

HUMAN RIGHTS REVIEW

An Account of Online & Offline Shrinking Spaces in **Pakistan**



For Consideration at
the 28th Session of
UN Working Group
in 2017



HUMAN RIGHTS REVIEW:

An Account of Online & Offline Shrinking Spaces in Pakistan

For consideration at
the 28th Session UN
Working Group
in 2017

SUBMITTING ORGANISATIONS:

1. Bytes for All, Pakistan (B4A) (www.bytesforall.pk)
2. Association for Progressive Communications (APC) (www.apc.org)
3. Asian Forum for Human Rights and Development (FORUM-ASIA) (www.forum-asia.org)

IN COALITION WITH:

4. Aurat Foundation (AF) (www.af.org.pk)
5. Association of Women for Awareness and Motivation (AWAM) (www.awampk.org)
6. Association for Women's Awareness and Rural Development (AWARD) (www.awardpakistan.org)
7. Center for Social Justice (CSJ) (www.csjpak.org)
8. Coalition on Rights and Responsibilities of Youth (CRY) (www.crypk.webs.com)
9. Institute of Development Research and Corresponding Capabilities (IDRAC) (www.idrac.org.pk)
10. Media Matters for Democracy (MMFD) (www.mediamatters.pk)
11. National Commission for Justice and Peace (NCJP) (<http://www.ncjp-pk.org>)
12. Pakhtunkhwa Civil Society Network (PCSN)
13. Pakistan NGOs Forum (PNF) (www.ngospk.webs.com)
14. South Asia Partnership Pakistan (SAP-PK) (www.sappk.org)
15. Sustainable Development Policy Institute (SDPI) (www.sdpi.org)
16. Women in Struggle for Empowerment (WISE) (www.wise.pk)

I. Introduction

This is joint submission by Bytes for All (B4A)¹, Pakistan, Association for Progressive Communications (APC)² and Asian Forum for Human Rights and Development (FORUM-ASIA)³, covering – internet rights and governance, freedom of opinion and expression, right to information, freedom of religion or belief, freedom of peaceful assembly and of association, right to privacy and gender rights in Pakistan.

The submission is prepared after consultations and closed group meetings with the civil society organisations (CSOs), media and academia in Pakistan. Around 30 individuals from these stakeholder groups attended the meetings. An extensive monitoring and desk review was also part of the methodology. The status of accepted recommendations by the State during first and second cycles of UPR was reviewed vis-à-vis the de facto human rights situation.

Thirteen civil society organisations in Pakistan including Aurat Foundation (AF), Association of Women for Awareness and Motivation (AWAM), Association for Women's Awareness and Rural Development (AWARD), Coalition on Rights and Responsibilities of Youth (CRY), Center for Social Justice (CSJ), Institute of Development Research and Corresponding Capabilities (IDRAC), National Commission for Justice and Peace (NCJP), Media Matters for Democracy (MMFD), Pakistan NGOs Forum (PNF), Pakhtunkhwa Civil Society Network (PCSN), Sustainable Development Policy Institute (SDPI), South Asia Partnership Pakistan (SAP-PK), and Women in Struggle for Empowerment (WISE) have joined the coalition.

II. Executive Summary

1. Right to access information, freedom of expression, peaceful assembly, association, privacy and equal opportunities for all are protected as fundamental rights in global human rights regime. However, with the advancement in information and communication technologies, the scope of these rights is not only limited to offline spaces now, but it also has enabled internet citizens (netizens) to exercise the set of rights in virtual spaces as well.

2. UN Human Rights Council (UNHRC) recognised this reality in its landmark resolution A/HRC/20/L.13 on June 29, 2012 saying that "the same rights that people have offline must also be protected online".⁴ The same was reiterated by the supreme human rights body in 2014.
3. In July 2016, the UNHRC passed another resolution A/HRC/32/L.20 with consensus calling on the States to ensure protection of freedom of expression, freedom of association, privacy and other human rights online.⁵
4. In Pakistan, a rigorous debate on issues such as access to internet and information, freedom of expression online, the right to peaceful assembly, forming online associations and online right to privacy is taking place. Netizens cultivate an informed and empowering presence online and on social media. They seek to promote a conducive online environment towards improved governance, accountability and transparency within Pakistan on political and social precinct, both at macro and micro levels.
5. As a result, the government and political administration has responded to the changing online landscape by seeking to govern the internet spaces⁶ in the guise of protecting citizens from the dark sides of the internet.
6. Recently promulgated, the Prevention of Electronic Crimes Act (PECA), 2016⁷ has received wide scale criticism from within and outside Pakistan. Professor David Kaye, the current UN Special Rapporteur on protection and promotion of expression and opinion wrote the government of Pakistan twice to express his reservations on sections carrying potential curbs on fundamental principles of expression and non-compliance with international human rights law.⁸
7. Some sections of the PECA 2016 when combined with existing legal framework on the right to privacy also grant broad powers to law enforcement agencies in Pakistan to intercept digital communications of citizens and carry out surveillance for longer than acceptable standards.⁹ This is in clear violation of international human rights standards. Pakistani

government has already been in use of powerful digital surveillance spyware technology including FinFisher.¹⁰

