

CIVIL AND POLITICAL RIGHTS SITUATION DURING MUSHARRAF ERA (1999 - 2004)

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Abstract: The paper examines the civil and political rights situation especially the independence of the judiciary, political space for opposition and state of media freedoms during the first five years (1999-2004) of military dictator Pervaiz Musharraf. Despite being a military dictator, he ventured to portray himself as a liberal political leader as in order to get legitimacy in the country and recognition from the outside world he undertook different measures. He convened a national conference on human rights, introduced political reforms including devolving powers at the lower level and pursued apparently a liberal and media-friendly policy. However, these measures proved to be artificial and in practice, the overall civil and political rights situation remained dismayed. The military government tempered with the constitution, undermined independence and impartiality of judiciary through making it subservient to the executive, suppressed political activities and curbed media freedoms. The political leaders, parties and journalists and media groups critical to the military leadership were intimidated, coerced, harassed, physically and mentally tortured, arrested and even sentenced to imprisonment through registering against them cases of severe crimes.

Keywords: civil, political, rights, military, judiciary, media, Musharraf, intimidation.

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Introduction

Pervez Musharraf came into power in a military coup after army leadership refused to accept the decision of the democratically elected Prime Minister Nawaz Sharif regarding the dismissal of the former as Chief of Army Staff (COAS) and appointment of General Ziauddin Butt as a new COAS on October 12, 1999. The prime minister's decision was the consequence of the differences emerged between him and the COAS on the Kargil war, "an enterprise" that General Musharraf reportedly boarded without Sharif's "consent or knowledge."¹ Musharraf in a televised address to the nation announced dismissal of the civilian government including the prime minister and his cabinet, provincial chief ministers and governors etc.

On October 14, Musharraf suspended Pakistan's Constitution and the National Assembly and imposed a state of emergency in the country. It was announced, however, that President Rafiq Tarar would continue to hold his office. Musharraf proclaimed himself as the Chief Executive of the country, and as such, he exercised powers of the prime minister. He also issued a Provisional Constitutional Order (PCO) that barred all courts and tribunals from giving any "judgment, writ, order" etc. against any action taken by "the chief executive or any authority designated" by him including the proclamation of emergency. The military regime, however, clarified that the fundamental rights not contradicting "the state of emergency proclamation" would remain in force. The regime also assured Justice Saiduzzaman Siddiqui, the then Chief Justice of Pakistan (CJP) that the former would not interfere with the independence of the judiciary that could continue to function under the constitution.²

Musharraf reneged most, if not all, of his promises particularly those related to the continuation of office by President Tarar, independence of judiciary and enforcement of fundamental human rights including civil and political rights in the country. For instance, he forced the judges of the superior courts to take oath under PCO and sent several of them home

¹ Celia W. Dugger, "Coup in Pakistan: The Overview; Pakistan Army Seizes Power Hours after Prime Minister Dismisses his Military Chief," *New York Times*, October 13, 1999, <http://www.nytimes.com/1999/10/13/world/coup-pakistan-overview-pakistan-army-seizes-power-hours-after-prime-minister.html>

² Manzoor Ahmad Naazer, Mansoor Akbar Kundi and Sadaf Farooq, "Assault on Independence of Judiciary in a Federal State: A Study of Musharraf Era (1999-2004), *The Dialogue* 8, no1 (2018): 74.

who refused to take oath under PCO or the government did not allow them to take the oath because it either disliked or feared them. Musharraf also unconstitutionally ousted President Tarar from his office and promoted himself as President. Musharraf regime, thus, undermined the independence of judiciary making it subservient to executive especially military leadership,³ curtailed political liberties and restricted media freedom. The overall human rights situation in the country remained bleak during the military rule of Pervez Musharraf. No significant change took place despite the apparent transition to a civilian rule (and restoration of democracy) following general elections held in October 2002.

This study aims to survey the overall civil and political rights situation during the first five years of the Musharraf regime (1999-2004), i.e., three years of direct military rule and two years of its indirect rule. The study involves qualitative research and employs historical method. It used primary sources such as annual reports of national and international organizations monitoring human rights besides a few secondary sources such as books, research articles and newspaper reports etc. Content analysis method has been used to critically evaluate the data and make generalizations. The study has four sections including the first one being the introduction. The second section succinctly describes the conceptual framework of the study. The third section briefly outlines Pakistan's international and constitutional obligations with regard to human rights. The fourth section gives a thorough evaluation of the civil and political rights situation during the first five years (1999-2004) of the Musharraf regime. The fifth section concludes the paper.

