



**APC submission to the UN Special Rapporteur
on freedom of religion or belief:
Gender and freedom of religion or belief**

*Association for Progressive Communications (APC)
November 2019*

Table of contents

1. Executive summary.....	3
2. Background.....	5
3. Empowering impact of ICTs.....	6
4. ICT laws and blasphemy or other discriminatory laws used online.....	8
5. Hate speech and intimidation online.....	10
6. Role and response of key actors including the private sector.....	13
7. Recommendations.....	15

1. Executive summary

The Association for Progressive Communications (APC) presents this report on the experience and situation of women and lesbian, bisexual, gay, transgender, intersex, queer and asexual (LGBTIQ+) persons and communities in relation to the intersection of religion and online spaces, with particular examples from Asia given the pressing nature of the issues in the region.

Women and people of diverse and marginalised genders and sexualities or LGBTIQ+ individuals and organisations, on the one hand, face challenges in the exercise of their right to religion and on the other, face severe restrictions and consequences on their bodies, expression and faith imposed in the name of religion. Information and communications technologies (ICTs) have made spaces and tools available for vulnerable groups, especially women and LGBTIQ+ persons, to find ways and mediums to exercise their right to freedom of religion or belief. However, the violations suffered offline continue online, and in some cases are exacerbated. To counter these, women and LGBTIQ+ led movements have leveraged ICTs to express their collective dissent and find other like-minded individuals.

The space available for expressing opinions in relation to religion has consistently come under attack, especially online. Laws relating to obscenity, blasphemy and insulting religion are extended to online spaces, and ICT-specific laws are also used to criminalise expression of women and LGBTIQ+ persons in the name of religion. Religious, sexual and political expression of these persons is marginalised. Websites and social media pages of advocacy groups, including those providing critical sexual and reproductive health information, have been taken down or subjected to cyber attacks with the support of religious groups. The most palpable form of violation faced online is the barrage of hate speech, harassment and intimidation faced by women and LGBTIQ+ individuals for expressing their opinion on religion or discriminatory religious practices. These attacks are further heightened against opinion makers, public figures and journalists from these vulnerable groups. The result of this is a serious assault on the freedom of religion and expression of individuals, forcing them to exercise self-censorship or be subjected to emotional and physical violence.

These worrying trends are particularly pronounced in the global South, where there is entrenched patriarchy in an environment where multiple ethnicities and religious groups cohabit. Women and LGBTIQ+ individuals and groups face repression online across countries at the behest of extremist Buddhist, Christian, Hindu, Islamic and Sikh religious groups and as a result of majoritarianism. The examples presented in this submission go to show that it is critical that the report addressing gender and freedom of religion or belief addresses the experience of these groups offline and online.

In many cases, the state machineries and political figures have provided covert or overt support to groups perpetrating sexism, hate and violence in the name of religion or religious propriety. Non-state actors operate with impunity in online spaces and are emboldened by the lack of action by the state and social media platforms. Large private social media platforms have long practiced discriminatory standards against content generated by women and LGBTIQ+ individuals with a view to avoid backlash from religious groups. On the other hand, these platforms have failed to implement the community standards to ensure that the rights of these individuals are guaranteed and that they are protected against violations.

Given this context, some immediate steps are necessary. International processes must always take into account gender perspectives and the voices of women and people of diverse and marginalised genders and sexualities on matters relating to freedom of religion or belief. States must reform laws to ensure that political and religious expression of LGBTIQ+ persons is protected and refrain from providing impunity to perpetrators in online and offline spaces. Private sector technology platforms must reform their community standards and root them in international human rights standards. They must allocate more human and other resources with local expertise to take action against gender- and religion-based hate speech. Most importantly, the private sector must immediately refrain from making their platforms available or providing advertising space to fundamentalist and intolerant groups.

2. Background

Women and LGBTIQ+ persons have historically been marginalised and faced violence, exclusion and persecution in their day-to-day life and structural inequality. This context is important to understand in relation to the specific ways in which these groups are unable to access and have seldom had the opportunity to meaningfully exercise the right to freedom of religion or belief. The restrictions faced by these groups range from prescriptions on how they must dress and behave, prohibition from entering certain religious sites,¹ sexual expression and control over reproductive health to seeking answers or dissenting against practices. Ultimately, these restrictions put the right to freedom of religion and belief and other rights such as the right to freedom of expression, right to health and right to associate, among others, in jeopardy. The result is that these persons are denied equality before the law and the right to live as equals.

Religion, morality, culture, social propriety and “decency” are used interchangeably and in concurrence to justify restrictions on the agency of women and LGBTIQ+ persons. Emerging fascism and nationalistic discourse supported by religious groups and political actors are also used to compound these attacks. The religious values of the majority are thrust upon non-conformists through formal legislative and religious prescriptions.²

Among women and LGBTIQ+ persons, those belonging to minorities, youth groups, opposition political parties along with those professing atheism; moderate and liberal voices; and those working as journalists, lawyers, artists, authors, academicians and human rights defenders are further vulnerable to violations of their rights to freedom of religion and expression.

These challenges and violations continue in online spaces. Given the extensive restrictions offline, the internet is a critical space for people to explore issues related to religion and identity and to access information related to sexual orientation and gender identity (SOGI), including on health and education.³

¹Dhillon, A. (2016, 13 January). Will India open its temples and mosques to menstruating women? *The Guardian*. <https://www.theguardian.com/global-development/2016/jan/13/menstruation-temples-mosques-india-ban-women>

²Khandhadai, G. (2016). *Desecrating expression: An account of freedom of expression and religion in Asia*. Bytes for All Pakistan, FORUM-ASIA, Global Partners Digital and APC. <https://www.apc.org/en/pubs/desecrating-expression-account-freedom-expression-and-religion-asia>

³Kaye, D. (2015). Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/HRC/29/32. www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Documents/A.HRC.29.32_AEV.doc. However, governments in the region are censoring SOGI-related online content deemed to offend religious sentiments. In July 2014 in Malaysia, the Selangor Islamic Religious Council gazetted a fatwa declaring the Muslim women’s rights group Sisters in Islam and any other similar “individuals, organisations or institutions” as deviant. The fatwa called for any publications deemed “liberal and plural” to be banned and seized. In addition, it called for any social media content that deviated from the teachings of Islam to be blocked by the Malaysian Communications and Multimedia Commission.