8. According to WikiLeaks, the email communications of Pakistani contractors with the Hacking Team also revealed that the government was interested in acquiring more surveillance technology.¹¹
9. On the other hand, concurrently, there is a massive digital divide in Pakistan between the under-served and privileged classes that is a serious access issue. It is also evident when comes to gender and access to the internet.¹²

III. Recommendations received in Pakistan's First and Second UPR cycles

10. First cycle of Pakistan's UPR did not pay much attention to fundamental rights in digital spaces including access to internet and rights to freedom of expression and information, and association and assembly. However, it took notice of the discriminatory laws and restrictions on the right to freedom of religion or belief, highlighting the plight of religious minorities and women and demanded for their equal rights.¹³
11. In the second UPR cycle,¹⁴ Pakistan received 166 recommendations in total under different thematic areas, including freedom of religion, freedom of expression, right to privacy, protection of human rights defenders and journalists, promotion of civil society and media, equal rights for women and minority groups and the internet rights.¹⁵ During the review, the Netherlands recommended that Pakistan remove restrictions on accessing internet in the country, which runs counter to the criteria of the International Convention on Civil and Political Rights (ICCPR) and the principle of proportionality (P-122.127). At least four recommendations were made to Pakistan to promote civil society, protect human rights defenders and bring the perpetrators of attacks to justice (P-122.56, P-122.75, P-122.101 & P-122.118). Austria urged Pakistan to introduce strong legislation to stop attacks on journalists and to investigate and prosecute the perpetrators (P-122.119).

12. In the second UPR cycle, the government committed to implement recommendations P-122.75, P-122.101 & P-122.118 to promote media and civil society, end impunity against journalists, bring the perpetrators of attacks on journalists to justice and enact legislation to stop such incidents in future. However, the government has not fully met the implementation of these recommendations. According to Committee to Protect Journalists (CPJ), 30 journalists and media workers have been silenced between 2012 and 2017 with confirmed and unconfirmed motives. Attacks on media offices were also recorded in the same period. Prominent columnist and anchor Raza Rumi¹⁶ and television anchor and renowned journalist Hamid Mir¹⁷ received death threats and both survived in assassination attempts in 2014.

IV. Access to Internet

13. Access to the internet empowers citizens to exercise various human rights i.e. civil and political rights as well as economic, social and cultural rights. Access to the internet is the basic necessity to enable the exercise of a whole host of other rights in online spaces. This particularly includes our right to access and disseminate information, express, associate and assemble online.
14. The World Bank ranked Pakistan among five least-connected countries globally. According to their 2016 report, only 17 per cent of the 200 million population were connected. This is low in comparison to the average internet penetration rate of Asia region at 36.9 percent.¹⁸ According to PTA, around 30 million people were accessing internet in January 2016, of which 26.19 million were connected through mobile broadband (3G/4G). Mobile broadband penetration in July 2016 was 15.36 per cent.¹⁹ The government auctioned next-generation (3G/4G) licenses in April 2014 earning \$1.1 billion. All five telecom operators participated in the bidding process and four of them acquired 3G and 4G licenses.²⁰ Later in 2016, another 4G license was sold for \$395 million.²¹
15. However, after almost two years of auctioning these licenses, civil society notes that more steps are needed to ensure that

all citizens would have equal access to broadband services in Pakistan. Quality of connectivity and availability is another major hurdle. OpenSignal in its 2016 report ranked Pakistan among least connected 10 countries in the world on 3G/4G availability comparison chart, whereas average broadband speed available for Pakistani subscribers is reported as 3.33 Mbps in comparison to South Korea's ranking at the top with 41.34 Mbps.²²

16. Access to internet is inconsistent on rural-urban, economic and gender grounds in Pakistan. Telecom operators in Pakistan²³ have been focusing on more densely populated regions with higher purchasing power in keeping with their profit margins. As a result, population living in major cities have an easy and better access to fast internet services. This has created a huge technology gap between the privileged and under-served populations directly impacting socio-economic development and fundamental rights.