Conceptual Framework

The human rights are based on the "principles of equality, liberty and solidarity" of all human beings. Each principle has generated a different set of rights in a different historical perspective. The rights based on the principle of liberty, are also called "the first generation rights" and their earliest advocates are dated back to the 16th century. These include the right: to life, physical integrity, property; to not to be arrested without legal basis and to an impartial trial; to freedom of thought, expression, and association; to participate in political affairs of one's own

³ Ibid.

state such as to vote for candidate of a choice and to contest for public position, etc. This set of rights comprises what are known as “civil and political rights.”⁴

According to the Universal Declaration of Human Rights (UDHR) signed in 1948, human rights include the right to live, liberty, education, and equality before the law; to freedom of movement, religion, association, and information; and to a nationality.⁵ The International Covenant on Civil and Political Rights (ICCPR) adopted by UN General Assembly in 1966 (became effective on 23rd March 1976) describes, in greater detail than UDHR, different rights and freedoms imposing an obligation on members to “respect and ensure” these rights to individuals under their jurisdiction.⁶ UDHR and ICCPR define the following political and civil rights such as the right to life, liberty, property and security, freedom of movement and residence, fair trial, freedom of conscience and religion, opinion and expression, assembly, association and trade unions and the right to take part in the political process. These rights are also mentioned in other international conventions.⁷ Political rights of the citizen include the right to speak on public issues and to take part in the political process by casting vote.⁸

The supremacy of the constitution and independence of the judiciary are the hallmark of a democratic government and guarantors of the rights of its citizens. The constitution pronounces and provides civil and political rights to its people while judiciary guards and secures their freedoms from abuses by the government functionaries and agencies. J. S. Mill highlighted it long ago when he argued that only the existence of constitutional government and representative institutions could help guard the political liberties. In their absence, the human rights situation becomes bleak. Likewise, Montesquieu declared that political liberties could exist only “under a government by law, [and] never under despotism or the rule of men.” Liberties survive where there is no abuse of power. In order to avert manipulation of power by a government, he suggested that there must be “a check to power.” It could be made possible through “separation of powers” or a system of “checks and balances” that hampers the power of each government

⁴ Choike.org: a Portal on Southern Civil Societies, “Civil and Political Rights,” http://www.choike.org/nuevo_eng/informes/1449.html

⁵ Hutchinson, *The Hutchinson Encyclopedic Dictionary*, 2nd ed. (Oxford: University Press, 1994), 398.

⁶ Paul Sieghart, *The International Law of Human Rights* (Oxford: University Press, 1983), 25.

⁷ Ibid, p.89; David Robertson, *A Dictionary of Human Rights* (London: Europa Publications, 1997), 251-65.

⁸ Encyclopedia Americana, p.790.

branch. In case of desecration of law by any branch, Montesquieu maintained, other branches of the government can apply the law in accordance with the constitutional powers against the government organizations, agencies or officials who "usurp powers" or "act unconstitutionally." Thus, the judiciary has to play a vital role in keeping a check on the powers of executive especially with regard to the protection of fundamental rights enshrined in the constitution. However, a judiciary devoid of independence and subservient to the executive cannot perform its responsibilities adequately.⁹

Pakistan's International and Constitutional Obligations

Pakistan being a responsible member of the international community and signatory of the charter of the United Nations Organization (UNO) is bound to adhere to fundamental human rights. The UNO among its aims states in article 1 (3) of its charter that it will strive to; "to achieve international cooperation....in promoting and encouraging respect for human rights and fundamental freedoms for all...." The UN members, under articles 55 and 56 of the charter, vowed to take "joint and separate action to achieve; universal respect for, and observance of, human rights and fundamental freedoms for all."¹⁰ Consequently, Pakistan signed and ratified the following international human rights treaties and conventions: The Universal Declaration of Human Rights (UDHR); Convention on the Rights of the Child; Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; Convention on the Suppression and Punishment of the Crime of Apartheid; Convention on the Elimination of all Forms of Racial Discrimination; Convention on the Prevention and Punishment of the Crime of Genocide; Convention on the Political Rights of Women; Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).¹¹

Pakistan's constitution also guarantees protection of the fundamental rights. It is worth mentioning that under the 1973 Constitution, the civil and political rights of citizens, as defined in Part-II, Chapter-I (Fundamental Rights), from article-8 to article-28, are more or less the same

⁹ Ibid., 73-4.

¹⁰ Sieghart, *The International Law of*, .24.

¹¹ Ishtiaq Ahmed, "Pakistan's Human Rights Obligations," *Daily Times*, November 30, 2003.

as described in UDHR, such as the right to live, liberty, education, and equality before the law; to freedom of movement, religion, association, expression and information; and to a nationality. Political rights of the citizen include, besides others, the right to speak on public issues and to take part in the political process by various means that include the right to form or join a political party, to contest for a public office and the right to cast vote etc.

Civil and Political Rights Situation During Musharraf Era

Musharraf attempted to project himself as a liberal and enlightened leader in his bid to get legitimacy in the country and recognition from the outside world especially the West. He also strove to demonstrate the soft image of his government to the international community. To this end, he took several steps both at personal and official / government level. In this context, he presented his notion of “enlightened moderation” in order to appease the West and to justify his pro-American policy. Apparently, the Musharraf government attempted to improve Pakistan’s overall human rights record by giving representation to and empowering women, minorities and the working class in the newly introduced local government system in 2001 as well as senate of Pakistan and national and provincial assemblies before 2002 general elections. Earlier, the military regime also convened a human rights conference in April 2000 as a symbol of the government’s commitment to the cause. However, despite these symbolic measures minimal progress was made to realize the goals.¹² In fact, government policy and actions both contradicted its claims, as shown in its treatment of the judiciary, political process, and media freedoms.

