharraf sadly appears to be yet another faithful heir of the previous military regimes in Pakistan: *"Military governments [have] use[d] a variety of strategies to contain civilian challenges and consolidate power. These include coercion and co-optation of the political elite and subordination of the judiciary. Using intimidation and divide-and-rule tactics, military governments [have] initially manage[d] to curb civilian dissent"*, writes the ICG²⁶.

The alliance with the MMA is yet another instrument to contain the moderate secular parties. Musharraf, under

pressure from the United States, vowed after 9/11 to fight extremism; indeed, he abandoned Pakistan's long-held policy of support of the Taliban in Afghanistan, effectively cracked down on foreign extremist organisations on Pakistani soil, and banned many Pakistan-based Kashmiri jihadi groups. But this sudden anti-jihadi frenzy should not fool anyone: the regime has remained very reluctant to move in against national extremist groups, who often have enjoyed close ties with the military for decades²⁷. Similarly, as noted above, Musharraf has refused to implement the law that regulates the madrasas, and more generally, to antagonise the religious parties, as shown by his back-tracking on the blasphemy law; also, when in 2001 the North West Frontier Provinces (NWFP) government decided to prevent women from voting and/or from running in some districts, both the federal government's and the Electoral Commission's reactions were muted or non-existent, although such interdiction is both unconstitutional and illegal. Too little, too late, has been done to crack down on Islamic militancy at home.²⁸

The Musharraf government has often attempted to justify its failure to uphold human rights by the domestic pressure from religious groups, which are very conveniently portrayed as gathering strength; the military rule would be all the more needed that it is the ultimate rampart, the only force capable of holding back the militants. Human Rights Watch writes: *"Musharraf has successfully convinced the United States - and other countries - that he is Pakistan's indispensable man. Claiming that only he can save what he destroyed - Pakistan's fragile democracy - Musharraf has essentially been given a pass on Pakistan's nuclear proliferation, the exile and jailing of opposition political leaders and serious human rights abuses by the Pakistani Army."*²⁹

As we have seen, there is little doubt that the military and the mullahs need, and rely upon, each other. In effect, says a human rights lawyer, *"when these religious groups got stronger, it was always by and through the military - and the current situation is no different"*³⁰. This has translated into a reversal in the commitments made early on by Musharraf to repeal and/ or modify in depth the laws violating human rights which had been adopted due to the pressure of militant groups, in particular the Hudood Ordinances and the Blasphemy law (the amendments adopted are either more procedural than substantive, or insufficient for the texts to be in conformity with human rights standards). The few steps undertaken by Musharraf in the field of human rights, such as setting up the long-promised joint electorate for minorities, adopting the PEMRA Ordinance (opening the market for electronic media), or allocating seats for women at the

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National Assembly, are too few and far between, and too inconsistent with the rest of the policies adopted³¹, to be considered as the reflection of a genuine political will to respect human rights and promote democracy in the country. And he has not acted on some of the key promised measures, such as the repeal of the Blasphemy law. Neither has he opened up the state workings to parliamentary and civic scrutiny: the Freedom of Information Act falls far below expectations, and, as previous governments, he has made an extensive - and excessive - use of "national security" and "national interest" to keep government projects and policies hidden from public view.

Indeed, Musharraf essentially wants to have it both ways - and, sadly, he has so far managed: siding with the US in the "war against terror", and getting all the benefits thereof, while simultaneously letting a free hand to the very groups promoting a contrary agenda; pretending to advocate some limited reforms in the field of democracy and human rights, while actually quelling dissent inside the country - and the law is routinely used as a tool to imprison selected people: political opponents or too vocal dissenters. Tahira Abdullah, of the Women's Action Forum, explains that *"progress has been very selective, according to Musharraf's very narrow agenda, which focuses on perpetuating his hold on power. It has all been dictated by mere political expediency"*. All the signs unfortunately point in that direction: although he had pledged to step down as army chief at the end of 2004 (thus remaining "only" President of the country), he has backtracked on that pledge, and has, in the name of the "stability" and the "security" of the country, decided to keep both positions³².

In that sense, the fight against terrorism certainly seems a pretext more than a substantial commitment - a very convenient pretext to crack down on groups or individuals perceived to be too critical of the regime. *"There has been an erosion of the rule of law since 9/11: under the cover of fighting terrorism, all constitutional guarantees have been reduced. The entire legislation adopted in 2002 has resulted in weakening the protection against human rights violations, and the State is turning a blind eye on human rights violations. To top it all, justice is becoming a mere extension of the executive"*, explains I. A Rehman, Director of the Human Rights Commission of Pakistan (HRCP)³³.

This is particularly true of the Federally Administered Tribal Areas (FATA), which are under a separate legal system from the rest of Pakistan. This special status of the FATA, and its closure, have conveniently allowed the authorities to behave

with virtually unchecked powers in the region, and severe violations of human rights to take place, with no oversight either from the judiciary, the media, or human rights organisations - violations unseen, unobserved, unreported, and un-prosecuted.... In FATA, says a human rights activist from the province, "the irony is that the government inflicts terror on people in the name of the war on terror". The fact that the law of the province, the Frontier Crimes Regulation (1901), allows for collective punishment, has been abundantly used by the authorities: according to data gathered in the region, 600 men from Waziristan have been arrested and detained solely in the course of the summer 2004, at least 150 houses have been destroyed by bulldozers, close to 3000 shops have been closed in Wana....

Some have argued that, far from lacking political will, Musharraf simply lacks political space to implement his supposedly pro-human rights policies, as he is squeezed between contradictory demands. That would be particularly true in the case of trade unions, which have witnessed a drastic reduction of their rights with the adoption in 2002 of the Industrial Relations Ordinance (IRO) - some observers have viewed it as a condition laid out by the international financial institutions for Pakistan to get financial loans, in effect squeezing Musharraf between a rock and a hard place. As we will see later, this argument does not truly hold up to scrutiny.

In effect, Musharraf has progressively set in place an efficient, and rather elaborate, system to control dissident voices, which includes among others :

- The adoption of stringent legislation designed to prevent through law the emergence of strong counter-powers; typically, the IRO 2002.
- A selective application of the law, which not only allows for a very harsh control of dissenters, but also for the organised impunity of allies and friends;
- A systematic use of force to coerce groups and individuals into conformity.
- The multiplication of administrative obstacles for the organisation of meetings, demonstrations and rallies, especially when organised by opposition parties - and passing as law and order problems what really are political issues.
- A deliberate use of the "carrot and stick" approach: punishing reported foes, rewarding supposed friends.
- The exploitation of the structural weaknesses of some counter-powers, such as the media groups, for political purposes.
- An insidious subversion of human rights and their vocabulary to impose restrictions on dissident groups - typically, talking of

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"the need for accountability" in order to impose actual governmental control.

- The systematic and deliberate slowness of justice for individuals perceived as inimical to the regime, allowed for by a decreasing independence of the judiciary. Says Peter Jacob, director of the Commission for Justice and Peace: "*a lingering justice is a very cunning way to terrorise individuals, who wait for their trial for several years, while having to appear in court for a hearing every other week. It keeps them on edge - and de facto prevents them from proceeding with their human rights activities*"³⁴.

Hina Jilani, Secretary General of the Human Rights Commission of Pakistan, summarises: "*This regime is two-sided in its violations of human rights: on the one hand, you see very crude forms of violations - arbitrary arrests, torture, threats, harassment... everything you would expect from a military government. But on the other hand, Musharraf has*

been particularly sophisticated in the way he violates human rights, such as co-opting the human rights discourse to force control over human rights NGOs, multiplying seemingly innocuous administrative obstacles to restrain freedoms of association and assembly, etc...". Five years after his coup, Musharraf has proved unwilling and/or unable to honour any of the pledges he made when he took over.

Musharraf's *mala fide* manner to tackle power has thus had direct consequences on individual freedoms in Pakistan, and in particular on freedoms of expression, of association and of assembly. This means that human rights defenders (be they journalists, human rights activists, human rights lawyers, trade unionists...), whose activity rest on these very freedoms, have seen their margin of manoeuvre dwindle incrementally in the past years - they are increasingly exposed to intimidation, attacks and harassment. We are far from the "true democracy" promised by Musharraf.

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1. 9/11 Commission Report, p. 367.
 2. Ron Moreau and Zahid Hussain, " Might makes right ", *Newsweek*, 16 August 2004.
 3. Owen Bennett Jones, *Pakistan, in the eye of the Storm*, Yale Univ. Pres, 2d edition 2003, p. xvi.
 4. FIDH interview, August 2004.
 5. Muslim immigrants from what was to become India.
 6. FIDH interview, August 2004.
 7. International Crisis Group (ICG), Asia report n° 40, *Pakistan: Transition to democracy?*, 3 October 2002, p. 3.
 8. Ironically, the *Laws (Continuance in Force)* Order was adopted as a means to prolong constitutional provisions in spite of the abrogation of the Constitution. This was also the case in 1969.
 9. Owen Bennett Jones, *Pakistan, in the eye of the Storm*, Yale Univ. Pres, 2d edition 2003, p. 276.
 10. Owen Bennett Jones, *Pakistan, in the eye of the Storm*, Yale Univ. Pres, 2d edition 2003, p. xxv.
 11. FIDH interview, August 2004.
 12. Nasir Iqbal, "Observers term polls seriously flawed", *Karachi Dawn*, 13 October 2002.
 13. Harris Khalique, "Pakistan, the question of identity", in *Understanding Pakistan*, SPO Discussion Paper 2003, p. 8.
 14. Pakistan's Constitution establishes the country as an Islamic Republic. Article 2 of the Constitution provides "*Islam shall be the State religion of Pakistan*". Article 41(2) provides "*a person shall not be qualified for election as President unless he is a Muslim*", and article 227 (1): "*All existing laws shall be brought in conformity with the Injunctions of Islam as laid down in the Holy Quran and Sunnah, in this Part referred to as the Injunctions of Islam, and no law shall be enacted which is repugnant to such Injunctions*".
 15. Government of Pakistan, Quaid-e-Azam Mohammed Ali Jinnah: Speeches and Statements, 1947-48, Islamabad, Ministry of Information and Broadcasting, 1989.
 16. Harris Khalique, "Pakistan, the question of identity", in *Understanding Pakistan*, SPO Discussion Paper 2003, p.9.
 17. On March 12, 1949, the Constituent Assembly adopted a resolution, called the Objectives Resolution, and considered the "Magna Carta" of Pakistan's constitutional history. It proclaimed the following principles:
"1. Sovereignty belongs to Allah alone but He has delegated it to the State of Pakistan through its people for being exercised within the limits prescribed by Him as a sacred trust.
2. The State shall exercise its powers and authority through the chosen representatives of the people.
3. The principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed.
4. Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings of Islam as set out in the Holy Quran and Sunnah.
5. Adequate provision shall be made for the minorities to freely profess and practice their religions and develop their cultures.
6. Pakistan shall be a federation.
7. Fundamental rights shall be guaranteed.
8. Judiciary shall be independent."
 18. See Hamid Khan, *Constitutional and Political History of Pakistan*, Oxford University Press, 2001, p. 92.
 19. FIDH interview, August 2004.
 20. International Crisis Group (ICG), Asia report n° 49, *Pakistan: The Mullahs and the Military*, 20 March 2003, p. 2.
 21. See *The Herald, The Pakistani Al-Qaeda*, August 2004, pp. 55-74.
 22. FIDH interview, August 2004.

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23. On the LFO, see ICG, Asia report n° 40, *Pakistan: Transition to democracy?*, 3 October 2002, pp. 21-24.
24. Another executive order, the Political Parties Order 2002, added another obstacle, as individuals who had failed to appear before courts (absconders), were prevented from running for Parliament. This was the case with B. Bhutto, who was hence twice disqualified for running.
25. HRCP, *Report on the State of democracy in Pakistan*, 2004.
26. ICG, Asia report n° 40, *Pakistan: Transition to democracy?*, 3 October 2002, p. 4.
27. See The Herald, *The Pakistani Al-Qaeda*, August 2004, pp. 55-74
28. See Taliban, by Ahmed Rashid, Yale University Press, 2000.
29. Human Rights Watch, Ali Dayan Hasan, Pakistan Army Inc.: *Propping up Musharraf*, 1 November 2004.
30. FIDH interview, August 2004.
31. For instance, while adopting the principle of quota for women in the assemblies, he abolished the law imposing a 5% quota of women in government services, adopted under Benazir Bhutto.
32. On 14 October 2004, the National Assembly, excluding the opposition, passed a bill allowing President General Pervez Musharraf to simultaneously hold the offices of president and chief of army staff beyond December 31, 2004. On 1 November, the Senate passed a similar bill. The bill now needs only Gen. Musharraf's signature to become law...
33. FIDH Interview, October 2003.
34. FIDH interview, August 2004.

I - FREEDOM OF EXPRESSION

"There is definitely freedom of expression in Pakistan - there is just no freedom after expression!"³⁵

The current situation of freedom of expression in Pakistan obviously does not compare with the era of Zia Ul-Haq, whose reign represented by all standards an all-time low for freedom of expression and most other human rights in Pakistan. The Zia government brutally suppressed freedom of expression, and notably media freedom, through Presidential edicts. For instance, under Martial Law Regulation 49, any breach by a publication of *"the Islamic point of view, national security, national sovereignty, defence, morality, peace or any of the purposes for which martial law has been imposed"* could lead to 10 years imprisonment and 25 strokes of the whip. Conversely, Zia knew how to reward obedient journalists, be it through honours, scholarships, plots of land³⁶... Much of the following governments slackened the conditions for publishing views and opened up the space for expression; the progressive theocratisation of the state, largely initiated and promoted by Zia, nonetheless had a lasting effect on freedom of expression in Pakistan, as it set a precedent of intolerance for certain types of speeches and discourses, particularly on state and religious affairs. Hence, even when civilians shared power, they have tended to perpetuate the military traditions of denying freedom of expression.

By necessity (notably because of the increasing difficulty in controlling the media in a globalised age) rather than virtue, Musharraf has retracted from such harsh positions, and freedom of expression is much freer now than under Zia. Expressing dissent is to some extent tolerated, be it in the media, the artistic, academic or NGO sphere. The Pakistani press is relatively vibrant and lively. The high number of publications (almost 500 dailies, 1236 weeklies, 270 fortnightlies, 2182 monthlies³⁷, with a mere 6% in English - however, the combined circulation of all newspapers in all languages in all of Pakistan amounts to that of New Delhi) is a sign thereof; Pakistan Television's (PTV) monopoly has also been broken, and the TV and radio space, opened up to private groups, through the PEMRA ordinance - although the Executive still consistently uses PTV as a government mouthpiece. A Freedom of Information Act has been adopted (though not yet put into practice) and the procedure to register a publication has also been progressively eased, bringing the deadline for a response to an application down to 30 days (from 120) and introducing tacit acceptance in case of the absence of response. Such measures have indeed

lowered - though not eliminated - the politicisation of the registration of publications.

Nevertheless, freedom of expression is probably the one area where Musharraf's double-sided take on human rights is most evident, and the area where he has most prolonged the triple tactics of intimidation, carrot-and-sticks approach, as well as divide-and-rule, inherited from his military predecessors. The few positive steps taken by Musharraf have been either haphazard and piecemeal attempts, or undertaken solely under pressure by various civil society groups, thus creating a largely inconsistent yet repressive body of legislation to regulate issues regarding freedom of expression. *"He gives with one hand what he takes away with the other"*, summarises a Pakistani journalist³⁸. This has affected all aspects of freedom of expression - media freedom, artistic freedom, academic freedom, but also freedom of expression for minorities, bar councils and NGOs, etc. We will, however, focus more on media freedom, as the issue of freedom of expression applies with particular force to the media, including the broadcast media and public service broadcasters.

International and domestic obligations³⁹

Article 19 of the Universal Declaration on Human Rights (UDHR), guarantees the right to freedom of expression: *"Everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers"*.

The right to freedom of opinion and expression is also enshrined in Article 19 of the International Covenant on Civil and Political Rights (ICCPR), but it has not been ratified yet by Pakistan, in spite of a specific recommendation to do so by the UN Special Rapporteur on Torture in 1996⁴⁰.

The UN Human Rights Committee has made clear the importance of freedom of expression in a democracy: *"The free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. ... this implies that citizens, in particular through the media, should have wide access to information and the opportunity to*

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disseminate information and opinions about the activities of elected bodies and their members".⁴¹

The media merit special protection in part because of their role in informing the public and in acting as watchdog of government.

As reminded by the UN Human Rights Committee, "*protection of the right to freedom of expression, includes not only freedom to "impart information and ideas of all kinds", but also freedom to "seek" and "receive" them "regardless of frontiers" and in whatever medium, "either orally, in writing or in print, in the form of art, or through any other media of his choice". Because of the development of modern mass media, effective measures are necessary to prevent such control of the media as would interfere with the right of everyone to freedom of expression in a way that is not provided for in art. 19 para 3 of the ICCPR*"⁴².

As for domestic obligations, Article 19 of the 1973 Constitution of Pakistan states: "*Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the Press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign states, public order, defence or morality, or in relation to contempt of court, commission of or incitement to an offence*". In effect, one would say that Musharraf has abused the restrictions of freedom of expression allowed for in the article.

Under the proclamation of emergency, Provisional Constitution Order No. 1 of 1999⁴³, the Constitution is held in abeyance but the Order also stipulates that, "*notwithstanding the abeyance of the provisions of the Constitution [the country] shall, subject to this order and any other orders made by the Chief Executive, be governed, as nearly as may be, in accordance with the Constitution*" Furthermore, the Order states that, "*the fundamental rights conferred by Chapter I of Part II of the Constitution, not in conflict with the Proclamation of Emergency or any order made thereunder from time to time, shall continue to be in force.*" As a result the guarantee of freedom of expression, like all fundamental rights, is available to citizens but only to the extent that it is not in conflict with the President's orders.⁴⁴ To put it another way, the President has effectively equipped himself with the power to abridge the right to freedom of expression. In a judgement in 2000 upholding the military take-over, the Supreme Court ruled that while 15 of the 21 fundamental rights set out in the Constitution would remain in force, the

executive could derogate from the other six, including freedom of expression.⁴⁵

In any event, the constitutional guarantee fails to protect adequately the right to freedom of expression. As currently drafted, it subjects the right to freedom of expression and freedom of the press to "any reasonable restrictions imposed by law". This falls below the international guarantee, which requires any restriction to be 'necessary' rather than merely 'reasonable'. Furthermore, some of the grounds for restricting freedom of expression under the Constitution, such as friendly relations with other States, are not permitted under international law.

Musharraf: combining brute force and sophisticated means to rein in the media

Musharraf uses a two-pronged strategy to curtail freedom of expression: on the one hand, the purposeful use of a wide array of draconian legislation to arrest targeted individuals perceived as imperilling the authorities; on the other hand, the inculcation of a culture of fear through various means of intimidation and coercion, together with occasionally heavy-handed tactics, which in turn have led to widespread self-censorship. Arif Nizami, head of the All Pakistan Newspapers Society (APNS - the association of newspapers' owners), summarises: "*The problem of freedom of expression in Pakistan is that there is no institutionalised effort to guarantee that journalists can express their views without fear of victimisation or retaliation. There is simply no institutionalised freedom; and when reporters and papers are allowed to express their views, it is seen as a magnanimous largesse from the government*"⁴⁶.

Among the obstacles to press freedom in Pakistan, one can analyse the following:

1. The harsh legislation - be it media-specific or general laws -, specifically 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. This was the case with *The Islamabad Times*, in early September 2004, prohibited from publication even before the first issue was published, or with *Kargil International*, a Gilgit paper, prevented from publishing in September 2004; similarly, on 24 July 2003, the Minister of Information, Sheikh Rashid Ahmad, announced that the

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customs had received the order to seize all copies of the July 28 issue of *Newsweek*, due to an article on "challenging the Qur'an", which, he said, "insulted Islam" and could create troubles in the country.

The government has also blocked internet sites on politicised grounds, as was the case with the South Asia Tribune, a U.S. based news website known for its critical view of the Pakistani establishment on May 30, 2003 - it had been founded in 2002 and since then had actively criticised Musharraf's rule and revealed several corruption cases involving government officials; its founder, Shaheen Sehbai, had to flee to the United States; previously, on April 2, 2003, the Pakistan Telecommunications Company Ltd (PTCL) blocked 400 supposedly "indecent" websites, bringing the total of websites banned to protect internet users from "evil influence" to more than 1800. Observers fear that some of them might have been blocked on political rather than on "religious" 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". "*The Pakistani government is using increasingly aggressive tactics to silence journalists viewed as critical of the military authorities*", writes Human Rights Watch⁴⁷. This also holds true to some extent to foreign journalists - and there has been some discussions about the possibility of a specific law for foreign correspondents -, though, as an observer noted, since the authorities cannot do much against them so far, they target the Pakistani "fixer" (as was for instance the case with Sami Yusufzai and Eliza Grisworld in Bannu in April 2004), thus indirectly complicating the task for foreigners. It is to be noted that foreign journalists are often limited in their displacements in the country.

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 particular 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, as evidenced by Musharraf's public statement on Khawar Mehdi (see *box below*) in January

2004, or by his decision not to invite the editors of *The Herald* and *Newsline* to a newspapers' editors' meeting on November 20, 2003: he is reported to have said that these two publications had published articles which damaged Pakistan's international image. The fact, reported by Federal Information Minister Sheikh Rashid on August 30, 2003, that government had received 13 times the amount of coverage given to the opposition on the state-run television channel PTV, also bears witness to this. Another example is given by the May 29, 2004 report by *The News* that various government agencies were forcing newsmen to become informers to help in the Al-Qaeda search; this was accompanied by harassment, threats (notably of prosecution under the FCR), and attempts at corruption. 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: on June 27, 2003, for instance, the information ministry requested newspapers not to publish Nawaz Sharif's interview. The role of the Ministry of Information has thus been progressively extended to become an instrument to actively control the media: Ministry officials routinely select the journalists they share information with (e.g., on May 19, 2003, the government bans journalists from private media from attending Musharraf's speech during a conference meeting of South Asia's Education Ministers in Islamabad); they frequently interfere with media workings, and reportedly attempt to bribe journalists on a regular basis.

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 (as was the case in 2004 with *The Nation* and *Nawa-e-Waqt*) - which, given the weight of public companies in the economic structure of Pakistan, amounts to a near-death toll for the said papers. The structure of Pakistani media groups does not weigh in favour of their independence either, as, for historical reasons, in most of them the functions of director and chief editor are held by the same individual, thus severely limiting the editorial independence of the paper. In effect, corporate interests frequently collude with the political goals of the regime - or the regime *makes them* collude, through specific measures subordinating the development of media groups to the executive's convenience.

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.

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7. The *de facto* impunity granted to religious groups who themselves pressurise and/or intimidate journalists.

8. The occasional infiltration of media groups and journalists' unions by military and allies to the regime, or the creation of parallel structures as a means to "divide and rule".

9. 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 recourses and remedies have not been available to *bona fide* media practitioners.

10. 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. For instance, on May 16, 2003, the NWFP MMA-led government passed a law prohibiting male journalists from covering women's sporting events. Similarly, on June 27, 2003, Karachi Nazim Naimatullah Khan (who belongs to Jamaat-e-Islami) announced that the militant groups in Karachi had decided to ban unnecessary pictures of women in advertisements and called the practice "*obscene and vulgar*". The council in Karachi passed the law. The Nazim claimed that "*our culture and values are different from the West and we want to protect women's honour*". On May 26, 2004, the Sindh government banned eight Karachi papers for 30 days for allegedly promoting "vulgarity and immorality in society". More generally, observers agree to say that the situation is harshest for journalists in Mufasal (district) areas in far-flung regions.

11. The combination of the preceding measures and restrictions has led to self-censorship on the part of the media outlets as well as journalists. All the journalists and editors interviewed by the FIDH delegation acknowledged that self-censorship was extremely common among Pakistani media - and that it had increased under Musharraf. They report avoiding certain issues or positions. "*We all know there is a line not to cross - and there are the stories that will never come out*", explains a journalist working for the Urdu press.⁴⁸ According to all the Pakistani journalists and media practitioners interviewed by the FIDH delegation, the sensitive issues not to be broached are:

(i) Questioning the military, especially in stories relating to its corruption - which means, as Rahimullah Yusufzai of The News puts it, "*that de facto we cannot talk about politics,*

because the army has such a huge political role in this country!"⁴⁹.

(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.

Other, more occasional, issues include human rights problems in Pakistan, questioning Pakistan's foreign policy, reports on the opposition, and the problem, which has been growingly investigated in recent months, of landless peasants and the feudal system still in place in Pakistan..

I. A. Rehman writes that "*taken together, these restrictions create a climate in which freedom of expression is at a heavy discount*"⁵⁰.

It is to be noted that the restraints to freedom of expression affect journalists and newspapers disproportionately, but not exclusively: lawyers, academics, artist, and, of course, NGOs, are also subjected to such constraints.

1. A severely repressive array of legislation

There are several pieces of legislation specifically relating to freedom of expression in Pakistan, and others, more general, which are also often used against journalists. Interestingly enough, several of the media-specific ones were promulgated immediately after the general elections in October 2002 and before the convening of Parliament; such sudden repressive frenzy indicates both the importance of media issues in the eyes of the government, and its obvious will to bypass parliamentary scrutiny of the bills. The All Pakistan Newspapers Society (APNS) and the Pakistan Federal Union of Journalists (PFUJ) denounced the new laws as "*illegitimate, unethical and unconstitutional*". Overall, the International Federation of Journalists (IFJ) deems that "*a free media in Pakistan is not possible if the current media-related laws (...) stay in place because they are a bar on the right to communicate. This right should be seen as an umbrella or framework term, encompassing within it a group of related rights including the right to access all information from public bodies that impinges on their lives; the right to pluralism within the media and to equitable access to the means of communication; the right to participate in public decision-making processes; the right to seek, receive and impart information and ideas and supporting rights*"⁵¹.

The media laws combined with the other repressive legislation also used against journalists, such as the Anti-

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Terrorism Act, the Official Secrets Act, the Security of Pakistan Act, create a negative general legislative environment for media practitioners, who are unable to perform their duties without fear of reprisals when tackling issues considered "sensitive" by the Executive. Actually, a most worrisome development shows that these security laws are more often used against journalists than the press laws, as they allow for enhanced powers of detention, less judicial scrutiny and have a stronger deterrent effect.

Moreover, laws regulating the supply of inputs to the newspaper industry, such as the Newsprint Ordinance and relevant sections of the Customs Act, also serve to indirectly control the Press⁵².

Journalists working in FATA are further subject to the FCR, the extremely repressive law specifically governing the tribal areas, with quasi-unlimited powers given to the political agent (the "governor" of the region, appointed by Islamabad) to arrest, detain and prosecute any individual, with no possibility of judicial recourse, no right of appeal, and no legal scrutiny (see *below*).

This in turn massively increases self-censorship, as the Damocles' sword of legal proceedings always looms over their head.

Media-specific laws⁵³

Of the media-related laws adopted in 2002, only the PEMRA Ordinance has had its rules notified. More than two years after their adoption, the rules of all the other texts have still not been framed.

The Presses, Newspapers, News agencies and Books Registration Ordinance (PNNBRO), 2002

It was adopted on October 26, 2002, a mere two weeks after the general elections had been held and the new Parliament had begun. It is the heir of colonial-time laws, notably the Press and Publications Ordinance (PPO), 1963 (amended in 1988), which imposed severe restrictions on freedom of expression. If the PNNBRO 2002 is less stringent than the PPO, there are still problematic articles, which can be used to restrict freedom of speech. *"It retains the authoritarian regimes' practice of treating a declaration as a licence, brings the page-editor of a newspaper under the purview of punitive measures, and fails to free the media of the constraints against which all sections of the media community have been agitating for decades"*.⁵⁴

Indeed, article II. 1 of the PNNBRO makes it mandatory for all printing organs to "make a declaration" to the District Co-ordination Officer (DCO) who *"shall, immediately upon the filing of such form, issue a receipt for the same"*; however, the ambiguity lies in the following articles, which change the "declaration", from a mere administrative procedure, to a much more politicised procedure of licensing, as the DCO is allowed *"to refuse to authenticate a declaration (...) if he is satisfied [...inter alia] the declaration has been filed by a person who was convicted of criminal offence involving moral turpitude and/or for wilful default of public dues"* (art. II.10.c). The DCO is further empowered to cancel the declaration of any newspaper or news agency *"on the application of the press registrar either suo motu or based on the information through any person"* (art. II, 19).

The penalties provided for publishing a paper or disseminating in contravention with the provisions of the law are 20,000 rupees⁵⁵ *"or simple imprisonment for a term not exceeding six months or both"* (art. IV, 25).

The law has thus become a de facto instrument to keep the printing industry under constant surveillance and permanent threat of closure. As SAFMA notes, clause 10.c "imposes a wide restriction on freedom of the press. For example, if a person is convicted under any traffic offence, s/he could also be refused a declaration"⁵⁶.

The Press Council of Pakistan Ordinance, 2002

*"Those who conceived the Press Council Ordinance either did not know that they did not know, or they were hoping to catch us with bait, cunningly wrapped in the velvet of morality and ethics (...). Even a cursory glance through the fine print would make it clear that the government wants to make the press in this country an extension of one of its ministries through this ordinance"*⁵⁷.