This is especially crucial for these individuals who live in societies which are entrenched in misogyny and discriminatory cultural and social norms.

In online conversations, women and LGBTIQ+ persons who take a stand on religion and politics face sexualised and hate speech, aimed at discrediting the speaker. Due to threats, they often shut down their social media accounts or delete messages to reduce risks of legal charges, thus losing the history of communication or conversations.⁴ For some, the consequences of speaking up online can be much more severe, with cases of “honour killing” of women on the grounds of religion and propriety on the rise in some countries.

Despite this, for vulnerable groups, online platforms, and more particularly social media, have provided an alternative medium for not only expression of opinion, but for seeking information, finding like-minded individuals or groups, and the development of discourses that may otherwise be difficult to find in traditional offline platforms. Similarly, the internet has also created a space for expression related to or touching upon issues that deal with or pertain to religion. However, such expression has been increasingly met with censorship and criminalisation, and has, at times, resulted in offline attacks and killings.

3. Empowering impact of ICTs

Information and communications technologies (ICTs) have become an important tool for women and LGBTIQ+ individuals to mobilise and spread their messaging. However, their use comes with many risks for women such as doxxing, photoshopped nudes, and trolling, to name a few. Nonetheless, women have been able to utilise the internet – especially social media platforms – to start and further counter speech and movements. With social media, these movements, often with little centralised leadership, are able to mobilise quickly, allowing their messaging to reach a wider audience, circumventing the restrictions they face in traditional offline mediums.

The Pink “Chaddi” (underwear) campaign⁵ in India was started in 2009 after 40 members of the right-wing Hindu group Sir Ram Sena⁶ attacked women and men in a bar in Mangalore, India as they believed that the women were engaging in behaviour that was “immoral” and that disrespected traditional Indian values. A video⁷ taken of the event went viral. In response to this, a group of women were able to mobilise on Facebook forming the “Consortium of Pub-going, Loose and Forward Women” (PLFW). Within a week of the formation of their Facebook group, they had 40,000 members. Through their Facebook group, PLFW was able to call on its members to participate offline by sending “pink chaddis” to the offices of the Sri Ram Sena as an expression of their protest.

In March 2018, the local newspaper Sinar Harian in Malaysia published an article⁸ outlining how to know if someone might be homosexual. Several individuals and religious groups came out with homophobic

⁴Venkisteswaran, G. (2017). “Let the mob do the job”: How proponents of hatred are threatening freedom of expression and religion online in Asia. APC. <https://www.apc.org/en/pubs/%E2%80%9Clet-mob-do-job%E2%80%9D-how-proponents-hatred-are-threatening-freedom-expression-and-religion-online>

⁵<https://informationactivism.org/en/pink-chaddi-campaign-india.html>

⁶TNN. (2009, 25 January). Girls assaulted at Mangalore pub. *Times of India*. <https://timesofindia.indiatimes.com/city/mangaluru/Girls-assaulted-at-Mangalore-pub/articleshow/4029791.cms>

⁷<https://www.youtube.com/watch?v=l7yg-bdImko>

⁸Coconuts KL. (2018, 9 February). National newspaper prints handy guide to identifying homosexuals. *Coconuts KL*. <https://coconuts.co/kl/news/national-newspaper-prints-handly-guide-identifying-homosexuals>

statements following this. The list was clearly an attack on the Malaysian LGBT community. In response to this, the LGBT community and its allies began to tweet personal messages about their experiences and how to support individuals in the queer community with the hashtag #CampurLGBT. This hashtag and the community it formed works to provide support and information to the queer community and its allies.

In India, several women have been fighting to gain the right to enter and worship at the Sabarimala Temple which is closed to women of “menstruating age”. The Supreme Court⁹ declared this practice as unconstitutional and in violation of the right to equality, despite which religious and political groups continue to obstruct women from entering the temple.¹⁰ Women who support and oppose this practice have been using online spaces to express their views and support others.¹¹ In response to the harassment of women trying to enter the temple, women formed a 620-kilometre human chain supporting gender equality. During this offline protest, an active social media response¹² was also taking place to support the women.

In addition to this, there are multiple women using ICTs to run counter movements such as Unsilence Pakistan, NotInMyName in India, and Aurat March Pakistan. Unsilence Pakistan¹³ came together in response to the murder of Sabeen Mahmud with the mission to organise, build alliances and plan actions in response to the increasing censorship of and violence towards academics, intellectuals, journalists, and social and political activists. NotInMyName¹⁴ in India was started by female filmmaker Saba Dewan in response to the murder of 15-year-old Junaid Khan in 2017. He was killed by a mob that mocked his skull cap and called him a beef eater – a direct attack on him being Muslim. The Aurat March Pakistan¹⁵ took place following the killing of Afzal Kohistani, an activist against honour killings. Although the Aurat March was fighting for women’s rights in all aspects of life, Afzal’s case was highlighted by many attending the march, indicating the impact of religious honour killings on Pakistani society and the extent to which religion affects women’s rights in Pakistan. These cases demonstrate how ICTs have become an important tool for women and the LGBTIQ+ community to voice their opinions and protest religious-based discrimination against their identity groups.