Assault on Independence of Judiciary: After seizing government control in a military coup, Musharraf suspended the constitution, proclaimed the state of emergency and issued a PCO to run the country on his whims. Under the PCO, he barred the courts from issuing any writ, verdict or order against the actions of the military government. He, however, promised the CJP that the military regime would not interfere with the independence of the judiciary. Initially, Musharraf had hinted that his government would not ask the judiciary to take fresh oath under

¹²Jurist Legal Intelligence, “Pakistan Constitution, Government & Legislation,” <http://jurist.law.pitt.edu/world/pak.htm>; Amnesty International, *Annual Report 2002*, <http://web.amnesty.org/web/ar2002.nsf/asa/pakistan!Open>

the PCO. He, however, showed his true intentions after SCP decided to hear a constitutional petition that had challenged the legitimacy of the military coup. The government feared that judges were being “bribed” to rule against it. Thus, he decided to order the judges of the SCP, Federal Shariah Court, and all four High Courts to take a fresh oath under PCO.¹³

In order to curtail the independence of the judiciary and to make it subservient of the military government Musharraf forced the judges of superior court to take fresh oath under PCO. Under PCO, the government ordinances, orders and directives promulgated under the order were no longer subject to judicial examination. On 25th January 2000, Musharraf articulated the CJP Justice Siddiqui to take a fresh oath under PCO, which the latter rejected. Later on, Interior Minister, Moin-ud-Din Haider along with two generals held a meeting with Justice Siddiqui at his residence in a bid to persuade the latter “to reconsider his decision.” CJP, however, once again declined. Next day army officials took control of the area around the CJP’s residence and did not allow anybody to enter or leave CJP house. An officer conveyed the CJP that the latter could not go to SCP that day. Consequently, the military regime forced six SCP judges including CJP along with nine judges of the High Courts to resign. Bewilderingly, 85 percent of the judges approved to take fresh oath under PCO and retain their positions in order to “serve” the country under a military dictator. Four months later, “quiescent” SCP led by new CJP, Justice Irshad Hassan Khan, validated the military coup under the “law of necessity” and set a three-year limit – starting from October 12, 1999 – for the complete return to the democratic rule. This move was made in a bid to make judiciary completely subservient of the military rule that severely damaged the freedom, credibility, and integrity of the judiciary.¹⁴

The judiciary not only surrendered its independence to interpret the constitution but also the authority to protect the fundamental laws of the citizens of Pakistan. Musharraf government was now completely free to play with the civil and political rights of the people, which it had started playing from the day of its unconstitutional inception. Consequently, the judiciary lost its independence and found itself incapable of or unwilling to give free verdicts on important constitutional matters including the one regarding the legality of holding of a referendum for the election of the President on 30th April 2002. The courts were not able to protect the fundamental

¹³ Naazer, Kundi and Farooq, “Assault on Independence of Judiciary,” 74-5.

¹⁴ Ibid.

rights of the people especially the civil and political rights of the citizens of Pakistan. The courts including superior judiciary lost credibility in the eyes of the people and Supreme Court Bar Association (SCBA) issued a white paper on 29th June 2003 that questioned the legality of the several judgments of the superior judiciary given since 12th October 1999. SCBA in a statement openly expressed its lack of confidence in the superior judiciary. It stated that the latter “had ceased to be independent” and arguing before it was useless.¹⁵

Political Rights Situation during Musharraf Era

Overall political rights situation worsened after the military takeover in 1999. Political opponents, particularly members of the former regime, were subjected to prolonged detention without charge, custodial ill-treatment, humiliation and torture. Musharraf government severely curtailed the freedom of assembly association, expression, political activities, to elect their representatives, and to choose or change the government.

The government used judiciary, police and intelligence agencies to harass, intimidate and victimize his critics and to crush political opposition in order to his authoritarian rule. The government imprisoned the leaders of deposed government without being charged for months and then registered against and trialed them under serious crimes such as terrorism, high jacking, and sedition. Those victims included the deposed Prime Minister Nawaz Sharif, his son and brother Hussain Nawaz, and Shahbaz Sharif, respectively, Finance Minister, Ishaque Dar, Information Minister, Mushahid Hussain, Shahid Khaqan Abbasi, Siddiqul Farooq, and former ISI chief Ziauddin Butt. Nawaz Sharif along with five others was charged in Airplane high jacking conspiracy case under anti-terrorism laws. Subsequently, an anti-terrorism court (ATC) in a “questionable judicial climate” sentenced Sharif to life imprisonment.¹⁶ On 29th October 2003, the government arrested Javed Hashmi on treason charges and later on a court sentenced him to 23 years imprisonment.¹⁷ In 2003, several other leaders including Javed Latif, Rana Sana Ullah, and Abid Sher Ali were arrested on provocative speeches against the government. Some

¹⁵ Ibid., 74-82.