The Press Council Ordinance was promulgated the same day as the PNNBRO, but, due to pressures by the APNS, CPNE (Council of Pakistan Newspaper Editors) and journalists' union, no Press Council has been named so far. This is not necessarily reassuring in the long term, as the law remains in place. If the original intent of the ordinance seemed legitimate enough (have the press govern itself), it appears that Musharraf has subverted it in order to use the Press Council to further curb the media in Pakistan.

The Press Council Ordinance, under the appearance of an ethical undertaking of regulating the press, is an entirely

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political body: the chairman of the proposed Council will be appointed by the President of Pakistan (art. 6(1)), and the first Registrar, by the federal government. The government would provide financial resources, but also the logistical and structural resources needed for the proper functioning of the Council (art. 4 & 5) - one cannot but be preoccupied by such a dependence on the government, which clearly contravenes the imperious need for the independence of such a body.

Furthermore, if a complaints' mechanism is indeed envisaged under section 8(2) (including against the federal government, the provincial government or any organisation, including political parties) for interference in the free functioning of the press, it is rather preoccupying that the Ordinance does not provide for either remedy or effective means to cease the interference. Also, section 11(3) of the Ordinance, which states that "*no member shall be appointed either member of the commission or member of a committee constituted for the hearing of appeal who is directly or indirectly related to the parties or is interested in them*" could easily be understood as barring representatives from journalists' bodies from such appeal commissions - making them in effect organs of executives and employers, whose interests do not necessarily coincide with the need for freedom of expression.

The Freedom of Information Act, 2002

It is the third Act relating to press freedom to have been adopted on October 26, 2002 (however, it is not yet in act). It is undeniably an important step for journalists and citizens alike: for the first time in Pakistani history, a right to know is given legal force in domestic legislation. The link between freedom of information and freedom of expression is particularly relevant in a country like Pakistan, as the traditional shroud of secrecy that has enveloped the successive military governments and their policies has made it singularly difficult to impart information on state and government matters - thus also exposing journalists to dangerous consequences if they failed to abide by that secrecy. The NGO Article 19, emphasises that "*a proper freedom of information regime is a vital aspect of open government and a fundamental underpinning of democracy. It is only where there is a free flow of information that accountability can be ensured, corruption avoided and the public's right to know satisfied. Freedom of information is also a crucial prerequisite for sustainable development. Resource management, social initiatives and co strategies can only be effective if the public is informed and has confidence in government*"⁵⁸.

The FIDH recalls that the UDHR, in its article 19, states that "*everyone has the right to freedom of opinion and expression; this right includes the right to (...) seek, receive and impart information and ideas*". Furthermore, during its first session in 1946, the UN General Assembly adopted Resolution 59(1) which states "*freedom of information is a fundamental human rights and (...) the touchstone of all the freedoms to which the UN is consecrated*". The importance of freedom of information has also been stressed in a number of reports by the UN special Rapporteur on Freedom of Opinion and expression, as the following excerpt from his 1999 report illustrates: "*The Special Rapporteur (...) emphasises that everyone has the right to seek, receive and impart information and that this imposes a positive obligation on States to ensure access to information, particularly with regard to information held by the Government in all types of storage and retrieval systems*"⁵⁹.

Besides its very principle, which consists in acknowledging the right to access to information, the FoI Act does contain some positive features, such as the 21-day timeframe for the release of information and the inclusion of courts and tribunals among those required to disclose information.

However, the FoI Act, as it stands, falls far short of the need for openness and transparency required of government - and it has to be emphasised that its rules, as of December 2004, had still not been notified; actually, the gazetted text is even more restrictive than the draft ordinance which had been circulating since 1997, with a revision in 2000: the ordinance is not premised on the right to information as provided in the Constitution (art. 19), access is guaranteed only to federal records (and not to local and provincial records as well, as in earlier drafts), exemptions are on an extraordinary large scale, the government retains very large powers to deny access to records. Other problems with the Ordinance are its failure to require public bodies to preserve records adequately and the very limited positive obligation to publish key information. Furthermore, the procedure is liable to long delays. The law effectively institutionalises restrictions faced by citizens in accessing information linked to governance and decision-making.

For example, section 8 on the "exclusion of certain record" (from the purview of the Ordinance) mentions in its clauses (e), (f) and (i): "*record relating to defence forces, defence installations or connected therewith or ancillary to defence and national security; record declared as classified by the Federal Government (...); any other record which the Federal Government may, in public interest exclude from the purview*

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of this Ordinance". As one can see, such vague wording basically encompasses whatever document the government arbitrarily decides it does not want to be made public - and, given the record of past governments on the ambit of "national security", it does not bode well for future transparency of government record. Sections 14, 15, 16 and 18 further aggravate the exemptions on the basis of national interest, here again leaving the door open to arbitrary and politicised exclusion from disclosure.

Furthermore, the ordinance does not provide for appeal to the judiciary; conversely, it does not make an offence of the destruction of record in an unauthorised manner before or after a complaint has been filed (section 20). One can also criticise the restriction of access to Pakistani citizens (section 12), as it will unfairly deny access to foreign journalists, historians and scholars.

In conclusion, the Ordinance is a positive step in the extent that it enshrines the right to freedom of information in domestic legislation. However, *"it is flawed in terms both of concept and content. Unless it is drastically changed to accommodate public views it will serve only as a vehicle for denying information instead of making it accessible to the citizens"*⁶⁰.

The Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance

The PEMRA Ordinance controls the functioning of private radio and television channels in the country. Here again, as with the FoI Act, it is a welcome step insofar as it breaks the PTV monopoly and sets up a legal structure for the regulation of private channels. By the end of February 2004, 28 radios had been licensed for instance, and another 27 were supposed to be licensed before the end of 2004; however they are still not allowed to air news. 22 TV licenses had also been awarded to newspaper groups by October 2004, though only a few had started operations. The Minister for Information and Broadcasting, Sheikh Rashid Ahmad, announced late October 2004 that 40 TV channels are expected to be operating by the end of 2005. Here again, however, the legislation is flawed and lacks the guarantees of independence and accountability that such a body would require to be credible.

For instance, section 5 provides that *"the Federal Government may, as and when it considers necessary, issue directives to the [PEMRA] Authority on matters of policy, and such directives shall be binding on the Authority, and if a question arises whether any matter is a matter of policy or not, the decision of the Federal Government shall be final"*.

In a similar vein, section 6 states that *"the Authority shall consist of a Chairman and nine members to be appointed by the President of Pakistan"*.

These two sections openly and squarely place the PEMRA authority under the complete control of the Executive, thus depriving it of the necessary autonomy of such a body. *"It will reduce PEMRA to the level of a rubber stamp of a powerful executive"*, says SAFMA⁶¹.

Clause 19 confirms this subordination to the political organ of government, as *"the Authority shall have the exclusive right to issue licences for the establishment and operation of all broadcast stations"*: this in itself constitutes a violation of the freedom of media. This overarching power of the Executive in the distribution and the regulation of electronic media is repeatedly asserted in the rest of the Bill, e.g. in the inclusion of a mandatory 10 % of all programmes to be made *"in the public interest"* to be specified by the government or the Authority (clause 20 e), or in the provisions for the renewal of licenses, which is in the hands of the Authority (clause 24-5), thus enabling the executive to muzzle the freedom of any independent media in case of any perceived "excess". In March 2003, for instance, the government re-issued a ban on Indian television channels, sparking off widespread protests by cable operators; the ban was reinforced in August. On August 8, 2003, PEMRA cancelled the licenses of six cable companies for defying the ban.

The experience of its current functioning has unfortunately confirmed the fears of government allegiance that were raised when the bill was promulgated: essentially, TV or radio entrepreneurs have to kow-tow to the government in order to obtain a licence. As these entrepreneurs are often already in the media business, the request for a TV licence under the PEMRA Ordinance has often been used as yet another means of pressure on other media outlets, such as newspapers or magazines - this has reportedly been the case with the Jang group, which owns Geo TV. The desire for expansion of the media groups is thus skilfully exploited by the government; in particular, the recent Cross Media Ownership Bill, which, as its name indicates, allows print media owners to own television channels, though welcome in many ways, has been used by the government as a blackmailing device to impose censorship on the print media while waiting for the licenses.

The Associated Press of Pakistan Ordinance, 2002

This Ordinance deals specifically with the official Pakistani news agency, the Associated Press of Pakistan (APP). It

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unfortunately has all the hallmarks of an attempt by the Executive to put the news agency under its near complete control. The Information Secretary will be the chairman of the 11-member Board of Directors, which includes 5 officials of the ministry (clause 7). The Managing Director of the APP will be appointed by the Secretary, with no mention of any specific requirement or criteria of competence; other appointments in the Agency will also be made by the Secretary. Furthermore, the budget of the APP is financed by the government (clause 14).

Other laws applicable to the press

The Defamation Ordinance, 2002

The Defamation Ordinance and its subsequent amendments have been the subject of vast polemics in Pakistan, in particular because it criminalised what should only be a civil offence. It has been amended in August 2004, with amendments seemingly directly targeting the press.

While it is legitimate to protect people from libel and unfair attacks, the Defamation Ordinance 2002 seems to take a different goal, and constitutes yet another instrument to hinder free speech. It appears to be expressly targeting media-professionals, and is furthermore an unnecessary innovation as other laws against defamation already existed, such as sections 499 to 502 of the Pakistan Penal Code, as well as the ethical code included in the Ordinance on the Press Council. "*The defamation law is nothing but slapping a legal straitjacket on the press*" writes Dr. Jabbar Khattak⁶². The Defamation Ordinance has been termed a "serious violation of free expression in Pakistan", according to Reporters sans Frontières⁶³.

First of all, the definition of defamation is exceedingly broad, as it includes "*any wrongful act or publication or circulation of a false statement (...) which injures the reputation of a person, tends to lower him in the estimation of others or tends to reduce him to ridicule, unjust criticism, dislike, contempt or hatred*" (section 2(1)). One can but wonder what exposing somebody to being "disliked" can encompass. Truth has been considered an acceptable ground for defence only in the cases of public interest, which means, says Hina Jilani, Secretary General of HRCP, "*that a journalist could be sentenced for having reported true facts...*".

Furthermore, the publication of an apology will not diminish the right of the aggrieved party to demand compensation.

More worryingly, the sanctions envisaged by the Ordinance include a three-month imprisonment (section 9), thus

contradicting the internationally accepted understanding of defamation as a civil offence. It also includes a minimum of Rs 100,000⁶⁴ as fine and a minimum of Rs. 300,000 as compensatory damage (with no upward limit). This, according to the South Asian Free Media Association (SAFMA), "*could vitiate the principle of penalty being proportionate to the harm caused*"⁶⁵.

The FIDH recalls that the UN Special Rapporteur on freedom of expression considers "*that the principle of proportionality must be observed when charges are brought against media professionals and others, in order not to undermine the exercise of the right to freedom of opinion and expression and make it an empty shell. While the Special Rapporteur recognizes that, as enshrined in article 19 (3) of the International Covenant on Civil and Political Rights, there are permissible limitations to the exercise of the right to freedom of opinion and expression, in particular when it comes to respecting the rights and reputation of others, States should bear in mind that the principle of proportionality should be observed in restricting the exercise of the right to freedom of expression. In particular, it is the view of the Special Rapporteur that the **sentencing to a prison term for libel or defamation is clearly not a proportionate penalty in this regard***"⁶⁶ (emphasis added)."

As regards criminal libel and defamation, the Special Rapporteur is of the view that sanctioning libel and defamation by prison sentences is not proportionate. Furthermore, he is of the view that **criminal law is not appropriate for regulating such offences**. As stressed in his joint Declaration with the OSCE Representative on freedom of the media and the OAS Special Rapporteur on freedom of expression, "*criminal defamation is not a justifiable restriction on freedom of expression; **all criminal defamation laws should be abolished and replaced, as necessary, with appropriate civil defamation laws***"⁶⁷ (emphasis added) .

The Official Secrets Act, 1926

Originally designed to deal with espionage and disclosure of military secrets, the OSA has regularly been used to detain and prosecute editors and journalists. Its section 3 had been amended under Zulfikar Bhutto's era to provide death penalty for offenders, up from 14 years' imprisonment.

The Security of Pakistan Act, 1952

The SPA allows the government to force the disclosure of sources, prohibit the publication, sale or distribution of a

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document. A police officer can be authorised to conduct a search and seize operation. The government can also impose prior censorship. It empowers authorities to move against any person "acting in a manner prejudicial to the defence, external affairs and security of Pakistan or the maintenance of public order". Under the Act, persons may be detained, their business activities, employment, or movements may be restricted, and they may be required to report regularly to a magistrate.

The Maintenance of Public Order Ordinance, 1960, amended 2002

This text gives the federal authorities similar powers as those under the Security of Pakistan Act, but extends the possibility to prohibit publication, to force publication of official material when and as ordered, to impose prior censorship, to close down a printing press or a newspaper, to force disclosure of source and demand delivery of relevant material to provincial authorities and district authorities. It allows detention without trial for three months, extendable to twelve months in some cases.

The Contempt of Court Act

It was adopted in 2003, and extends the notion of contempt of court to such an extent that even the criticism of a judge becomes a punishable offence. Contempt of court can now be punishable with six-month imprisonment and/or a fine. It applies to editors, journalists, and even printers. It has notably been used in September 2004 against the Jang Group.

The Anti-Terrorism Act, 1997, amended 1999, 2002, 2004

The Anti-Terrorism Act provides for the establishment of anti-terrorism courts to try persons charged with committing terrorist acts and stipulates special procedures for the conduct of their trials. Courts established under the Act are to conduct trials within seven days, and convicted individuals have only seven days to file appeals. A 2002 amendment allows persons suspected of militancy to be detained without charge for up to a year, which constitutes per se an arbitrary detention since they are neither charged promptly after the arrest, nor brought to a court in order to examine the legality of their detention. This is a violation of article 10 of the UDHR and Principles 9, 10 and 11 of UN the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment⁶⁸.

Under the ordinance, the detention of suspects and the probing of assets or bank accounts of any suspect, his\ her

spouse, children and parents may occur on a mere plea of suspicion, which does not have to be substantiated or supported by reason and grounds tenable in law⁶⁹. This is a violation of the presumption of innocence⁷⁰.

The Anti-Terrorism Act has recently been amended in the sense that the minimum and maximum penalties have been strengthened (the Bill was adopted by the Assembly on October 18, 2004 and by the senate on December 9). It now allows for up to 14 years' imprisonment for using abusive or insulting words, written or recorded material with the intent to stir up sectarian hatred. It will become an Act after the President's approval.

The Anti-Terrorism Act extends beyond suspected terrorists, and has been used against human rights defenders and journalists, as is the case with Khawar Mehdi (see below).

Section 11-W of the Anti-Terrorism Act, prohibits any "*printing, publishing, or disseminating any material to incite hatred or giving protection to any person convicted for a terrorist act or any prescribed organization or an organization placed under observation or anyone concerned in terrorism.*"

Furthermore, "*A person commits an offence if he prints, publishes or disseminates any material, whether by audio or video-cassettes or by written, photographic, electronic, digital, wall-chalking or any the method which incites religious, sectarian or ethnic hatred or gives protection to any person convicted for a terrorist act, or any person or organization concerned in terrorism or prescribed organization or an organization placed under observation*"

The FIDH recalls that the struggle against terrorism, although necessary and legitimate, must necessarily take place in the respect of international human rights law.

The Pakistani Penal Code, notably in its sections 123-A, 124-A, 153-B, 292, 295-C

- Section 123-A of the PPC criminalises anything considered prejudicial to the safety or ideology of Pakistan, or which amounts to "abuse" of Pakistan. Anyone trying to reassess the Two-Nation Theory or the Objective Resolution, which are claimed to be the core elements in the country's ideology, can be prosecuted.

- Section 124-A deals with the crime of sedition, and has also been used against journalists.

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- Section 153-B of the PPC (see *supra*) can also be applied to media practitioners.

- Section 292 of the PPC (see *supra*) can also be applied to media practitioners. For instance, on May 26, 2004, the Sindh government banned eight Karachi papers for 30 days for allegedly promoting "vulgarity and immorality in society". The banned papers were *The Morning Special*, *The Evening Special*, *The Midday Special*, *Zamama*, *Public Evening*, *Raz*, *Karachi City* and *The daily Special*.

- Section 295-C of the PPC, the centrepiece of what is known as the "blasphemy law" is one of the most controversial pieces of legislation in Pakistan, and has been repeatedly condemned by national and international observers as seriously contradicting freedoms of expression, of belief and of opinion (see *below*, section on minorities). It has been adopted in 1984 under Zia ul-Haq. It rather sweepingly stipulates that "*derogatory remarks, etc., in respect of the Holy Prophet (...), either spoken or written, or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly (...) shall be punished with death, or imprisonment for life, and shall also be liable to fine*". Six years later, the stakes were raised when the Federal Shari'a Court, where cases having to do with Islamic issues tend to be heard, ruled that "*the penalty for contempt of the Holy Prophet (...) is death and nothing else*". It has been used against NGOs, minorities, academics and journalists alike, in a sometimes most arbitrary manner, to curtail freedom of expression and opinion. On July 8, 2003, for instance, Munawar Mohsin Ali of the Frontier Post was sentenced to life imprisonment and a Rs 50,000 fine⁷¹ by Peshawar District Sessions Court for publishing a "blasphemous" letter in the January 29, 2001, edition of the paper. (see *box below*)

The Criminal Procedure Code, notably in its section 99-A

This section gives the Executive sweeping powers to proscribe publications. The right to appeal is granted exclusively to Pakistani nationals, not to foreigners.

2. Instilling fear: censorship, attacks, intimidation, harassment - and impunity for the perpetrators

Notwithstanding the stringent legislation, Musharraf's regime has not shied away from directly harassing and intimidating media workers - and more generally, groups and individuals working in the field of freedom of expression, in order to force censorship on specific issues. Scores of journalists have been

individually targeted, physically brutalised, even assassinated, for their opinions. Pakistani journalists live not only in the fear of being prosecuted - but worse, in the fear of being outright victimised or even killed for doing their work. This also holds true for foreign journalists working in Pakistan. The conditions are such that Pakistan has now become a very dangerous place for media professionals, especially in the investigative field. The amount and the nature of cases leave little doubt as to the fact that the targeting of journalists is systematic, organised, and deliberately willed by the authorities as one more means in its overall strategy to counter free expression and suppress dissent. The crackdown is very selective: "*It is always meant to be exemplary, to act as a deterrent, rather than punitive*", says Najam Sethi, of the *daily Times*⁷². The means range from banning publications, refusing access to information or news sites to threats and intimidation, to arbitrary arrests and outright beatings; it also includes pressures either to publish government reports, or not to report opposition or dissenting statements, thus creating a genuine censorship in the country. Reporters sans Frontières has ranked Pakistan n° 150 out of 167 countries in its 2004 yearly country evaluation. A Pakistani journalist ironically says that "*if you can survive being a journalist in Pakistan, you can survive being a journalist anywhere in the world!*"⁷³

If they are not physically targeted, journalists as well as editors all acknowledge being submitted to a more subtle form of pressure - a phone call from "a friend in the military" expressing displeasure at certain articles, an understated threat that the requested license will not be granted, etc... A journalist from *The News* for instance reports receiving threatening phone calls from intelligence agencies after having written an article on WAPDA (the Pakistan water services, in which the army holds, as in most public services enterprises in Pakistan, a strong hold) in July 2004. Means such as exclusion from government information or official press conferences are also routinely used. A female journalist says that after a negative report on the government, she was barred from Colin Powell's press conference; she adds "*there is definitely a list of 'preferred' journalists who have access to all the important sources, and a list of 'shunned' journalists, who get excluded from the information; after the Colin Powell press conference, it was my boss' turn to berate me, accusing me of 'unprofessional behaviour' because I had supposedly 'managed to get myself excluded' from the press conference! We are thus caught between a rock and a hard place*"⁷⁴. It would seem that the pressure stems more from the federal government than from the provincial authorities, though they might also make use of such means of intimidation. It appears that the Urdu-speaking press is more affected by the

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pressure and the censorship than the English-speaking one, which, according to observers, would be due to the fact that its reach goes far beyond that of the latter (the estimates⁷⁵ put the Urdu-language circulation at approx. 3 million, for approx. 600,000 for the English-speaking press): most observers agree that journalists for the Urdu-language press are more vulnerable than the ones working for the English-language press - because of political and economic reasons (Urdu-speaking journalists tend to be less paid than English-speaking ones), but also because if anything happens to them, they are less likely to raise international concerns. *"If anything happens to the English-speaking journalists, the foreign media and international NGOs are immediately responsive - if only because these are the journalists who cater to the international media; whereas who cares what happens to the Urdu-speaking ones?"* says Rahimullah Yusufzai of *The News*⁷⁶.

The government did not hesitate either to use the media for narrow political purposes, as was made blatant during the campaign for the 2002 elections, in contravention with applicable legislation. The main televised news broadcast consistently promoted the government's views. Several reporters and editors reported pressure from the authorities to downplay or suppress unfavourable reports. Azmat Abbas writes in his report on media monitor for the 2002 elections that *"Except English language daily Dawn, all the other newspapers printed advertisements were way out of line from the ethics of journalism and even the Code of Conduct issued by the Election Commission of Pakistan for the 2002 Elections. There were advertisements appearing on the front page and back page without any source of origin and relevance to the elections. At the most they can be termed as campaigns aimed at discrediting one or the other former rulers and that too by 'undisclosed' sources"*⁷⁷.

HRW summarises: *"Since Musharraf's 1999 coup, the Pakistani government has systematically violated the fundamental rights of members of the press corps through threats, harassment, and arbitrary arrests. Many have been detained without charge, mistreated and tortured, and otherwise denied basic due process rights. The government has sought to, and in several cases succeeded in, removing independent journalists from prominent publications. Meanwhile, the arrest of editors and reporters from local and regional newspapers on charges of sedition is becoming increasingly commonplace"*⁷⁸.

The attacks can be classified into two main categories: Attacks committed by police and/or security forces against journalists, including arbitrary arrests as well as inhuman

treatment while in detention.

Attacks committed by unknown assailants, including non-state groups, presumably fundamentalist groups, yet left unpunished and un-investigated by the authorities, which further create a de facto climate of insecurity for journalists working on "sensitive" issues.

Attacks committed by government forces, including threats, harassments and arbitrary arrests

The FIDH calls to mind that, in his last annual report, the UN Special Rapporteur on Freedom of Expression reports that he sent several communications to the government of Pakistan. However, he expressed his regrets that he has received no reply to any of these communications from the Pakistani government⁷⁹. This lack of cooperation is one more element confirming the total absence of genuine will of Musharraf's administration to substantially improve the situation of freedom of expression in the country.

The following incidents relate solely to the years 2003 and 2004⁸⁰.

November 30, 2004

Security officials at the Punjab Civil Secretariat beat up Zaheer Mahmood Siddiqui, a senior Dawn staffer, for publishing a story on the money extortion from visitors by the security officials at the secretariat during Ramadan.

November 9, 2004

Lahore police arrest two FM-103 radio station staff members, Afaq Bokhari and Farhat Abbas Shah, and registers a case against them under MPO section 16, on the charges of protesting against the government, hospitals and doctors at the Punjab Institute of Cardiology (PIC). The radio had aired several reports on financial misconduct on the part of the officials of the PIC. On November 14, the police raid the offices of FM-103 in Lahore and arrest another staff member, Abdul Ghafoor, and stop all transmissions. They also confiscate computers and seal the office. The two first arrested individuals are released on bail on 13 November.

November 4, 2004

Police in Skardo, NWFP, arrest Ghulam Shehzad Agha, editor of the banned magazine Kargil International, on the grounds that he backs autonomy in the Pakistani region of Jammu and Kashmir.

November 3, 2004

The Rawalpindi-Islamabad Press Club is briefly closed by the district administrator. FIRs are registered against several journalists.

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September 15, 2004

Lahore High Court orders the police to produce Jang group editor-in-chief Shakilur Rehman in court on September 27 on contempt proceedings. *The News*, which belongs to the Jang group, is accused of having misreported an item that the court had summoned lieutenant general Zarar Azim, the then Lahore corps commander, to appear in person in a contempt plea against him and others.

September 7, 2004

The Sindh government bans the monthly *Zarb-e-Haq* for publishing a text that intended to "hurt religious sentiment". The government also orders seizure of copies of the monthly's August 2004 publication with immediate effect.

September 3, 2004

The authorities ban *The Islamabad Times* before the first issue is allowed to be published. The printer, his son and two employees are arrested. According to Reporters sans Frontières, plainclothes officials went on 31 August to the printing works in Rawalpindi where the Urdu-language paper was being put together for its launch on 6 September and ordered work on it to stop. When printer Malik Abdul Aziz asked why, the officials left and returned with police who arrested the four, closed the works and seized equipment. Editor Masood Malik said he had obtained all necessary official permission to start the paper. Officials refused to comment on the ban. Malik said he suspected the federal government was involved. Masood Malik had in 2001 already been targeted by the authorities after a press conference by Musharraf.

August 13, 2004

Police arrest the chief editor of *Nawa-e-Hurriyat* magazine, Khawar Nawaz Raja, in Muzaffarabad, on charges of misuse of the printer's name. Another case is registered against him on the grounds that he published false and baseless material against the judiciary. He is charged under sections 501, 502, 117, 467, 468 and 469 of the PPC and sections 40, 41, 42 of the PNNBRO.

July 30, 2004

The Okara correspondent of *Nawa-e-Waqt*, Sarwar Mujahid, is raided, beaten up and tortured by Paramilitary Rangers. He suffered severe head injuries from the beating. He had been writing several articles on the issue of landless peasants. Three days later, the Home Secretary of Punjab issues an order under section 3 of the MPO Act. Sarwar Mujahid is released on September 24, 2004.

July 17, 2004

Jinnah, a newspaper based in Islamabad, is banned from the central media list and a ban is declared on government advertisements.

July 10, 2004

In Islamabad, the Deputy Financial Secretary of the Ministry of Environment Asif Rehman locks up, mistreats and slaps reporter Salma

Zahoor from the Daily Express after she asked questions that infuriated him.

July 1, 2004

Allama Iqbal Town Police illegally detain and beat up Sajjad Shafiq Butt, a reporter for an English-speaking newspaper. The reporter was 'abducted' along with a friend from a city shop in Gulberg, Lahore, held overnight at a police lock-up in Allama Iqbal Town and subjected to severe beatings. They were released only after senior police officers were approached. The reporter's statement that he was targeted because of his reports on rising crime incidents and particularly a news item linking city Station House Officers to drug-related crimes, makes the assault on him all the more serious.

June 25, 2004

Journalists attending the press conference of Pakistan Postal Services Corporation (PPSC) director in Lahore are arrested, detained, and their equipment is taken away.

June 12, 2004

Pakistani authorities arrest four journalists for several hours in South Waziristan. They were Allah Noord Wazir of the daily *The Nation*, Amir Nawab Khan of The Frontier Post, Mujeebur Rehman of Khabrain and a fourth unidentified reporter, who were all trying to reach the Shakai region where the army had launched a large scale operation against Islamist fighters, some linked to Al-Qaeda. Rehman, also a stringer for several foreign television channels, said the army seized his camera and video tapes as well as those of his colleagues. Dilawar Wazir, stringer with BBC World Service, reported that he was threatened by a local official in the South Waziristan capital Wana, who told him that journalists attempting to go to the Shakai region would face "serious problems".

May 11, 2004

A private Pakistani TV channel based in London reports facing official harassment and threats to coerce it not to air a scheduled broadcast by PML-N President Shahbaz Sharif.

May 11, 2004

Several journalists travelling with PML-N President Shahbaz Sharif, are roughed up when arriving in Pakistan from the Gulf region. All their equipment is taken. The journalists include BBC correspondents Zafar Abbas and Ali Faisal Zaidi, APP journalist Mussarrat Hussain, Sarmad Bashir of The Nation, and another woman.

Lahore police beat up journalists who were waiting at the airport, and prevent reporters as well as an HRCP team from covering Shahbaz Sharif's arrival.

May 10, 2004

Nasir Zaidi, journalist for *The News*, is manhandled by police, including sub-inspector Asif Javed, in Islamabad as he reportedly tries to help a taxi driver.

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May 10, 2004

The police are reported sealing the city office of CNN in Lahore. CNN regional producer Syed Mohsin Naqui is detained at his residence, together with members of his family; other CNN staff are detained in another location. The detentions are probably linked to Shahbaz Sharif's arrival the following day. Shahbaz Sharif is the party chief of the PML-N and the brother of ex-PM Nawaz Sharif.

April 21, 2004

Afghan journalist Sami Yusufzai, a stringer for the American weekly Newsweek, is arrested by security agencies near Bakka Khel police station in Bannu, on his way to North Waziristan, together with Eliza Griswold (freelance journalist - she was quickly deported) and the driver, Mohammed Saleem. He is held in secret for 7 days, charged under the FCR and sentenced to 40 days' imprisonment. He reported spending 20 days with military intelligence in Peshawar then shifted to the Miranshah lockup where he was not allowed to see anyone. He is released on June 2, 2004.