ICTs have also been central in facilitating the mobilisation for positive campaigns. In 2015, the “My Friend” campaign¹⁶ was launched in Myanmar which involved the participation of many young women and men who took selfies with persons belonging to other ethnic or religious groups, posting and sharing

⁹Rajagopal, K. (2018, 18 July). ‘Where a man can enter, a woman can go’, CJI observes in Sabarimala case. *The Hindu*. <https://www.thehindu.com/news/national/where-a-man-can-enter-a-woman-can-go-cji-observes-in-sabarimala-case/article24452080.ece>

¹⁰Dhillon, A. (2018, 17 October). Tensions high in Kerala as Hindu temple opens gates to women. *The Guardian*. <https://www.theguardian.com/world/2018/oct/17/kerala-hindu-temple-opens-women-sabarimala-india>

¹¹Khandhadai, G. (2016, 31 October). “Not ready to wait”: Freedom of expression and religion. *APCNews*. <https://www.apc.org/fr/node/22215>

¹²Thiagarajan, K. (2019, 4 January). Millions Of Women In India Join Hands To Form A 385-Mile Wall Of Protest. *Goats and Soda*. <https://www.npr.org/sections/goatsandsoda/2019/01/04/681988452/millions-of-women-in-india-join-hands-to-form-a-385-mile-wall-of-protest>

¹³Anis, T. (2015, 15 June). Sabeen remembered. *The Express Tribune*. <https://tribune.com.pk/story/903632/sabeen-remembered/?amp=1>

¹⁴The Indian Express. (2017, 28 June). What is the ‘Not In My Name’ protest? *The Indian Express*. <https://indianexpress.com/article/what-is/what-is-the-not-in-my-name-protest-lynching-junaid-khan-4725668>

¹⁵Shah, Z. (2019, 8 March). Why the Aurat March is a revolutionary feat for Pakistan. *Dawn*. <https://www.dawn.com/news/1394385>

¹⁶Rigby, J. (2015, 6 November). Students in Myanmar start selfie campaign to promote tolerance. *Mashable*. <https://mashable.com/2015/11/06/myanmars-my-friend-campaign/?europa=true>

them online. In April 2014, the Panzagar (Flower Speech) campaign was launched as part of an attempt to stop the growing amount of online hate speech in Myanmar, especially the pervasive anti-Muslim rhetoric in online and public spaces.¹⁷ The Panzagar campaign, which used Facebook to spread its message, was successful, gaining 4,671 followers and working directly with Facebook to create stickers for users to share on the platform. These stickers promote good practices of internet use in an attempt to quell the spread of hate speech online.¹⁸ Women took a lead role in the organising and planning of the campaign. However, the campaign has also been affected by misinformation, with fake Panzagar Facebook pages being created by anti-Muslim groups,¹⁹ highlighting again that although Facebook can be a useful platform for a campaign, it also creates significant security risks for campaigners. It also shows that online protests carry some of the same safety risks as offline protests for women and other vulnerable groups.

4. ICT laws and blasphemy or other discriminatory laws used online

Apart from facing risks to their physical safety for their religious expression, women and people from the LGBTIQ+ community also face the threat of prosecution in many countries. The range of expression online currently being criminalised includes content related to religion, sexual expression and gender identity which is often prosecuted as blasphemy, obscenity and sexual deviance.²⁰ Often, arguments on obscenity and sexual deviance are put forward on the basis of religious sensitivities. Across the globe and more particularly in Asia, discourse in support of defamation of religion and blasphemy laws is growing. These laws are being used to combat dissent and criticism of religions or beliefs, which is proving to be a serious threat to the fundamental exercise of freedom of expression and religion by women and LGBTIQ+ persons. Laws to punish blasphemy or hurting religious sentiments have a stifling effect on dissent and freedom of expression, prohibiting a free exchange of ideas and views on political, social, legal and academic issues that may touch upon religion by women and LGBTIQ+ persons.

Despite repeated calls by international experts and groups to decriminalise and repeal blasphemy-related laws and provisions, many states continue to institute criminal proceedings and enforce such legislation.²¹ Regulations and restrictions on expression relating to religion take many shapes. Many states²² have legal

¹⁷Frontier Myanmar. (2015, 10 October). Profile: The 'Flower Speech' movement. <https://frontiermyanmar.net/en/news/profile-the-flower-speech-movement>

¹⁸Sin, T. (2015, 22 February). Can #Panzagar 'Flower Speech' Facebook Stickers End Hate Speech in Myanmar? *Global Voices*. <https://globalvoices.org/2015/02/22/can-panzagar-flower-speech-facebook-stickers-end-hate-speech-in-myanmar>

¹⁹Michener Oye, M. (2014, 24 December). Using 'flower speech' and new Facebook tools, Myanmar fights online hate speech. *Washington Post*. https://www.washingtonpost.com/national/religion/using-flower-speech-and-new-facebook-tools-myanmar-fights-online-hate-speech/2014/12/24/3bff458c-8ba9-11e4-ace9-47de1af4c3eb_story.html

²⁰APC. (2017). *Unshackling Expression: A study on laws criminalising expression online in Asia*. APC. <https://www.giswatch.org/2017-special-report-unshackling-expression-study-law-criminalising-expression-online-asia>

²¹See Jakarta Recommendations on Freedom of Expression in the Context of Religion, available at <https://globalfreedomofexpression.columbia.edu/publications/jakarta-recommendations-on-freedom-of-expression-in-the-context-of-religion>; General Comment No. 34, Article 19, Freedom of opinion and expression, available at www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf; Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence: Conclusions and recommendations emanating from the four regional expert workshops organised by OHCHR, in 2011, and adopted by experts in Rabat, Morocco on 5 October 2012, available at www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf; and Report of the Special Rapporteur to the General Assembly on hate speech and incitement to hatred, A/67/357, available at www.ohchr.org/EN/Issues/FreedomOpinion/Pages/Annual.aspx

²²Including India, Malaysia, Pakistan, Bangladesh, Sri Lanka, Maldives, Indonesia and Myanmar. See Khandhadai, G. (2016). Op. cit.

provisions against insulting religion, outraging religious feelings and sentiments. For instance, in Malaysia, amendments to the Sedition Act have brought religion within the purview of sedition and, thus, comments or acts seen as critical of religion may attract sedition charges.²³ States also have provisions to prevent hate and incitement on the basis of religion. Legislation pertaining to offending religious sentiments or blasphemy, as well as some anti-hate speech legislation, poses a serious threat when applied to restrict freedom of legitimate expression and leaves women and LGBTIQ+ persons accused of such acts largely vulnerable to attacks by non-state actors as these provisions are extended and used in online spaces.