¹⁶ “Sharif sentenced to life for Musharraf plot,” *The Guardian*, April 07, 2000, <https://www.theguardian.com/world/2000/apr/07/pakistan.lukeharding>

¹⁷ “Hashmi sentenced to 23 years,” *Dawn*, April 13, 2004, <https://www.dawn.com/news/393419/hashmi-sentenced-to-23-years>

of them were even tortured under their custody by authorizes.¹⁸ The government resorted to oppressive measures including Maintenance of Public Order (MPO) ordinance, to limit political activities especially demonstrations against the military rule. It arrested hundreds of political activists to prevent a political procession from Lahore to Peshawar to be led by Kalsoom Nawaz in 2000,¹⁹ and then again to prevent leaders of Alliance for Restoration of Democracy (ARD) in from holding a rally in Lahore on 23rd March 2001. Another rally to be held on the first of May in Karachi was also stifled.²⁰ The government continued its campaign of arbitrary arrests and registering cases against opposition leaders and political activists even after the transition to civilian rule in the country. In April 2004, the government arrested hundreds of PML–N activists including party's top leaders including Sabir Shah, Saranjam Khan, Zafar Iqbal Jhagra, Siddiquul Farooq, Malik Hanif Awan, Chaudhry Jaafar Iqbal and Nazir Gondal. The government imposed forced exile on political leaders and forcefully deported them when they tried to return to the country.²¹

Musharraf got himself elected unconstitutionally in a referendum ploy and then installed puppet governments by installing his favourite personalities either in local government and parliamentary elections of 2001 and 2002, respectively. Thus, he denied the people their right to freely elect their representatives and form the government.

He used NAB and other state apparatus to change the loyalties of political leaders and activists and subjected many of them to various sorts of coercion when they refused to bow before the dictates of the military government. Several leaders of PML–N, and PPP, who refused to change their loyalties, were imprisoned under the charges of corruption. For instance, an accountability court sentenced 14 years rigorous imprisonment plus Rs.20 million fine to PML–N leader Sardar Mehtab Abbasi on corruption charges. Later on, a bench of the Lahore High court had acquitted him in 2003.²² Similarly, several leaders of PPP including Yousaf Raza Gilani, and Jehangir Badar were imprisoned apparently on corruption charges as they remained

¹⁸ Human Rights Watch, *World Report 2004*, <http://hrw.org/english/docs/2003/12/31/pakist7008.htm>

¹⁹ Human Rights Watch, *World Report 2001*, <http://www.hrw.org/wr2k1/asia/pakistan.html>

²⁰ Human Rights Watch, *Word Report 2002*, <http://hrw.org/wr2k2/asia9.html>

²¹ "Shahbaz lands at Lahore; sent to S. Arabia: ARD workers clash with police," *Dawn*, May 12, 2004, <https://www.dawn.com/news/394003/shahbaz-lands-at-lahore-sent-to-s-arabia-ard-workers-clash-with-police>

²² "Ex-CM cleared of corruption charge," *Dawn*, April 04, 2003, <https://www.dawn.com/news/91689/ex-cm-cleared-of-corruption-charge>

loyal to the party.²³ Those who left their party were given favours. For instance, Syed Ghous Ali Shah, detained by NAB since April 2000, was moved to a hospital after he had resigned from his party position on March 2, 2001.²⁴ Those against whom accountability cases were withdrawn or inquiries withheld after they changed their loyalties included Farooq Leghari, Zafarullah Jamali, Chaudhry Shujaat Hussain, Pervaiz Elahi, Aftab Sherpao, Liaqat Ali Jatoi, Faisal Saleh Hayat, Sheikh Rasheed Ahmed, Abida Hussain, and Rana Nazir Ahmad. Later, these leaders joined Pakistan Muslim League (Quaid –e–Azam) or PML-Q.²⁵

The country remained in the iron grip of the military even after “transition” to civilian set up and generals directly or indirectly ruled the nation. Musharraf was able to install “king’s” men in the cabinet after their election in the senate. He himself made decisions on important issues related to domestic and foreign affairs and so-called elected prime minister was marginalized by relegating him to a secondary position. Musharraf changed the prime minister and distrusted the key positions to people of his choice, mocking the democracy in the country. He refused to step down as army chief by relinquishing his uniform, as promised to the nation in a televised address. In sum, no significant change took place in terms of political and democratic rights of the people even two years after the transition to the civilian rule, and the “return to democracy” was just eyewash.

Media Freedoms during Musharraf Era: In order to build his credentials as a liberal leader, Musharraf decided to introduce an open media policy in Pakistan. Under his government, Pakistan Telecommunication Authority (PTA) issued licenses for and allowed cable TV operations to function in Pakistan. In 2001, the government started issuing licenses for private TV channels and this decision culminated in a media revolution in the country. Consequently, scores of private TV channels started operating to telecast news, current affairs, entertainment, sports, and religious programmes. In 2002, the government established Pakistan Electronic Media Regulatory Authority (PEMRA) in order to facilitate and regulate the establishment and operations of private TV channels. The decision to deregulate media also spanned to the radio network that help flourish private FM radio stations all over the country. Scores of new FM

²³ Human Rights Watch, *World Report 2005*, <http://hrw.org/english/docs/2004/12/14/pakist9852.htm>

²⁴ Human Rights Watch, *Word Report 2002*.