March 21, 2004

Haroon Rashid, BBC World Service correspondent in Peshawar, and Saiful Islam, of the daily *Surkhab* and *Al-Jazeera* correspondent, are arrested at Peshawar military hospital, while they were trying to interview soldiers wounded during military operations in South Waziristan. They are interrogated by intelligence officers, their equipment is seized and all their films as well as recordings are destroyed.

March 18, 2004

Shaukat Khattak, a reporter for Geo TV, is arrested in Dabkot while filming army activity. Despite having all the right documents, he is detained for four hours, during which he is threatened and insulted.

March 16, 2004

Mujeeb Rehman, *Khabrain* correspondent and stringer for several TV stations, is arrested while filming army operations near Wana and held for several hours. His digital camera is confiscated and was not returned to him.

February 17, 2004

Police officials beat up a cameraman from a private TV channel, Saqib Siddiqui, as he tries to take a picture of the Sindh governor Ishratul Ibad. Other journalists, who came to his rescue, are also abused and threatened.

February 13, 2004

The police and security personnel stop journalists from entering Parliament House to cover the 10th session of the Senate and abuse them.

January 29, 2004

Sajid Tanoli, journalist with *Shumaal* in NWFP, is killed by the Union Council Nazim (leader) of Mansehra, Khalid Javed Khan, reportedly

because of a story on the undercover sale of liquor promoted by the Nazim. Khalid Javed Khan reportedly shot Tanoli five times in broad daylight.

January 13, 2004

Police and security officials harass journalists outside the Parliament building in Islamabad during a protest by medical students.

December 18, 2003

Two French journalists working for the weekly *L'Express*, Marc Epstein and Jean-Paul Guilloteau, together with their Pakistani colleague, Khawar Mehdi Rizvi, are arrested in Balochistan for unauthorised travel and activities. The two French journalists were tried for travelling to restricted areas without a visa, and were released on January 12, 2004, after a court waived the six-month prison sentence handed to them. Khawar Mehdi's trial (he was charged under the Anti-Terrorist Act and the PPC), is still under way (see box below).

November 26, 2003

Three Faisalabad journalists of the weekly *Ayubi*, Abid Nawab Toor, Yasir Nawab and Muhammad Naeem, report that the local police raided their office, damaged the furniture and beat them up. A local hospital confirms that they were tortured at the police station. They had written stories about the police extorting money from students. The four policemen were later suspended from their functions.

November 19, 2003

Anwar Siyal, a journalist from Hyderabad, is arrested with his son Zulfiqar, on a complaint filed by an army officer with the police.

October 17, 2003

Shakargarh journalist Inamullah Butt is reportedly threatened by an officer of the Paramilitary Rangers.

September 2003

Khalid Hasan, *Daily Times* correspondent in the USA, is subject to a campaign of defamation and intimidation stemming from three Pakistani diplomats at the Pakistan embassy in Washington. He had written stories about the possible corruption of the three men.

August 30, 2003

Police in Hyderabad arrest seven local journalists on sedition charges during a visit of Musharraf to the city. The charges were later dropped.

The case of Khawar Mehdi

The case of Khawar Mehdi Rizvi is significant of the government's attitude towards individuals portrayed as endangering "national security", and viewed as "crossing the line" as to what is acceptable in the press. All means available - judiciary prosecution, physical intimidation, mistreatments, harassment - are then applied to crush that individual. The case is also symptomatic of the authorities' effort to spare foreign journalists while focusing on their "fixer" to ensure indirect compliance.

In December 2003, Khawar Mehdi was working with two French journalists, Marc Epstein and Jean-Paul Guilloteau of the weekly *L'Express* on Taleban operations in the tribal areas of Pakistan and across the border of Afghanistan. On December 15, all three were arrested while driving from Quetta (Balochistan) to Karachi; they were arrested by military coast guard officers as they arrived in Karachi.

The officers searched the bodies and all the belongings of the three journalists, and seized all tapes, video material and photographic shots of the training scenes in the tribal zones, as well as the laptops and the notebooks. The three individuals were allowed to go to Karachi with the explicit commitment by the officers that they would get all their material back the following day.

On December 16, Khawar Mehdi got a phone call from a military contact telling him that the said officer would meet him in the lobby of another Karachi hotel. The two French journalists had meanwhile remained in their hotel rooms. As Khawar Mehdi exited the hotel, he was arrested, hooded and handcuffed, threatened at gunpoint and thrown in a car. From that stage onwards, he was kept in a complete black out.

It turns out the two French journalists were also arrested that very day. Both men were accused of travelling to the Afghanistan border area without proper authorization. They spent 8 days in a Karachi jail and returned to France on January 14th 2004, a month after their initial arrest. In the interval, they were sentenced to 6 months in prison. After filing an appeal in the Sindh High Court the jail sentence was repealed and they were ordered to pay a large fine. Both were charged for travelling to an area off-limits to visiting reporters.

Things were to be much more complicated for Khawar Mehdi. On the 18th of December, he was moved to a military cantonment presumably in Quetta, first to a hospital, then to a facility of military intelligence run by a Field Investigation Unit (FIU); he was to be moved several times over the course of his arbitrary detention. He was around December 22 joined by two other individuals, Syed Allah Noor and Abdullah Shakir, who had helped on the work on the Taliban. They were to be severely tortured in the following days.

From December 18 onwards started daily and nightly sessions of torture and mistreatment, which included beatings, whippings with a leather strap, sleep and food deprivation, mental and psychological ill-treatments, keeping him in the cold, keeping him handcuffed and / or hanging from the wall for hours on end and physical humiliations. Khawar Mehdi was accused of having faked the Taliban training session and to have paid civilians to impersonate Taliban fighters.

On December 24, PTV aired a report in which the two French journalists were accused of fabricating the video of the Taliban training camp, with the help of Khawar Mehdi. The report showed the images shot by the two French journalists while on site. It is to be noted that during his 35 days' detention, Khawar Mehdi was never charged nor produced before a court or given access to a lawyer. As a matter of fact, the authorities publicly denied having arrested him in the first few weeks, even after his brother filed an appeal for Habeas Corpus to the Sindh High Court, and after having released the report on PTV. The custody was disclosed only on January 26, date at which Khawar Mehdi was finally presented before a court.

According to a Newsline report from January 4, Musharraf himself criticised Khawar Mehdi during an APNS conference held 31.12.03 for compromising the national interest by cooperating in the making of a "fake video". "*I would have given him 3000 US\$ for not doing this*", he is reported to have said. On CNN, on January 23, Musharraf added that Khawar Mehdi is a "*most unpatriotic man and doesn't deserve sympathy whatsoever because he is trying to bring harm to my country*", though he once again denied knowing the whereabouts of the journalist: "*I'd like to know where the hell he is*". Such public statements are in clear violation of the presumption of innocence.

Khawar Mehdi was released on bail on March 30, 2004, but was accused of sedition, conspiracy against the government, attempt to create hatred between groups, and cheating *in persona*. He has been charged under the Anti-Terrorist Act (section 11-W), and under the Pakistani Penal Code, article 120-A, 124-B, 153-B 419/34. The charges have now been "reduced" exclusively to the anti-terrorism charges, and the trial is still pending. However, his lawyers have expressed serious doubts as to the possibility for Khawar Mehdi to get a fair trial.

Khawar Mehdi has now left the country and is considered an absconder.

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August 26, 2003

Six journalists and three photographers are arrested by local police in Jamshoro (Sindh province) during President Musharraf's visit, while covering a women's demonstration. The six journalists are Nadeem Panhwar of the daily Kawish, Sharif Abroo of the daily Koshih, Hakim Chandio of the daily Ibrat, Ifran Barwat of the Tameer Sindh, Shahid Khushk of the daily Unmat, and Haji Khan Sial of the daily Jang. They are released on August 27.

August 18, 2003

Police in Sawalder (NWFP) raid the house of Ahmad, journalist for the Pushto edition of the Voice of America radio without a warrant, reportedly on the suspicion that he is hiding an outlaw.

August 12, 2003

Authorities in Khuzdar, Balochistan, detain Rasheed Azam, a local journalist for Intikhab and Asap and an activist of the Balochistan National Party, for allegedly distributing anti-army posters; during his interrogation, the police officers also reproach him his critical articles on the federal authorities' policies in Balochistan. He reports having been beaten during the interrogations. He is charged with sedition, and his release on bail has been twice rejected by the courts.

July 10, 2003

Police at Karachi central jail mistreat Dawn's correspondent and other journalists as they attempt to cover Asif Zardari's trial.

June 30, 2003

Police harass and detain Khalid Mehmood Shah, chief editor of the monthly Shahrag-e-Pakistan for two days, allegedly for publishing material against the government. Approx. 70 armed policemen ransack and invade the office, which they leave only on July 1, taking with them some equipment and some hard disks. Shahrag-e-Pakistan is known for its pro-opposition stance.

May 28, 2003

Journalists interviewing an opposition leader outside the Punjab Assembly in Lahore are baton-charged by police and about a dozen are beaten up. Following a protest by Lahore journalists, two Punjab ministers present their official apologies and promise sanctions against the policemen.

May 22, 2003

Police beat up journalists outside Punjab Assembly in Lahore. Police officer Aftab Cheema ordered the baton charge reportedly after getting irritated by the journalists' questioning of a case of a Member of the Provincial Assembly's arrest from Special Services Group operations.

May 14, 2003

Paramilitary Rangers reportedly detain Sarwar Mujahid, a journalist

covering the military farm management in Okara, on charges of terrorism and inciting the public against the Rangers. An anti-terrorist court remands him to police custody for four days. His family reported receiving threatening calls.

May 3, 2003

Local police in the district of Charsadda raid the office of Muhammad Faiz, correspondent for the daily Mashriq, beat him up and arrest him. He is released after eight hours of detention, following a protest by his co-workers.

April 23, 2003

Muneer Rajar, of the daily Kawish, is kidnapped in Hyderabad by four men while walking home. He is detained for several hours in an unidentified location, interrogated about his journalistic activities and summoned by security officials to stop criticising local authorities. He had published several articles about human rights abuses in the area.

April 19, 2003

17 local journalists are baton-charged by the police in Faisalabad. The Governor, Khalid Maqbool, had been accusing the national press of misreporting and undermining the response of the crowd in Musharraf's referendum campaign.

April 3, 2003

Military officials in the tribal territory of North Waziristan reportedly harass Hayatullah Khan, correspondent for Ausaf in Mir Ali, and his family, after he reported "misuse" of the military transport in the area. His brothers and daughter are expelled from the army-run school. The military recants, and on April 21 the children are allowed to re-integrate the school.

April 1, 2003

Policemen mistreat Ashfaq Ali, senior sub-editor of Karachi daily The News, after a police van brushed his motorcycle.

March 23, 2003

Intelligence agents pick up journalist and human rights activist Akhtar Baloch in Hyderabad and detain him for three days. He is released without charges on March 26, 2003.

March 16, 2003

The police stop the car of Mahmood Khattak, Peshawar correspondent of the Dawn paper, and harass him while on his way to Tank. Mahmood Khattak had been known for his critical reports on police performance.

March 10, 2003

Ilyas Mehraj, publisher of the weekly Independent, is threatened by Punjab Home Secretary Ejaz Shah for "working against the national interest". Shah is reported to have advised the paper to "roll back" its

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"campaign against the institution of the army" if it wanted to "stay in business and stay safe". Shah has denied making the call, but several weeks later, the government of Punjab withdraws all its government advertisements in the paper.

January 18, 2003

Intelligence officials intercept and beat up several journalists who tried to interview Sehba Musharraf, the wife of the President, during a visit in Alhamra (Punjab).

January 1, 2003

Police detain several journalists attending a press conference held by Lahore High Court Bar Association to condemn the suspension of work on the construction of a new library in the court building.

The case of Munawar Mohsin Ali

The case of Munawar Mohsin Ali is symptomatic of the restrictions on freedom of expression stemming from pressures by religious groups, conveniently followed by a government reluctant to antagonise them. It also bears witness to the over-extended use of the Blasphemy Law (which applied here to an individual who was not the author of the blasphemous statements) as a means to restrain free expression.

Munawar Mohsin Ali was senior sub-editor at the *Frontier Post*, Peshawar. In the January 29, 2001 issue of the paper, a reader's letter, titled "Why Muslims hate Jews", appeared, which contained derogatory statements about the Prophet. A few hours after publication, frenzied mobs attacked the Peshawar office and the printing press of the newspaper. The mobs were reportedly led by an eminent member of Jamaat Islami, Mulana Ubaidullah Chitrali. The mobs destroyed the printing press, set fire to it, then ransacked the office - while the police stood by. It is noteworthy that the government's response was not to arrest the vandals (and indeed, nobody was ever charged for the violence and the destruction of the properties), but to order the newspaper's offices sealed and its web-site blocked: the *Frontier Post* closed down for approx. four months after the incident. The administration arrested six more persons from the *Frontier Post's* Urdu publication *Maidan* and shut it down. Police officials later responded to calls on why it had not stopped the fanatic mobs from torching the FP's premises by arguing that an attempt to stop the protesters would have further provoked them. Musharraf quickly denounced the publication of the letter as an unacceptable transgression of "press freedom", and PTV aired a report clearly siding against the alleged perpetrators of the blasphemy.

The *Frontier Post* issued an apology in the next morning's issue of the newspaper.

The same morning of 29 January 2001, a FIR was filed and the police arrested five people, including Munawar Mohsin Ali, who was in charge of the op-ed / readers section at the time. The four other individuals, Imtiaz Hussain, Qazi Ghulam Sarwar, Syed Wajiul Hassan and Aftab Ahmad, were all either released or acquitted (in an ironic twist, the person in charge of the feature pages, Qazi Ghulam Sarwar, was arrested and detained for three months - the police had misunderstood the statement according to which "the letter arrived through the server", i.e. in an email). Interestingly, a sixth individual, the chief editor of the paper, Mehmood Shah Afridi, has been charged and declared a proclaimed offender and an absconder, but has never been arrested. Furthermore, the Criminal Investigation Agency seized all 22 computers of the newspaper, never returned them to the newspaper and later destroyed them. Observers agree to denounce the lack of professionalism and competence, as well as the partiality, of both the government and the police forces in this matter.

Munawar Mohsin Ali was charged for blasphemy under sections 295 A, B and C of the Pakistan Penal Code and section 505 of the Pakistan Penal Code, although he obviously was not the author of the letter. He was also originally - and surprisingly - charged under the Maintenance of Public Order Act, for which he was later acquitted. Munawar Mohsin made a confessional statement: though it was used by the prosecution during the trial, he only admitted to publishing the letter - without knowledge of its content: he said he "*was doing these [editorial] pages for the first time (...and) without looking into the contents of the letter except the head line, asked Mr. Amjad [the page-maker] to paste the letter into the `Your Views` portion*". Munawar Mohsin had been placed in charge of the pages in the absence of Mr Sarwar Awan, on leave at this time. After preparing the pages, Mr Munawar Mohsin sent them to the news editor, Aftab Ahmad, for checking, who did so and sent it back. The pages were then sent to Mehmood Shah Afridi, managing editor, who, finding nothing objectionable, sent it to the press section for printing.

In an unprecedented move, the Peshawar District Bar Association passed a resolution in February 2001 asking its members not to take up Munawar Mohsin Ali's case.

In spite of the clear evidence that he had been physically unwell and under tremendous work pressure in the days prior to publication and that the publication of the letter was due to negligence rather than wilful intent, Munawar Mohsin Ali was sentenced on July 8, 2003 to life imprisonment and a Rs 50,000 fine by the Peshawar District Sessions Court. Legal experts note that the judge discarded the same evidence against the acquitted individuals while retaining it in Mohsin Ali's case, in

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order to prove the intent. It is to be noted that blasphemy is the only one of two crimes for which the government does not grant remission. Munawar Mohsin Ali was acquitted by the Peshawar High Court on November 12, 2004, on the grounds that section 295 of the PPC requires the proof of "wilful" and "deliberate" intent as well as of "malicious intentions", which was not the case here. *"Since no blame worthiness can be attributed to the appellant, the conviction and sentence cannot be maintained"*, states the verdict.

He has spent close to four years in jail, since his bail application was never reviewed, with a total of 13 months of solitary confinement, including 7 in a cell adjacent to the gallows. He suffered mistreatments in the early months of his detention. He now lives in a quasi-recluse state, for fear of reprisals, and has been advised by his lawyers not to return to NWFP out of safety concerns.

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Attacks committed by unknown assailants, including non-state groups

November 6, 2004

Qazi Muhammad Rauf, correspondent for the *Daily Express*, is tortured and jailed by the Sheikmal Khel tribe in the Qmbarkhel area of Khyber Agency for allegedly partial reporting during a clash between the Sheikhmal Khel tribe and a local religious organisation, the Amr Bil Maroof Wanhee Anil Munkar. A dozen men confronted the journalist near Jan Killi and beat him before taking him to jail. He is released the following day.

September 13, 2004

The Gholki office of the daily *Kawish* and its sister TV channel, KTN, is ransacked. The bureau chief, Allah Warrayo Bozdar and his assistant, Nasir Hussain, are reportedly attacked.

September 8, 2004

Local travelling and recruiting agents in Mingora attack the office of a daily local paper, the *Daily Shamal*, because of a piece of news published on them deemed derogatory. The editor had been threatened on the phone earlier.

July 26, 2004

A radio booster for a local radio station in South Waziristan is damaged in an explosion in Wana.

July 2, 2004

A local newspaper's office in Chakwal is ransacked.

June 23, 2004

Deen Muhammad Dard is beaten up by 5 people while exiting his office. He claimed the police refused to file a FIR.

June, 2004

A group of journalists, including Zafar Abbas, coordinating editor of The Herald in Islamabad as well as BBC bureau chief, get arrested, manhandled and see their equipment stolen as they arrive at Lahore airport with Shahbaz Sharif, the brother of Nawaz Sharif, from Dubai.

June 15, 2004

Rao Mushtaq Qadir, President of the Hujra Shah Muqem Press Club, is beaten up by a mob of approx. 20 people while going out of his home.

May 15, 2004

Mushtaq Paracha, President of the Nowshera Press Club, is attacked, and his car is damaged.

April 30, 2004

Abbas Mehkri, a columnist for an Urdu daily, is wounded when gunmen open fire at his car in Karachi.

April 24, 2004

Abdul Gaffar Mohmand, journalist in Mansehra, is subject to an attempted kidnapping. Two other colleagues, Musaddiq Ali and Fakhra Alam, receive threats.

April 9, 2004

Rahimullah Yusufzai, executive director of *The News*, is victim of a murder attempt during his visit to village Saro Keley in Mohmand, tribal areas. Unidentified armed persons opened fire on his vehicle.

April 2004

Awardeen Mahsud, a journalist based in Ladda, South Waziristan, receives threats and his house is damaged by a bomb attack.

March 4, 2004

Journalist Shahbaz Pathan, bureau chief of Halchal in Sukkur, is kidnapped, together with another colleague.

March 2, 2004

The office of Geo TV in Quetta is attacked; approx. 20 rioters break into the office and set fire to the administrative office.

March 1, 2004

A mob attacks the Karachi Press Club. The gatekeeper is injured and the building suffers damage.

February 25, 2004

A bomb explodes outside the offices of the daily Jang in Quetta, Balochistan. No-one is injured, but the building suffers damage, as do nearby buildings. The separatist Balochistan Liberation Army reportedly later admits responsibility for the blast.

February 18, 2004

Dawn staff Shaharyar Safir is shot dead by a motorcyclist in Lahore.

February 14, 2004

Journalist Maqbool Ahmed from Dawn is attacked in Karachi - he is threatened at gunpoint and hit in the face by unknown assailants.

January 15, 2004

Madrassa students detain US journalist Paul Watson and Pakistani journalist Mubshar Zaidi for several hours.

December 27, 2003

Unidentified individuals attack the house of Musarrat Hussain, senior journalist with the APP, and his children, at Angori Scheme Baghbanpura.

December 26, 2003

An arson attack in Thatta, Sindh province, burns down scores of copies of several Sindhi-language newspapers.

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December 9, 2003

Abbas Awan, a journalist in Sargodha, is beaten up by five unidentified men.

November 30, 2003

Abdul Hafeez, working for a Karachi paper, is shot dead in Mehmoodabad, while on his way to a printing press.

November 22, 2003

Unidentified men torch the car of Amir Mir, senior assistant editor of *The Herald*, in Lahore. They also fire at a watchman who rushed to the scene. Mir had previously repeatedly been accused by the authorities of "subverting national interest" by writing investigative reports on army issues, and had been subject to harassment and threats by military officials; he had been accused by Gen. Rashid Qureshi of being an "Indian agent" because of an article he wrote for the Indian magazine *Outlook*. . He had in June been forced to resign from the weekly *Independent*.

October 30, 2003

Jehangir Shehzad, a senior crime reporter for the *Express* in Peshawar, receives death threats by phone and fax; his car is chased on his way back home. No action is taken by the police.

October 3, 2003

Amir Buksh Brohi, a journalist for the Sindhi-language newspaper *Kawish* and President of the Shikarpur Press Club, is shot and killed in Shikarpur by two unidentified gunmen in front of the local police station. He had written several articles on violence against women and human rights abuses perpetrated by the tribal justice system in the province. An FIR was lodged by his uncle the next day at Lakhigate police station; however, the case was transferred soon after. Preoccupying reports were released according to which the Sindh government had been interfering in the police investigation⁸¹. The Ittehad Tanzim-I-Ulema (ITU) threaten to demolish the house of a local journalist and President of the Khyber Agency Union of Journalists, Nasrullah Afridi, in the town of Bara in the tribal areas, for reporting the activities of the ITU and qualified it as illegal, as it is officially banned, although it disposes of an armed paramilitary force of about 3000 men. He also receives death threats in case he "does not forget the idea of a free press in the Khyber Agency".

September 18, 2003

Nasrullah Afridi and Aurnagzeb Afridi, correspondents in Peshawar of *Mashriq* and *Subah Morning*, and respectively President and vice-President of the Khyber Agency Union of Journalists, are arrested and detained for a few hours in a private prison held by the Tanzeem Ittehad-e-Ulema, a fundamentalist group.

September 2, 2003

Tribal guards beat up Anwarullah Khan, *Dawn* correspondent in Bajaur, Northwest Pakistan.

August 19, 2003

Six unidentified gunmen kill Rana Ejaz, a reporter for *Khabrain*, in Lahore.

August 18, 2003

Unknown assailants shoot and kill Liaqat Ali, secretary general of the Jehangira Press Club, in Nowshera.

July, 2003

Journalists from Abbottabad (NWFP) report being subjected to harassment and intimidation by the local authorities. The fundamentalist group Jamaat-e-Islami in particular attempts to have the local Press Club closed. The vice-President of the Abbottabad Press Club, Amer Shahzad Jadoon, is reported to have been fired from the daily *Mashriq Peshawar* because of these pressures.

April 22, 2003

A dozen unidentified assailants attack the gatekeeper of a cable operator's office in Nawan Kali, near Quetta, and set fire to the equipment. The gatekeeper is seriously wounded and burnt in the attack, and needs hospitalisation.

April 18, 2003

Sami Paracha, a reporter of *Dawn*, is kidnapped - it is supposed to be in relation to his articles on businessmen extorting money in the area. He is severely beaten up during his detention. He is again attacked on June 9, 2004.

April 12, 2003

Abdul Hameed Bhatti, a journalist of *Sahafat*, is attacked by unidentified individuals.

April 4, 2003

A bomb is thrown at the house of Awardeen Mehsood, journalist for *Khabrain* and NNI news agency, as well as a member of the Tribal Union of Journalists, in Laddah, South Waziristan. Mehsood had been condemned to a Rs 35,000 fine in 2001 for allegedly defaming the area's civil administration.

March 12, 2003

Malik Agani, a short story writer, is attacked in Larkana.

March 3, 2003

Journalist Imran Barkat is attacked and seriously injured reportedly by drug peddlers in Khan Kah Doggaran.

March 5, 2003

Journalist Sheikh Latif, based in Dera Ghazi Khan, goes missing after paying a visit to the house of local official.

February 22, 2003

Two henchmen of Afghan commander Hazrat Ali visit the office of the

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Frontier Post in Peshawar and threaten journalist Syed Anwar with "terrible personal consequences" for reporting that the commander was arrested by U.S. forces in Afghanistan on charges of drug smuggling and helping Al-Qaeda fighters escape the US-led hunt operation in Tora Bora mountains.

February 11, 2003

Amjad Warraich, Lahore correspondent for *The News*, and his wife are attacked in their home by unidentified assailants. Amjad Warraich had been threatened in the previous weeks about some articles he had written on civil servants. He had also been "asked" by an intelligence officer to "stop writing articles that could cause him some problems".

January 21, 2003

Fazal Wahab, freelance journalist, is shot dead by unidentified assailants, while he was sitting in a shop in the North-western town of Mingora. The shopkeeper and his assistant also die in the attack. He is reported to have been receiving threats in the weeks prior to the killing, and his book *Mullah ka Kirdar* ("The role of the Mullah") had been critical of the involvement of the clergy in politics.

January 10, 2003

The tribal chief Tariq Mateen and some fundamentalist militants destroy the cabled network of a Peshawar district.

January 7, 2003

A group of armed men attack the office of OK Cable Network in Peshawar and smash its equipment, declaring that cable TV is "against Islam" and "should be banned". The police make no arrests, though the office is located a few hundred yards from the police station.

January 6, 2003

Javed Akhtar Malik, President of Faisalabad Union of Journalists, is attacked by unknown assailants, but escapes unhurt.

3. Exploiting structural weaknesses

Wielding the economic sword

Added to political repression, there is a cunning use of economic pressure, both on newspapers and on journalists, to curb their freedom of expression.

a) The issue of government advertisements

Another privileged means used by the authorities to silence dissenting publications is the economic weapon, particularly through advertisement bans, still the largest source of revenue for Pakistani newspapers. Less obvious and less

dramatic than the forced closure of a media, it is equally effective, as most newspapers in Pakistan rely heavily on such ads for their financial viability. Such dependency belies the supposed "private" ownership of media groups, which de facto rely on public funds, via the advertisements. In early January 2004, a new centralised advertisement distribution policy was adopted, aimed at further controlling ads to dissenting publications. "It is clear that the ads were always handed out for political patronage in this country", says Najam Sethi, editor-in-chief of the daily Times⁸².

A particularly noteworthy case was that of *The Nation* and *Nawa-e-Waqt*, which belong to the same group, in the spring of 2004. On March 11, 2004, Information Minister Sheikh Rashid Ahmed admitted ordering the reduction in advertisements to both publications. The Prime Minister is reported to have previously warned *Nawa-e-Waqt* to "improve its attitude". Both publications saw their public ads share go down almost 70%, thus creating a financially untenable situation for the group: the owner of *The Nation*, Arif Nizami, reports a Rs 15 million loss per month⁸³. The ban was lifted (though not completely) in September 2004, after massive pressure from CPNE and APNS (the President of which happens to be the director of the *Nawa-e-Waqt* group); it is reported that the papers accepted in return to tone down their criticism of the government. Other dailies facing a ban on official ads at this stage included dailies *Ausaf*, *Ummat*, *Jisarat* and *Financial Post*.

On August 3, 2003, the *Sindhi Hyderabad* closed down. Three years earlier, the government had decided to reduce by half its advertisements to the paper, which made it financially untenable for the paper. It had been publishing a series of reports on the plight of tenant farmers in the province of Sindh. The chief editor claimed that the government policy had so far resulted in the closure of 12 newspapers in Sindh.

In 2003, the daily *Pakistan* was also submitted to a reduction in advertisement of 70%. The measures stemmed both from the Punjab and the federal governments. The measures were lifted after several months.

The same happened to the weekly *Independent*, who saw all the advertisements stemming from the government of Punjab withdrawn following a quarrel between journalist Ilyas Mehraj and Punjab Home Secretary Ejaz Shah, who accused him of "working against the national interest". The *Independent* remained at the centre of a controversy as Amir Mir had to resign from it following strong criticisms against the paper by provincial and federal authorities.

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This fragility is evidently worse for smaller groups, who do not have a "financial cushion" to fall back on in case of an advertisement ban. This makes them more likely to bow under government pressure.

The use of government advertisements for political purposes can take a different form, such as coercing publications to publish political, anti-opposition, advertisements (as was the case during the campaign for the 2002 elections), while threatening to cut all public advertisement in case a pro-opposition ad is published, as was the case with *The Nation* upon Shahbaz Sharif's return to Pakistan in June 2004.

b) Control through the newsprint

Yet another instrument used by the authorities to control and/or blackmail the media is the newsprint. It has to be said, however, that this leverage is far less powerful than it used to be, because of the opening up of the paper market in Pakistan.

Control through the newsprint has been made possible because paper is imported in Pakistan, as there is no local production. Newspapers are thus awarded a quota of paper they import.

During Zulfikar Bhutto's era, a company named Sellwell was formed to handle all imports of newsprints, and the newspapers were given permits to purchase their required paper based on their circulation. Zia disbanded Sellwell, and newspapers were instead given Import permits - the advantage being that they had no import duty, whereas commercial importers had to pay a Rs. 4,000 tax per metric ton. The newsprint hence became a privileged means to pressurise the media, as they wanted to avoid the commercial tax.