V. Right to freedom of Opinion and Expression, and Right to Information

17. The situation regarding freedom of expression, both within offline and online spaces, is becoming increasingly life threatening in Pakistan.²⁴ The right to freedom of opinion and expression is guaranteed under Article 19²⁵ of the Constitution of Pakistan, which is subject to a set of limitations.²⁶ These include "restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, [commission of], or incitement to an offense". A set of subjective and vague terminology in this Article makes it arbitrary and open to interpretation. Also the limitations such as "...glory of Islam or the integrity, security or defense of Pakistan, friendly relations with foreign states, decency or morality or in relation to contempt of court" are restrictions that do not meet the criteria provided in the ICCPR.
18. As a result of 18th amendment, Article 19-A²⁷ was included in the Constitution guaranteeing the right to information in all

matters of public importance subject to regulations and 'reasonable restrictions' imposed by the law. However, guidelines for these 'reasonable restrictions' are missing in the Constitution leaving space for legislative bodies to introduce interpretations and limitations of their own choice to restrict this right.

19. Since the passage of 18th amendment, the federal government has not made progress on finalising legislation on the Right to Information Act (RTI). Observers note this Act, if passed, is possibly the best tool to ensure better accountability in government institutions. However, Khyber-Pakhtunkhwa and Punjab governments have already enacted two effective laws in their respective provinces. Like the federal government, Baluchistan province has yet to replace its outdated RTI laws with the new ones.²⁸ Sindh assembly has also passed a new bill called Sindh Transparency and Right to Information Bill 2016, which is still pending for approval from the governor of the province.²⁹
20. In August 2015, Pakistan Electronic Media Regulatory Authority (PEMRA) formulated a media code of conduct, which is enforced on privately owned electronic media. However, most observers noted that media professionalism and ethics would be more robust if it originated from self-regulatory codes by an independent media itself.³⁰
21. In reality, media regulators such as PEMRA and Press Council of Pakistan (PCP) are functioning as non-autonomous subordinates of the Ministry of Information and Broadcasting. The government has not ensured that the mandates of media regulators remain autonomous.
22. Furthermore, the government had transferred the administrative control of Pakistan Telecommunication Authority (PTA), a telecom regulator, to the Ministry of Information Technology and Telecommunication (MoITT). This decision jeopardised the authority, independence and transparency of PTA. Later, a judicial order suspended the administrative order declaring it as against the provincial consensus.³¹

VI. Open Governance

23. Pakistan is a post colonial nation, and the remnants of colonial attitudes remain in the country's laws and legislation. The Official Secrets Act 1923³² is still in operation and allows government and bureaucracy to operate under shroud of secrecy.³³
24. While the Constitution guarantees RTI, the law has been slow on the uptake. In 2013 the Khyber Pakhtunkhwa Right to Information Act was passed and graded among best in the world.³⁴ The Punjab Transparency and Right to Information Act 2013, passed immediately after the KP law is another provincial law that is rated highly on global indicators of RTI laws.³⁵
25. At the federal level the movement for effective RTI legislation has been met with resistance.³⁶ A progressive draft of federal legislation had been in works for over two years, however, the government tried to replace it with a more regressive legislation that was rated 'weakest' in South Asia.³⁷ There has been a tussle between the two houses of the parliament over this bill, with the Senate pushing for strong and open legislation and the National Assembly attempting to replace it with more regressive versions.
26. The implementation of the provincial laws in Khyber Pakhtunkhwa and Punjab have seen some challenges. Coalition for RTI convener has commented upon a trend that public officials, apart from employing host of other tactics for not divulging the requested information, do not feel any qualms to take punitive measures against those who request information.³⁸
27. In December 2016, Pakistan signed the letter of intent to join the Open Government Partnership.³⁹ The initiative is being led by the Economic Affairs Division that is currently working to prepare a national workplan to move towards open government values in the next two years. The workplan is to be developed in consultation with multiple stakeholders by June 2017 and an initial consultation was held in Islamabad in February 2017.

28. On the technical side the IT Policy in Pakistan shows no preference for open standards and bases the decision to adopt open versus proprietary standards on cost benefit assessments.⁴⁰
29. Universal access has been a challenge, and a large number of population still remains disconnected. This has a direct impact and marginalises those who are disconnected from eGovernance services being introduced by the government. A Universal Access Fund is in existence and supported through payments by licenses Telecom operators. However, transparency about the utilization of this fund is in question.
30. There is no interoperability framework available that has a direct negative impact on cohesive development of open eGovernance tools.