²⁵ “PPP disputes NAB’s recovery claims,” *Dawn*, October 20, 2013, <https://www.dawn.com/news/120960>

stations covering news, information, and entertainment, etc. were set up in major cities of Pakistan and became carriers of social change in the country.²⁶ The military government of Pervez Musharraf has the credit for this change.²⁷ Musharraf himself used to take pride in it.²⁸ As Najam Sethi commented, “Everywhere he goes, he flaunts this to the Western World – ‘The press is free.’” However, it was just a veil and media was not free to criticize key government functionaries especially generals including Pervez Musharraf himself. Musharraf had pursued “selected repression, targeted, but without leaving any fingerprints.”²⁹ Pirzada noted that the Musharraf government had taken control of the electronic media through things: private media’s dependence on cable operators, and; PEMRA staffed by serving police officers. These two tools could be used to shut down or disrupt the transmission of any TV channel critical of the military government.³⁰

The evidence suggests that the rights to “free expression and dissemination of information” were suppressed by the military government, through the arrest of journalists on different charges and aggressive moves to quiet journalists perceived as critical to the government.³¹ During the five years (1999-2004), federal, provincial and local authorities consistently strived to restrict journalists from performing their professional duties through intimidation, harassment, arrests, harsh legislation and forcing over them self-censorship. The military regime tried to limit freedom of expression in many ways including harsh legislation. The government passed, through ordinances, “five repressive laws specific to the media.” It

²⁶ Zafar Iqbal, “Media and Musharraf: A Marriage of Convenience,” *European Scientific Journal* 8, no.3, (February 2012): 51-61; Mehnaz Gul, Zia Obaid and Shahid Ali, “Liberalization of Media in Pakistan: A Challenge to Democracy,” *Journal of Humanities and Social Sciences* 25, no.1 (2017): pp. 43-4.

²⁷ Saima Parveen and Muhammad Nawaz Bhatti, “Freedom of Expression and Media Censorship in Pakistan: A Historical Study, *Journal of Historical Studies* 4, no.2, (July-December, 2018), pp.5-6 and 16.

²⁸ Carolyn O’hara, “Musharraf: I take all the credit for Pakistan’s media freedom,” *Foreign Policy*, February 20, 2008, <https://foreignpolicy.com/2008/02/20/musharraf-i-take-all-the-credit-for-pakistans-media-freedom/>

²⁹ Salah Uddin Shoaib Choudhury, “Musharraf’s Respect for Press Freedom,” *Canada Free Press*, October 20, 2007, <https://canadafreepress.com/article/musharraf-s-respect-for-press-freedom>

³⁰ Moeed Pirzada, “Musharraf and the media,” *The Guardian*, November 19, 2007, <https://www.theguardian.com/commentisfree/2007/nov/19/musharrafandthemedia>

³¹ Human Rights Watch, *World Report 2004*, <http://hrw.org/english/docs/2003/12/31/pakistan7008.htm>

blocked internet sites for political reasons and strived to ban media outlets and publications “too critical of the regime.” The government pressurized journalists for conformity and prevented some of them from attending press conferences. It frequently pressurized chief editors to force publication of its own choice or to prevent publication of dissenting views. It pressurized or coerced several press groups including Nawa-i-Waqt publications, by banning government advertisements as they heavily depended on it for their financial viability. During the Musharraf era, the economic insecurity of journalists badly affected their positions to express freely. The judiciary could not help ensure freedom of expression in Pakistan, because proper judicial remedies were not available. Such practices led to self-censorship on the part of the journalists.³²

Intimidation, Torture and Arbitrary Attests: Government agencies occasionally intimidated, tortured and arrested journalists, and also closed down some newspapers on charges of “printing offensive material.” Journalists were frequently harassed, beaten, kidnapped and mistreated by individuals, private groups as well as organizations and security agencies of the government.³³ For instance, on 27th September 2000, an army’s team “conducted an unannounced, four-hour inspection” of the headquarters of daily Dawn, supposedly to check metering equipment for electricity billing fraud. The team inspected all floors of the publishing house. Earlier, the Ministry of Information had served legal notices to the newspaper in order to prevent it from publishing a “draft Freedom of Information Act.” Reportedly, the government had also complained about an article published in Dawn. Meanwhile, the media reported that the administration was “preparing new curbs” on freedom of the press.³⁴

The journalists were not immune to baton-charge, torture and arrests by the government agencies, police officials, government functionaries, and powerful lobbies. On December 11, 2000, the police beat up press photographers and damaged their cameras, when photographers had reportedly recognized a plainclothes policeman hurling bricks into the crowd.³⁵ In April 2002, Faisalabad police baton-charged 17 local journalists in a public meeting being addressed

³² International Federation for Human Rights, *In Malafide: Freedoms of Expression, Association and Assembly in Pakistan*, issued on 17 January 2005, http://www.fidh.org/article.php3?id_article=2178

³³ Jurist Legal Intelligence, “Pakistan Constitution, Government & Legislation.”