Things improved slightly under Benazir Bhutto's government, as Duty was reduced from Rs.4,000 to Rs.1,500⁸⁴ per metric ton for both newspapers and commercial importers. But the quota remained in force. Nawaz Sharif modified the duty, which was changed from a fixed amount to 5% of the invoice value for all the importers. However, control of the media through the quota of newsprint remained valid.

Unsurprisingly, Musharraf has kept this leverage against newspapers in place. As of today, they import the paper through their own sources, via a quota supposedly decided on the basis of circulation of each publication, as verified by the Audit Bureau of Circulation (ABC). However, each publication systematically exaggerates its circulation, in order to get a

higher quota for import of newsprint, get better rates on the advertisements placed by the government, and obtain more ads from the commercial sector. Due to the exaggerated circulation figure, the imports are thus higher than the requirement, which allows publications to sell their surplus stock on the market at a profit (newspapers are exempted from the 6% advance income tax usually paid by all commercial importers). According to several Pakistani editors and newspaper owners interviewed by the FIDH, the vast majority of Pakistani newspapers are involved in this activity, which gives them a key financial cushion - and they all admit, under condition of anonymity, that it is easy to corrupt the ABC in order to get a higher circulation figure.

De facto, the quota is based on politicised grounds. In effect, the government can decide to limit the newsprint of a publication it is unsatisfied with (thus forcing it to go to the private market to get access to the paper, at a much higher rate because of the various taxes levied) - or, conversely, raise the newsprint above the actual circulation to "reward" a publication, which can then sell the leftover on the market and make financial profits. This tool was notably used in the years 1988-89 against the Jang group, which had to reduce their publication *The News* from 18 to 4 pages in order to sell the paper to survive financially. At the present day, it is for instance reported that the very conservative *Khabrain* disposes of a much higher quota than what they would actually need.

c) The economic vulnerability of journalists

The possibility of censorship is made worse by the extreme vulnerability of most journalists in Pakistan. Most of them, especially in the Urdu-speaking press, are contract workers, hired on a contract or monthly basis, which makes them chronically dependent on the arbitrary will of a director or chief-editor in case of disagreement on the content of an article or report. It is reported, for instance, that nearly the entire staff of *Khabrain* is hired on a contract basis. This has an evident impact on their ability to express dissenting views, also because unionisation is made much more difficult for contract workers. Unionisation among journalists is actively discouraged, and unionised journalists, especially in the Urdu-speaking press, regularly face threats of dismissal, harassment, or intimidation.

Newspaper staff employed on a contract basis has no access to benefits such as social security, gratuities, medical funds, or pension funds.

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Furthermore, many reporters and journalists, here again mostly in the Urdu-speaking press, are little paid. Recently, a key issue has been the fight by journalists' unions to obtain a pay raise through the implementation of the 7th Wage Award.

The Wage Award is a legally binding convention specific to newspapers' employees, adopted under the Newspapers Employees (Conditions of Service) Act in 1973, which provides for a wage increase every 5 years, under the supervision of a Wage Award Board headed by a judge of the Supreme Court⁸⁵. The 7th Wage Award was constituted by the government on 19 June 2000 under the chairmanship of Justice Raja Afrasiab Khan; the decision was announced on 8 October 2001. However, it has never been implemented as planned - and the last wage increase took place in 1995, i.e. when the sixth Wage Board decision was adopted.

In 2004, the campaign for the implementation of the 7th Wage Award has gained momentum; although the National Assembly and all four provincial assemblies voted for its implementation, the media owners, represented by the APNS, nonetheless refused to enforce it, and appealed against it - as it has almost systematically done at every Wage Board Decision; it has actually systematically lost. The APNS published advertisements for 10 days in June 2004 in Pakistani newspapers urging the government to repeal the relevant law, arguing that it will damage press freedom in Pakistan. The Supreme Court, in a judgement pronounced in 2004, ruled in favour of the journalists.

The owners have nonetheless consistently refused to implement it, on the grounds that it would ruin them financially. However, the All Pakistan Newspaper Employee Confederation notes that *"though the owners have been advocating (that they would) run into huge losses (in case of implementation), they never provided to the chairman the following information:*

1. Total circulation of their newspaper per month
2. Gross income per month
3. Expenditure per month
4. Net profit
5. Income tax /wealth tax paid by them"⁸⁶.

It also appears that the percentage increase of the 7th wage award is comparatively lower than any preceding Wage Board decision⁸⁷ - and that in any case, it would affect only a minority of journalists, since most of them are contract labourers, to whom the Wage Award does not apply.

The matter has been taken up by the Prime Minister himself, but so far the status quo has remained. There is little doubt that

"press freedom cannot thrive when journalists do not have adequate wages and conditions", says the International Federation of Journalists⁸⁸. It is estimated that only about 10% of the journalists receive a salary according to the Wage Award⁸⁹.

Contractually hired, and with insufficient wages (for the contractual workers, an average of Rs. 3000 to 4000 /month⁹⁰), the journalists remain at the mercy of their employers. This fatally increases self-censorship in the Pakistani media.

A structural lack of editorial independence, exploited by the government

All these elements combine to make Pakistani media groups structurally dependent on the government, and more likely to bow down in the face of public pressures. Yet another factor has to be taken into account: the fact that, for historical reasons, media owners are very often also the chief-editors, thus contradicting the traditional principle of complete editorial independence - it appears that Dawn is the only group in which the owner is not the editor. *"The institution of the editor has been destroyed in this country, says Rahimullah Yusufzai, executive director of The News in Peshawar, and this has been compounded by a tradition of nepotism whereby the editor is either the owner, or his wife, or his son..."*⁹¹. This means that owners simultaneously have political, economic and editorial control over all of their staff, and it entails that *"the editorial policy is determined by the commercial imperatives of the owner"*, explains a *Nation* journalist⁹². This confusion of administrative, commercial and editorial functions gives a powerful leverage to the government to impose restrictions on freedom of the media - for instance, in the granting of TV licenses under the new PEMRA Ordinance (see above).

4. The specificity of the tribal areas

The Tribal Areas of Pakistan, known as the Federally Administered Tribal Areas (FATA) comprise 7 Agencies (ruled by a "political agent" appointed by Islamabad) and 5 Frontier Regions. The Tribal Areas have a semi-autonomous status, administered through a separate legal system, known as the Frontier Crimes Regulation (FCR), which, surprisingly enough, has remained unchanged since 1901.

The Frontier Crimes Regulation

In 2004, that a legal regime such as the FCR can be in force is a mystery - and a scandal, given the virtual absence of any of

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the fundamentals of any sound democratic institutions: elected government; separation of executive, judicial and legislative powers; autonomous judiciary; judicial review, legal and human rights protections⁹³. Though part of Pakistani territory, the inhabitants of FATA are excluded from the remit of the Constitution, and hence, denied the guarantees enshrined in it - in effect, not all citizens are equal in Pakistan. The FCR blatantly contravenes most of the provisions of the UDHR: "*Judging by the standards of international human rights principles, the norms practiced in civilised states and the fundamental rights guaranteed in the Constitution of Pakistan, the FCR fails to meet the test of compatibility*" writes Dr. Faqir Hussain⁹⁴.

This exception is inscribed in the Constitution: article 247 of the Constitution of Pakistan provides:

(3) No Act of Majlis-e-Shoora (Parliament) shall apply to any Federally Administered Tribal Area or to any part thereof, unless the President so directs, and no Act of Majlis-e-Shoora (Parliament) or a Provincial Assembly shall apply to a Provincially Administered Tribal Area, or to any part thereof (...).

(5) Notwithstanding anything contained in the Constitution, the President may, with respect to any matter, make regulations for the peace and good Government of a Federally Administered Tribal Area or any part thereof.

(7) Neither the Supreme Court nor a High Court shall exercise any jurisdiction under the Constitution in relation to a Tribal Area, unless Majlis-e-Shoora (Parliament) by law otherwise provides (...).

The FATA thus belong to a wholly separate system, under the complete control of the "political agent", who is not accountable for his actions before any court or assembly. In particular, he can order detentions at will, for a renewable three-year period (sections 43, 44 and 45 of the FCR), without any right of appeal for the individual in any civil or criminal court (section 48). Under the FCR, the Political Agent, a civil servant, simultaneously acts as prosecutor, investigator and judge. He nominates and appoints the Council of Elders, known as the Jirga (section 8), to enquire into a dispute - however the Political Agent is not bound by the rulings of the Jirga. The decision to disregard the Jirga's finding cannot be challenged in any court (section 10, 60).

This is a blatant violation of a number of provisions of the UDHR, in particular Articles 7, 8, 9, 10 and 11⁹⁵. It is also a violation of a number of provisions of the ICCPR (not ratified yet by Pakistan), in particular its Articles 9 and 14 (arbitrary arrests and fair trial guarantees).

In its last Concluding Observations on Pakistan, the UN Committee on the Elimination of Racial Discrimination "*noted with regret that no specific information is provided on the laws and regulations concerning the Federally Administered Tribal Areas and the North-West Frontier Province*⁹⁶ (...). *There is insufficient information on (...) whether everyone enjoys the right to "equal treatment before the tribunals and all other organs administering justice" and to "security of the person"*⁹⁷.

It is also noteworthy that the FCR recognises the doctrine of collective responsibility. Authorities are empowered to fine and detain the fellow members of a fugitive's tribe, or to blockade the fugitive's village, pending his surrender or punishment by his own tribe in accordance with local tradition (sections 22, 26). Under sections 20 and 21, entire members of a "hostile" or "unfriendly" tribe can be put behind bars, their property can be seized and confiscated, and their houses demolished (sections 33, 34)⁹⁸. Local observers have reported the widespread army demolition of family homes of people believed to have sheltered associates of Al-Qaeda or the Taliban.

Collective punishment is a term describing the punishment of a group of people for the crime of one. It is contradictory to the concept of due process, where each individual receives separate treatment based on their individual circumstances - as they relate to the crime in question. The UDHR provisions regarding the right to a fair trial are based on the principle that the criminal responsibility is individual - and never collective. This is confirmed by the clear prohibition of collective punishments in time of war, enunciated at Article 33 of the fourth Geneva Convention: "*No protected person may be punished for an offence he or she has not personally committed,*" and "*collective penalties and likewise all measures of intimidation or of terrorism are prohibited.*" The Occupying power can consequently not be penalised for the actions of individuals if the groups' members are not jointly responsible. By definition, such punishments are even more unacceptable in time of peace.

According to Article 25.1 of the UDHR, "*Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care*". Article 11.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR - not ratified yet by Pakistan) also enshrines the right to housing.

The right to housing is interpreted as a place where one can live in security, peace and dignity. According to the UN Committee on Economic, Social and Cultural Rights, "*all*

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*persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats (...) Forced evictions are prima facie incompatible with the requirements of the Covenant"*⁹⁹.

In addition of a violation of the right to housing, demolition of houses can also entail violations of the right to life, the right to personal security (art. 3 of the UDHR), the right to privacy (art. 12 of the UDHR) and the right to property (art. 17.2 of UDHR). Furthermore, Article 2 of the UDHR imposes to governments that the rights guaranteed in the UDHR are exercised without discrimination¹⁰⁰.

Additionally, the FIDH has been told that many of those who had homes destroyed were reported to have no connection with any suspected terrorist. This could not be verify but, in any case, destruction of houses as a collective punishment is a clear violation of international law, and also contravenes the 1973 Constitution which guarantees the inviolability of home; it also states that *"no person shall be compulsorily deprived of his property save in accordance with law"*.

It is of importance that, although the government, relayed by the media, repeats that it is the tribal communities themselves who supposedly reject the instauration of a political and legal system identical to the rest of Pakistan, as reportedly confirmed by the traditional tribal Jirgas (the Council of Elders), insofar as these very Jirgas are not democratically elected, one can wonder how representative of the tribal people's will they are. The FIDH consequently considers that the FCR blatantly violates international law and, under the pretext of respecting the will of the local population of the FATA, imposes upon them a legislation which gravely violates their fundamental rights.

Making it impossible for journalists

Musharraf, upon his arrival to power, had promised to initiate reforms, and a committee was set up for that purpose. However, the project was quietly abandoned after 9/11.

In particular, all foreigners and all journalists are prohibited from entering into FATA (or subject to very specific conditions), especially in the "operating areas" in FATA (where military operations are taking place), which are even more severely controlled; these areas remain un-accessible even for local journalists and other civil society groups.

News stemming from the region is thus severely limited. The prohibition was extended to Waziristan in October 2003, with the development of military operations in the region. The

authorities have become singularly sensitive to media reports stemming from the region. Journalists who venture in the area risk arrest, detention and prosecution, as was the case e.g. with Malik Mohammad Anwar, a journalist from South Waziristan, arrested in May 2004 as he was travelling to North Waziristan. He has remained in jail since.

Journalists from the tribal areas all denounce a massive increase in the repression against human rights activist and media professionals since the start of the military operations in the area¹⁰¹. It appears unfortunately that the ongoing military operations in the area serve as a convenient pretext for the authorities to conceal the human rights violations committed in the area, and the abuse of civilians, rather than a genuine need for protection of military information. In particular, the journalists from the tribal areas expressed surprise at the fact that on official press trips organised by authorities, only Islamabad journalists were invited - and not the local Pushto-speaking ones, who could possibly communicate with civilians - it has to be added that these press trips always proceed as "guided tours", under constant surveillance from the accompanying officers, and with no possibility to meet local civilians outside pre-arranged meetings organised by the authorities.

The situation for tribal journalists is made worse by the fact that they do not have access to the same legal remedies as other journalists: besides the above-mentioned array of legislation, they are also subject to the extremely repressive FCR, which allows for even more repressive action to be taken against journalists or human rights activists.

The FCR allows the political agent to prohibit the publication of any newspaper, journal or any other publication from the tribal area. Mr. Ibraheem Shinwari, correspondent of the daily Dawn and member of the Tribal Union of Journalists, says: *"Cover up, do not let facts be divulged, seems to be the motto of the political administration. This has been the corner stone of the policies of every political administration in all tribal agencies since independence. The motive behind this charade is simple to understand and it stems from self-interest."*¹⁰².

The weight of culture

Another element, which aggravates the position of tribal journalists, is the weight of the tribal and patriarchal structure of the society in FATA, which has been artificially retained by the administration through instruments such as the collective responsibility of the tribes to prevent crimes committed under the FCR. The predominant role of the tribal elders and the

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tribes makes individuals very sensitive to peer and community pressure. The concept of honour is deeply rooted in the social ethos of the Pushtoons, which puts tremendous pressure on the individual to fall in line with the tribe's or the family's interests. Thus, if an individual is perceived as inflicting "shame" on the tribe, possibly because of his journalistic activities, the tribe will in effect impose a tremendous pressure on the individual to recant and keep the "honour" of the tribe safe. Several journalists interviewed by the FIDH delegation stated that it was practically impossible for them to work on certain social issues, such as honour killings or the availability of heavy weapons, because of the tribal and patriarchal ethos; but they also stated that officials of the political administration of the region would commonly approach a tribal elder "warning" him of the possible harm inflicted upon the community if the journalist were to pursue his investigations. Explains a journalist from the tribal areas: *"The main means of pressure on us is through the tribe. If we write anything that the authorities don't like, then the political agent goes to the elder and warns him that if we don't stop, reprisals will affect all of the tribe, as a collective punishment. It becomes impossible to withstand such pressure, especially as it is usually impossible to file FIRs"*¹⁰³. It is to be remembered that political agents have near unchecked powers in the tribal areas, and their orders cannot be challenged in court. Furthermore, the office of the Commissioner has ceased to exist after the introduction of the Devolution Plan by the Musharraf government. The Commissioner worked as a court of revision of cases adjudicated by the Political agent under the FCR. The NWFP Home and Tribal Affairs department has temporarily appointed two officials of the rank of the now defunct Commissioners, who are now handling revision cases under the FCR.

The structure of the tribal communities - fossilised through legal and administrative means - adds another burden to journalists in the extremely repressive environment of the FCR. This has skilfully been used by the provincial and federal authorities to prevent certain journalistic investigations from proceeding.

5. Freedom of expression for other individuals and groups

Freedom of artistic and academic expression

Freedom of expression has also affected other professionals in the course of their activity, such as artists and academics.

The lack of freedom of artistic expression goes back to the 19th century, with the adoption of the Dramatic Performance Act, 1876. It empowers the provincial government to prohibit or

regulate public performances, and was originally intended to prevent public performances from disseminating politically seditious messages to the local population. However, the original purpose - controlling political dissent - has now become a weapon in the provincial government's "fight against obscenity".

The Dramatic Performance Act prohibits public dramatic performance in any local area specified by the government unless and until a licence for such a performance has been granted by the government or an officer authorised by it. In determining whether the license should be issued or not, the government or its authorised officer is empowered to inquire as to the nature and contents of the performance. Any person found involved in the staging of an unlicensed public performance or a public performance outside the terms of the licence, shall be punished by the district magistrate of that area with a sentence of up to three months, a fine, or both.

However, the relevant section of the Act giving the government or an officer the power to issue performance licences is silent as to the criterion to be applied by the authorities when reviewing a script, lyrics or routine. *"It is this silence which has enabled the government to change the ends for which the Act has been used: from stamping out political dissent to imposing its views - whether on morality or anything else - onto the people"*, writes Ahmed Rafay Alam¹⁰⁴.

The Act confers unlimited discretion to the provincial government to issue or decline licenses for public performances within specified local areas. Further, for the purposes of issuing an order prohibiting a public performance in a non-specified local area, the Act does not define the terms 'scandalous'. It is unclear as to what is meant by exciting 'feelings of disaffection' towards the government, and it provides no clue as to what would 'deprave and corrupt' people. Thus, in a non-specified area, a local NGO staging street theatre performances could find itself on the wrong side of criminal conviction. *"It is this arbitrariness and lack of certainty which makes the Act a powerful tool of censorship, as it gives to the government a host of undisclosed reasons to restrict any public dramatic performance"*, says Ahmed Rafay Alam.

The sweeping section 295 of the PPC, known as the Blasphemy Law, can and is still widely used to censor artists and academics¹⁰⁵, as was notoriously the case with Mohammad Younas Sheikh, professor at the homeopathic medical college in Islamabad, who was sentenced to death in 2002 under the law for having evoked Muhammad's life before the revelation of the Qur'an. The government has also let

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fundamentalist groups threaten or intimidate artists in near complete impunity. For instance, a leading artist from Lahore explained how his statues, which often represent the woman's body, are regularly attacked or defiled by unidentified individuals.

Most of the restrictions stem from provincial or local authorities, however. New restrictions were imposed in NWFP by the MMA government in 2003, such as a general ban on music in public places, on dance and many forms of theatre. Local police reportedly instructed all music shops to keep their shutters down so that musical instruments could not be seen from the streets. Balakhana (gathering places for musicians) in Dagbari bazaar, Peshawar, were closed down by local police without any legal basis. Stage artists in Peshawar complained of harassment by the local police forces on several occasions, while the performance of plays was forcibly stopped at venues across the province. Plays at educational institutions and musical programmes, were also barred. During Ramadan 2003, the MMA government prevented cinema houses from showing films, on the grounds that they could lead to "immoral thoughts".

Early in 2003, the Punjab government also announced a ban on all dance performances at schools, including folk dances. A few months later, in August 2003, the City District Government placed a ban on dances in stage plays, on grounds of "obscenity"; in spite of a court order by Lahore High Court lifting the ban, strict censorship remained in place throughout the year. Film producers also complained of censorship. Several observers note that in spite of the official prohibition of students' unions, Islamic groups are de facto allowed, who impose a censorship on cultural events deemed un-Islamic in the university, as is reportedly the case in Punjab University and in Multan. At Punjab University, for instance, the Islami Jamiat-i-Taleba, the students' Islamic organisation, is reported to control the university and the faculty according to its own,

very conservative interpretation of Islam, with the help of the retired military officers who administer the institution. Departments and student groups must reportedly request permission from Jamiat to hold a function, and dance and life-drawing classes are forbidden; censorship is imposed on certain literature texts deemed obscene¹⁰⁶.

Recent reports have disclosed that the Punjab government has prepared a draft legislation to protect audiences from obscenity in public performances and fashion shows. When and if this draft legislation, tentatively titled Public Performances (Regulation) Act, 2004, takes effect, it shall replace the Dramatic Performances Act, 1876.

Academics are barred by law (section 158 of the University Ordinances, 1961, as amended in 1962) from expressing views on public affairs, and student unions are banned; furthermore, section 153-B of the Pakistan Penal Code expressly penalises the incitement of students or others to take part in political activity, which disturbs or is likely to disturb public order - as often in Pakistani criminal legislation, the wording is vague enough to allow an exceedingly wide and politicised, interpretation of the law. Severe restrictions also apply to stage performances and cinema: section 292 of the Pakistan Penal Code, for instance, prohibits the sale, exhibition or possession of obscene books - this section has been frequently used against artists and even against works on natural history.

A leading academic says that "*Musharraf simply continues what the various military governments have always done: active political and religious interference with universities and colleges. This is why our universities are now in shambles*"¹⁰⁷.

The lack of freedom of expression also applies to minorities, and, as such, has a direct bearing on minority rights in Pakistan (see below).

35. Azmat Abbas, Lahore bureau chief of The Herald, FIDH interview, August 2004.

36. See Shahid Nadeem, "The Language of Silence", *Simorgh*, 2004.

37. Figures provided by SAFMA, *Media Monitor 2003*, p. 46.

38. FIDH interview, August 2004.

39. This section draws upon Article 19, Global Campaign for Free Expression, *Memorandum on Press Council of Pakistan Ordinance, 2002 and Press, Newspapers, News Agencies and Books Registration Ordinance, 2002 and Defamation Ordinance, 2002*, London September 2002.

40. E/CN.4/1997/7/Add.2, 15 October 1996, para 102.

41. *Gauthier v. Canada*, 7 April 1999, Communication No. 633/1995, para. 13.4; see also the general comment of the HRC on Article 25 of the ICCPR, para. 25.

42. *General Comment No. 10: Freedom of expression* (Art. 19), 29/06/83.

43. Issued on 14 October 1999.

44. This effectively circumvents Article 8 of the Constitution, which provides that any law that abridges constitutional rights shall be considered void.

45. See also Article 233 of the Constitution.

46. FIDH interview, August 2004.

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47. Human Rights Watch, *Human Rights Overview* 2004.
48. FIDH interview, August 2004.
49. FIDH interview, August 2004.
50. I.A Rehman, "Press Laws and freedom of expression in Pakistan", SAFMA, *Media monitor* 2003, p. 49.
51. International Federation of Journalists Press Freedom Report for South Asia 2002-03, *Pressing Times: Media under Fire in South Asia*, New Delhi, May 2003, p. 17.
52. See Mazhar Abbas, *Laws that chain the Pakistani media*, Karachi Press Club, October 2004.
53. For a more detailed analysis, see Article 19, Global Campaign for Free Expression, *Memorandum on Press Council of Pakistan Ordinance, 2002 and Press, Newspapers, News Agencies and Books Registration Ordinance, 2002 and Defamation Ordinance, 2002*, London September 2002.
54. SAFMA National Conference report "Amending Media laws", Rawalpindi, January 2004, p. 7.
55. Approx. 279 euros.
56. SAFMA National Conference report "Right to know and Express" Rawalpindi, January 2004, p. 58.
57. M. Ziauddin, Report on Press Council Ordinance, SAFMA National Conference report "Right to know and Express" Rawalpindi, January 2004, p.45.
58. See Article 19, *Submission on the Federal government of Pakistan's Ordinance to provide for Transparency and freedom of Information*, London, September 2000, and *Pakistan fails to guarantee access to information*, Press Release, 4 December 2002.
59. E/CN.4/1999/64, p. 5.
60. SAFMA National Conference report, *Amending media Laws*, "Right to know and Express" Rawalpindi, January 2004, p. 7.
61. SAFMA National Conference report *Amending media Laws*, "Right to know and Express" Rawalpindi, January 2004, p. 27.
62. SAFMA National Conference Report, *Amending media Laws*, "Right to know and Express" Rawalpindi, January 2004, p. 19.
63. Reporters Sans Frontières, Open letter to the members of the Pakistani National Assembly, 12 August 2004.
64. Approx. 697 euros.
65. SAFMA National Conference report, *Amending media Laws*, "Right to know and Express" Rawalpindi, January 2004, p. 4.
66. E/CN.4/2003/67, 30 December 2002, paras 35 and 36.
67. E/CN.4/2003/67, 30 December 2002, para 73.
68. Article 10 UDHR: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.
- Principle 9: The authorities which arrest a person, keep him under detention or investigate the case shall exercise only the powers granted to them under the law and the exercise of these powers shall be subject to recourse to a judicial or other authority.**
- Principle 10 of the Body of Principles: Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.
- Principle 11: 1. A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law (...)**
3. A judicial or other authority shall be empowered to review as appropriate the continuance of detention.
69. See HRC, *State of democracy in Pakistan*, 2004, p. 19.
70. *Principle 36 para 1 of the Body of Principles: A detained person suspected of or charged with a criminal offence shall be presumed innocent and shall be treated as such until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence. See also Article 11 para 1 of the UDHR.*
71. Approx. 697 euros.
72. FIDH interview, August 2004.
73. FIDH interview, August 2004.
74. FIDH interview, August 2004.
75. Given by SAFMA and RSF.
76. FIDH interview, August 2004.
77. Azmat Abbas, *Print Media and Political Parties - Elections 2002*, Journalist Resources Centre Publications, 2003, p. 4.
78. HRW, *Pakistan: threats to journalists escalate*, 3 December 2003.
79. E/CN.4/2003/67/Add.1, 20 February 2003, paras 435-440.
80. Sources : "Pakistan : attacks on the press" SAFMA Media monitor, 2003, pp. 53-60, SAFMA Media Monitor 2004; Human Rights Commission of Pakistan, *State of Human Rights* 2003, pp. 176-192; HRC 2004 updates and Press releases, RSF press releases; national and local newspapers (*Dawn, Karachi Dawn, The Nation, The Herald, The News, The daily Times, Rawalpindi News, the daily Express, the Frontier Post*).
81. Amnesty International, Public Statement, 17 October 2003, ASA 33/013/2003.
82. FIDH interview, August 2004.
83. Approx. 209272 euros.
84. Approx. from 55 euros to 20 euros.
85. See All Pakistan Newspaper Employees Confederation (APNEC), *Open Letter to the Chairman and members of the Special Cabinet Committee on the Issue of the 7th Wage Award for Newspaper Employees*, July 2004.
86. All Pakistan Newspaper Employees Confederation (APNEC), *Open Letter to the Chairman and members of the Special Cabinet Committee on the Issue of the 7th Wage Award for Newspaper Employees*, July 2004.
87. Increase from 2d to 3d Wage Award : 75% ; from 3d to 4th : 75% ; from 4th to 5th : 86% ; from 5th to 6th : 67% ; from 6th to 7th : 50%
88. IFJ, IFJ demands Implementation of 7th Wage Award in Pakistan, Press Release, 29 June 2004.
89. FIDH Interview with the Punjab Union of Journalists, August 2004.
90. Between 41 and 55 euros approx.
91. FIDH interview, August 2004.

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92. FIDH interview, August 2004.

93. Dr Faqir Hussain, "Testing FCR on the Touchstone of the Constitution", in *Report of the Consultation Proceedings on the Frontier Crimes Regulation (1901)*, HRCF and Tribal Reforms and Development Forum, Peshawar, October 2004 writes: "This way [through the FCR] the Executive was made the ultimate authority and final arbiter to initiate trial, prosecute offenders and award punishments. The trial for a including appellate and revision authorities are from amongst the Executive. Consequently, the law contains no concept of an independent/impartial judicial authority or a court of law to dispense free and fair justice. This is contrary to the mandate of the Constitution. The very Preamble as well as Article 2-A and 175 of the Constitution provide for independence of the judiciary. This vital safeguard is altogether missing from the FCR. All its provisions - substantive as well as procedural e.g. selection of Jirga members (section 2), trial procedure in civil/criminal matters (sections 8 & 11), the power to blockade hostile or unfriendly tribe (section 21), demolition of and restriction of construction of hamlet, village or tower on frontier (section 31), removal of persons from their places of residence (section 36), manner method of arrest/ detention (section 38 & 39) security for good behaviour (sections 40, 42), imposition/collection of fine (sections 22-27), etc are in violation of the Constitution. This is contrary to Article 8 of the Constitution, which provides that any law or customs or usages having the force of law, in so far as it is inconsistent with the fundamental rights shall be void. Quite clearly, the provisions of FCR are in violation of several articles of the Constitution e.g. Article 4 (right of individual to be dealt with in accordance with the law), Article 9 (security of person), Article 10 (safeguards as to arrest and detention), Article 13 (protection against double jeopardy, self-incrimination), Article 14 (inviolability of dignity of man, prohibition of torture for the purpose extracting evidence) Article 24 (protection of property rights) and Article 25 (equality of citizens)".

94. Dr Faqir Hussain, "Testing FCR on the Touchstone of the Constitution", in *Report of the Consultation Proceedings on the Frontier Crimes Regulation (1901)*, HRCF and Tribal Reforms and Development Forum, Peshawar, October 2004, p. 40.