In addition, states have also enacted ICT laws or cybercrime laws that contain provisions on religion. Legislation pertaining to ICTs in Bangladesh and India contain specific provisions for dealing with content that may be seen as offending religious sentiments.²⁴ Similar legislation has been passed by Pakistan in the form of the Prevention of Electronic Crimes Act which allows for blocking of content deemed to be blasphemous or affecting the glory of Islam.²⁵

In 2012, two women were arrested for a Facebook post criticising the shutdown in Mumbai, India for the funeral of Bal Thackeray, chief of Shiv Sena, a far-right extremist regional political party.²⁶ In March 2017, a woman was arrested in Bangalore for Facebook posts she had written which allegedly put Uttar Pradesh Chief Minister Yogi Adityanath in a "poor light." Among the sections she was booked under was section 153A of the Indian Penal Code which deals with promoting enmity between groups on the basis of religion among other categories.²⁷

In Malaysia, Aishah Tajuddin, a radio DJ, made a video highlighting the peculiarity that would result from the proposal by the Islamic Party regarding the implementation of Hudud law in the state of Kelantan. On top of the attacks and threats posed against her by anonymous internet users, she was called for investigation by the police under Section 298 of the Penal Code for "wounding the religious feelings of a person,"²⁸ and was also reportedly investigated by the Malaysian Communications and Multimedia Commission (MCMC) for causing mischief online.²⁹ On 19 October 2018, the West Java Police arrested two men for administering a Facebook group called "Facebook Gay Bandung Indonesia" or GBI, which has a total of 4,093 members. They were later charged under the draconian Electronic Information and

²³Zurairi AR. (2015, 7 April). Under revised Sedition Act, insulting religion an offence, but not criticising government. *Malay Mail*. <https://www.malaymail.com/news/malaysia/2015/04/07/under-revised-sedition-act-insulting-religion-an-offence-but-not-criticisin/873757>

²⁴The Information and Communication Technology Act of Bangladesh is available at www.ictd.gov.bd/site/view/legislative_information/Acts and the Information Technology Act of India is available at <http://deity.gov.in/content/information-technology-act>

²⁵Prevention of Electronic Crimes Act, 2016. Section 34. www.na.gov.pk/uploads/documents/1470910659_707.pdf

²⁶Press Trust of India. (2012, 19 November). Two Mumbai girls arrested for Facebook post against Bal Thackeray get bail. *India Today*. <https://www.indiatoday.in/india/story/2-mumbai-girls-in-jail-for-tweet-against-bal-thackeray-121882-2012-11-19>

²⁷Press Trust of India. (2017, 22 March). Bengaluru Woman Faces Police Case For Facebook Posts On Yogi Adityanath. *NDTV*. www.ndtv.com/bangalore-news/bengaluru-woman-booked-forobjectionable-facebook-posts-on-uttar-pradesh-chief-ministryogi-adityan-1672010

²⁸The Jakarta Post. (2015, 23 March). Cops to probe Malaysian station and journalist over hudud satire video. *The Jakarta Post*. <https://www.thejakartapost.com/news/2015/03/23/cops-probe-malaysian-station-and-journalist-over-hudud-satire-video.html>

²⁹Free Malaysia Today. (2015, 22 March). Blasphemy probe into BFM video. *Free Malaysia Today*. www.freemalaysiatoday.com/category/nation/2015/03/22/blasphemy-probe-into-bfm-video

Transactions (ITE) Law “for distributing electronic information which contain violation decency.”³⁰ As part of the same nationwide crackdown, 10 women were arrested in Padang, Indonesia in November 2018 after two of the women were seen hugging and kissing on Facebook.³¹

5. Hate speech and intimidation online

One of the most harmful ways in which violations are perpetrated against women is by taking away their agency to make decisions relating to their religion and faith. In India, right-wing Hindu groups including the ruling BJP have perpetuated propaganda using Facebook and WhatsApp around a movement called “Love Jihad”, where they claim that there is a concerted effort by Muslim men to convert women from their religions into Islam.³² Moral policing of women and their bodies is at the heart of this campaign, which is central to the anti-Muslim political rhetoric propagated in the country. A clear example of this was the case of Hadiya, a 24-year-old medical student who converted to Islam and subsequently married her Muslim boyfriend. On a petition filed by her father, the Kerala High Court held her marriage to be void and handed over her custody to her parents, stating that she was incapable of taking decisions related to her marriage. The order was finally set aside by the Supreme Court in 2018, which upheld the right of women to choose.³³

The fear around “Love Jihad” among Hindus has also been a result of the amplification of the messaging due to social media. Discrimination and other forms of abuse are also amplified online; for example, extending the “ownership” of a woman’s body to an unidentified number of online users who share and like these posts on social media accounts.

