

State of Human Rights in 1998

The annual State of Human Rights report by the Human Rights Commission of Pakistan (HRCP) has more often than not been ignored by incumbent governments in the past. It came as something of a surprise therefore, for the 1998 HRCP report to have evoked an unusual response from the government. Leading the charge was Federal Information Minister Mushahid Hussain, followed closely by Punjab Social Welfare Minister Pir Binyamin Rizvi.

Mr Mushahid Hussain asserted in a Press conference that the Nawaz Sharif government has a "reasonably positive human rights record", that the issues raised by the HRCP report are not the result of any of this government's policies, that it could not be blamed for issues being faced by the State and society since long, which "could not be put in the plate of the government". He also criticised the HRCP report for including "political issues which do not directly infringe upon the basic human rights of the people". He ended with the claim that the government is striving, within the ambit of the Constitution, to ensure the protection of basic human rights.

Pir Binyamin Rizvi, in his usual combative style, described the HRCP report as a pack of lies. He alleged that the report had been compiled by the vested interests whose 'mission' was to project a negative picture of Pakistan vis-a-vis human rights conditions in the country. He went on to wildly flay the HRCP in terms which virtually reduced it to an enemy of the State (meaning actually, the government).

The HRCP in its response to this criticism from the two worthy Ministers said a more responsible attitude of a genuinely concerned government would have been not to rush with disclaimers of responsibility but to heed the suggestions offered for improvement of the situation. The HRCP argued: "HRCP reports are not concerned with fixing the responsibility of one government or another. They reflect the situation during the previous year as it came to light in surveys, fact-finders, official and non-official reports, and the Press. The government in power is of course liable to criticism for its own acts of commission and omission during the year, no more, and no less. But it is bound to be even more liable to criticism in the future if it fails to correct the errors of the past."

The last two sentences of the HRCP response sum up the crux of the matter. HRCP reports provide a continuum from year to year for judging whether long standing human rights abuses have been corrected, or trends are visible towards correction of such abuse or, at the very least, improvement in the situation, and whether any new issues of human rights have surfaced during the year which deserve attention. To assess whether the government's reaction is reasonable and justified, it is necessary to summarise what exactly the HRCP report on the State of Human Rights in 1998 actually says.

The 1998 report focuses, on the one hand, on the usual and continuing aspects which offend against universal human rights such as the fundamentalist assertion which threatens women's and minorities' rights; the feudal hold on power which allows them to continue with dark practices such as bonded labour; the absence, by and large in practice, of child rights; and the conditions in our jails, which are places where the light of the law seldom penetrates, despite what is contained in the statute books. Alongside these abiding concerns, the 1998 report mentions developments during the past year which are new, unique to this government, and for which there is room for it to be taken to task. These developments include the concentration of powers in the person, family, and close associates of Prime Minister Nawaz Sharif; the threat to the rule of law emanating from the battering of the judiciary and the continuing attempts to set up parallel judicial systems; pressures on the Press; denigrating the Senate; handling of the economy post-sanctions; and law-making through Ordinances, to mention

Rashed Rahman

The Nation
16/7/99

the main points of criticism.

The report argues that orthodoxy (read fundamentalism) gained further in confidence during the past year, particularly when the 15th Constitutional Amendment Bill was mooted. The climate created by the introduction of, and the campaign surrounding the Bill, led to instances of harassment of women in bazaars for being without a veil, and being told by no less than traffic policemen that they should stop driving a car by themselves. It could be counter-argued that these were isolated incidents, and did not reflect a wider opinion. Perhaps, but they point to the latent tendencies within a society subjected to 22 years of numbing propaganda about the true import of the creation of Pakistan, i.e. a theocratic state, an idea which was anathema to the Founding Fathers and especially the Quaid-e-Azam. The strident demands for the banning of 'obscenity' on television were a further indication of the evocation of narrow obscurantist views by the emphatic campaign for the 15th Constitutional Amendment Bill.

By the time it became obvious that the Bill had proved divisive and lacked a broad consensus, not the least because of suspicions surrounding it that it was merely a cloak for giving the Prime Minister unlimited and unfettered powers, the initial fervour began to subside, but it did that to make a quieter, more concerted bid for an order of its craving, with the *mullah* at the centre of such a dispensation. Whether the fundamentalists can overturn the past track record of the people of Pakistan of being religious but not enamoured of a theocratic order, remains to be seen. Legislation such as the marriage and family laws, in place since 1961, and which offered some limited protection to women, were challenged in the *Shariat Court*. The challenge hinged on removing any restraints on four marriages by a man, including the legal necessity of seeking a wife's formal permission to remarry (a restraint often abused in our male dominated society). Also, the binding requirement for registration of marriages was sought to be overturned, which would clearly open the floodgates to further abuse of women's rights in matrimony. And all this was being argued in the name of Islam, which brought the message of liberation of all mankind, especially women, from exploitation! In these circumstances, all hopes for improvements in the lot of women in other areas as well, such as removal of discrimination in employment or appropriate representation in elected bodies, were dashed.