VII. Blocking and Censorship

31. PTA continues to block over 80,000 websites on grounds of morality and obscenity. Another 200,000 links containing 'objectionable' content remains inaccessible in Pakistani cyberspace.⁴¹ In January 2016, PTA on the directions of the Supreme Court also instructed the internet service providers (ISPs) to block 400,000 'objectionable' websites at domain level. However, ISPs reported back that blocking at such a mass scale would be costly.⁴²
32. Though, all the websites marked to be blocked were not containing the above-mentioned content. Pakistani government also frequently requests Facebook, Twitter and Google to restrict or remove what they deem to be 'objectionable content' in Pakistan.
33. According to Facebook transparency report, for first six months of 2016, it received 719 requests from Pakistani authorities requiring data related to criminal cases, as well as information on 1,029 user accounts.⁴³ PTA also made 280 requests to Facebook to retain information, while 363 user account data was requested to be preserved for official criminal investigations for 90 days. Facebook also received 25

requests to restrict objectionable and allegedly blasphemous content under the local laws. Between January to June 2014, Facebook restricted 1,773 pieces of content in Pakistan under local blasphemy laws and prohibition of criticism on the state.⁴⁴ Pakistan also made a total of 9 removal requests from Twitter between January and June 2016.⁴⁵

34. On March 27, 2017, the interior ministry informed the Islamabad High Court while hearing a case related to online blasphemous content that Facebook removed 85% of 'objectionable' material requested by the government of Pakistan.
35. YouTube remained blocked in Pakistan between September 2012 and January 2016 due to release of a movie trailer, 'Innocence of Muslims'. However, MoI&T claimed that YouTube agreed with the government of Pakistan to entertain content blocking and removal requests from Pakistan cyberspace.⁴⁶ Google has since launched a country specific version of YouTube.⁴⁷ The new homepage contains content that is curated specifically for Pakistani users that they would see by default when they access YouTube from within Pakistan.

VIII. Use of Criminal Laws to Stifle Expression Online and Offline

36. PECA 2016⁴⁸ chalks out comprehensive guidelines for the state to criminalise political and religious dissent. Section 10 focuses on cyber-terrorism, Section 20 pertains to offences against the dignity of a natural person and Section 37 looks into 'unlawful' online content. These guidelines sanctions unnecessary powers to administrative authorities to stamp down online content and initiate legal action against the accused.
37. These provisions under PECA suggest heightened punishments of up to 14 years imprisonment and fines up to 50 million rupees or both. Moreover, stifling online expression through criminal courts proceedings in defamation cases is a harsh response. Article 20 of PECA in offences of defamation in online spaces suggests up to three years imprisonment or up to 10 million rupees fine, or both.

38. The government also uses Anti-Terrorism Act, 1997⁴⁹ to criminalise online speech. There are documented cases where the state tried the accused under section 11-W of the Anti-Terrorism Act for sharing 'objectionable' material on the Facebook. Anti-terrorism courts meted out a thirteen year imprisonment sentence to Rizwan Haider and Saqlain Haider, both belonging to Shia sect, for sharing 'objectionable' posts.⁵⁰

IX. Freedom of Religion or Belief

39. Article 20 guarantees freedom of religion for every citizen of Pakistan.⁵¹ In Chapter XV of Pakistan Penal Code 1860, Sections 295 to 298 provides sufficient grounds to criminalize 'objectionable religious speech' in Pakistan. These blasphemy laws have been used to undermine the freedom of religion, specifically of the religious minorities. Now these laws are also being used to curb religious freedoms and expression in cyberspace. The overwhelming majority of reported blasphemy cases from 1987 to 2016 were those where Ahmadis, Christians and Hindus allegedly defiled majority religion Islam. According to the National Commission for Justice and Peace 1,479 blasphemy cases were reported and more than 50 per cent of the defendants were from different minority faiths. At least 506 defendants were from the Ahmadiyya community, 208 Christians and 26 were Hindus (Annexure-1)
40. The 1974 amendment to the Constitution resulted in Articles 106 and 260,⁵² which excluded Ahmadis and Qadianis⁵³ from the official folds of Islam, terming them non-Muslims.
41. In most cases those accused of blasphemy, including their families, are not afforded a fair trial by the state. Even in cases resulted in an acquittal, they come under threat from non-state actors and vigilante attacks.⁵⁴ Such attacks often result in large-scale displacement of people, affecting their livelihood and right to life and liberty.
42. It has become a challenge for human rights defenders,⁵⁵ academics, lawyers⁵⁶ and politicians⁵⁷ to debate or introduce

legislative changes when it pertains to religious issues. Fatwas are issued by clerics against those engaging in the discourse around freedom of religion or belief.⁵⁸ These often call for violence and mob justice. In the past, monetary rewards for attacking individuals accused of committing blasphemy have been announced.⁵⁹ To date, the state has not taken due action against individuals and groups involved in inciting violence in these cases.