In 2015 and 2016, messages purportedly from a Muslim group and offering cash rewards for Muslim men who married Hindu women were forwarded over WhatsApp, drawing responses from right-wing Hindu groups that could be described as online hate speech.³⁴ In some of these cases, couples have been attacked based on wrong assumptions of their religious identities and relationship, with video recordings of the violence uploaded and shared via the various platforms, possibly to serve as a warning to others.³⁵

Besides formal arrests and criminalisation, several other forms of attacks are orchestrated against the exercise of the right to freedom of religion or belief online by women and LGBTIQ+ persons. Religious groups mobilise and pressurise individuals to refrain from exercising their rights online through multiple means. In July 2014, the Selangor Islamic Religious Council (MAIS) gazetted a fatwa declaring SIS Forum (Malaysia), otherwise known as the Muslim women’s rights group Sisters in Islam (SIS), and any other

³⁰Amnesty International. (2018, 6 November). Indonesia: Crackdowns on LGBTI people hit alarming level. <https://www.amnesty.org/en/latest/news/2018/11/indonesia-crackdowns-lgbti-people-hit-alarming-level>

³¹McKenna Barry, S. (2018, 6 November). Indonesia Police Arrest Ten 'Suspected Lesbians' After Facebook Hug Photo. *GCN*. <https://gcn.ie/indonesia-police-arrest-ten-suspected-lesbians-facebook-hug-photo>

³²Radhakrishnan, M. G. (2012, 4 September). Over 2500 women converted to Islam in Kerala since 2006, says Oommen Chandy. *India Today*. <http://indiatoday.intoday.in/story/love-jihad-oommen-chandy-islam-kerala-muslim-marriage/1/215942.html>

³³Rautray, S. (2018, 9 March). SC restores Hadiya's marriage to Shafin Jahan. *The Economic Times*. <https://economictimes.indiatimes.com/news/politics-and-nation/sc-restores-the-marriage-of-hadiya-sets-aside-the-kerala-hc-verdict/articleshow/63216243.cms>

³⁴Hinduism Now. (2016, 8 July). Love Jihad: Open sell of Hindu girls by Muslim on WhatsApp goes viral in Gujarat. <http://globalpress.hinduismnow.org/crimes-against-hinduism/love-jihad-open-sell-of-hindu-girls-by-muslim-on-whatsapp-goes-viral-in-gujarat>

³⁵Rana, U. (2016, 23 November). Don't dirty Hindu locality, say Bajrang Dal men as couple thrashed in viral video. *Times of India*. <https://timesofindia.indiatimes.com/city/meerut/-Dont-dirty-Hindu-locality-say-Bajrang-Dal-men-as-couple-thrashed-in-viral-video/articleshow/55588192.cms>

similar “individuals, organisations or institutions” as deviant.³⁶ The fatwa called for any publications deemed “liberal and plural” to be banned and seized. In addition, it called for any form of social media that went against the “ajaran Islam dan hukum Syarak” to be blocked by the MCMC.³⁷

Consistent efforts are made to remove content relating to the struggle of these groups under the pretext of them being violative of religious sensitivities. A student news website in Indonesia that published a story about a woman expressing her love for another young woman was ordered by university officials to shut down its entire news operation after the story went viral.³⁸ In Indonesia, the authorities have also been clamping down online, blocking many LGBT sites or getting LGBT apps removed by host companies, including dating apps.³⁹ Across the globe, organised and coordinated attacks are being carried out against websites of abortion clinics and those providing reproductive health information.⁴⁰

Women and LGBTIQ+ persons are particularly targeted for their political and sexual expression, which is sought to be silenced on the basis of religion or religious propriety. In 2016, Xulhaz Mannan, an activist and the editor of Bangladesh’s first LGBT magazine, was hacked to death in the name of protecting religion.⁴¹ Shehla Rashid, an activist, has been repeatedly targeted on the basis of her religion and for denouncing violations against the religious minority in India. Recently, a case has been registered against her for sedition and “promoting enmity between different groups on the ground of religion” for her posts on Twitter about the human rights violations in Kashmir.⁴² Sherry Rehman, a Pakistani politician, has been subjected to extensive abuse and death threats online for her stand against blasphemy laws and for having introduced a bill that sought to decriminalise it.⁴³

In 2016, Qandeel Baloch, a Pakistani model, was murdered by her brother in an act of “honour killing” for her social media posts and in particular a video of her posing with and meeting a Muslim cleric, Mufti Abdul Qavi, which went viral and was considered provocative by many.⁴⁴ At the heart of the issue was the public challenging and discrediting of a religious leader by a woman. Her death serves as an example of how mainstream media and social media networks pose a danger to women exercising their freedom of

³⁶Lim, S. (2019, 3 October). We are Sisters in Islam. *GenderIT.org*. <https://www.genderit.org/feminist-talk/we-are-sisters-islam>

³⁷Anwar, Z. (2014, 6 November). Speaking with a forked tongue: whither Malaysia’s moderate Islam? *OpenDemocracy*. <https://www.opendemocracy.net/en/5050/speaking-with-forked-tongue-whither-malaysias-moderate-islam>

³⁸Pearson, E. (2019, 26 March). Indonesian University Censors Lesbian Love Story. *Human Rights Watch*. <https://www.hrw.org/news/2019/03/26/indonesian-university-censors-lesbian-love-story>

³⁹Kapoor, K, & Beo Da Costa, A. (2018, 9 February). Criminal code revamp plan sends chill through Indonesia's LGBT community. *Reuters*. <https://www.reuters.com/article/us-indonesia-lgbt-insight/criminal-code-revamp-plan-sends-chill-through-indonesias-lgbt-community-idUSKBN1FT2IO>

⁴⁰Grant, R. (2017, 10 May). The Disturbing Rise of Cyberattacks Against Abortion Clinics. *Wired*. <https://www.wired.com/story/cyberattacks-against-abortion-clinics/#>

⁴¹BBC. (2016, 25 April). Bangladesh LGBT editor hacked to death. *BBC*. <https://www.bbc.com/news/world-asia-36128729>

⁴²India Today. (2019, 6 September). Shehla Rashid booked for sedition over posts on Kashmir. *India Today*. <https://www.indiatoday.in/india/story/shehla-rashid-sedition-booked-delhi-police-kashmir-1596240-2019-09-06>

⁴³Walsh, D. (2011, 23 January). Sherry Rehman, Pakistan's defiant prisoner of intolerance, vows to stay put. *The Guardian*. <https://www.theguardian.com/world/2011/jan/23/sherry-rehman-pakistan-blasphemy>