95. Article 7 of the UDHR: "All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination".

Article 8 of the UDHR: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law".

Article 9: "No one shall be subjected to arbitrary arrest, detention or exile".

Article 10: "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him".

Article 11: "(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence".

96. Concluding observations of the Committee on the Elimination of Racial Discrimination, Pakistan, 23/04/97. CERD/C/304/Add.25, para 15.

97. *Ibid.*, para 17.

98. See Muhammad Raza, *Time to repeal the Frontier Crimes Regulation, and Amnesty International, Pakistan: Tribal justice system must be abolished or amended*, ASA 3/025/2002, 19 August 2002.

99. General comment 7, The right to adequate housing (Art.11.1): forced evictions, 20/05/97.

100. Article 2: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty."

101. FIDH interview with the Tribal Union of Journalists, Peshawar, August 2004.

102. Ibrahim Shinwari, "Press under the FCR", *Report of the Consultation Proceedings on the Frontier Crimes Regulation (1901)*, HRCF and Tribal Reforms and Development Forum, Peshawar, October 2004, p. 6.

103. FIDH interview with the Tribal Union of Journalists, Peshawar, August 2004.

104. Ahmad Rafay Alam, "A weapon to wipe out the Arts", *Daily Times*, 8 December 2004. Ahmad Rafay Alam adds that for public dramatic performances outside local areas specified by the government, the Act operates in a radically different manner. As the requirement for a licence applies only to public performances in specified local areas, performers outside specified local areas are free to stage public performances and are free from official scrutiny of their scripts, lyrics or routines. Since the government cannot be said to have official knowledge of the content of public performances, either staged or to be staged, in these areas, the Act empowers the government or an officer to request information from people involved in staging a public performance.

If such information, or information obtained from other sources, reveals to the government that the public performance staged or to be staged, is 'of a scandalous or defamatory nature, likely to excite feelings of disaffection to the Government established by law in Pakistan, or likely to deprave and corrupt persons present at the performance,' the Act empowers the government or the district magistrate of that area to order the prohibition of that public performance. A copy of the order of prohibition (no doubt pointing out the offending portions of a public performance) must be served on anyone involved in the staging of that performance personally or by some manner of proclamation.

Where served, the notice of the order of prohibition acts to (i) inform the people involved in the staging of the public performance of the order prohibiting their performance; and (ii) allows such people to either (a) modify the content of their performance so that it no longer violates the order of prohibition; or (b) seek legal redress by approaching the relevant judicial authorities. If, after the notice has been served, there is a violation of the order of prohibition, the Act permits the district magistrate to punish anyone involved in the violation with a sentence of up to three months or a fine or both. And where the district magistrate is satisfied that a premises is being used to stage a public performance in violation of an order of prohibition, the Act empowers him to authorise the police to enter that premises, take persons into custody and seize any evidence which would be needed for a trial.

105. Cf. HRCF, Annual Report, 2003, p. 188 sq.

106. See Miranda Kennedy, "Pakistan's fundamentalists are on the rise - even at its top university", *South Asia Citizens Wire*, 6 October 2003.

107. FIDH interview, August 2004.

II - FREEDOMS OF ASSOCIATION AND ASSEMBLY

"Everyone has the right to freedom of peaceful assembly and association" (UDHR, Article 20).

Unfortunately, the Musharraf regime has imposed on freedoms of association and assembly similar restrictions than on freedom of expression - and has proceeded in the same manner: 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. Local authorities have dutifully followed: for instance, in late March 2004, the Balochistan government, under the leadership of Chief Minister Jam Mir Mohammed Yousuf, imposed a three-month ban on all religious and political processions.

The constraints on freedom of association

Freedom of association is guaranteed by the Constitution of Pakistan, and enforceable through judicial intervention. Article 17 provides "*Every citizen shall have the right to form associations or unions subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality*". Supposedly "*reasonable restrictions*" have, as in freedom of expression, time and time again been used by the successive regimes in Pakistan to limit freedom of association - be they military or civilian; as a matter of fact, the amendments made to the original article 17, restricting freedom of association and allowing more government control over political parties, were originally made by the elected government of Zulfikar Ali Bhutto in the 1970s. Musharraf has not derogated to this very unfortunate rule.

Here again, "national security" and "national interest" have always figured prominently in the official justifications for the curtailment of these freedoms.

Freedom of association is limited by law in certain sectors. For instance, civil servants are constitutionally barred from joining or forming a political party; members of the armed forces, civil servants, television and radio corporations and "essential services" are prohibited from forming unions. As mentioned above, a Supreme Court judgement banned the creation of student unions in universities - the ban is still in force. The Maintenance of Public Order Ordinance and the Official Secrets Act have also consistently been used to control or prevent the formation of associations¹⁰⁸.

Student unions and groups remain banned - they have been since the late 1970s, after students' groups had helped remove Ayub Khan from power. "Selected" groups, though, seem to have the right to organise when it pleases the university authorities. For instance, students at Peshawar University point out that some groups, usually religious, are allowed to organise, whereas strict restrictions are imposed on all others.

The authorities have relentlessly cracked down on students' movements that appeared even remotely political. For instance, on 30 March 2004, in Karachi, 30 students are injured after a baton-charge by the police as a Dawood College of Engineering and Technology rally is suppressed. On 7 March 2004, the Larkana police arrested five activists of the Sindh People's Students Federation¹⁰⁹. On 4 January 2004, the police arrested 35 activists of two students movements, the APMSO (All Pakistan Mohajir Students Organisation) and the IJT (Islami Jamiat-i Taleba) for "creating law and order problems" at the Gulshan-i-Iqbal campus of the Federal Urdu University in Karachi. They were charged under sections 147, 149, 504 and 506 of the PPC.

Legal restrictions on freedom of assembly

Freedom of assembly is guaranteed by the Constitution of Pakistan, in its article 16: "*Every citizen shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order*".

Section 144 of the Code of Criminal Procedure makes any gathering of more than four people subject to police authorisation. A magistrate may prohibit meetings of five or more persons, forbid the carrying of firearms, and impose "preventive detention" on anybody thought likely to disturb public order. Although a person arrested is entitled to be informed of the reason for his/her detention and to a fair review of the case, these restrictions are in practice easy to circumvent. The government, especially in periods of martial law, has used Section 144 frequently when feeling its position could be threatened by demonstrations and public opposition to its policies; Section 144's provisions have also been used, however, to contain disorder that is not political.

The NGOs denounce an ever-widening use of Section 144 of the CCP: for instance, on 12 July 2004, all public gatherings

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in the Frontier Region of Kohat were banned; on 10 July 2004, the mayor of Karachi imposed a section 144 ban for 7 days throughout the city with immediate effect; on 22 June 2004, the district administrator of Noshki imposed a section 144 ban for a month - and so on...

But they also denounce an ever-freer hand given to the police to repress even non-political demonstrators: on 5 July 2004, 15 people are arrested after a demonstration in Nowshera protesting electricity cuts; or, on 29 March 2004, police beat up participants of a spiritual gathering at Mela ChirajHan near Lahore. On 18 May 2004, nine protesters were arrested outside Parliament in Islamabad during a peaceful protest demanding an arrest in a recent gang rape case.

Section 188 of the Code of Criminal Procedure is also restrictive of freedom of assembly, as it allows prosecution on the grounds of "public disturbance".

Under amendments made to the Anti-Terrorism Act in August 2001, law enforcement agents can take legal action against "anti-government activities", including the holding of meetings, gatherings and strikes. Meetings are defined as "a meeting of two or more persons, whether in public or private". The government has used these provisions to suppress political opponents and to stifle dissent¹¹⁰.

The Maintenance of Public Order ordinance 2002 prohibits any public speech that is "likely to cause fear or alarm to the public", and a similar order passed in March 2000 prohibits public meetings that are prejudicial to public safety or the maintenance of public order. These orders have de facto limited all political opposition activity in the country under the pretext of law and order concerns.

1. Non-governmental organisations (NGOs)

This section of the report takes place in the framework of the mandate of the joint programme of the FIDH and the OMCT: the Observatory for the Protection of Human Rights Defenders.

Pakistan has a remarkably professional, impressive and vibrant civil society, which courageously resists both the military rule and the fundamentalists' attempt to restrain fundamental freedoms.

The estimated number of NGOs in Pakistan is around 70,000, although the vast majority of those are madrasas and religious groups (approx. 50,000).

For a long time after independence, most NGOs were welfare oriented and worked closely with, and often under the patronage of, the government - and these are, still today, more or less accepted by the government. Only in the early 1980s did some organisations decide to challenge the existing social or political systems, and adopt a rights-based approach - they are the ones who have consistently had to face the wrath of government; both during and after martial law, such groups remained under pressure, attacked both by government agencies and by those entities who drew benefit from the existing political and social structures. Says Khawar Mumtaz of the women's NGO Shirkat Gah: *"Rights-oriented NGOs are now squeezed between a rock and a hard place: we are hated both by the government and by the religious groups, who have felt emboldened in the last few years - in both cases, because we challenge established norms, be they political, cultural or social. In a sense, it is a measure of our success..."*

"For NGOs, the problem is not freedom of association as such, it has always been the selective and arbitrary understanding of this freedom according to the field in which the NGO is engaged - and when you work in human rights, the government suddenly seems to understand it as non-existent!", says Kamila Hyat, joint director of HRCP. Sadly enough, the democratically elected governments of either Benazir Bhutto or Nawaz Sharif did not rise to the level of expectations as far as NGO freedoms were concerned - they too tried to keep them under tight control.

In particular, a Draft NGO Bill has been circulating since 1997, sponsored by the Federal Minister for Social Welfare and Special Education. A new draft has been elaborated under Musharraf, in 2003, but it is still awaiting approval from the Cabinet, and in the words of Muhammad Ahsan Rana of the Centre for Philanthropy (see below), *"it is in the limbos, and it seems it will stay there for a while"*¹¹¹.

The Musharraf government has indeed become wary of NGOs in the last few years, as it has shown hostility towards any non-state group that does not fall within its line, as shown by the attempt to monitor or control NGO activities: since July 2001, the government has started "monitoring" the activities of NGOs, and the federal interior ministry announced that same month that any NGO found involved in "undesirable" activities would face action, as it would act against NGOs which would not present detailed information on their accounts. The limitations imposed on freedoms of assembly and association, and the impunity for the authors of harassment or intimidation attempts against these NGOs, notably women's NGOs, are equally preoccupying. The government

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seems to see the strength of NGOs, their outspokenness, and the public support for them as a threat, and has put enormous resources in trying both to control and to discredit them, notably through government media. *"There is no doubt that the NGOs face an increasing hostility from the government"*, says Kamila Hyat.

An insidious - and definitely more dangerous - attempt to curtail their activities has been through insinuations that these NGOs (especially those working in the field of human rights) are "unpatriotic" and "un-Islamic", thus unleashing the wrath of fundamentalist and ultra-nationalist groups, seriously endangering the functioning of such NGOs - and sometimes, even the life of their members. No proper consultation process with NGOs has been set up either - apart from that with the Pakistan Centre for Philanthropy.

A more subtle - but no less preoccupying - method developed by Musharraf to limit NGO activity has been to use their rhetoric and co-opt their issues, in order to force control over them: for instance, the sudden increase in the public discourse on "the need for accountability and transparency" - as a prelude to, and a pretext for, the NGO bill which appears intent on curbing NGO activities. The establishment of pro-governmental human rights organisations ("Gongos"), and of human rights units within various ministries, which produce their own reports and assessments, the appointment of former NGO activists in the government (such as the current Education Minister, Zubaida Jalal), can be understood similarly: co-optation without any real appropriation of human rights, in order to undermine genuine human rights organisations. Once again, given the record of Musharraf in the field of human rights, it is difficult to believe in a bona fide attempt to sustain and promote human rights in the country. *"The irony is that the government keeps claiming that it wants a true partnership with NGOs, but the bottom line is that all they want is to give us orders"*, says Khawar Mumtaz of Shirkat Gah.

And even if the latest version of the NGO bill has been shelved, there are serious concerns in the NGO community that the government will reinforce its control through more devious ways, such as taxation laws. *"The government has invented new, devious, ways to continuously harass NGOs"* says Hina Jilani of HRCF. For instance, in 2002 the Central Board of Revenue¹¹² (CBR) passed a rule according to which all donations received by an organisation would be considered as an income and, as such, taxed, unless the organisation is registered with the CBR as an NGO: in effect, the CBR now has the discretion to register and certify NGOs.

The interesting element is that the CBR has outsourced this authority to the Pakistani Centre for Philanthropy (PCP), adding yet another power to this already most peculiar NGO.

It appears that the situation is very strenuous for NGOs based in NWFP and in Balochistan, where the provincial governments do not view NGO activity positively, and where religious groups are given a much freer hand. As with journalists, the tribal areas are probably the most difficult area for NGOs to work in, as non-local NGOs face enormous hurdles - administrative, religious, cultural, legal, political and judicial - to exercise their activities there, however development-oriented they are. FATA does not provide for NGO registration.

As of now, NGOs can be registered through several registration laws, the most important of which are:

- The Voluntary Social Welfare Agencies Registration and Control Ordinance, 1961 (25% of all registrations); it requires organisations depending on any kind of public funds to compulsorily register with the authority designated by the government, prescribes external accountability measures, allows random audits and random inspections of the premises and books. It also confers the power to suspend the management and dissolve the agency. The organisations must submit annual reports and audited accounts.
- The Societies Registration Act, 1860 (65% of all registrations); the only requirement under this Act is the list of governing body members. There are no administrative powers in the law to ensure compliance.

And, to a lesser degree,

- The Cooperative Societies Act, 1925;
- The Companies Ordinance, 1984;
- The Trust Act, 1882.

An estimated 35% of NGOs are not registered at all, and 4% have applied for registration and have not received it. According to PCP figures, the NGO sector employs around 256,000 paid professionals and around 213,000 volunteers¹¹³.

In keeping with this harder line, NGOs have been subject to limitations on their freedom of assembly. It appears that the government makes a very selective use of section 144 of the Code of Criminal Procedure, which allows for limits on public demonstrations: while religious groups or pro-government political parties are allowed to demonstrate without restrictions, NGOs, opposition parties and trade unions are regularly prevented from holding peaceful demonstrations; they are also

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often harassed or arrested when doing so. For instance, women's groups held a peaceful demonstration at the end of June 2004, protesting the handling of the case of a woman who had been raped in Punjab and whose case had not been properly investigated: approximately 10 demonstrators got arrested and taken to the police station, where they were held and interrogated until 11 pm.

Limitations on freedom of assembly can take a judicial turn: on 28 December 2003, 19 people, including an academic, Mohammed Usman Samoon, a politician, Ashraf Palijo, the president of the Awami Tehrik Thatta, and a newsreporter, were charged for sedition under sections 121, 121 A, 124, 153 A, 341, 186 of the PPC and 617 of the Anti-terrorism Act for participating in a rally in Daro against the Thal Canal and Kalabagh dam¹¹⁴. The case is still pending.

The attempt to control independent voices also holds true for organisations such as Bar Council Associations, which have traditionally been very vocal in opposing martial law and military rule in Pakistan. The new draft bill on Bar Council is another sign of Musharraf's will to silence dissenting voices; but judicial means are also used: for instance, on 14 May 2004, Lahore District Bar Association Secretary General Raja Rashid Jaral was arrested under the Anti-Terrorism Act¹¹⁵ (the arrest was linked to Shahbaz Sharif's arrival in town, which led to a frenzied move by the authorities to arrest political activists, journalists, and independent organisations). He was released on bail on 16 May. The case is still pending.

This is not the only case, though: only a few days later, on 17 May 2004, 70 lawyers were arrested in Kasur: Qurban Dogar, the President of the district Bar Association, and Saeed Ahmad, Secretary General of the District Bar Association, are charged on terror charges, while 20 other lawyers are charged with "criminal intimidation", "obstructing the discharge of official duty", "damaging public property", and "breaching public peace by hooligan acts". They had been participating in a peaceful procession on 17 May in support of their Pattoki colleagues¹¹⁶.

A most bizarre - and powerful! - Pakistan Centre for Philanthropy (PCP): "who will watch the watchmen?"

A curious development has made Pakistani NGOs increasingly worried about the indirect control over NGOs willed by the government. In August 2001, a new NGO was formed, the Pakistan Centre for Philanthropy (PCP). Its goals are, in its own terms: "1. *Creating a policy, legal and fiscal environment*

*that enables giving for development and promotes the growth and development of citizen organisations. 2. Facilitating linkages between corporate philanthropists, citizen organisations and government for increased social investment 3. Enhancing citizen organisations' capabilities as effective of philanthropy through a certification system and building measures. 4. Assisting philanthropists (corporations, foundations, communities) in increasing the volume and of their giving"*¹¹⁷.

Its most important mandate is thus two-fold: developing new laws regulating the work of civil sector organisations (and it is as such that the PCP has drafted the latest version of the NGO bill) - and certifying NGOs for the purpose of registration. Now these two aspects obviously give it a tremendous power over other NGOs - especially on the issue of registration - which seem incompatible with its very status of NGO.

On the draft NGO bill

The Ministry of Women Development, Social Welfare and Special Education, together with the PCP, were designated, under the Enabling Environment Initiative, to "*chart a course to review the current legal, regulatory and fiscal framework for private non-profit work*". It is in this context that the PCP drafted the proposal for the NGO Bill, which it submitted to the government in 2003. Though it was supposed to be done after a consultative process with other NGOs, it is noteworthy that none of the organisations interviewed by the FIDH, among which some of the most prominent in Pakistan, and covering a wide field of activities, had been consulted - not even the main NGO coalitions in Pakistan (reportedly because of their "*lack of representativity*"...). According to the PCP, though, "extensive" consultations were held, supposedly with NGOs, government and the corporate sector. One remains sceptical as to the role the corporate sector should have in the drafting of a NGO bill. According to the PCP, the government "*never really owned the draft*", so it has not even reached the stage of the cabinet yet. Tellingly enough, Muhammad Ahsan Rana deems that "*the government probably wants it to be even more stringent*"¹¹⁸. The "even more" certainly leaves one wondering what exactly the purpose was with this draft.

The draft proposed by PCP provides for a degree of control over NGOs that could present a direct threat to their independence, notably through the level of administrative, procedural and financial scrutiny envisaged by the bill through the formation of the National Commission for Non-profit Public Benefit Organisations. The Pakistan NGO Forum (PNF) has expressed its reservations on such a Commission: "*the*

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NGO community, especially members of PNF, have already rejected any government led Commission as a supra-body to oversee the operations and workings of NPOs [non profit organisations]. The composition of such a commission in itself undermines the basic autonomy of the sector and brings everything under the control of such a structure which is not justifiable given the role played by the Ministry of Social Welfare and other relevant government departments. We believe that any commission with predominantly government representation will not bring any substantive improvement in the functioning of this sector"¹¹⁹.

The aim of the bill seems to be to indirectly force the NGOs into conformity (see Annex 2).

On the certification process

The most worrying aspect of PCP's work is undeniably the certification process it has been empowered to handle. The certification process is a "performance evaluation, based on a set of predetermined parameters" in the words of Muhammad Ahsan Rana. The certification has two goals:

- evaluating NGOs for the purpose of tax exemption by the Central Board of Revenue, and
- giving corporate and other philanthropists the means to assess and ascertain the quality and effectiveness of the NGOs they would wish to award funds to. The first reservation about the certification model is, as Mr Irfan Mufti of the Pakistan NGO Forum puts it, that the PCP's argumentation "fails to establish any logical and clear link between the certification regime and the corporate sector's need to know about the credibility and effectiveness of organisations for donations"¹²⁰.

For NGOs, hence, the main benefit of the certification process would be to get the tax exemption from the CBR. Previously, says Muhammad Ahsan Rana, the NGOs had to apply directly to the CBR, which did not have the personal and professional resources to certify NGOs in an objective, impartial way. Since the Income Tax Rules 2002 provided for the possibility of certification by an independent agency, the PCP "jumped on the opportunity". It has since December 2003 become the only NGO certification agency, besides the CBR. It is interesting to note that, according to Muhammad Ahsan Rana, three other NGOs had applied to become certification agencies:

- The National Council for Social Welfare - reportedly rejected because of its para-statal nature.
- The Trust for Voluntary Organisations (TVO) - reportedly rejected because of a "conflict of interest situation", since

they hand out grants.

- And Strengthening Participatory Organisation (SPO). The intriguing element is that, while Muhammad Ahsan Rana says that "their application is still pending", SPO officials, when asked by the FIDH, categorically denied ever applying.

In short, only the PCP and the CBR are allowed to certify NGOs. Now the problem is that the CBR has progressively adopted identical internal rules and certification procedures as the PCP - not only that, but it has also actually turned over all the certification files over to the PCP, since they do not have the capacities to do it themselves (however, the PCP has, since March 2004, started capacity-building training programmes for CBR officers). **In practice, the PCP has the complete monopoly of NGO certification in Pakistan.**

The certification process, as reported by the PCP, is undertaken by a certification panel, which consists of 5 members at any given time:

- 6 from civil society or the corporate sector (once again, one is puzzled by the possibility of an "or"), appointed by the PCP, with only three sitting at any one time. One is for instance surprised to find in the current certification panel the Former Director of Shell Pakistan, whose competence in evaluating NGOs is not self-evident¹²¹.
- 1 from the Ministry of Social Welfare - i.e. a government official.
- 1 from the CBR (which is a state body).

The composition of the certification panel, which has the final word in each case, means that one could possibly end up with three individuals from the corporate sector and two government officials.

The certification is a two-stage process, with, first, the submission of documents and a 20-page report, and second, a 2-week field evaluation.

As of August 2004, 21 NGOs had applied for certification. 3 of them had had the decision deferred, while 2 of them failed (the PCP does not disclose their names). In case of deferral or failure, the PCP proposes and organises capacity-building programmes, subcontracted to two organisations:

- The Lahore University of Management Sciences
- The NGO Resource Centre (NGORC) - which reportedly receives a large part of its funds by US-Aid.

Pakistan civil society hence now faces the situation where one NGO certifies, controls, trains and attempts to regulate other NGOs. "Who will watch the watchmen?"

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The legitimacy and the credibility of the PCP, founded in 2001 and with little record to date, are evidently a problem: who certified the PCP? The Pakistan NGO Forum writes "*Allowing an independent agency like PCP to exercise a purely government authority to judge organisations for awarding benefits and privileges is not justified in the present circumstances, especially when such certification agency itself lacks experience, links, credibility and ownership by the sector*"¹²². Besides leaving the awkward feeling that the PCP is maybe not as non-governmental as it says it is, the situation is intrinsically biased and untenable. The PCP certainly does leave one with the impression of yet another sophisticated means by the government to impose control on civil society.

Facing particular hardship: the case of women's NGOs

When Musharraf rose to power, women were promised significant changes in the by all means very unfair laws governing the status of women in Pakistan, such as the repeal of the infamous Hudood laws. And indeed, some improvements have been made, such as establishing a quota for women at local and provincial assemblies, which allows women to start playing a more active and more open political role. Women also appreciate the appointment of Dr Khaled Masood, who is seen as a moderate, as chairperson of the Council for Islamic Ideology (CII), an important advisory body to the government on Islamic law. As such, it has a crucial impact on women's lives in Pakistan. Musharraf has also set up a permanent commission on women, the National Commission on the Status of Women (NCSW), chaired by the retired Justice Majida Rizvi. Furthermore, a bill on honour killings was passed on 26 October 2004 (approved by the Senate on 7 December 2004), strengthening the penalties for authors of such crimes.

Here again however, the double-sidedness of the regime shows: every move in favour of women has been accompanied by a move limiting it. "*Whatever little progress we have witnessed has been based on political expediency and narrow political calculations, not on a genuine will to improve the situation of Pakistani women*", says Tahira Abdullah¹²³, of the Women's Action Forum. The reform of the Qisas and Diyat Ordinance are evidence thereof: as HRCP has pointed out, the bill was bulldozed through the house amidst opposition objections and absence, and does not address the substantive issues faced by women under the existing law. In particular, reminds HRCP, "*until the issue of compoundability or 'out of court settlements' under the Qisas and Diyat law are addressed, the ground realities will not change and women*

will continue to be murdered, while their killers walk away scot-free. The changes in the procedure of the blasphemy law, included in the new legislation, can do nothing to remove the deficiencies in the law or end the many cases of victimisation under it (...). This means that the commitment required to save women from the terrible violence they face in society remains missing"¹²⁴. In particular, the right of relatives to exonerate authors of honour killings through financial compensation (contained in section 309 of the PPC) has not been tackled. Neither has the distinction between intentional and unintentional offence been evoked. It is also noteworthy that the government did not take into account the views of either opposition parties, NGOs or even the governmental commissions set up on the issue.

The campaign against sexual harassment is another, smaller yet significant sign: though the government did view it with some form of leniency in its first stages, "*there was never an element of ownership on the part of the government, says Shaban Arif of the NGO Rozan, and the fact that the government has withdrawn it from its Poverty Reduction Strategy Paper (PRSP) in 2004, whereas it had included it in 2003, is yet another sign of their double take at all things related to women*"¹²⁵. Certes, a National Policy on the Empowerment of Women was adopted in March 2002 - but, as women activists pointed out, the legal framework and notably Pakistan's international obligations, in particular under CEDAW, which it has ratified (albeit with major reservations¹²⁶) were never mentioned.

It is also noteworthy that the NCSW has only an advisory role. Neither does it have the required autonomy, especially as it wholly depends on the government to finance its operations (approx. Rs. 8 million / year¹²⁷). Regrettably, no government official attended the official launch of the NCSW report on the Hudood laws, advocating the repeal of 12 the laws and the reform of one them on the basis that the laws "*make a mockery of Islamic justice*" and "*are not based on Islamic injunctions*"- and, sighs Majida Rizvi, "*the government has remained quiet ever since*"¹²⁸.

Restrictions are also imposed on freedom of assembly when relating to women's issues: on 8 March 2004, the International Women's Day, women's groups were prevented from organising a procession in Lahore.

More worrying still, while trying to appease women through minor modifications of unjust laws, nothing is done to protect women's NGOs, who often work in very difficult conditions, especially in NWFP. Many of them have come under fire from

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fundamentalist groups, and are more often than not threatened, harassed, publicly attacked, and even violently assaulted. Little is done to indent the impunity of the perpetrators of such violence, even when they are known and identified. Not only does the state not prosecute individuals and groups responsible for attacks on women activists, but no step whatsoever has been taken to grant those women some protection. This holds both for the federal and the provincial administration. The Pakistan NGO Forum denounces *"the unsympathetic attitude of the local administration: in spite of recognising the aggressive attitude of religious elements, the administration failed to stop the incitement from mosques, provide security and prevent physical attacks"*¹²⁹.

As a sign of the worsening situation for groups and individuals working in the field of women's rights, Majida Rizvi, President of the National Commission on the Status of Women, reports having been personally threatened and abused after the NCSW published its report on the Hudood Laws, in August 2003 - and the NCSW, it has to be remembered, is not an NGO, but a governmental body. The report advocated the repeal of 12 of the laws, and the amendment of 1 of them. The decision was made by a Committee, and not by Mrs. Rizvi alone. She was nonetheless the only one to be attacked in the media, on the grounds that she was "Westernised", according to a Jamaat-e-Islami member.

The "unholy" alliance between the MMA and the army thus does not generate the conditions for women activists to work in satisfactory conditions - and it has actually created a climate that makes women more vulnerable. *"Religious groups view women's NGOs as unpatriotic, westernised, and the women who work there as bad Muslims and loose women...And they have had a free hand since Musharraf took power; they have been emboldened by all he lets them do" sighs a woman activist, who adds that the MMA has "systematically sabotaged all the efforts led by civil society on women's rights, be it at Parliament, in open forums, in local assemblies, etc..."*

The repression and violence in NWFP

The situation is particularly acute in NWFP, where the collusion between the religious groups and the local administration places women and women activists in a singularly vulnerable position. In 2001, the local government in accordance with political parties decided to deprive women of their electoral rights in 21 Union Councils of Swabi and Mardan districts, as well as in 34 Union Councils in Dir district for the upcoming elections, in contravention of both

Pakistan's Constitution, the existing laws, and Pakistan's international obligations: the federal government's reaction was a mild request to the NWFP government to *"talk to the concerned people in Dir to dissuade them from doing an illegal act"*¹³⁰.

The NWFP government has adopted the Sharia' Act in 2002, making religious Shari'a law enforceable in the province. It also plans to adopt the Hisba Bill, which would create a legal base for the establishment of a Hisba (accountability) department, similar to the Taliban's department for the Prevention of Vice and Promotion of Virtue; it would in effect set up a parallel legal, political and police system. A Hisba force (similar to a Vice Squad) is envisaged. The Bill cites 27 items to be placed under the functions of the Mohtasib (the head of the Hisba network), including "enforcing Islamic moral values at public places", "discouraging extravagance, beggary (...) and un-Islamic social norms", "prevention of indecent behaviour at public places". I.A. Rehman writes *"The proposed legislation gives the hisba network powers to enforce vague concepts (...). The hisba plan will bring into the streets vigilantes enjoying legal sanction to use violence on whoever is different from them. Laws based on belief are always liable to abuse because the freedom to interpret them is claimed by every individual"*¹³¹.