³⁴ Human Rights Watch, *World Report 2001*, <http://www.hrw.org/wr2k1/asia/pakistan.html>

³⁵ US Department of State, *Country Reports on Human Rights Practices - 1999*, from <http://www.state.gov/g/drl/rls/hrrpt/1999/441.htm>

by Punjab Governor Khalid Maqbool. Earlier, the Governor had criticized the national press for “misreporting and undermining the response of crowd” during the campaign for the referendum. He had also warned that “journalists could face revenge from the public.”³⁶ In July 2002, Muzaffar Ejaz, an editor of the daily Jasarat, was harassed, abducted and interrogated by the intelligence agencies “following publication of a controversial article on faction politics in the Muslim League.”³⁷

The situation did not change or improve even after the transition to a civilian government following the general elections held in October 2002. In January 2003, police harassed and arrested a number of journalists at a press conference of the President Lahore High Court Bar Association. Meanwhile, some two dozen armed men smashed the staff of a cable network company in Peshawar and damaged equipment. The staff of an intelligence agency interrupted and beaten up Osama, a radio journalist, when he ventured to interview Sehba Musharraf, wife of General Musharraf, at Alhamra, Lahore. On 22nd March 2003, Special Services Group (SSG) personnel affronted some 30 journalists from various newspapers at the Frontier’s House, Peshawar. Some 20 days later, Ranger officials offended various journalists at Wagah Border, Lahore. On 22nd May 2003, Lahore police baton-charged journalists outside the Punjab Assembly when they were inquiring from SSP operations about a case of an MPA’s arrest. After a weak, police again baton-charged reporters while they were interviewing opposition leaders.³⁸

Meanwhile, the key government functionaries at the highest level did not falter from intimating or threatening the journalists on various occasions. For instance, the Punjab Home Secretary threatened the management of the weekly Independent and its editor Amir Mir. The government agencies forced Mir to resign from this post on 13th June 2003 after several months of pressure to change his editorial line. He, however, continued to write for Herald and criticized government policies.³⁹ Later on, he was publicly threatened by President Musharraf on 20th

³⁶ Human Rights Watch, *World Report 2003*, <http://hrw.org/wr2k3/asia8.html>

³⁷ Ibid.

³⁸ Human Rights Commission of Pakistan (HRCP), *Current HR Information: Media*, 2004, <http://www.hrcp-web.org/about.cfm>

³⁹ Ibid.

November 2003. Two days later his car was set to fire⁴⁰ and shots were fired outside his home in Lahore. Earlier, Lt. Gen. Rashid Qureshi, Director General, Inter-Services Public Relations (ISPR) termed him as an "Indian agent" because he had written an article in the Indian magazine *Outlook*. Musharraf himself told editors of the leading newspaper during a meeting on 20th November 2003 that the editors of the Herald and the monthly Newsline were not invited "because they published articles that damaged Pakistan's international image." He also criticized a few of Pakistani newspapers on publishing "harmful reports."⁴¹

Meanwhile, authorities continued to suppress the freedom of media through various techniques asking it to not publish material against the government. It also tried to influence the coverage of the opposition leaders by the media. Information Minister himself admitted that Opposition was given 13 times less coverage than the government on PTV. In June 2003, a Lahore based magazine's editor was arrested for two days and ill-treated by the authorities on publishing material against the government. Meanwhile, Information Ministry asked the newspapers to not publish an interview of former Prime Minister Nawaz Sharif.⁴²

The government policy to curb media freedom continued throughout the year 2004. The media community was concerned over the government's efforts to curtail freedom of expression in the country. This practice did not conform to the declared official policy which alarmed the media. For instance, the authorities harassed and defamed, through government-controlled electronic media, Mubashir Zaidi, an Islamabad based journalist working for the Herald and also intimidated him and his family. Zaidi had to suffer after his visit, along with an American journalist, to a madrassah in Islamabad where they were briefly detained by madrassah students.⁴³ In November 2004, security officials of the Punjab Civil Secretariat thrashed a senior staff member of Dawn, Zaheer Mahmood Siddiqui, accompanied by Anwar Husain Sumra, another reporter of English daily.

⁴⁰ Human Rights Watch, *World Report 2004*.

⁴¹ HRCP, *Current HR Information: Media*,

⁴² Ibid.

⁴³ Ibid.

Arrests on Charges of Sedition, Blasphemy and Terrorism: The government also resorted to registering cases against journalists and arrested them on charges of severe crimes including blasphemy, sedition, and terrorism. Some of them were also imprisoned in a few cases. For instance, Munawar Mohsin, a journalist, and sub-editor of daily the Frontier Post, was arrested and held responsible for the publication of a blasphemous letter on 29th January 2001 in the paper. Later, he was sentenced to life imprisonment with a fine of Rs.50, 000.⁴⁴ On 30th August 2003, Hyderabad police registered a sedition FIR against 7 journalists when they were performing their professional duties during President Musharraf's visit to the city. The journalists' organizations termed the action a part of anti-press measures of the government.⁴⁵ In September 2004, the administration of Northern Areas banned a magazine Kargil International, charging that "it carried seditious and unpatriotic news." Two months later, the Skardu police arrested Ghulam Shehzad Agha, the editor of the magazine.⁴⁶

The government agencies and functionaries also tried to silence journalists through framing charges of terrorism against them. For instance, on 5th May 2003, thousands of tenants at the Okara military farms held a demonstration and demanded the restoration of their tenancy rights. Under the tenancy status, they used to share the crop with the authorities. But they were now being denied of their rights being asked by the authorities to leave the farms which they were cultivating from many generations. The authorities registered cases against hundreds of farmers intimidating them to withdraw their demands. The police also registered two separate cases against Sarwar Mujahid, a correspondent for daily Nawa-i-Waqt in Okara district, who was covering the conflict. He was accused of using a 7mm rifle to fire on Rangers. The accused denied the charges claiming that he never saw such rifle in his entire life. On 14th May, the police arrested him on charges of terrorism and "enticing public" against Rangers. Later he was trialed in both charges. In one case, he was on a trial in a lower court in Okara while in the other in the anti-terrorist court in Lahore. Several other reporters also complained that coverage of happenings in Okara was not tolerated and they were compelled to abandon performing their professional duties in the area. Later, Sarwar Mujahid was detained on 31st July 2004 at Sahiwal

⁴⁴ Human Rights Watch, *World Report 2005*.