⁴⁴India Today. (2016, 16 July). Who was Qandeel Baloch, and why was she killed? *India Today*. <https://www.indiatoday.in/television/top-stories/story/who-was-qandeel-baloch-and-why-was-she-killed-pakistani-model-actor-brother-bigg-boss-10-contestant-lifetv-329593-2016-07-16>

expression and religion online, and honour killing of women in the name of religion and propriety still continue in many parts of the world.⁴⁵

In India, Gauri Lankesh, a prominent journalist critical of discriminatory practices and Hindu nationalism, was killed outside her house in 2017. Subsequently, a man arrested in connection with her murder confessed that he did it to save his religion⁴⁶ and her killing was celebrated by many self-proclaimed nationalist and religious groups.⁴⁷

Women protesting discriminatory religious practices or seeking to exercise their right to freedom of religion are also vilified and subjected to sexualised harassment online and physical abuse. In India, despite the Supreme Court lifting the ban imposed by the Sabarimala Temple on women of menstruating age from entering its premises, women have been unable to visit the shrine due to severe public backlash both online and offline, and in many instances, threats to their physical safety.⁴⁸ Two women who entered the Sabarimala Temple after the Supreme Court declared the practice of prohibiting women from the place of worship to be unconstitutional, were subjected to physical and emotional harassment.⁴⁹ One of the women who entered the temple was beaten up by her mother-in-law for bringing dishonour to the family.⁵⁰ Activist Rehana Fathima, who advocated against the prohibition of entry for women, tried to enter the temple and as a result she had her house vandalised, was transferred at her job,⁵¹ was expelled from the community by the Kerala Muslim Jama-ath Council⁵² and was arrested for her Facebook posts.⁵³ In another instance in Malaysia, Maryam Lee was attacked online⁵⁴ for deciding to give up the hijab and is subsequently being investigated for authoring a book about her decision.⁵⁵

⁴⁵Samiuddin, S. (2016, 7 August). Did the media kill Qandeel Baloch? *Dawn*. <https://www.dawn.com/news/1275990>

⁴⁶Kalkod, R. (2018, 16 June). I killed Gauri Lankesh to save my religion: Waghmore to SIT. *Times of India*. <https://timesofindia.indiatimes.com/india/i-killed-gauri-lankesh-to-save-my-religion-waghmore-to-sit/articleshow/64608133.cms>

⁴⁷The News Minute. (2017, 6 September). Gauri Lankesh murder: Hate posts from self-proclaimed 'nationalists' celebrate journo's death. *The News Minute*. <https://www.thenewsminute.com/article/gauri-lankesh-murder-hate-posts-self-proclaimed-nationalists-celebrate-journos-death-67975>

⁴⁸Nair, S. (2019, 8 January). Two Women Enter a Temple. A Country Erupts. *The New York Times*. <https://www.nytimes.com/2019/01/08/opinion/india-women-sabarimala-temple.html>

⁴⁹Saberin, Z. (2019, 2 January). Two Indian women enter Sabarimala temple in Kerala amid protests. *Al Jazeera*. <https://www.aljazeera.com/news/2019/01/indian-women-enter-sabarimala-temple-kerala-protests-190102072009305.html>

⁵⁰Nijeesh, T. P. (2019, 15 January). Kanakadurga, who entered Sabarimala, beaten up by mother-in-law. *Times of India*. <https://timesofindia.indiatimes.com/city/kochi/kanakadurga-who-entered-sabarimala-beaten-up-by-mother-in-law/articleshow/67536898.cms>

⁵¹PTI. (2018, 24 October). Sabarimala row: Activist Rehana Fathima, who tried to enter temple, transferred by BSNL. *Free Press Journal*. <https://www.freepressjournal.in/cmcm/sabarimala-row-activist-rehana-fathimawho-trying-to-enter-temple-transferred-by-bsnl>

⁵²Unnithan, P. S. G. (2018, 22 October). Kerala Muslim committee expels woman who tried to enter Sabarimala. *India Today*. <https://www.indiatoday.in/india/story/kerala-muslim-committee-expels-woman-who-trying-to-enter-sabarimala-1372518-2018-10-22>

⁵³PTI. (2018, 27 November). Sabarimala: Activist Rehana Fathima arrested for allegedly 'hurting religious sentiments'. *The Economic Times*. <https://economictimes.indiatimes.com/news/politics-and-nation/sabarimala-activist-rehana-fathima-arrested-for-allegedly-hurting-religious-sentiments/articleshow/66826437.cms>

⁵⁴Thayaparan, S. (2018, 31 January). The cowardly attacks against Maryam Lee. *Malaysiakini*. <https://www.malaysiakini.com/columns/410686>; see also <https://empowermalaysia.org/coffeechat/halt-attacks-maryam-lee-undirosak>

⁵⁵Khairul Azman, K. (2019, 18 April). Women Activists Who Spoke About Taking Off The Hijab Are Being Investigated By JAIS. *SAYS*. <https://says.com/my/news/women-activists-investigated-by-jais-for-speaking-about-their-right-to-take-off-the-hijab> and Various. (2019). Statement of solidarity against the legal harassment of Malaysian author by local authorities. <https://www.apc.org/en/pubs/statement-solidarity-against-legal-harassment-malaysian-author-local-authorities>

In Iran, a Facebook group started by women to post pictures of themselves without their hijab and protest against compulsory veiling also resulted in online backlash that was abusive and violent. Their movement, #mystealthyfreedom, resulted in offline protests as well, including public condemnation from religious leaders.⁵⁶

The Aurat March in Pakistan cited earlier also faced severe backlash and protests, with many of the organisers receiving rape and death threats online and a police complaint filed against them for “provoking religious sentiments” for the posters they carried during the march.⁵⁷

Gender is increasingly being recognised as an identity based on which people are targeted with speech that is defined as hate speech. The recent UN Strategy and Plan of Action on Hate Speech recognises gender-based hate speech.⁵⁸ However, there is a need for broader efforts by international actors to visibilise the struggle of vulnerable groups on the basis of gender, especially when their gender identities intersect with religion.