Women's NGOs also denounce the ease with which the blasphemy law (article 295-A, B, C of the PPC) can be used against anyone, and notably women, perceived to be "against religion". Working for women's rights is unfortunately sometimes perceived as such.

Cases of harassment and violence against women's NGOs in NWFP

On June 14, 2004, The News reported that a pamphlet had been circulating around Timergara in the previous days warning NGOs and their female workers to *"leave the area within one week otherwise they would be responsible for dire consequences after the deadline"*. The pamphlet was reportedly signed by an organisation, Al-Qaeda Khudkush, which accused these NGOs of *"violating the Islamic rules and the traditions of the area"*.

The Aurat Foundation, a nationwide women's organisation, has faced specific difficulties and obstacles in NWFP, unknown to its other regional offices. Rukhshanda Naz, director of the Aurat Foundation Peshawar Office, explains that they have had to face *"enormous resistance from all sides - the local political parties, the religious groups, the*

local authorities, the tribal representatives... The worst comes from the religious groups, who interfere daily with our work, and often with our private lives, and who sometimes go as far as denouncing us at the mosque during the Friday prayers"¹³². She recalls being regularly accused of defaming Islam, and of ruining the traditions and culture. Far from being the attack of a few, isolated, individuals, the system for victimising women and women activists appears well organised and systematic: a mullah would speak out against a women's NGO in the Friday prayer; soon after, all others would repeat it in their own sermons, followed by some Urdu newspapers - and eventually, by the government. Rukhshanda Naz has been personally threatened and insulted on several occasions, and her car was once chased in 2000, seemingly by religious militants. This forced Rukhshanda Naz to leave Peshawar for Lahore and Islamabad for a few weeks. She has now been forced to take extra security measures, both for herself and for the offices of the Aurat Foundation. Aurat has also had to conceal the location of their women's shelter. As recently as late July 2004, she got two anonymous phone calls at her residence, threatening her nephew: "we will hit".

The Aurat Foundation also denounces the progressive infiltration of JI members in all institutions in the province: universities, hospitals, social welfare office, the planning and development department within the provincial government, etc.

Khwendo Kor (KK) is another NGO working for children and women's development in remote areas of NWFP and FATA. It has faced tremendous difficulties in the past few years, such as systematic discrediting propaganda, religious verdicts (fatwas) against its female staff, life threats and bomb blast.

On 16 June 2004, the NGO's car was attacked on its way back from a regular supervisory visit at a community based girls school in Noor Musa Khel Narmi Khel in FR Bannu. Both the KK employee, Ms Bushra Wazir, and the driver, Mr Asgher, were wounded.

Several officials of KK have been personally threatened as they travelled to remote villages - which, they explain, acts as a *de facto* deterrent for all other activists. The head of KK has been subject to direct threats, and had to change her working plans. On 8 January 2004, their Karak office had been attacked by a bomb blast. In late July 2001, their office had already been damaged by a grenade thrown during the night. Though it caused no injuries, the office building was badly damaged.

2. Trade Unions

Although their plight is less visible on the international scene, Pakistani trade unions face severe hardship. Although Pakistan became a member of the International Labour Organization (ILO) in October 1947 and, to date, has ratified more than thirty ILO Conventions, including ILO conventions 87 (Freedom of Association and Protection of the Right to Organise Convention, 1948) and 98 (Right to organise and Collective Bargaining Convention, 1948), proper recognition of trade union activity only happened in 1961, by an amendment to the Trade Union Act of 1926. Recognition, however, was a double-edged sword, as the registration process entailed a great deal of government regulation which was used as a means of control; it allowed unions to be exposed to manipulation and harassment by government officials. The Industrial Relations Ordinance adopted in 1969 did recognise the rights of workers to establish and join associations, and collective bargaining and the right to strike were introduced for the first time; labour courts as well as the National Industrial Relations Commission were created. However, "the law seemed more motivated towards maintaining industrial peace than the promotion of the freedom of association. This is also reflected in the performance of the labour judiciary. Labour courts have, by and large, dealt with the relation of labour and management as prescribed by the law and have seldom referred to the larger issue of the freedom of association", writes Hina Jilani¹³³. Merging the Trade Unions Act with the Industrial Dispute Ordinance had the "merit", in the eyes of the government, to eliminate the specificity of trade union rights, as well as change the nature of "disputes", which became mere "grievances". This constant downgrading of trade union rights has been true since then.

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 (for instance, five members from each of the provinces are elected to the Senate to represent technocrats and different social sectors: trade unions have never been represented in the Senate under this provision (article 59(1)(d)) of the Constitution), the use of undue influence in union elections, added to a lingering feudal mindset and a mind-numbing slowness of labour courts, have traditionally weakened and factionalised trade unions in Pakistan. The blow of newly-adopted Industrial Relations Ordinance 2002 ("yet another of Musharraf's Black Laws", says a trade unionist) adds yet another obstacle to the free exercise of freedom of association and of trade union

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rights in Pakistan. Gulzar Ahmed Chaudhary, General Secretary of the All Pakistan Trade Union Federation (APTUF) writes that "since the military take-over, serious (including life-threatening) impediments have been placed in the way of those fighting for workers rights (...). As it is, workers in Pakistan are often intimidated when they try to organise any form of economic or political resistance; now their situation is substantially worse"¹³⁴.

All trade union activists interviewed by the FIDH concurred to say that the exercise of trade union activities has become much more difficult since Musharraf rose to power, but, as Bashir Buttar, President of the Railway Workers' Union explains, "Musharraf is much more subtle than, say, Zia, who just put trade unionists in jail. For example, what Musharraf does with civil servants, and particularly with railway unionists, is to transfer them 500 miles away from their homes - besides breaking up families and destroying the

*morale of the workers, it also makes it financially very hard for them, and it is also obviously designed to weaken the movement"*¹³⁵. Gulzar Ahmed Chaudhary points out that Musharraf has reneged on all the 39 labour law amendments agreed on during the tripartite labour conference held in 2001. Moreover, given that, according to the APTUF, 70% of the labour force in Pakistan have no appointment letters - a problem Musharraf has been unwilling to tackle -, it *de facto* limits the possibility of effective actions by unions.

It is also noteworthy that the National Industrial Relation Commission (NIRC) had no chairperson for three years, until Musharraf appointed Tanvir Ahmed Khan as chairman in 2003; the delay in the appointment can be viewed as another means to prevent the normal functioning of labour-related institutions. More generally, it is to be noted that the IRO 2002 does not provide for any specific role of the NIRC, which for all intents and purposes has become somewhat idle.

All this is to be added to an already very low-level of unionisation in Pakistan - approx. 3% of the total labour force:

Total Population	140 million
Total Labour Force	40.8 million
Male Labour Force	34.6 million
Female Labour Force	6.22 million
Urban Labour Force	12.6 million
Rural Labour Force	28.2 million
Employed Labour Force	38.4 million
Estimated Child Labour	3.3 million (1996 figure)
Organised Workers in trade unions	1 million
Registered trade unions	6,500

Source: All Pakistan Trade Unions Federation (APTUF), 2004

Unfortunately, the federal government is not the only one to impose curbs on labour and workers' rights. In accordance with the new Industrial Policy adopted by the government of Punjab in June 2003, factory inspections by labour inspectors have ceased in all Punjab factories, in contradiction with ILO Convention 81 ratified by Pakistan (as the NIRC chairman mischievously noted, "but Thatcher did the same thing in Great-Britain, and it never created such an uproar..."¹³⁶); a "self-assessment" scheme by industry owners has been introduced instead. Reports show that in September 2003, only 2.5 % of the industrial units in Lahore had filed declarations in compliance with the laws, in spite of a month's extension in the period allowed for the purpose. The NWFP government has reportedly also recently adopted the same policy.

The Industrial Relations Ordinance 2002

The IRO 2002 is a striking example of Musharraf's will to remain the ultimate decision-maker on policy, be it political or economic. He follows the long-standing will of Pakistani governments to marginalise trade unions, as is made evident from their absence in economic decision-making, or in planning emergency measures to support the affected sectors through the privatisation and/ or adjustment process. All consultative processes have now been reduced to almost nil, and dissenting voices are kept under tight control. "The IRO places enormous restrictions on the activities of trade unions (...). These curbs on the right to association means that trade unions, already functioning under huge restrictions, face still greater problems", according to the HRCP¹³⁷.

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The IRO 2002 contradicts the principles and rights enshrined in the Constitution of Pakistan, the ILO Conventions to which Pakistan is party, notably Conventions 87 and 98, and even the unanimous recommendations passed in the National tripartite Labour Conference held in 2001, in which it was agreed by the three parties (governments, workers and employers) to grant freedom of association to all workers except army and police.

Despite a complaint brought before the ILO Committee on Freedom of Association against the Pakistan government in 2002, and numerous recommended changes made by the ILO in June 2003, the Pakistan government has shown no will to modify the legislation.

The IRO does not apply to companies that employ fewer than 50 people - and many companies have been reported to divide production into units of less than 50 people in order to evade labour legislation; the IRO 2002 also only covers industrial workers and only those producing goods or services for sale. Many sectors are hence excluded and may not form unions or bargain collectively, in particular, and as specified by the 1952 Essential Services Maintenance Act (ESMA) and other texts:

- Agriculture
- Pakistan Mint
- Pakistan Security Printing Press
- Railway
- Fire Fighters
- Watch and Wards Staff
- Banking (through a modification of the Banking Ordinance 1986; section 27 B now provides that no worker can become member or officer of a trade union, even if s/he is retrenched from service)
- Karachi Electrical Supply Corporation (KESC)
- Water and Power Distribution Authority (WAPDA)
- Pakistan International Airlines (by Order of 2001)
- Export Processing Zones
- Education Institutions
- Hospitals
- Transmission or distribution of natural gas, liquid gas and petroleum products
- Seaport, airport and oil refinery
- Administration of State
- Old age institutions

Such a broad extension of the sectors prevented from forming trade unions constitutes a violation freedom of association. The ILO Committee of Experts on the Application of Conventions and Recommendations has condemned that

situation¹³⁸ and recalled that *"with the exception of the members of police and the armed forces, the right to organize should be fully guaranteed to all workers. It further considers that civilians working in military installations or in the service of the army or police should enjoy the rights provided for in the Convention. The Committee therefore requests the Government to amend its legislation so as to ensure the right to organize of all workers, with the only possible exception being the members of the police and armed forces"*.

In November 2001, the government amended the Civil Services Act to prevent public sector workers from appealing to the NIRC and labour courts against dismissal, and to prohibit any court intervention in such matters.

The IRO 2002 limits freedom of association even from the stage of registration of trade unions, as the requirement for registration is in itself restrictive. Wide powers are given to the Registrar of Trade Unions who can refuse or cancel a union's registration (sections 9 and 12). A registration may be cancelled by labour courts or the NIRC on complaint by the registrar. For instance, on July 8, 2003, a NIRC order declared that the registration of the State Bank of Pakistan (SBP) workers' union should be cancelled¹³⁹. Furthermore, if a union already exists in an industrial unit, any new one needs a certificate from the first one to operate - *"which is very cunningly used by the employers, who obviously rush to set up their own fake trade union, in order to prevent any other from forming"*, explains I. A. Rehman from HRCP¹⁴⁰.

In this regard, the ILO Committee of Experts on the Application of Conventions and Recommendations *"considers that the cancellation of trade union registration, in view of the serious and far-reaching consequences which dissolution of a union involves for the representation of workers' interests, would be disproportionate even if the prohibitions in question were in conformity with the principles of freedom of association. Consequently, the Committee urges the Government to amend section 39(7) of the IRO so as to ensure that sanctions for strike action may only be imposed where the prohibition of the strike is in conformity with the Convention and that, even in those cases, the sanctions imposed are not disproportionate to the seriousness of the violation"*¹⁴¹.

The IRO 2002 in its section 49 also restricts the right to seek interim relief from the NIRC against unfair labour practices, as it was available under the previous law. Furthermore, trade union representatives are imposed serious penalties for committing unfair labour practices, including the cancellation of the registration of the trade union and a ban to hold office,

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and/or a fine. The dissymmetry could not be starker: in a similar case, the employer is only required to pay a fine (section 65(2)).

Even more worryingly, under the IRO 2002, labour courts are empowered to grant financial compensation to wrongly terminated workers (12 to 30 months' wages) in lieu of reinstatement (which nonetheless remains available to the court, as per article 46(5)). This in effect simply annihilates trade union rights - as one can see no reason why an employer would want to keep a "troublesome" worker - e.g. a trade union representative. The Presidential Ordinance of 2001 (labelled the "hire and fire" ordinance) has been integrated in the IRO 2002, which allows employers to hire and fire workers at will. It also integrates labour law 2 A which prevents sacked workers to appeal to the NIRC.

The right of unions to get a staying order or an injunction from the NIRC has also been abolished by the IRO 2002.

Furthermore, the right to strike has been severely limited in the new law. The time limits before a strike may be called were increased in the IRO 2002, e.g. the period for bilateral dialogue, which went from 10 to 15 days; the conciliation procedure now lasts 15 days. The government also has the right to ban any strike that may cause "*serious hardship to the community or is prejudicial to the national interest*" (section 31(3)), or if it occurs in a public service utility (section 32). It may also put an end to any strike that has lasted more than 15 days (section 31(3)).

Violations of trade union rights, including threats, harassment and violence against trade union activists

Apart from the legal tools now at its disposal to severely limit trade union rights, including the deliberate delay of registration and a systematic use of section 144 of the PCC to prevent trade union rallies, the government has also systematically violated freedom of association through threats, intimidation, and arbitrary arrests. Trade union activists are routinely harassed and/or detained - for instance, Khurshid Ahmed, General Secretary of the All Pakistan Federation of Trade Unions (APFTU) was charged under article 3 of the MPO - though he was not arrested, and the case is ongoing. Trade unionists' families are often threatened to increase the pressure on trade union activists. This is particularly true of women activists, who face the added pressure of being accused of "bringing dishonour" to their families if they try to organise women labourers. Rubina

Jameel, President of Working Women's organisation (WWO), says that she is regularly accused by religious groups, as well as in some conservative media, of "corrupting women", of being "against Islam", because of her work in organising women workers¹⁴². "*Women activists face the triple hurdle of a conservative culture, which does not look positively on working women, of a repressive state, and of religious groups*", she says. In 2004, on May Day, WWO organised a rally - not only did they face immense problems to get the authorisation, which also contained restrictions as to the areas where the demonstrators would be allowed to march, but the police also used tear gas and batons against the participants.

Employers frequently use contract labour ("*the single biggest disease for workers in Pakistan*", according to Gul Rahman, of the Pakistan Workers' Confederation), as well as casual, temporary or home based labour to avoid unionisation among employees, besides avoiding having to grant them the benefits they would normally be entitled to, such as social security, pension funds, etc. According to the APTUF, 85% of employers do not ensure social security to their labourers. Employers (and this holds especially true for public companies) also make a routine use of transfers of personnel (notably trade union representatives) from one province to another, in an attempt to break up and undermine union activities. This method has been used with an almost uncanny regularity in the railways. Once again, the situation is also particularly acute in NWFP, because of the lack of industrial base for one, and because of the great number of Afghan refugees, which allows employers to have a very cheap, illegal labour force at hand.

The economic and social structures in Pakistan also create a climate in which there is a "*natural collusion between police and employers to prevent the implementation of labour laws*", says Rubina Jameel.

In a means to kill two birds with one shot, the journalists' trade unions, in particular the Pakistan Federal Union of Journalists (PFUJ), the Punjab Union of Journalists and the Tribal Unions of Journalists, are severely repressed, and their members are regularly harassed, threatened and summoned to cease all union activities. For instance, Makhdoom Bilal Aamir, journalist at News Network International (NNI) was harassed and victimised in June and July 2004 because of his union activities, both within the PFUJ and the NNI's workers unions; he had been particularly active in the campaign for the implementation of the 7th Wage Board decision¹⁴³.

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The situation in railways seems particularly acute. Trade union activists from the railway unions reported that as soon as Musharraf took power in 1999, he sent military personnel as vigilantes, in an apparent effort to curtail trade union activities; in May 2000, a "yellow union" was created.

Bashir Buttar, President of the Railway Workers' Union, explains he was threatened by the vigilante groups, and "strongly advised" to cease all trade union activities¹⁴⁴. On 17 May 2000, he was prevented from entering the premises of the factory, and, together with 5 other union office bearers, was suspended from his job. He was then made redundant; the employers called him in to say that he would be reinstated provided he ceases all trade union activities - which he refused. On 20 May 2000, he was arrested by the police at 11 pm on his way home from work, and charged with sedition, attempt to overthrow the government, notably under section 16 of the Maintenance of Public Order Ordinance. He spent one week in remand, was released on bail, and sentenced to 3 months (later reduced to 15 days on a technicality). He resumed his trade union activities, which led him to be dismissed again; he filed a lawsuit at the Pakistan Services Tribunal for unfair dismissal, and won his case, which led him to be reinstated. The government appealed the decision, and the case was still pending as of August 2004.

Early August 2004, a teacher working in an informal school near a brick kiln factory by the Wagah border received threats from the owner of the factory for having put up a poster on the right to organise. When he tried to file a FIR, the police reportedly harassed him as well.

On 1 May 2004, police detained 50 activists of the All Pakistan Federation of Labour in Quetta (Balochistan) for a few hours, on the grounds that they had violated section 144 of the PCC as they attempted to hold a May Day rally.

According to the APTUF, in April 2004 workers at ColorKing Printing Press in Lahore were prevented to form a union, and workers involved in the formation of the union were dismissed. The workers obtained a court order against the termination, which the employer chose to ignore. He reportedly told the labour department that these employees were not his. The case was still pending as of August 2004.

The President and General Secretary of the Pakistan Workers' Confederation and six other senior representatives were charged for taking part in a peaceful procession on September 17, 2003. On July 30, 2003, the General Secretary of the Railway Workers' Union, Mr Fazal-e-Wahid

was arrested in Lahore for holding a meeting at the Railway Workshop. He was later released on bail¹⁴⁵.

The ICFTU reports that the Liaquat National Hospital Workers' Union (LNHWU) has been prevented from registering as an official union since 2001. Their application has consistently been turned down by the Director of Labour in Karachi, where the hospital is based, on the grounds that the hospital is a charitable organisation - which it is not. Staff at the LNHWU has been subjected to harassment, unfair dismissals, and even torture. The LNHWU took their case to the Labour Court but were thrown out of the courtroom by police.

3. The specific issue of religious minorities

The issue of minorities is crucial in Pakistan, as it goes to the crux of Pakistani nationhood and its perception of self-identity. As a nation united around Islam (Article 2 of the Constitution of Pakistan provides "*Islam shall be the State religion of Pakistan*"), and article 41(2) provides "*a person shall not be qualified for election as President unless he is a Muslim*"), dealing with minorities - especially religious minorities - has always been a thorny issue for the successive Pakistani governments. But there has also been an element of political calculation, as the various governments have never hesitated to draw whatever benefit they could get by pandering to the more extremist Muslim groups through hammering on the "easy target" constituted by the minorities: "*Islam has been subverted for political purposes in this country*", says a Christian leader. The religious minorities are mainly the Christians (approx. 3 million, according to the government census), the Hindus, and the Ahmadis.

Although the Constitution of Pakistan, in its article 25 (1), guarantees equality for all citizens ("*All citizens are equal before law and are entitled to equal protection of law*"), and, in its article 5, provides that "*Adequate provision shall be made for the minorities to freely profess and practice their religions and develop their cultures*", these provisions have never been implemented in practice, and are contradicted by other provisions of the Constitution which undo these very guarantees.

Historically, things took a turn for the worse for minorities already under Zulfikar Bhutto who, under pressure from religious groups, declared the Ahmadis non-Muslim, and enacted a series of laws seriously limiting their freedoms of thought, expression and association. But the worse was to come under Zia Ul-Haq, whose avowed policy of Islamisation

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progressively fragilised the situation of minorities in Pakistan, and dangerously undermined fundamental rights of freedom of religion and expression, which have led to serious abuses against the country's religious minorities. Under Zia ul-Haq, the government spared no efforts to islamise Pakistan's civil and criminal law; in particular, the notorious Blasphemy Law and the Law of Evidence (Qanun-e-Shahadat), which discriminates both against non-Muslims and against women as to evidence, were adopted during his time.

On the issue of minorities too, Musharraf has been most disappointing. If he has to be commended for abolishing the separate electoral system in January 2002 through the Conduct of General Election Order 2002¹⁴⁶, it has to be noted Ahmadis are excluded from its remit. Furthermore, his alliance with the MMA prevents him from taking bolder steps to guarantee minorities their fundamental rights. It appears that in spite of a few positive steps, Musharraf's government is too beholden to the Muslim extremists to be able to take any serious action to guarantee minority rights. In effect, minority leaders acknowledge, not only has the situation not improved, but minorities are now also increasingly the target of local and provincial authorities, as well as of fundamentalist groups, who feel they have a free hand to oppress them at will, as explains a Christian leader: *"The pressure from the fundamentalists has definitely increased, and we feel the heat - meanwhile, the government does not move"*. Most Christians interviewed agree that the situation has taken a turn for the worse since 9/11, as the Christians become an easy target for anti-Bush activists, "because we are assimilated to Westerners". It further appears that pressure is put on judges and magistrates to free authors of violations against religious minorities¹⁴⁷.

Another religious minority leader adds that *"even the fact that Musharraf took the issue to the Council of Islamic Ideology and not to Parliament shows that for him, the issue is intra-Muslim - and there's the rub: they always have a Muslim perspective on non-Muslim issues, which is why the situation is intrinsically flawed"*¹⁴⁸.

Peter Jacob, of the Commission for Justice and Peace (CJP), summarises: *"All these combined elements have led to a demoralisation of the religious minorities, and a lack of will to participate in public affairs, as they are made to feel excluded from citizenship"*¹⁴⁹.

Forced conversions to Islam remain common.

Freedom of association is also subject to many restrictions. For instance, NGOs working on religious issues face

innumerable administrative hurdles to get registered. ICAN, a Christian group, reports having its registration accepted only in 1998 - though they had applied in 1989. Religious freedom is also limited through the obstacles imposed on the building of churches or non-Muslim religious worshipping places. The relevant text here is the Vacuous Property Act 1948. Building new churches is subject to the approval of the local deputy commissioner, who consults with the town planning, before handing his authorisation; this has in many instances either delayed or outright prevented the construction of churches. For instance, in the Shadbajh Settlement in Lahore, the Catholic Church has in the past 9 years applied for a permit to build a church, but reportedly due to the opposition of the nearby mosque, it has not yet been allowed, and Catholics have had to use a school hall for mass. Many churches have had to register as "community centres" in order to avoid the drastic limitations imposed on religious buildings. The CJP reports approximately hundred cases of land seizures of catholic graveyards since they started monitoring such events in 1997.

As for freedom of assembly, it does not fare much better, as religious minorities are routinely prevented from holding gatherings. On 20 July 2004, a march organised by the CJP in Rawalpindi faced considerable administrative obstacles before being allowed to take place, and got geographically limited to certain areas.

A Christian couple, Tanvir Jahan and Wajahat Masood, have been charged under section 144 of the Criminal Procedure Code because of a procession on human rights and democracy held on 10 April 2001 - as of August 2004, they were still awaiting trial.

The Damocles' sword of the Blasphemy Law¹⁵⁰

The Blasphemy Law consists of a group of laws, the centrepiece of which is section 295 of the PCC, which has been repeatedly condemned by national and international observers as severely contradicting freedoms of expression, of religion and of opinion. It was reinforced during Zia ul-Haq's regime. It has been used against NGOs, minorities, academics and journalists alike, in an often most arbitrary manner¹⁵¹.

Section 295-A provides up to ten years' imprisonment and a fine for those who had the *"deliberate and malicious intention of outraging the religious feelings of any class of the citizens of Pakistan, by words, either spoken or written or by visible representations insults or attempts to insult the religion or religious beliefs of that class"*.

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Section 295-B provides: "Whoever wilfully defiles, damages or desecrates a copy of the Holy Qur'an or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life".

Section 295-C provides: "Whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet (peace be upon him) shall be punished with death or imprisonment for life, and shall also be liable to fine." In 1990, the Federal Shari'a Court, where cases having to do with Islamic issues tend to be heard, ruled that "the penalty for contempt of the Holy Prophet (...) is death and nothing else", and on May 1, 1991, the death penalty became mandatory for persons convicted under 295-C. Section 295-C applies only to insults to Islam. The accused may be arrested without warrant, and he or she cannot get bail. Trial is before a session court; the judge is required to be a Muslim.

The law has recently been amended to the effect that a police officer, not below the level of a superintendent, should investigate the matter before a report is lodged and a case filed. However, all observers agree that the amendment is procedural rather than substantive, and that the abuses committed under the law are unlikely to disappear.

Section 298 is noteworthy in that it criminalises speech which does not represent a direct or immediate incitement to violence, discrimination or hostility. It prescribes a maximum term of one year's imprisonment, or a fine, or both, for anyone who "with the deliberate intent of wounding the religious

feelings of any person," utters any word or makes any sound or gesture.

Section 298-B is Ahmadi-specific and prohibits the "misuse" by Ahmadis of "epithets, descriptions and titles ... reserved for certain holy personages or places." It reads: "(1) Any person of the Qadiani group or the Lahori group (who call themselves `Ahmadis' or by any other name) who by words, either spoken or written or by visible representation (a) refers to, or addresses, any person, other than a Caliph or companion of the Holy Prophet (Peace be upon him), as `Ameer-ul-Mumineen,' `Khalifat-ul-Mumineen,' `Khalifat-ul-Muslimeen,' `Sahaabi' or `Razi Allah Anho';(b) refers to, or addresses, any person, other than a wife of the Holy Prophet (Peace be upon him), as Ummul-Mumineen; (c) refers to, or addresses, any person, other than a member of the family (Ahle-bait) of the Holy Prophet (Peace be upon him), as Ahle-bait; or (d) refers to, or names, or calls, his place of worship as Masjid; shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine".

Section 298-C provides further that: "Any person of the Qadiani group or of the Lahori group (who call themselves `Ahmadis' or by any other name), who directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representations or in anymanner whatsoever outrages the religious feelings of Muslims, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to a fine". It has been amended to provide death penalty for offenders.

Summary of Offences Relating to Religion

PPC	Description	Penalty
298A	Use of derogatory remarks etc., in respect of holy personages	Three years' imprisonment, or fine, or both
298B	Misuse of epithets, descriptions and titles etc., reserved for certain holy personages or places, by Ahmadis	Three years' imprisonment and fine
298C	An Ahmadi, calling himself a Muslim, or preaching or propagating his faith, or outraging the religious feelings of Muslims, or posing himself as a Muslim	Death penalty
295	Injuring or defiling places of worship, with intent to insult the religion of any class	Up to two years' imprisonment or fine, or both
295A	Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs	Up to ten years' imprisonment, or fine, or both
295B	Defiling, etc., of Holy Quran	Imprisonment for life
295C	Use of derogatory remarks, etc; in respect of the Holy Prophet	Death and fine

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The Blasphemy Laws are systematically used to impose curbs on freedom of expression and association¹⁵². *"Most of Pakistan's laws on blasphemy and other offences against religion unreasonably restrict speech and other forms of expression, including religious practices, in violation of internationally recognized rights of freedom of expression and religion. The laws also facilitate the detention of persons on vaguely defined charges of committing blasphemy or other religious offences"*, writes HRW¹⁵³. The minorities' freedom of expression is severely constrained, as no public display and no open practice of other religions is allowed - *"when we do, they accuse us of proselytism!"* says a Christian leader. Religious minorities also have less access to the media to relay their concerns and preoccupations. According to minority leaders, more than 2000 cases have been filed under the Blasphemy Laws targeting the religious minorities. Benazir Bhutto during her rule approved two amendments to the penal code designed to reduce the abuses of Section 295, but in effect very little change occurred. Musharraf suggested mild changes to the blasphemy law in April 2000, but withdrew them under pressure from religious elements the following month.

Furthermore, blasphemy accused are often victimised and subject to *"public infuriation, hate and religious intolerance"*¹⁵⁴ even when acquitted.

Fear, harassment, violence¹⁵⁵

Minorities and minority groups are often subject to threats, harassment, and violence. Both CLAAS and the CJP report receiving phone threats, intimidating visits both by police officials and members of religious groups, see their mail opened, and are threatened with the censorship of their publication - while having no protection from the authorities. They live in constant fear, aggravated by the intrinsic bias of the authorities and the courts in favour of Muslims, which leads to a virtual impunity of authors of violence against religious minorities. Religious minorities often have to rely on international pressure, through the Western embassies, to be afforded some protection. It seems that assaults have gradually shifted from attacks on institutions to attacks on individuals. Even when outright violence is not exerted, the climate of insecurity and repression is such that members of religious minorities do not dare speak out and impose severe self-censorship. A Christian academic explained that he decided not to write a theological article on the sacrifice of Abraham because of his fears that it could come under the Blasphemy Law¹⁵⁶.