⁴⁵ HRCP, *Current HR Information: Media*.

⁴⁶ Ibid.

prison and was freed on October 12.⁴⁷ Meanwhile, Arshad Noor Khan, a judge of the Anti-Terrorist Court (ATC) in Karachi initiated contempt of court proceedings against local administration of ARY, a private TV channel, on “telecasting derogatory remarks” on the judiciary by a condemned prisoner. However, these proceedings were later on withdrawn by the court.⁴⁸

Killings of Journalists: In the last quarter of 2002, Daniel Pearl, a reporter of the *Wall Street Journal* was kidnapped and murdered by the militants.⁴⁹ Amir Bux Brohi, a correspondent for the Sindhi-language daily Kawish and the TV station KTN, was murdered on the 3rd October 2003. Reportedly, he was killed on his reporting on human rights abuses by police and powerful local figures. Khalid Javed, a lawyer and Nazim of Mansehra, shot dead a reporter, Sajid Tanoli, working for an Urdu-language daily Shumaal (North), Abbottabad, when he had uncovered some stories against him. A month later, a bomb exploded outside the building of daily Jang, Quetta. According to HRCP such incidents suggested overt efforts by the government to hamper media freedoms. It reinforced the impression that the government was determined to curb freedom of media by using coercive powers.⁵⁰

Curbs on Foreign Media: On 17th March 2003, Information Minister Sheikh Rashid Ahmed announced that cable TV operators would not be allowed to relay Indian channels because they “spoil the younger generation of the country.” The government was reportedly drafting a new law to limit the activities of foreign journalists. Meanwhile, the government stopped access to several foreign media organizations on different pretexts. For instance, HRCP claimed that the Pakistan Telecommunications Company Limited (PTCL) started banning indecent web sites during the first week of April 2003 and blocked “more than 1,800 pornographic web sites in order to protect Internet users from evil influence.” A few weeks later, a Washington based news website “South Asia Tribune” complained that the Pakistani authorities had stopped access to its URL. It claimed that Pakistan Internet Exchange (PIE) had blocked access to www.satribune.com.

⁴⁷ Human Rights Watch, *World Report 2005*.

⁴⁸ HRCP, *Current HR Information: Media*.

⁴⁹ Human Rights Watch, *World Report 2003*.

⁵⁰ HRCP, *Current HR Information: Media*.

The government agencies also strove to detain foreign journalists in a bid to latter's activities. For instance, on 16th December 2003, officials from Federal Investigation Agency (FIA) caught two French journalists, Joel Marck Epstein and Paul-Jean Guillopeau, a reporter and a photographer for the French magazine, L' Express, respectively, along with their local colleague, Khawer Mehdi Rizvi, a freelance journalist. Both of them were booked under sections 13, 14 and 3 (a) of the Foreigners Act of 1946 for violating their visa restrictions. After one month, both foreigners were freed by the Sindh High Court (SHC). But, authorities charged them for anti-state activities while Rizvi was tortured during his detention.⁵¹

The government also coerced foreign media organizations in order to prevent them from coverage of opposition parties and leaders. For instance, on 10th May 2004, the police sealed the local office of US news channel CNN detaining Mohsin Naqvi, local in-charge of the CNN team. The police detained Mr. Naqvi, his family as well as his staff members. Reportedly, the move was made to prevent CNN from the coverage of Shahbaz Sharif's arrival. Two days later, commandos thrashed some journalists who were on board with Shahbaz Sharif. Their cameras were snatched and films were destroyed. A British journalist told that commandos "slapped two photojournalists and snatched their cameras before they came out of the aircraft." Lahore police also did the same action against journalists at several places in the city in order to prevent reporters and an HRCP team from covering Sharif's arrival at the airport.⁵²

FATA – A “No Go Area”: According to a report, foreigners and journalists were not allowed to enter formerly federally administered tribal areas (FATA), especially in the areas where military operations were underway.⁵³ Mujeebur Rehman, a correspondent of an Urdu daily and several foreign TV stations, was arrested on 16 March 2004 when he was covering a military action near Wana. He was held for several hours while his digital camera was confiscated by the authorities. A week later, Reporters Without Borders protested over "concerted efforts to stop foreign and local journalists" from free coverage of military operations against Taliban and Al-

⁵¹ Ibid.

⁵² Ibid.