Research has also shown that gender and religious identities are often used as elements to produce hate speech against individuals and groups. Thus, in addition to understanding the premise of reasonable restrictions on free speech, it is also important to understand how the rights of target groups, particularly religious minorities and other vulnerable groups, are contained within the international human rights framework. Guidance provided by the Committee on the Elimination of Racial Discrimination reiterates the importance of applying these intersectionalities and the interpretation of rights to dissemination across all media, including the internet and social networking sites.⁵⁹

6. Role and response of key actors including the private sector

In 2017 alone, harassment or intimidation of religious groups by governments was reported in 86% of countries in the Asian region.⁶⁰ Violations are largely perpetrated by state authorities and security forces, political parties in power, political parties with an extremist agenda or intolerant views, religious bodies, extremist groups, media, organised crime groups, militant outfits and citizens themselves, especially by family members. Increasingly, social media and other technology platforms are mediating our rights online and thus their community standards must always be rooted in human rights.⁶¹

Social media companies have over time developed additional community standards or guidelines to address online abuse, hateful conduct and sharing of content that promotes aggression and violence.⁶² For example, Twitter’s policy on hateful conduct lists, among others, any “behaviour that harasses individuals or groups of people” with violent threats, that incites fear about a protected group or that

⁵⁶Strochlic, N. (2017, 12 July). The Facebook Page Where Iran’s Women Are Unveiling Online. *Daily Beast*. <https://www.thedailybeast.com/the-facebook-page-where-irans-women-are-unveiling-online>

⁵⁷Sayeed, S. (2019, 16 March). Pakistan women's march organisers highlight online death threats. *Reuters*. <https://in.reuters.com/article/pakistan-women-march/pakistan-womens-march-organisers-highlight-online-death-threats-idINKCN1QX0E6?il=0>

⁵⁸<https://www.un.org/en/genocideprevention/hate-speech-strategy.shtml>

⁵⁹UN Committee on the Elimination of Racial Discrimination. (2013, 26 September). General recommendation No. 35 on Combating racist hate speech. <https://undocs.org/en/CERD/C/GC/35>

⁶⁰Pew Research Center. (2019, 15 July). A Closer Look at How Religious Restrictions Have Risen Around the World. <https://www.pewforum.org/2019/07/15/a-closer-look-at-how-religious-restrictions-have-risen-around-the-world>

⁶¹Rizvi, S. (2018, 11 July). Content regulation: State responses to report on freedom of opinion and expression. *APCNews*. <https://www.apc.org/en/news/content-regulation-state-responses-report-freedom-opinion-and-expression>

⁶²Venkisteswaran, G. (2017). Op. cit.

degrades someone.⁶³ In response to trolling, Twitter developed several options for those who face such harassment. These include a “report abuse” button for site users who receive abusive messages, which was introduced following a campaign by women who were targeted on the site, although misuse of this option has led to legitimate accounts being suspended.⁶⁴ The social media site took steps in 2015 to ban hateful conduct that promotes violence or involves direct attacks on or threats to others on the basis of race, ethnicity and other attributes.⁶⁵ In 2016, Twitter also introduced a mute feature that allows users to weed out words and phrases from their notifications.

In Facebook’s case, its Community Standards⁶⁶ on hate speech state that it will remove content that directly attacks people based on their “race, ethnicity, national origin, religious affiliation, sexual orientation, sex, gender or gender identity, or serious disabilities or diseases.” Like Twitter, it relies on the “community” to report such content, and on its moderators. However, the general ignorance of local languages and historical contexts⁶⁷ among monitors in social media companies along with the sparse allocation of resources for hiring adequate moderators in line with the volume of content means that their standards are not applied adequately or consistently, as monitors lack the skill and knowledge to contextualise complaints.⁶⁸ Inaction by platforms such as Facebook has led to widespread violence, as was the case in Myanmar where rampant hate speech on the platform resulted in violence against Rohingya Muslims, and particularly Rohingya Muslim women, against whom mass rape and sexual violence was perpetrated.⁶⁹ Transparency, accountability and resource allocation are the keystones required for an effective and durable solution to the exponential expansion of hate speech enabled by social media platforms like Facebook.⁷⁰ While on the one hand the platforms are failing to uphold rights and protections, on the other they are too compliant with government requests without assessing how this impacts the legitimate rights of users. For instance, an Instagram account that published comic strips depicting the struggles of gay Muslims in Indonesia was taken down⁷¹ and in 2018, Google pulled Blued, one of the world's largest gay dating apps, from the Indonesian version of its online store in response to government demands.⁷²

⁶³<https://support.twitter.com/articles/20175050#>

⁶⁴Magnanti, B. (2013, 11 August). Twitter’s ‘report abuse button’ has already hurt some good guys. *The Telegraph*. <https://www.telegraph.co.uk/women/womens-life/10233715/Twitter-trolls-The-report-abuse-button-has-already-hurt-some-good-guys.html>

⁶⁵Tsukayama, H. (2016, 15 November). Twitter introduces a mute button for trolls as it struggles to fight online abuse. *The Washington Post*. https://www.washingtonpost.com/news/the-switch/wp/2016/11/15/twitter-introduces-a-mute-button-for-trolls-as-it-struggles-to-fight-online-abuse/?utm_term=.3f25f670f621

⁶⁶<https://www.facebook.com/communitystandards/#bullying-and-harassment>

⁶⁷<https://www.equalitylabs.org/facebook-india-report/#key-findings>

⁶⁸Koebler, J., & Cox, J. (2018, 23 August). The Impossible Job: Inside Facebook’s Struggle to Moderate Two Billion People. *VICE*. https://www.vice.com/en_us/article/xwk9zd/how-facebook-content-moderation-works