Joseph Francis, head of CLAAS, a NGO specialised in legal aid for religious minorities, has since 9/11 numbered 9 attacks on Christian institutions, 52 Christians killed, and 262 seriously injured. According to CLAAS, only 2 of these cases have led to prosecution and conviction of the perpetrators.

For instance, **on 28 July 2004**, in Wah, a Christian family was accused of having thrown a Qur'an away; a Muslim demonstration of hundreds of people gathered in front of their homes. When the police arrived, they arrested the Christian family, charged them under article 295-B of the PPC (which carries life imprisonment). Under pressure from minority groups and the media, the family was released, though *"strongly advised"* by the police to move out of town, as *"they could not guarantee them protection and security"*. The family moved out.

On 27 July 2004, a group called Zarb-e-Momin set fire to the house of a well-known pastor, Rev. Khalid Soomro. He had previously been warned by that group to "repent" and return to Islam.

On 3 July 2004, a Christian in jail on blasphemy charges got killed by the policeman in charge of his protection.

On 16 May 2004, Pastor Wilson Fazal, resident of Kili Deba, Quetta, was abducted on his way to PGA Church in Bashirabad, Quetta. He had previously received threatening letters, and letters accusing him of blasphemy.

Sajid Ishaq, Director, Islamabad Rozgar Markaz, describes how he was threatened and verbally attacked after a press conference he held on religious minorities' issues in Islamabad **on March 19, 2004**. A week after the press conference, he got arrested by the police in his car; they demanded that he hand them over his vehicle, which he refused. The matter eventually got dropped.

On 25 December 2003 (Christmas day), a bomb was thrown on a church at Chianwali in Daska, Sialkot, killing two girls and injuring 18 individuals. The perpetrator of the attack was released on a mere Rs. 30,000 bail¹⁵⁷.

In September 2003, in the district of Rahim Yar Khan, a Hindu boy, Sultan Ram, was killed. In August 2004, nothing had been done to find the perpetrators of the crime.

On 4 October 2002, a Christian hospital in Bannu was attacked with a grenade.

On 25 September 2002, an individual claiming to be from Al-Qaeda came to the CLAAS headquarters in Lahore, asking to see Joseph Francis. The office had to close for two days. The intimidation does not stem only from religious extremists: CLAAS reports receiving the visit of ISI and Special Branch members regularly, reportedly every three or

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four months, asking questions about the funding, demanding the registration papers, etc. The mail usually arrives open, and it seems that their emails are also monitored. The Muslim staff is also regularly intimidated and threatened as being anti-Muslim for "helping the Christians".

On 25 September 2002, the office of the Committee for Justice and Peace in Karachi was attacked by two unidentified gunmen, killing 7 people. No arrest was made.

On 17 March 2002, a church was attacked in Islamabad.

Twice, **in 1999 and 2002**, the CJP was prevented from sending out his publication to its subscribers, on the grounds that it contained "anti-state elements". Peter Jacob also reports regular visits to the CJP Gujrat and Hyderabad offices by military intelligence in the course of 2003, inquiring about the group's activities.

The case of Ahmadis - shunned and persecuted

The Ahmadis are perhaps the single most targeted group in Pakistan, for whom the denial of freedom of expression, of religion and of association is near complete. The Ahmadis (a community numbering around 3 million today in Pakistan, and 80 million around the world) were declared non-Muslims by Prime Minister Bhutto in 1974¹⁵⁸. It has to be emphasised that Ahmadis do consider themselves as Muslims, and observe Muslim practices as part of their religion.

Zia ul-Haq proclaimed Ordinance XX in 1984, which amended the Pakistan Penal Code: it added the two sections 298B and 298C, two Ahmadi specific provisions (see above) which further restricted their freedoms of religion and of expression. An estimated 2000 cases have been brought against Ahmadis under the Blasphemy Law since its adoption; more generally, approximately 4000 Ahmadis have been prosecuted under various laws because of their faith¹⁵⁹. The laws clearly violate internationally recognised standards of freedom of religion and freedom of expression. The political and religious context in Pakistan also means that the police and the judiciary preferably side with accusers in blasphemy cases rather than with Ahmadi defendants, however little evidence is presented, for fear of retaliation - just as they tend to be biased in favour of authors of anti-Ahmadi violence against their victims. It is a fact that the perpetrators of such violence have very seldom been prosecuted. In effect, there is virtual impunity for anti-Ahmadi criminals.

The Ahmadis are not allowed to have public places of worship, and are thus confined to their homes for their worship. They

have a newspaper, which they are only allowed to circulate among paid subscribers, and which does not have the right to promote their faith, be it directly or indirectly.

Freedom of assembly is also restricted. For the past several years, the Ahmadis have been prevented from holding their annual meeting.

The Conduct of General Election Order 2002, by which a joint electoral system was adopted, excluded Ahmadis from its remit, and their names have been transferred to a list designated as "non-Muslim", comprising Ahmadis only. The requirement that they produce a sworn statement regarding religion has been maintained.

The Ahmadis are also discriminated against in education, in civil service, and in professional opportunities; when applying for a Pakistani passport, one has to pledge to not being an Ahmadi. Ahmadis are prevented by law (the only such group in Pakistan) from marrying a Muslim, and have to produce a certificate of conversion if they want to marry a Muslim.

It has to be added that the anti-Ahmadi politics extend to supporters of the Ahmadi cause: human rights defenders or journalists who advocate their rights have also been subjected to threats and harassments.

Raja Ghalib, of the Ahmadi movement, explains that "*Musharraf reneged on his early promises to guarantee the rights of religious minorities in Pakistan; he needs the clergy too much to dare make any significant move*"¹⁶⁰.

The report on *Persecution of Ahmadis in Pakistan during 2003*¹⁶¹ notes some worrying trends, such as the fact that Ahmadis facing charges on the basis of their faith were 376% more than in 2002, that "*officials took unabashed action against Ahmadi individuals and institutions and (...) the mullah enjoyed great freedom in anti-Ahmadi agitation*"¹⁶².

On 17 July 2003, Brigadier Iftikhar Ahmad, a well-known Ahmadi, was shot dead by three assailants at lunch time at his home.

On 26 June 2003, Suleman Ahmad, under 18, was arrested and detained for propagating the Ahmadiya faith and posing as a Muslim, by a leader of the Tehrik-i-Khatm-i-Nabuwat (TKN), Qari Mahmood, who lodged a FIR against him. S. Ahmad was charged under 298-C and faces 3 years' imprisonment. The bail application had been dismissed by the district and session judge, arguing that bailing him would

amount to breaching law and order. When he challenged this decision before the Peshawar High Court, over a dozen of TKN activists were present in the Court room. The High Court declared that the 17 year-old boy should be released after furnishing two sureties of RS 100 000 each¹⁶³.

On 25 February 2003, Mian Iqbal Ahmad, lawyer, and district president of the Ahmadi community in Rajanpur, was killed in his home office. No arrest had been made by December 2004.

These examples illustrate a pattern of persecution against minorities (especially Ahmadis) through threats, violence and judicial harassment, by both officials and extremist religious groups. That persecution, combined with a virtual impunity for non-state actors perpetrators, blatantly violate international human rights standards on freedom of religion and prohibition of discrimination.

Some of those patterns had already been denounced by the UN Special Rapporteur on freedom of Religion in a 1996 report on Pakistan, where he stated that *"in many cases the administration of justice is hindered, especially through pressure brought to bear by crowd demonstrations organized by religious extremists (...) Members of minorities are also reported to be frequently exposed to aggressions, threats or even murder by religious extremists. In many cases, the police reportedly failed to take the necessary security measures or to undertake investigations against or prosecute those responsible"*¹⁶⁴. He added that *"religious extremists through their activism aim to dominate society, subjecting it to a climate of intolerance and sometimes insecurity, as appears from the serious violations of human rights (aggressions, threats, assassinations, etc.)"*¹⁶⁵.

The Special Rapporteur considered that Pakistani legislation constitutes a factor of intolerance and discrimination, especially the blasphemy law. He notably concluded that *"there is a need to change or even to abrogate some existing laws or parts of them"* - and notably the Blasphemy law- and that *"the authorities should check that Hudood ordinances are compatible with human rights"*. He also requested that *"the authorities in all circumstances ensure the serene operation of justice by protecting the courts from the pressures of demonstrations and crowds"*.

The FIDH considers that the Pakistani authorities have not implemented properly those recommendations, which are still fully valid.

4. Political parties

The Article 17(2) of the Constitution of Pakistan provides: *"Every citizen not being in the service of Pakistan, shall have the right to form or be a member of a political party, subject to any reasonable restrictions imposed by law in the interest of the sovereignty or integrity of Pakistan and such law shall provide that where the Federal Government declares that any political party has been formed or is operating in a manner prejudicial to the sovereignty or integrity of Pakistan, the Federal Government shall, within fifteen days of such declaration, refer the matter to the Supreme Court whose decision on such reference shall be final."*

In spite of this article of the Constitution, there is little doubt that political parties - especially the moderate, secular ones, are in the line of fire of Musharraf, who sees them as a direct threat to his hold on power. He has therefore been even harsher in repressing political parties than either NGOs or trade unions. *"One of the most pressing human rights abuses since the military coup in 1999 concerns the harassment of political opponents in an effort to quash dissent"*, writes the HRCP¹⁶⁶. This has meant using all means - legal, judicial, administrative (such as a stunningly massive use of section 144 of the PCC, of the MPO), through media or through outright violence (typically, harassment of party leaders) - to discredit them, prevent them from functioning, and bar them from holding office. The irony is that, while promising "true democracy", Musharraf has actually done everything to undermine the already fragile multi-party system in place in Pakistan. This attempt has been greatly helped by the lack of independence of the judiciary, and an increasing pressure put on the Elections Commission.

Musharraf has revived the traditional military diffidence against political parties - accusing them of being corrupt and serving only narrow or private interests - as compared to a supposedly "pure", army serving the general interest of the people of Pakistan. Without judging the level of party corruption, there is little doubt that the army's record to date does not put it in the position to administer moral lessons on this issue.

The two main democratic parties, the Pakistan People's Party (PPP), led by Benazir Bhutto, and the Pakistan Muslim League, Nawaz faction, (PML-N), of ex-PM Nawaz Sharif, have - logically enough - been hardest hit in this campaign. In July 2002, Musharraf had issued Chief Executive Order n° 19, ("Qualification to Hold Public Offices Order", 2002), barring anyone who had served two terms as Prime Minister from

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holding the position again - this applied to both Benazir Bhutto and Nawaz Sharif. Another executive order, the Political Parties Order 2002, added another obstacle, as individuals who had failed to appear before courts (absconders) were prevented from running for Parliament. This was the case with Benazir Bhutto, who was hence twice disqualified for running.

The FIDH considers that such moves to disqualify Musharraf's main opponents directly violate Article 21 of the UDHR, which provides for the right to free and fair elections: *"Everyone has the right to take part in the government of his country, directly or through freely chosen representatives (...) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures"*.

It has to be noted that Article 25 of the ICCPR (not ratified yet by Pakistan) includes an equivalent protection. It has been interpreted by the UN Human Rights Committee as meaning that *"any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation. No person should suffer discrimination or disadvantage of any kind because of that person's candidacy. States parties should indicate and explain the legislative provisions which exclude any group or category of persons from elective office"*¹⁶⁷.

Propaganda is routinely used against opposition parties - with the PPP and the PML-N obviously suffering the brunt of the government's efforts, though these do not spare smaller parties either. As noted earlier, the government does not hesitate to use the media for narrow political purposes, as was blatantly the case in the 2002 elections campaign, in contravention with applicable legislation¹⁶⁸.

In that regard, it should be recalled that the UN Human Rights Committee has stated that *"in order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. It requires the full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the Covenant,*

*including freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas"*¹⁶⁹.

Opposition parties are impeded at every stage, as everything is done to discourage them from rallying their members and being active. Using section 144 of the PCC has become like a second nature for the federal and provincial governments, and when authorisation is given to hold a rally, it is *"always a last-minute, oral agreement, which they can revoke at any time since they never commit to anything in writing"* explains Tariq Farooq, from the Labour Party of Pakistan. A case was registered against Tehrik-e-Insaf leader Imran Khan in December 2003 for staging a rally to launch the party's mass contact campaign without prior permission. In September 2003, cases were lodged against 150 activists of the Jamhoori Group, a coalition of several opposition parties including the PML-N and the PPP, for protesting against the conduct of run-off polls held for offices in the Ravi Town Council.

In November 2003, leaders of the PML-N were held on charges of speaking out against the government and president Musharraf, even though it did not constitute a violation of the country's laws. Further, PML-N and PPP members have reported being harassed and bribed in an effort to coerce them to switch over to the government camp.

FIRs are filed on a quasi-permanent basis; for instance, 14 different FIRs have been filed against Senator Baloch, of the Balochistan National Party, on various charges, such as of sedition, betrayal etc. He analyses all these FIRs as a means to intimidate him: *"They just sit on them and bring them out whenever they want, when they feel they need to silence you"*, he says. He says the situation has *"definitely worsened for opposition parties, and for regional parties, in the last three years, especially as the government has a clear policy to support the religious groups"*¹⁷⁰. Tariq Farooq, of the Labour Party of Pakistan (LPP), also reports having approximately 10 FIRs registered against him, essentially for organising demonstrations and rallies. Political activists are threatened and harassed, administrative obstacles are systematically set up to prevent rallies or meetings, political activities are closely monitored by government and intelligence agencies...

The situation is harshest on the eve of elections, such as the 2002 parliamentary elections, or the 2002 referendum. Tariq Farooq says that during a rally on 20 April 2002 (in view of the

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referendum, held on 30 April), he was arrested with 17 others before the rally took place, and charged with disrupting the public order. The trial had yet to start in August 2004. On 7 April 2003, he was also arrested in Okara district by Rangers, supposedly because a no-entry order had been emitted against him; he was detained for a few hours, then expelled of the district. He had already spent two weeks in jail in March 2001, because of an Alliance for the Restoration of Democracy (ARD - coalition of pro-democracy parties, of which the LPP used to be a member) meeting, and during which approximately 40 people got arrested. Tariq Farooq has personally on several occasions received death threats, notably by police officers.

Even the MMA has, ironically enough, been subject to restrictions of freedom of assembly and association: a MMA march was for instance banned in Karachi on 12 July 2004. Liaqat Baloch, of the JI and deputy secretary general of the MMA, was detained in November 2001 for a month for having delivered a speech denouncing the alliance with the US; he had already been charged under the Anti-Terrorism Act in April 2001 for a demonstration in Quetta, Balochistan. He has not been called back in court since, but, he adds, "*the government uses these cases as a sword of Damocles, to press trial when convenient*"¹⁷¹. Late 2001, the MMA leader for NWFP, M. Rahman, was put under house arrest for three months, under section 13 of the MPO Act and the Anti-Terrorist Act.

Smaller parties have been targeted too, especially when they represent nationalist aspirations (such as the Balochistan National Party), or when they go against the established social system in Pakistan, such as the LPP.

Sardar Akhatar Mengal, former Chief Minister of Balochistan, had to flee the country as an arrest warrant was issued against him and 12 other BNP politicians. Just in the course of 10 or 15 days in late July, early August 2004, around 280 BNP workers were arrested in Balochistan.

This situation is made worse by the fact that the regional media is closely monitored by the government, through the Director of Public Relations (DPR), who is directly accountable to the provincial government.

Recent cases of harassment and violence against opposition party activists

21 December 2004

Violent crackdown by the police on Pakistan People's Party activists, who had assembled at the Islamabad airport to welcome Asif Ali Zardari, the

husband of former Prime Minister Benazir Bhutto, on his first visit to Islamabad after his release a month earlier from eight years of detention on charges ranging from corruption to murder - charges which he denies.

17 October 2004

50 political and civil activists are charged with sedition against the State by the police after they hold a protest at the Lakhi Gate Tower Chowk in Shikarpur district (Sindh province). The protesters are accused of "inciting the people against the provincial and district administration and spreading hatred against the government", under Section 24-A, 341, 147, 149, 34 of PPC.

2 August 2004

40 PPP activists in Sialkot are harassed.¹⁷²

20 July 2004

Four PML-N activists are arrested.¹⁷³

10 July 2004

The residence of the vice-chairman of the Jeay Sindh Muttahida Mahaz, Khalil Ahmad Khaskheli, is raided by police.

7 July 2004

Arrest warrants are issued against 20 PML-N leaders in Sukkur.¹⁷⁴

5 July 2004

85 party activists of the Baloch National Party are arrested in Quetta on charges of treason.¹⁷⁵

5 July 2004

In Bahawalpur, police arrest PPP defeated candidate Iftikhar Ahmed Cheema and ten other PPP activists, under sections 148, 149 and 324 of the PPC.¹⁷⁶

4 July 2004

Arrest warrants are issued against 10 PML-N activists in Rawalpindi for disturbing law and order during a rally on Kashmir in Raja Bazaar.¹⁷⁷

26 June 2004

100 PPP workers are arrested after a clash with the police in Lahore.¹⁷⁸

23 June 2004

7 PPP workers are held for stopping Shaukat Aziz' (the prime minister) convoy.¹⁷⁹

20 June 2004

35 PPP workers are arrested in Karachi during demonstrations protesting against the murder of party leader Munawar Suharwardi.¹⁸⁰

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16 June 2004

Mazdoor Kisan Party (MKP) President Fatehyeb Ali Khan is arrested and charged under section 3 of the MPO, before a speech at Peshawar Press Club. He had been protesting against the eviction of farmers by some landlords. He was later banned from NWFP.¹⁸¹

12 June 2004

Several PPP activists, including district secretary general Tathearul Hassan, are taken into custody in Bahawalpur as they attempted to stage a demonstration at Fowara Chowk. They were released the next day.

14 May 2004

300 PML-N activists are charged under the Anti-Terrorism Act.¹⁸²

13 May 2004

Several ARD leaders are arrested.¹⁸³

10 May 2004

By now, 1500 PML-N activists are reported arrested throughout Punjab.¹⁸⁴

9 May 2004

More PML-N activists are arrested in Lahore. Approximately a thousand party workers are reported taken into custody throughout the province. The same day, the PML-N political secretary to Shahbaz Sharif, Sheikh Aftab Ahmed, is arrested in Lahore.¹⁸⁵

7 May 2004

A massive crackdown on PML-N activists is conducted in Lahore as the Punjab Home Dept issues over 500 blank orders under section 3 of the Maintenance of Public Order Act, which allows for detention of up to 90 days, prior to the return of the party chief, Shahbaz Sharif (brother of ex-prime minister Nawaz Sharif) from 4 years' exile.

In Rawalpindi, a raid is conducted on the residence of Siddiqui Farooq, the central information secretary of the PML-N. He is put under house arrest for 90 days. Another raid is conducted at the residence of ex-MPA (Member of Provincial Assembly) Sarfadar Muhammad Naseem. The former PML-N candidate Malik Shakeel Awam is served a 90-day detention order.¹⁸⁶

5 May 2004

PML-N activists are arrested and harassed in raids in Multan. The largest raid is conducted at the residence of the party's acting President, MNA (Member of National Assembly) Makhdoom Javed Hashmi. That same day, section 144 of the PCC is imposed throughout Lahore by the district Nazim Mian Amer Mehmood for 7 days¹⁸⁷. That same day, police raids the residence of Naveed Hussain, the former Vice-President of Lahore, MSF-N.

2 May 2004

Lahore police besieges the residences of PML-N leader Saad Rafique and other activists.¹⁸⁸

1 May 2004

A protest is held in Jacobabad, which leads to FIR being filed against 40 people, including PPP leaders, under section 33/64, 324, 435, 332, 334, 440 and 427 of the PPC.¹⁸⁹

17 April 2004

Police uproots a PML-N camp set outside the district court in Gujranwala.¹⁹⁰

15 April 2004

Two PML-N activists are arrested in Lahore for blocking the road and making "anti-government" speeches.¹⁹¹

15 April 2004

Seven leaders of the PML-N, the JUP (Jamiat Ulema-i-Pakistan), and the MJAHP (Mutahida Jamiat Ahle Hadith Pakistan) are detained while trying to rally against Javed Hashmi's (PML-N's acting president) conviction in Sheikhpura. They are later released.¹⁹²

14 April 2004

40 PML-N workers are arrested in Lahore in various raids. The party had announced its intention to start a 10-day long campaign, including protest meetings and rallies. 4 more PML-N activists were later arrested in a protest to condemn the conviction of Javed Hashmi, to 23 years in prison.¹⁹³

13 April 2004

The leader of the Alliance for the Restoration of Democracy (ARD), Makhdoom Javed Hashmi, detained on 29 October 2003 and accused of defaming the military, is sentenced to 23 years in prison. The basis of the charges against Hashmi regarded a letter he read out at a press conference; the letter, allegedly written by unnamed military officers, questioned army involvement in national politics and called for an inquiry into the Kargil episode of 1998.¹⁹⁴

21 March 2004

Council member Nusrat Hussain Mirani is sentenced to 6 months prison for staging a sit-in with other PPP activists in Lab-i-Mehran (Sukkur) two years earlier.¹⁹⁵

19 March 2004

Non-bailable arrest warrants are issued in Lahore against PML-N leaders and activists, including ex-MNA Inamullah Khan Niazi and Khawaja Salman Rafiq, for staging an "anti-government" protest.¹⁹⁶

12 March 2004

A FIR is filed against PPP MNA Manzoor Wassar and 250 PPP activists in

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Khairpur.¹⁹⁷

24 February 2004

A FIR is filed in Islamabad against 25 politicians, leaders of several opposition parties, for defying section 144 of the criminal Procedure Code and addressing a public rally organised by PONM (Pakistan Oppressed Nations Movement) outside the Parliament lodges. The case is filed by Assistant Commissioner Mahmood Chohan.¹⁹⁸

9 February 2004

The News reports that two PPP parliamentarians, former National Assembly Speaker Syed Yousaf and Raza Gilani, are not allowed to attend a meeting of the Central Executive Committee to be held in Dubai on 20 February: the National Accountability Bureau has placed their names on the Exit Control List.

108. See Hina Jilani, *Human rights and democratic Development in Pakistan*, Rights and Democracy, Montreal.

109. *Dawn*, 09.03.04.

110. See HRCF, *Report on the State of Democracy in Pakistan*, 2004.

111. FIDH interview, August 2004.

112. A governmental body in charge of collecting taxes.

113. PCP, Enabling Environment Initiative, *Towards a Policy for the Nonprofit Citizen Sector*, December 2002, p. 9.

114. *Karachi Dawn*, 02.01. 2004.

115. *The News*, 15.05.04.

116. *The News*, 18.05.04.

117. www.pcp.org.pk. Its funding sources are reportedly the Aga Khan Foundation, US-Aid, then the Asian Development Bank, Sida, the EU, and corporate contributors.

118. FIDH interview, August 2004.

119. Irfan Mufti, on behalf of the Pakistan NGO Forum (which consists of provincial NGO coalitions, namely the Balochistan NGOs Federation (BNGOF), Sarhad NGOs Ittehad (SNI), Sindh NGOs Federation (SINGOF), Punjab NGOs Council (PNCC) and Coalition of Rawalpindi, Islamabad NGOs (CORIN)), *Comments on PCP NPO Certification Model*, 2004, p. 3.

120. Irfan Mufti, *Comments on PCP NPO Certification Model*, 2004, p. 1.

121. As of November 2004, the members of the Certification Panel were:

1. Dr. Humayun Khan, Peshawar

Chairperson Certification Panel

Rtd. Foreign Secretary, Ex-Chair Common Wealth Foundation

2. Mr. Shamim Ahmad Khan, Islamabad

Former Chairman, Securities & Exchange Commission of Pakistan

3. Ms. Bushra Gohar, Peshawar

Director Human Resource Management & Development Centre

4. Dr. Qurat-ul-Ain Bakhteari, Quetta

Chairperson Institute of Development Studies & Practice

5. Mr. Arshad Saeed, Islamabad

Former Director, Shell Pakistan Ltd.

6. Dr. Rashida Ikhlaq, Karachi

Consultant Administrator, Lady Dufferin Hospital

7. Chief Director Tax Operations, Central Board of Revenue

8. Chairman, National Council for Social Welfare (NCSW), Ministry of Women Development, Social Welfare & Special Education

122. Irfan Mufti, *Comments on PCP NPO Certification Model*, 2004, p. 2.

123. FIDH interview, August 2004.

124. HRCF, Press release, "HRCF fears honour killing bill will bring little change", 26 October 2004.

125. FIDH interview, August 2004.

126. Pakistan ratified CEDAW in 1996. One of the major reservations is the umbrella declaration that Pakistan would not implement any law that would contradict the Constitution of Pakistan as amended - now, given the amendments passed notably under Zia ul-Haq in 1985, this reservation "in effect annuls the ratification itself", says Tahira Abdullah.

127. Approx. 110 000 euros.

128. FIDH interview, August 2004.

129. PNF, Open Letter on women's NGOs in NWFP, 16 August 2001.

130. See Aurat Foundation and Citizen's Campaign for Women's Representation in Local Government, *Gross Violations of Women's Electoral Rights in Swabi, Mardan and Dir*, NWFP, June 2001.

131. I.A. Rehman, *Look at the Hisba Bill now*, HRCF paper, November 2003.

132. FIDH interview, August 2004.

133. Hina Jilani, *Human rights and democratic Development in Pakistan*, Rights and Democracy, Montreal.

134. Gulzar Ahmed Chaudhary, *Workers situation and trade union movement in Pakistan*, APTUF working paper, 2003, p. 4.

135. FIDH interview, August 2004.

136. FIDH interview, August 2004.

137. HRCF, Annual Report 2003, p. 203.

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138. "The Committee further notes with regret that, according to section 1(4) of the IRO, workers employed in the following establishments or industries are excluded from its scope: installations or services exclusively connected with the armed forces of Pakistan including Ministry of Defence lines of the railways; Pakistan Security Printing Corporation or the Security Papers Limited or Pakistan Mint; administration of the State other than those employed as workmen by the railways, post, telegraph and telephone departments; establishment or institution maintained for the treatment or care of sick, infirm, destitute and mentally unfit persons excluding those run on a commercial basis; institution established for payment of employees' old-age pensions or for workers' welfare; and members of the watch and ward, security or fire service staff of an oil refinery or of an establishment engaged on the production, transmission or distribution of natural gas or liquefied petroleum products or of a seaport or an airport. The Committee also understands from the APFTU's statement that the Government has not lifted the ban on trade union activities at the Karachi Electric Supply Company", Individual Observation of the Committee of Experts on the Application of Conventions and Recommendations concerning Convention No. 87, Freedom of Association and Protection of the Right to Organise, 1948 - Pakistan (ratification: 1951), published in 2004.

With regard to Convention 98, the Committee notes "serious discrepancies between national legislation and the Convention on the following points: Denial of free collective bargaining in the public banking and financial sectors (sections 38-A to 38-I of the Industrial Relations Ordinance (IRO), 1969). The Committee had noted that other categories of workers are also deprived of the rights provided for in the Convention (public servants of grade 16 or above, public servants in forestry, railways, hospital workers, postal service employees and civil aviation employees). (...) The Committee recalls that only the armed forces, the police and public servants engaged in the administration of the State can be excluded from the guarantees of the Convention and asks again the Government to take measures in order to bring the legislation in conformity with the Convention", Individual Observation of the Committee of Experts on the Application of Conventions and Recommendations concerning Convention No. 98: Right to Organise and Collective Bargaining, 1949 - Pakistan (ratification: 1952), International Labour Conference, 91st Session 2003, p 382.

139. ICFTU, *Annual Survey of Violations of Trade Union Rights*, Pakistan, 2004.

140. FIDH interview, August 2004.

141. Individual Observation of the Committee of Experts on the Application of Conventions and Recommendations concerning Convention No. 87, Freedom of Association and Protection of the Right to Organise, 1948 Pakistan (ratification: 1951), published in 2004.

142. FIDH interview, August 2004.

143. See IFJ Press release, *IFJ outraged over harassment of union leader in Pakistan*, 2 August 2004.

144. FIDH interview, August 2004.

145. See ICFTU, *Annual Survey of Violations of Trade Union Rights*, Pakistan, 2004.

146. Until then, under the Separate electorate system, minority members would enroll on a particular list of voters depending on the community they belong to. Religious minorities were allowed to vote for a limited number of seats reserved for their communities: 10 out of 217 in the National Assembly and 23 out of 483 in the 4 Provincial Assemblies.

147. See CLAAS, *Annual Report*, 2001 and 2002.

148. FIDH interview, August 2004.

149. FIDH interview, August 2004.

150. This section draws upon Human Rights Watch, *Persecuted Minorities and Writers in Pakistan*, 19 September 1993, vol. 5, number 13.

151. Sections 296 and 297 of the penal code describe related offences and are punishable with imprisonment for up to one year.

152. See Akhbar S. Ahmed, *Pakistan's Blasphemy Law : Words fail me*, 19 May 2002.

153. Human Rights Watch, *Persecuted Minorities and Writers in Pakistan*, 19 September 1993, vol. 5, number 13.

154. Daily Times, "Most blasphemy accused are victimised", 5 December 2004.

155. For a complete report, see Human Rights Monitor, *A report on the situation of minorities in Pakistan*, reports for 2001, 2002-03 and 2004.