Religious minorities continued to enjoy a status less than equal citizens. The feudals' hold on the State machinery asserted itself in the retreat of official support on behalf of bonded labour, particularly in Sindh. Child rights continued to be practised, in the breach. Human rights activists were attacked, in particular through the campaign launched by the redoubtable Pir Binyamin Rizvi, who spent the better part of the year pummeling NGOs indiscriminately, calling a majority of them bogus, corrupt and anti-national (read anti-government policies). Registration of new NGOs has been partially stopped, and the rest may in future require clearance from intelligence agencies for registration. The government's efforts to pillory NGOs received support from vested interests in the private sector, for example *qabza* groups and builders' mafias.

The past tendency on the part of governments to concentrate powers in their hands has been pursued particularly systematically by this one. The proposed 15th Constitutional Amendment was one effort that stood out. Criticism of the judiciary and insistence on the setting up of parallel courts was another. The one-sided, partial, partisan, motivated 'accountability' of the main Opposition party, the PPP, was an attempt to politically isolate and decimate it. Entrenching the ruling party through local bodies elections in Punjab and the setting up of *khidmat* committees was aimed at creating per-

manent vested interests in support of the PML(N). Wilful, undebated decision making, illustrated by issues such as the Kalabagh Dam and the census, nuclear testing, imposition of the state of emergency, seizure of foreign currency accounts, etc, while it reflected the penchant for the concentration of power at the apex, also landed the government in the embarrassing position of having to repeatedly retreat after the announcement of various ill-considered initiatives.

The rule of law, weak as it already is because of the system's own inadequacies, was further threatened by the government's declaring the courts as being incapable of dealing with terrorism and white collar crimes. Amongst other parallel judicial systems touted, the Taliban's tribal *jirga* system of rapid trial and quick, public execution was looked on with admiration. Military courts set up in Karachi telescoped the process of trial, and began quickly delivering sentences of death or life imprisonment. Fortunately, these courts were later declared unconstitutional by the Supreme Court and abolished in early 1999, but not before two people had been hanged as a result of death sentences handed down by the military trial courts. The Supreme Court in its wisdom refrained from leaving open a Pandora's box by declaring all past proceedings in the military trial courts closed and finished. This may have avoided embarrassing litigation by the accused sentenced by the military trial courts, but it also closed all avenues for the heirs of the two hanged men to claim just compensation, at the very least, from the government.

Pressures on the Press were both visible and invisible. Some well-known dailies and weeklies and other not so well known cases involved smaller newspapers, news agencies and individual journalists being pressurised to toe the government line.

The status of the Senate was sought to be denigrated merely because the government had lost its majority in the Upper House. Feelers were extended about abolishing the Senate altogether. Fortunately, the weight of democratic opinion remains firmly wedded to the federal structure of the Constitution.

A struggling economy was further weakened by sanctions applied after the nuclear tests in May 1998. No more foreign loans or funds flows from multilateral and bilateral sources brought the foreign exchange crunch home. Investment and production contracted. Large scale lay-offs and lack of new job creation made unemployment far worse, particularly amongst the educated youth. Suicides emanating from economic and social despair were greater in number than in any previous year and totalled more than the combined phenomenon for several years.

The report concedes that the government's declared keenness to show results had positive effects in the greater sense of accountability in official departments and activities. The courts helped by being less inclined to overlook official lapses. Routine areas of neglect, such as education, health and roads, received some attention, hopefully to become an abiding development.

On the whole, however, the report regards the picture at the year's end as far from inspiring. The prospects, it concludes, for freedoms and better guarantees of economic rights were not bright. The school of thought which sees the Taliban as a model, the Army as a deliverer for civilian chores, and dissent from 'heavily mandated' objectives as treasonous, seemed likely to remain ascendant in the near future. The HRCP report pins its hopes on an even more alert, articulate and resistant civil society, against all the present odds.

The government would be advised, in its own enlightened self-interest to pay close attention to the wealth of research, documentation, and considered recommendations contained in the HRCP's 1998 report. If the government is committed to improving the human rights situation in Pakistan, it could do worse than begin from the HRCP 1998 report, for starters.