⁶⁹BBC. (2018, 6 November). Facebook admits it was used to 'incite offline violence' in Myanmar. *BBC*. <https://www.bbc.com/news/world-asia-46105934>

⁷⁰<https://www.equalitylabs.org/facebook-india-report/#Recommendations>

⁷¹ABC. (2019, 14 February). Instagram 'fulfils' Indonesia's request to take down account highlighting LGBT struggle. *ABC*. <https://www.abc.net.au/news/2019-02-14/instagram-allegedly-removes-lgbt-comic-after-indonesia-warning/10810936>

⁷²Siregar, K. (2018, 18 November). 'Moral panic' targets Indonesia's LGBT community. *The Jakarta Post*. <https://www.thejakartapost.com/news/2018/11/18/moral-panic-targets-indonesias-lgbt-community.html>

These challenges have also prompted states to put in place varying forms of regulation. After terrorist attacks in Brussels in March 2016, a Code of Conduct⁷³ against hate speech online was developed in Europe. The Code was presented as a “voluntary” commitment, and did not include legal sanctions for non-compliance, which appears to make it a pure self-regulation instrument. However, the parties did commit themselves to review the majority of valid notifications for removal of illegal hate speech “in less than 24 hours” and to remove or disable access to such content. Furthermore, the companies agreed to produce reports that would mainly assess the implementation of this public commitment on a regular basis.

Civil society organisations were particularly critical about some aspects of the Code. Platforms are encouraged to interpret “illegal” hate speech in a uniform manner across all EU member states, yet there is a wide variety in national hate speech laws. Secondly, the code lacks any due process requirements and does not include any safeguards against potential abuse of the notice procedure, nor does it offer remedies for wrongful removals.⁷⁴

Similarly, in Germany, in the midst of the refugee crisis in 2015, there was an increasing amount of hate speech online against religious minorities and public incitement to violence, which are all illegal under German law. This trend prompted the German Ministry of Justice and Consumer Protection to set up a task force with the largest social media providers and a number of civil society organisations. The task force resulted in a code of conduct wherein the platforms committed to improve their moderation procedures and remove hate speech quickly upon notice.

However, the German government was not satisfied with the first results of the code of conduct, claiming that “too much illegal content” remained nevertheless available on the sites.⁷⁵ The government quickly introduced the Network Enforcement Act, also known as the NetzDG law. The law requires providers of large social networks (with more than two million users located in Germany) to set up an effective and transparent procedure for handling user complaints about content that violates existing provisions of German criminal law. Essentially, platforms must determine whether these complaints are valid or not. “Blatantly illegal content” must be removed within 24 hours of notice, while “other illegal content” requires deletion within a week of notice. This aspect of the law attracted widespread criticism because the government was seen as outsourcing the traditional judicial authority for determining criminality to the private sector. Given the stringent time requirement, and the steep fine for lack of compliance (up to EUR 50 million), the law was said to incentivise platforms to err on the side of taking down flagged content even if that content is not manifestly criminal.⁷⁶

These models are also being debated in other parts of the world and run the risk of compromising the rights of individuals and evasion of responsibility by platforms, and thus need to be developed with a rights- and evidence-based approach.

⁷³European Commission. (2016, 30 May). European Commission and IT Companies announce Code of Conduct on illegal online hate speech. https://ec.europa.eu/commission/presscorner/detail/en/IP_16_1937

⁷⁴Vermeulen, M. (2019). *Online content: To regulate or not to regulate – is that the question?* APC. <https://www.apc.org/en/pubs/online-content-regulate-or-not-regulate-question>

⁷⁵<https://ec.europa.eu/growth/tools-databases/tris/en/search/?trisaction=search.detail&year=2017&num=127>

⁷⁶See, for instance, Human Rights Watch. (2018, 14 February). Germany: Flawed Social Media Law. <https://www.hrw.org/news/2018/02/14/germany-flawed-social-media-law> and Kuczerawy, A. (2017, 30 November). Phantom Safeguards? Analysis of the German law on hate speech NetzDG. *Centre for IT and IP Law*. <https://www.law.kuleuven.be/citip/blog/phantom-safeguards-analysis-of-the-german-law-on-hate-speech-netzdg>

7. Recommendations

International bodies and processes:

- Ensure that international processes and documents on freedom of religion or belief are developed with adequate representation and participation of women and LGBTIQ+ persons.
- These international processes and documents must meet the evolving challenges of vulnerable groups, and to that end revisit the Rabat Action Plan to include gender and ICT perspectives.
- Recognise and reiterate recognition of gender-based religious hate speech within the processes addressing religion, hate speech and gender rights in the UN.

Governments:

- Refrain from inflaming or providing impunity to perpetrators of gender- and religion-based hate speech in online and offline spaces.
- Reform laws to ensure that political and religious expression of women and LGBTIQ+ persons is protected.
- Decriminalise blasphemy in offline and online spaces
- Ensure that platforms are responsible and refrain from permitting hate speech, while making sure that any regulation of the platforms is developed from a rights- and evidence-based approach.

Private sector:

- Ensure that content moderation and community guidelines that address religion and gender-based hate speech are rooted in international human rights law.
- Allocate more resources, especially through hiring moderators who are well versed with the local language and context, towards taking swift action against hate speech directed at women and LGBTIQ+ groups.
- Provide additional training for moderators that addresses cultural and language barriers, power dynamics, and issues such as gender bias and LGBTIQ+ sensitivity.
- Be more transparent on how they interpret and implement their own terms of service and community guidelines and give access to information regarding agreements that they make with governments to remove “blasphemous” content.
- Improve the reporting mechanism so that it meets the criteria of legitimacy, accessibility and predictability and that it is equitable, transparent and rights-respecting.
- Increase diversity at all staff levels and adopt the Women's Empowerment Principles.⁷⁷

⁷⁷<https://www.empowerwomen.org/en/weeps/about>