156. FIDH interview, August 2004.

157. Approx. 412 euros.

158. Constitution, 2d amendment Act, 1974, Act XLIX.

159. See *Summary of cases instituted against Ahmadis in Pakistan*, from April 1984 to April 2004.

160. FIDH interview, August 2004.

161. <http://www.thepersecution.org/nr/2003/y2003.html>

162. *Persecution of Ahmadis in Pakistan during 2003*, p. 5.

163. See *Dawn*, 6 and 8 September 2003.

164. E/CN.4/1996/95/Add.1, 2 January 1996, paras 65 and 66.

165. *Ibid.* para 73.

166. HRC, *Report on the State of Democracy in Pakistan*, 2004, p. 13.

167. General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25), 12/07/96, para 15.

168. See Azmat Abbas, *Print Media and Political Parties - Elections 2002*, Journalist Resources Centre Publications, 2003.

169. General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25), 12/07/96, para 25.

170. FIDH interview, August 2004.

171. FIDH interview, August 2004.

172. *Dawn*, 03.08.04.

173. *Dawn*, 21.07.04.

174. *The News*, 07.07.04.

175. *Dawn*, 05.07.04.

176. *The News*, 05.07.04.

177. *Dawn*, 04.07.04.

178. *Rawalpindi News*, 26.06.04.

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179. *The News*, 23.06.04.
180. *The News*, 20.06.04.
181. *The Nation*, 16.06.04.
182. *Rawalpindi News*, 14.05.04.
183. *The Nation*, 13.05.04.
184. *Dawn*, 10.05.04.
185. *The Nation*, 09.05.04.
186. *Rawalpindi News*, 07.05.04.
187. *Rawalpindi News*, *Daily Times*, 5.5.04.
188. *Dawn*, 02.05.04.
189. *Karachi Dawn*, 03.05.04.
190. *The News*, 17.04.04.
191. *The Nation*, 15.04.04.
192. *The News*, 15.04.04.
193. *The News*, *Rawalpindi News*, *Karachi Dawn*, *Daily Times*. 14.04.04.
194. HRCP, *Report on the State of Democracy in Pakistan*, 2004, p. 14.
195. *Dawn*, 21.3.04.
196. *The Nation*, 19.03.04.
197. *Dawn*, 12.03.04.
198. *The Nation*, 24.02.04.

III - CONCLUSIONS AND RECOMMENDATIONS

Musharraf has taken a few positive steps in the field of human rights: he set up the joint electorate for minorities, adopted the freedom of information Act and allocated seats for women in the National Assembly. Unfortunately, those few steps do clearly not reflect a genuine political will to promote human rights.

Musharraf took power through a military coup in 1999. A referendum held in April 2002, marred by fraud and coercion, extended his term as President by five years. The October 2002 parliamentary elections were largely recognized as unfair and flawed.

Musharraf also seriously weakened the independence of the judiciary, notably through the adoption of the Legal Framework Order (2002) giving power to the President to appoint Supreme Court judges. In spite of that blatant disregard for democratic principles and of the very serious human rights violations occurring in Pakistan, since September 11, Musharraf benefits from the full support of the international community.

After 9/11 Musharraf abandoned Pakistan's long-held policy of support of the Taleban in Afghanistan, cracked-down on foreign extremist organizations on Pakistani soil and banned many Pakistan-based Kashmiri jihadi groups. However, the regime didn't move against national extremist groups and didn't implement effectively the law regulating Madrasas.

In spite of commitments he had made, Musharraf didn't bring the Blasphemy law, the Hudood laws and the Qisas and Dyat Ordinances in conformity with international human rights law. Those pieces of legislation had been adopted under the pressure of militant religious groups and violate minorities' rights and women's rights.

That ambiguity or double-sidedness policy is also used with the media, NGOs and trade unions. In the field of freedom of expression, Musharraf uses a wide array of methods to stifle the journalists, academics and NGOs: harsh legislation; violent tactics by the police, the army and the intelligence services to intimidate or even kill journalists who reported on sensitive issues; virtual impunity granted to religious groups who themselves intimidate journalists; and economic pressure are only but a few of those methods. This results in massive self-censorship from the media.

The authorities try to control human rights NGOs and to discredit them through the government media. They face an increasing hostility from the government, which regularly labels them as "unpatriotic" or 'un-Islamic', thereby opening the door to attacks by fundamentalist and ultra-nationalist groups. NGOs working on women rights are especially vulnerable, in particular in the North West Frontier Province, where the local government adopted the Sharia'Act in 2002.

The Tribal Areas of Pakistan (known as the Federally Administered Tribal Areas - FATA are administered under the Frontier Crimes Regulation, unchanged since 1901. That legal regime deprives the inhabitants of those zones of human rights protections, including the basic democratic institutions (separation of powers, judicial review). In addition, that legislation provides for collective responsibility, meaning that the whole family or village of a fugitive until his surrender or punishment by his own tribe can be arrested. Their houses can even be demolished under that legislation. 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 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, the Blasphemy Law is massively and systematically used to curb their freedoms of expression and association.

In view of the findings of the mission, the FIDH consequently issues the following recommendations :

- To the Pakistani authorities

a) general recommendations

- Repeal all ordinances and decrees which contravene the 1973 Constitution.

- Organise free and fair elections so that the power be brought back to a civilian and duly elected government.

- Restore the independence of the judiciary, notably by restoring the former oath of judges to the Constitution of Pakistan and by ending politically motivated appointments and promotions in the judiciary.

- Take meaningful steps to tackle religious extremism, notably through the effective implementation of the law on Madrasas and the systematic repression of human rights violations perpetrated by members of extremist religious groups.

b) on freedoms of expression, assembly and association

- Amend domestic legislation in order to bring it in conformity with international human rights standards on freedom of expression, in particular:

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- The Freedom of Information Act, the Defamation Ordinance as well as provisions in the PPC which excessively restrict freedom of expression.
 - The Dramatic Performance Act and the University Ordinances for what regards academics and artists' freedom of expression.
 - Amend the Industrial Relations Ordinance in accordance with the ILO recommendations to put it in conformity with international standards relating to the rights to organise and to collective bargaining (ILO Conventions 87 and 98).
 - Decentralise the system of advertising in the newspapers in order to make them less dependent financially upon the decisions of one single agency.
 - Provide for sanctions in case of non-implementation, by newspaper owners, of the 7th Wage Award.
 - Review Sections 144 and 188 of the Criminal Code of Pakistan and make sure that they are not used to curb peaceful dissent.
 - Fully comply with the United Nations Declaration on Human Rights Defenders, and in particular:
 - Ensure that independent enquiries are carried out on all acts of harassment or repression against human rights defenders, whoever the suspected authors, and pay a particular attention to the human rights defenders involved in NGOs working on women rights; Bring the authors of such acts to court.
 - Drop the draft NGO Bill and any other draft legislation that might restrict NGOs' independence in violation of the UN declaration on human rights defenders.
 - Put an end to the current certification process for NGOs as carried out by the PCP.
 - Make sure that the taxation system be not used in order to curb NGOs' activities, in violation of the UN Declaration on human rights defenders.
- c) on the prohibition of discrimination
- Amend/repeal the Blasphemy Law, the Hudood Laws and the Qisaas and Diyat Ordinances as well as the Law on Evidence following the NCSW/w recommendations in order to bring them in conformity with international standards on freedom of expression, on the prohibition of discrimination, on freedom of religion and on women rights.
 - Abolish all provisions discriminatory to minorities, including Ahmadis; in particular, repeal sections 298B and 298C of the Pakistan Penal Code and extend the joint electorate to Ahmadis.
 - Ensure that all the authors of acts of discrimination notably based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status are duly brought to justice.
 - Amend the Frontier Crimes Regulation and extend the human rights guarantees enshrined in the Constitution and in domestic legislation to the FATA, in order to put an end to any form of legal or de facto discrimination against the population of those territories.
- d) on engagement with UN Human Rights standards and mechanisms
- Strengthen cooperation with UN Special mechanisms of the Commission on Human Rights by issuing a standing invitation to all the UN Special Rapporteurs and Working Groups; implement the recommendations formulated by those mechanisms.
 - Submit its state reports to the UN treaty bodies, and in particular under the CEDAW (initial report overdue since 1997) and the CERD (periodic report overdue since 1998); implement the recommendations issued by those mechanisms.
 - Ratify the ICCPR and the ICESCR without further delay and without reservations contrary to the object or purpose of those treaties.
- To the international community**
- In the context of their political dialogues with Pakistan, the European Union and the United States should place human rights on the agenda, and in particular the issues of freedoms of expression, association and assembly.
 - Take into account the evolution of the human rights situation in Pakistan in the allocation of aid by granting aid in priority to projects or programmes aimed at helping Pakistan to respect to respect its international human rights commitment.
 - Increase support to the independent civil society in Pakistan.

IV - ANNEXES

Annex 1 : Persons met by the FIDH delegations

Authorities and para-governmental bodies:

M. Rizwan Taqi, Additional Home Secretary (Punjab)
Pervaiz Rahim Rajput, Inspector General of Prisons (Punjab)
Syed Masud Shah PSP, Inspector General of Police (Punjab)
Mohammad Rifat Pasha, Deputy Inspector General of Police (North West Frontier Province)
Akram Durrani, Chief Minister (MMA), North West Frontier Province
Khalid Latif Chaudhary, Secretary, Ministry of Minorities, Culture, Sports, Tourism and Youth Affairs
Prof. Mushtaq Victor, Parliamentary Secretary (Minorities Affairs)
Mohammad Zahoor Khan, deputy Director ICL Conciliation, NWFP

National Commission on the Status of Women
Majida Rizvi, President

National Industrial Relations Commission (NIRC):
Tanvir Ahmed Khan, Chairman
Zaka Ullah Khan, Deputy Registrar
M.S Jamal, member
Anwar Hussain, member
Raja Abdullah Khan, member

Non-governmental organisations:

Syed Shamsuddin, Coordinator, *Centre for Democratic Development, Human Rights Commission of Pakistan (HRCP)*
Hina Jilani, Secretary General, *HRCP*
I.A. Rehman, Director *HRCP*
Kamila Hyat, Joint Director, *HRCP*
Tariq Ahmad Khan, Provincial Coordinator, *HRCP Peshawar*
Mehboob Ahmed Khan, Legal Officer, *HRCP*
Nida Ali, *HRCP*

Khawar Mumtaz, Executive Director, *Shirkat Gah- Women's Resource Centre*
Farida Shaheed, *Shirkat Gah - Women's Resource Centre*
Harris Khaliq, Chief Executive, *Strengthening Participatory Organisation (SPO)*
Fozia Tanveer, Programme Support Director, *SPO*
Shazia Khan, *YCHR-Centre for Research and Training*
Nasreen Azhar, Manager Social and Legal Rights, *Action Aid*

Aqsa Khan, *Action Aid*
Rubina Jamil, President, *Working Women Organisation*
Aima Mahmood, Programme Officer, *Working Women Organisation*
Imtiaz Alam, Secretary General, *South Asian free Media Association (SAFMA)*
Rukhshanda Naz, Resident Director, *Aurat Publication and Information Service Foundation*
Muhammad Ahsan Rana, Programme Manager, *Pakistan Centre for Philanthropy*
Abdur Rahim Afridi, chairperson, *Tribal Reforms and Development Forum*
Maryam Bibi, President, *Khwendo Kor*
Hamayun Khan, Development Coordinator, *Khwendo Kor*
Muhammad Raza, *Baacha Khan Trust*
Shabana Arif, Outreach Officer, *Rozan*
Neelam Hussain, Director, *Simorgh*
Tahira Abdullah, *Women's Action Forum*
DASTAK, Shelter home
Musarrat Hilali, *President of Women's shelter, All Pakistan Women Association*
Tanveer Jahan, *Democratic Commission for Human Rights and Development*

Lawyers:

Mian Zafar Iqbal Kalanauri, Advocate Supreme and High Court of Pakistan
Abid Saqi, Advocate Supreme Court of Pakistan
Hafiz Abdul Rehman Ansari, President, *Lahore High Court Bar association*
M.M. Alam Chaudhary, Vice President, *Lahore High Court Bar association*
Ch. Chulam Sarwar Nihung, Vice Chairman of the *Human Rights Committee, Lahore High Court Bar association*
Abid Hassan Minto, Senior Advocate Supreme Court

Trade Unionists:

Bashir Buttar, President, *the Railway Workers' Union*
M. Azam, President, *Railway Revolutionary Union*
Ilyas Maseeh, railway worker
Aurangzaib Khan, chairman, *Railway Mehnat Kash Union*
Tahira Mazhar Ali, trade union and political activist
Osama Tariq, Additional General Secretary, *All Pakistan Federation of Trade Unions*
Gulzar Ahmad Chaudhary, Secretary General, *All Pakistan*

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Trade Union Federation
Muhammad Younas, Executive Vice President, Al-Maryam Development trust
Khurshid Ahmed, Secretary General, Pakistan Workers' Confederation
C.R. Shamsi, Secretary General, Pakistan Federal Union of Journalists
Gul Rahman, President, Pakistan Workers Confederation
Syed Liaqa Bacha, General Vice President, Muttahida Labour Federation Pakistan
Bakhat Gir Chaudry, President of the Punjab Union of Journalists
Rana Azeem, Vice-President, Punjab Union of Journalists
Iftikhar Ahmad Khan, press reporter, Mashriq, President Shabqadar Union of Journalists, Peshawar
Nasir Khan Mohmand, President, Tribal Union of Journalists, Peshawar correspondent The Nation

Minorities:

Haroon Nasir, Research Associate, Christian Study Centre
Mehboob Sada, Director, Christian Study Centre
Sajid Ishaq, Director, Islamabad Rozgar Markaz
Hubert Haider, SIH
Aamir Shahzad, Islamabad Christians against Narcotics
Mehboob Sada, CSC
Francisco D'sousa, Citizens' Peace Committee
Om Pakash Narian, chief organiser, Hindu Balmik Subha
Raja Ghalib Ahmad, Chairman, Ahmadi Community (Punjab)
Hameed Nasrullah Khan
Joseph Francis, Coordinator, Centre for Legal Aid Assistance and Settlement (CLAAS)
Peter Jacob, Executive Secretary, National Commission for Justice and Peace
Ashar Javed, Diocesan Secretary, National Commission for Justice and Peace
Rt. Rev. Samuel Azariah, Bishop of Raiwind, Church of Pakistan

Political Parties:

Faroq Tariq, Secretary General, Labour Party Pakistan
Sana Ullah Baloch, Senator, Balochistan National Party
Liaqat Baloch, Deputy Secretary General MMA

Media workers and Journalists:

Khawar Mehdi, freelance
Anwar Mansuri, freelance
Nazim Malik, Chief reporter, *Pakistan Press Agency (PPA)*

Shafqat Munir, Researcher, *Journalists for Democracy and Human Rights*
Yasir Qureshi, Director Tech/News Operations, *Eastern TV News*
Arif Nizami, Editor, *The Nation*
Absar Alam, Deputy Resident Editor, *The Nation*
Javed Rana, Staff reporter, *The Nation*
Absar Alam, *The Nation*
Azmat Abbas, Bureau Chief Lahore, *The Herald*
Mukhtar A. Khan, Peshawar Correspondent, *Voice of America*
Mohammed Riaz, Staff Correspondent, *Dawn*
M. Ziauddin, Resident Editor, *Dawn*
Wasim Ahmad Shah, *Dawn*
Najam Sethi, Editor-in-Chief, *Daily Times, Friday Times*
Nusrat Javeed, Special Correspondent, *The News*
Mariana Barhim, *The News*
Quraysh Khattak, Correspondent, *The News*
Rahimullah Yusufzai, Executive Editor, Peshawar, *The News*
Tariq Hameed, Reporter, *Khabrain*
Rehan Zameer, News Editor, *Khabrain*
Mujib ur Rahman Shami, Chief Editor, *Pakistan Group of Publications*
Sheikh Ashfaque Rauf, Executive Director, *Pakistan Group of Publications*
Rehan Zameer, News Editor, *daily Pakistan*
S.H.R. Jahfrey, Staff Reporter, *Pakistan Observer*
Ahmad Ali Khan Mohmand, Bureau Chief, *Daily Madan*, Peshawar
Hamid Nawaz, Staff Reporter, *Daily Business Recorder*
Anjum Rashid, *Geo-TV*
Aijaz H. Mahar, Bureau Chief, *Daily Kawish*
Tahir Ikram, Senior Correspondent, *Reuters*
Simon Denyer, Bureau Chief, *Reuters*

Academics:

Prof. Sarfraz Khan, Area Study Center, University of Peshawar

Miscellaneous:

Dr. Angelika Koster Lossack, director, South Asia office, Heinrich Boll Foundation Iqbal Hussain, artist.

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Annex 2 : List of acronyms

ABC: Audit Bureau of Circulation	ISI: Inter-Services Intelligence
ADB: Asian Development Bank	Jl: Jamaat-e-Islami
APFL: All Pakistan Federation of Labour	JUP: Jamiat Ulema-i-Pakistan
APMSO: All Pakistan Mohajir Students Organisation	KESC: Karachi Electrical Supply Corporation
APNEC: All Pakistan Newspaper Employee Confederation	KK: Khwendo Kor
APNS: All Pakistan Newspapers Society	LFO: Legal Framework Order
APP: Associated Press of Pakistan	LNHWU: Liaquat National Hospital Workers' Union
APTUF: All Pakistan Trade Union Federation	MJAHP: Mutahida Jamiat Ahle Hadith Pakistan
ARD: Alliance for the Restoration of Democracy	MKP: Mazdoor Kisan Party
BNGOF: Balochistan NGOs Federation	MMA: Muttahida Majlis-e-Amal
BNP: Baluch National Party	MNA: Member of National Assembly
CBR: Central Board of Revenue	MPA: Member of Provincial Assembly
CEDAW: Convention on the Elimination of All Forms of Discrimination against Women	MPO: Maintenance of Public Order Ordinance: 1960
CERD: International Convention on the Elimination of All Forms of Racial Discrimination	MSF: Muslim Students Federation
CII: Council for Islamic Ideology	NCSW: National Council for Social Welfare
CJP: Commission for Justice and Peace	NCSW: National Commission on the Status of Women
CLAAS: Centre for Legal Aid Assistance and Settlement	NGOs: non governmental organisations
CMLA: chief martial law administrator	NGORC: NGO Resource Centre
CORIN: Coalition of Rawalpindi, Islamabad NGOs	NIRC: National Industrial Relations Commission
CPC: Criminal Procedure Code	NNI: News Network International
CPNE: Council of Pakistan Newspaper Editors	NPOs: Non Public Benefit Organisations (p.51)
DCO: District Co-ordination Officer	NWFP: North West Frontier Province
EBDO: Elective Bodies Disqualification Order	OSA: Official Secrets Act, (1926)
ESMA: Essential Services Maintenance Act	PCO: Provisional Constitutional Order
FATA: Federally Administered Tribal Areas	PCP: Pakistani Centre for Philanthropy
FCR: Frontier Crimes Regulation, 1901	PCPO: Press Council of Pakistan Ordinance
FIR - First Information Report	PEMRA Ordinance: Pakistan Electronic Media Regulatory Authority Ordinance
FoI Act: Freedom of Information Act	PFUJ: Pakistan Federal Union of Journalists
HRW: Human Rights Watch	PML-N: Pakistan Muslim League, Nawaz faction
HRCIP: Human Rights Commission Pakistan	PML-Q: Pakistan Muslim League, Quaid-e-Azam a breakaway action of the PML loyal to Musharraf
ICCPR: International Covenant on Civil and Political Rights	PNCC: Punjab NGOs Council
ICESCR: International Covenant on Economic, Social and Cultural Rights.	PNNBRO: Presses, Newspapers, News agencies and Books Registration Ordinance (2002)
ICFTU : International Confederation of Free Trade Unions	PONM -Pakistan Oppressed Nations Movement
ICG: International Crisis Group	PPC: Pakistani Penal Code
IFJ: International Federation of Journalists	PPO: Press and Publications Ordinance (1963)
IJT: Islami Jamiat-i- Taleba	PPP: Pakistan People's Party
ILO: International Labour Organization	PRODA: Public and Representative Office Disqualification Act (1949)
IRO: Industrial Relations Ordinance	PRSP: Poverty Reduction Strategy Paper
	PTCL: Pakistan Telecommunications Company Ltd
	PTV: Pakistan Television

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RSIA: Registration of Societies and Institutions Act
RSF: Reporters Sans Frontières

SAFMA: South Asian free Media Association
SINGOF Sindh NGOs Federation
SBP: State Bank of Pakistan
SNI: Sarhad NGOs Ittehad
SPA: Security of Pakistan Act 1952
SPO: Strengthening Participatory Organisation

TKN: Tehrik-i-Khatm-i-Nabuwat
TVO: Trust for Voluntary Organisations

UDHR: Universal Declaration on Human Rights
(VPA: Vacuous Property Act)

WAPDA: Pakistani Water Services: Water and Power
Distribution Authority
WWO: Working Women's Organisation

FIDH represents 141 Human Rights organisations

141 organisations

- Afrique du Sud**-Human Rights Committee of South Africa
Albanie-Albanian Human Rights Group
Algérie-Ligue Algérienne de Défense des Droits de L'Homme
Algérie-Ligue Algérienne des Droits de L'Homme
Allemagne-Internationale Liga für Menschenrechte
Argentine-Centro de Estudios Legales y Sociales
Argentine-Comite de Accion Juridica
Argentine-Liga Argentina por los Derechos del Hombre
Autriche-Osterreichische Liga für Menschenrechte
Azerbaïjan-Human Rights Center of Azerbaijan
Bahrein-Bahrain Human Rights Society
Bangladesh-Odhikar
Bélarus-Human Rights Center Viasna
Belgique-Liga Voor Menschenrechten
Belgique-Ligue des Droits de L'Homme
Bénin-Ligue pour la Defense des Droits de L'Homme Au Bénin
Bhutan-People's Forum for Human Rights in Bhutan (Nepal)
Bolivie-Asamblea Permanente de los Derechos Humanos de Bolivia
Brésil-Centro de Justicia Global
Brésil-Movimento Nacional de Direitos Humanos
Burkina Faso-Mouvement Burkinabe des Droits de L'Homme & des Peuples
Burundi-Ligue Burundaise des Droits de L'Homme
Cambodge-Cambodian Human Rights and Development Association
Cambodge-Ligue Cambodgienne de Défense des Droits de L'Homme
Laos (France)-Mouvement Lao pour Les Droits de L'Homme
Cameroun-Maison des Droits de L'Homme
Cameroun (France)-Ligue Camerounaise des Droits de L'Homme
Canada-Ligue des Droits et des Libertés du Québec
Centrafrique-Ligue Centrafricaine des Droits de L'Homme
Chili-Comite de Defensa de los Derechos del Pueblo
Chine-Human Rights in China
Colombie-Comite Permanente por la Defensa de los Derechos Humanos
Colombie-Corporacion Colectiva de Abogados Jose Alvear Restrepo
Colombie-Instituto Latinoamericano de Servicios Legales Alternativos
Congo Brazzaville-Observatoire Congolais des Droits de L'Homme
Côte d'Ivoire-Ligue Ivoirienne des Droits de L'Homme
Côte d'Ivoire-Mouvement Ivoirien des Droits de L'Homme
Croatie-Civic Committee for Human Rights
Cuba-Comision Cubana de Derechos Humanos y Reconciliacion National
Ecosse-Scottish Human Rights Centre
Egypte-Egyptian Organization for Human Rights
Egypte-Human Rights Association for the Assistance of Prisoners
El Salvador-Comision de Derechos Humanos de El Salvador
Equateur-Centro de Derechos Economicos y Sociales
Equateur-Comision Ecumenica de Derechos Humanos
Equateur-Fundacion Regional de Asesoría en Derechos Humanos
Espagne-Asociacion Pro Derechos Humanos
Espagne-Federacion de Asociaciones de Defensa y Promocion de los Derechos Humanos
Etats Unis-Center for Constitutional Rights
Ethiopie-Ethiopian Human Rights Council
Finlande-Finnish League for Human Rights
France-Ligue des Droits de L'Homme et du Citoyen
Georgie-Human Rights Information and Documentation Center
Grèce-Ligue Hellenique des Droits de L'Homme
Guatemala-Centro Para la Accion Legal en Derechos Humanos
Guatemala-Comision de Derechos Humanos de Guatemala
Guinée-Organisation Guineenne pour la Defense des Droits de L'Homme
Guinée Bissau-Liga Guineense dos Direitos do Homen
Irak (Royaume Uni)-Iraqi Network for Human Rights Culture and Development
Iran-Centre des Defendeurs des Droits de L'Homme en Iran
Iran (France)-Ligue de Defense des Droits de L'Homme en Iran
Irlande-Irish Council for Civil Liberties
Irlande du Nord-Committee On the Administration of Justice
Israël-Adalah
Israël-Association for Civil Rights in Israel
Israël-B'tselem
Israël-Public Committee Against Torture in Israel
Italie-Liga Italiana Dei Diritti Dell'uomo
Italie-Unione Forense Per la Tutela Dei Diritti Dell'uomo
Jordanie-Amman Center for Human Rights Studies
Jordanie-Jordan Society for Human Rights
Kenya-Kenya Human Rights Commission
Kosovo-Conseil pour la Defense des Droits de L'Homme et des Libertés
Kyrgistan-Kyrgyz Committee for Human Rights
Lettonie-Latvian Human Rights Committee
Liban-Association Libanaise des Droits de L'Homme
Liban-Foundation for Human and Humanitarian Rights in Lebanon
Liban-Palestinian Human Rights Organization
Liberia-Liberia Watch for Human Rights
Libye (Suisse)-Libyan League for Human Rights
Lithuanie-Lithuanian Human Rights Association
Malaisie-Suaram
Mali-Association Malienne des Droits de L'Homme
Malte-Malta Association of Human Rights
Maroc-Association Marocaine des Droits Humains
Maroc-Organisation Marocaine des Droits Humains
Mauritanie-Association Mauritanienne des Droits de L'Homme
Mexique-Comision Mexicana de Defensa y Promocion de los Derechos Humanos
Mexique-Liga Mexicana por la Defensa de los Derechos Humanos
Moldova-League for the Defence of Human Rights
Mozambique-Liga Mocancicana Dos Direitos Humanos
Nicaragua-Centro Nicaraguense de Derechos Humanos
Niger-Association Nigérienne des Droits de L'Homme
Nigeria-Civil Liberties Organisation
Nouvelle Calédonie-Ligue des Droits de L'Homme de Nouvelle Calédonie
Ouganda-Foundation for Human Rights Initiative
Pakistan-Human Rights Commission of Pakistan
Palestine-Al Haq
Palestine-Palestinian Centre for Human Rights
Panama-Centro de Capacitacion Social
Pays Bas-Liga Voor de Rechten Van de Mens
Pérou-Asociacion Pro Derechos Humanos
Pérou-Centro de Asesoría Laboral
Philippines-Philippine Alliance of Human Rights Advocates
Polynésie Française-Ligue Polynésienne des Droits Humains
Portugal-Civitas
RDC-Ligue des Electeurs
RDC-Association Africaine des Droits de L'Homme
RDC-Groupe Lotus
République de Djibouti-Ligue Djiboutienne des Droits Humains
République Tchèque-Human Rights League
Roumanie-Ligue pour la Defense des Droits de L'Homme
Royaume-Uni-Liberty
Russie-Citizen's Watch
Russie-Moscow Research Center for Human Rights
Rwanda-Association pour la Defense des Droits des Personnes et Libertés Publiques
Rwanda-Collectif des Ligues pour la Defense des Droits de L'Homme Au Rwanda
Rwanda-Ligue Rwandaise pour la Promotion et la Defense des Droits de L'Homme
Sénégal-Organisation Nationale des Droits de L'Homme
Sénégal-Rencontre Africaine pour la Defense des Droits de L'Homme
Serbie et Montenegro-Center for Antwar Action - Council for Human Rights
Soudan (Royaume Uni)-Sudan Organisation Against Torture
Soudan (Royaume-Uni)-Sudan Human Rights Organization
Suisse-Ligue Suisse des Droits de L'Homme
Syrie-Comite pour la Defense des Droits de L'Homme en Syrie
Tanzanie-The Legal & Human Rights Centre
Tchad-Association Tchadienne pour la Promotion et la Defense des Droits de L'Homme
Tchad-Ligue Tchadienne des Droits de L'Homme
Thaïlande-Union for Civil Liberty
Togo-Ligue Togolaise des Droits de L'Homme
Tunisie-Conseil National pour Les Libertés en Tunisie
Tunisie-Ligue Tunisienne des Droits de L'Homme
Turquie-Human Rights Foundation of Turkey
Turquie-Insan Haklari Dernegi / Ankara
Turquie-Insan Haklari Dernegi / Diyarbakir
Union européenne-FIDH AE
Uzbekistan-Legal Aid Society
Vietnam (France)-Comite Vietnam pour la Defense des Droits de L'Homme
Yemen-Human Rights Information and Training Center
Yemen-Sisters' Arabic Forum for Human Rights
Zimbabwe-Zimbabwe Human Rights Association Zimrights

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