

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders**

REFERENCE:  
AL PAK 10/2017

29 January 2018

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 34/18 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the potential shut down of 29 international non-governmental organizations operating in Pakistan as well as the continuous crackdown imposed on civil society since 2015.

According to the information received:

Over the past two years, an extremely alarming, discernible trend of crackdown on civil society organizations both with regard to legislation and to practice is observed in Pakistan.

In June 2015, the offices of a prominent international NGO in Islamabad were shut down as the organization was accused of involvement in CIA operations to capture Al-Qaida leader Osama Bin Laden.

On 1 October 2015, a new Policy for Regulation of international non-governmental organizations (INGOs) in Pakistan was issued by the Government. By enacting this new Policy, the authorities imposed restrictive regulations that have harmed the operating environment for many international groups in Pakistan.

According to the policy:

*“There shall be proper regulation and monitoring of INGOs' sources of funding, their accounts and tax returns. INGOs not fulfilling disclosure requirements will be proceeded against, under prescribed rules and regulations.”*

Under the Policy, unregistered groups will be banned from functioning within the country. The Policy obliged all INGOs working in Pakistan to re-register within 60 days, to submit an annual plan of action outlining all envisaged projects and budget and their operation will be restricted to specific issues and certain geographical areas. INGOs receiving foreign contributions (funds, materials and services) emanating from outside Pakistan or utilizing foreign economic assistance will require prior registration exclusively with the Interior Ministry.

The Policy also implemented the possible disbandment of INGOs on the grounds of:

*“Involvement in any activity inconsistent with Pakistan’s national interests, or contrary to government policy”.*

We would like to underscore the Concluding Observations of the Human Rights Committee, issued on 23 August 2017 (UN Doc CCPR/C/PAK/CO/1). In its Concluding Observation, the Committee stated its concern *“that the Policy for Regulation of International Non-Governmental Organizations in Pakistan may, contrary to its intention, constrict the registration of international non-governmental organizations (NGOs) and their activities. It is particularly concerned by the broad and vague grounds for cancellation of the registration of these organizations (arts. 18, 19 and 22)”* (para 39).

It further stressed that *“The State party should review its legislation on the registration of international NGOs with a view to bringing it into line with article 22 of the Covenant”* (para 40).

The enacted legislation was followed by numerous allegations from the authorities, accusing INGOs of espionage and terrorist activities, often suspected to be related to Israeli or Indian authorities. Several of them were forced to cease their operations.

In January 2017, the Government ordered about a dozen groups working on women’s issues and human rights to halt their operations. In November 2017, a prominent humanitarian organization was forced to shut its last remaining facility in the impoverished tribal belt bordering Afghanistan.

Since mid-December 2017, the Ministry of Interior has sent letters to 29 INGOs to warn them that their application permit that enables them to continue working in the country will be cancelled. The letters further requested the organizations to close down their operations and leave Pakistan by the end of January 2018. The letters did not provide any reason justifying the decision taken. Organizations were given 90 days to appeal the decision, but have been informed that appealing will not put a stay on the order to close all operation within 60 days. Most of these INGOs are believed to be foreign human rights and charity organizations.

We express concern at the adoption of the Policy for Regulation of INGOs in 2015, followed by its implementation through the shut down and the notice of the upcoming shut down of numerous foreign civil society organizations. We are particularly concerned about the fact that the organizations may be targeted for their activities dedicated to the protection and promotion of human rights. The apparent shrinking of civic space over recent years, both in law and in practice, appears to be indicative of a deliberate policy aimed at cracking down on civil society organizations, targeted for their dissenting views and human rights activities.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information about measures taken to bring legislation governing the functioning of non-governmental organizations into conformity with Pakistan's obligations under international human rights law as well as measures taken to ensure that human rights defenders in the country are able to carry out their legitimate work in a safe and enabling environment without fear of retaliation, intimidation or harassment of any sort.
3. Please provide information about the closure of various organizations, including prominent INGOs, as well as several organizations working on women's issues and human rights since 2015.
4. Please provide information about the legal basis for the plans to shutting down 29 INGOs, as well as the issue concerning the appeal of the decision and explain how these measures are compatible with Pakistan's obligations under article 19 and 22 of the ICCPR.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

Michel Forst  
Special Rapporteur on the situation of human rights defenders

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Islamic Republic of Pakistan on 17 April 2008, which respectively guarantee the right of every individual to the rights to freedom of opinion and expression, and freedom of association.

We would also like to refer to Human Rights Council resolution 24/5, and in particular its operative paragraph 2, in which the Council "reminds States of their obligation to respect and fully protect the rights of all individuals to associate and assemble peacefully, ... including persons espousing minority or dissenting views or beliefs... seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law".

As highlighted by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, States have a negative obligation not to unduly obstruct the exercise of the right to freedom of association. Members of associations should be free to determine their statutes, structure and activities and make decisions without State interference. Associations pursuing objectives and employing means in accordance with international human rights law should benefit from international legal protection. Associations should enjoy, inter alia, the rights to express opinion, disseminate information, engage with the public and advocate before Governments and international bodies for human right (A/HRC/20/27, para 65).

The Special Rapporteur stressed that the right to freedom of association applies for the entire life of the association. The suspension and the involuntarily dissolution of an association are the severest types of restrictions on freedom of association. As a result, it should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law. It should be strictly proportional to the legitimate aim pursued and used only when softer measures would be insufficient (A/HRC/20/27, para 75).

The Special Rapporteur further considers that any decision rejecting the submission or application must be clearly motivated and duly communicated in writing to the applicant. Associations whose submissions or applications have been rejected should have the opportunity to challenge the decision before an independent and impartial court (A/HRC/20/27, para 61).

Finally, the Special Rapporteur underlines that the right to freedom of association equally protects associations that are not registered. Individuals involved in unregistered associations should indeed be free to carry out any activities, including the right to hold

and participate in peaceful assemblies, and should not be subject to criminal sanctions (A/HRC/20/27, para 56).

Furthermore, we would like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. Article 5 of the Declaration provides for the right to form, join and participate in non-governmental organizations, associations or groups.

Articles 5 and 6 reiterate the rights to meet or assemble peacefully; to form, join and participate in non-governmental organizations, associations or groups; to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms; as well as the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights. Article 9, paragraph 3 (c) provides for the right to provide legal assistance in defending human rights and fundamental freedoms. We would also like to refer to provisions in the Declaration as article 12, which provides that State must take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.