⁵³ International Federation for Human Rights (IFHR), *In Malafide: Freedoms of Expression, Association and Assembly in Pakistan*, issued on 17 January 2005, http://www.fidh.org/article.php3?id_article=2178

Qaeda in FATA. Reportedly, at least four journalists were arrested and “a dozen more” were not allowed to enter the area. On 21st March, Haroon Rashid, correspondent of the BBC radio service in Peshawar, and Saiful Islam a correspondent of a local daily Surkhab and Al-Jazeera TV, were arrested at Peshawar military hospital when they tried to interview army personnel wounded during Wana operation. Intelligence officials interrogated the journalists, confiscated their recorders, and destroyed their films. Newsweek journalist Sami Yousafzai, Griswold, a freelance US reporter and their driver Mohammad Salim were arrested at a checkpoint in Bakhakhel near Bannu on 21st April 2004 when they were entering North Waziristan Agency. Yousafzai was detained secretly in Peshawar and was later transferred to the Miranshah detention centre. He was released on 2nd June by the tribal administration after detaining him for about 40 days.⁵⁴ Meanwhile, the militants also targeted journalists including those working for foreign media in FATA. For instance, two journalists, Allah Noor Wazir, a reporter, and Amir Nawab Khan, a cameraman, were killed on 7th February 2005 in an ambush near Wana. Anwar Shakir, a correspondent of Agency France Press (AFP) in the area, was wounded in the incident.⁵⁵

Government Advertisement as to tool for Financial Intimidation: The government also tried to coerce, intimidate or pressurize media through economic means. For instance, it reduced the quota or totally banned government advertisements for several press groups including Nawa-i-Waqt publications, for pursuing policy not supportive of the military regime. The newspapers heavily depended on government advertisements for their survival and financial viability. The government measures brought them to the verge of complete collapse, economic bankruptcy, and closure. For instance, in the first week of August 2003, a Sindhi newspaper “Sindhi Hyderabad,” once the second-largest Sindhi paper, was closed down “due to financial constraints” because the government had decreased its advertisement quota by 50%. Earlier, the journalists and workers of the paper went on hunger strike and marched from Hyderabad to Islamabad on foot to protest when the administration of the paper expressed its inability to pay their salaries. Reportedly, the government policy had resulted in the closure of 12 newspapers in

⁵⁴ HRCP, *Current HR Information: Media.*

⁵⁵ Ibid.

Sindh alone till that time. According to journalists, the alliance between generals and feudal lords was responsible for such moves by the government.⁵⁶

The overall situation of media freedoms remained worse throughout the five years being studied. The journalists remained targets of high government officials and security agencies through intimidation, harassment, ill-treatment, humiliation, blackmailing, arrests, torture, and registering fake cases at various places including main cities like Karachi, Hyderabad, Lahore, Islamabad, and Peshawar. Most of the journalists were not well equipped and only they got meager salaries. Regional and district correspondents usually had to work voluntarily. Due to government pressure, intimidation and other moves, self-censorship on political issues became increasingly common in the print media and even the English-language newspapers and magazines were not immune from such government tactics.⁵⁷

Conclusion

Musharraf tried to project himself as a liberal leader and lover of democracy and took several measures that could help build his image as such. He wanted to get political legitimacy in the country and recognition at the international level. Thus, he took several steps to advance his goals, such as the holding of a conference on human rights, liberalization of society, promotion of his notion of “enlightened moderation” to appease the West and justify his pro-American policies. He also introduced political reforms and pursued apparently a liberal policy towards media. However, all these measures proved to be cosmetic and shallow. In reality, the overall civil and political rights situation during the period under study remained desolate in all respects. Musharraf played with the country’s constitution and judiciary at his will and made the latter subservient to the executive headed by a military dictator. He tempered with the constitution on the plea that the judiciary had permitted him to do so. He used judiciary, police and intelligence agencies to harass, intimidate and victimize his critics and to crush political opposition in order to his authoritarian rule. He denied the people the right to elect their representatives and form the government freely. People’s rights to “free expression and dissemination of information” were

⁵⁶ Ibid.

⁵⁷ IFHR, *In Malafide: Freedoms of Expression*.

suppressed by the military government, through the arrest of journalists on different charges and aggressive moves to quiet journalists perceived as critical to the government.

During the five years (1999-2004), federal, provincial and local authorities consistently strived to restrict journalists from performing their professional duties through physical or financial intimidation, harassment, arrests, harsh legislation and forcing over them self-censorship. Journalists were frequently harassed, beaten, kidnapped and mistreated or even murdered by individuals, private groups as well as organizations and security agencies of the government. They were not immune to baton-charge, torture, and arrests. The key government functionaries at the highest level, including the President, provincial governor and the interior minister did not hesitate from intimating or threatening the journalists on various occasions. The officials strove to suppress the freedom of media through various techniques asking it to not publish material against the government. The government even resorted to registering cases against journalists and arrested them on charges of severe crimes including blasphemy, sedition, and terrorism. Some of them were also imprisoned in a few cases. The government tried to coerce, intimidate or pressurize media through economic means too. The print quota and government advertisements were used as a tool to pressurize the newspapers unwilling to toe the government line. The overall situation of media freedoms remained worse throughout the five years. The journalists remained targets of high government officials and security agencies through intimidation, harassment, ill-treatment, humiliation, blackmailing, arrests, torture, and registering fake cases at various places including main cities like Karachi, Hyderabad, Lahore, Islamabad, and Peshawar.