43. Due to threats of violence and brutal attacks by terrorist outfits and extremist groups, human rights defenders, journalists and media houses are forced into self-censorship on issues related to religion. As such blasphemy laws are in violation of international law and are an impediment to the exercise of the right to freedom of expression as well as the right to religion itself.⁶⁰

X. Freedoms of Peaceful Assembly and of Association

44. The situation related to freedom of association and assembly, both offline and online, neither is satisfactory, nor fully in accordance with the international human rights law. State and non-state actors have been taking punitive actions against rights defenders and Pakistan has become a country where a high number of attacks have been carried out against human rights defenders and activists. According to the Human Rights Commission of Pakistan's annual report, 15 attacks on human rights defenders and journalists were documented just in 2015. In recent years, Parveen Rehman, Rashid Rehman, Sabeen Mahmud, Zafar Lund, Zaman Mehsud and other rights defenders have been killed in different parts of the country.⁶¹ Khurram Zaki, a human rights activist and former journalist was gunned down in May 2016.⁶² Attacks with impunity on transgender rights activists have also risen in recent years. Alisha succumbed to wounds in May 2016 after a gang attacked her. Hospital administration exhibited criminal negligence in providing timely treatment at Lady Reading Hospital, Peshawar. Several other activists belonging to this group were also attacked in 2016.⁶³ Moreover, non-state actors

continued to accuse human rights defenders, activists and persons working with NGOs, for promoting western agenda.⁶⁴

45. The rights to freedom of peaceful assembly and of association, both offline and online, have been trampled upon by the state and non-state actors, often in the guise of national security, public order, or morality. In Pakistan, the government's arbitrary shutdown of mobile services,⁶⁵ banning of websites and blogs,⁶⁶ and implementation of other laws such as section 144 and 145 of the Pakistan Penal Code (PPC)⁶⁷ are a few examples of how the rights to freedom of peaceful assembly and association are being violated often in the guise of national security, public order, or morality.
46. Network shutdowns prevent the usage of popular instant messaging applications, which are commonly used by activists, journalists, ordinary individuals, and organizations alike. In addition, shutdowns prevent access to social media platforms like Twitter and Facebook, which are often used to organise peaceful assemblies.⁶⁸
47. Peaceful common space for campaigning and associating with like-minded groups is limited. This especially applies to sexual minorities, non-religious, seculars, and freethinkers. The PPC prohibits faith-based minorities, especially Ahmadis, who are not allowed to identify themselves as Muslims, form gathering for prayers or using any references to Islam, the Prophet or the Adhan (call for prayers), among others. This prohibition was introduced in 1984 under Sections 298-B and 298-C of the Pakistan Penal Code.⁶⁹
48. These groups are being threatened online from both state and non-state elements when they profess their ideas and common interests.⁷⁰ A crackdown on social media activists and secular bloggers was carried out in early 2017 by unidentified elements where at least five activists who ran their 'controversial' social media pages were abducted. These included Salman Haider,⁷¹ Waqas Goraya,⁷² Aasim Saeed,⁷³ Ahmed Raza⁷⁴ Naseer and Samar Abbas⁷⁵, No re-

course has since been offered by the state.⁷⁶ An online counter campaign backed by nationalist pages on social media was run to malign these activists and fan hatred in cyberspace. Waqass Goraya after his release disclosed that a state institution with links to the military held and tortured him.⁷⁷

49. Under the National Action Plan (NAP), the government has moved to suppress human rights organisations and aid workers in Pakistan. In particular, International NGOs (INGOs) have been directed by the Ministry of Interior to re-register themselves with the government of Pakistan.⁷⁸ In a countrywide crackdown against NGOs/INGOs, the Securities and Exchange Commission of Pakistan (SECP) cancelled the registration of 23 INGOs in August 2015.⁷⁹ Moreover, the administration of federal capital also suspended the licenses of 471 NGOs in Islamabad. Meanwhile, the Ministry of Interior ordered Save the Children to shut down its operations. Moreover, the government also turned down the registration requests of 9 INGOs.⁸⁰ New draft legislation, the Foreign Contribution Act, 2014, is also under consideration, with the stated goal of streamlining foreign funding and functioning of NGOs/INGOs in Pakistan.⁸¹

XI. Right to Privacy

50. Article 14, Clause 1 of the Constitution of Pakistan⁸² provides for the inviolability of the privacy of the home, subject to law. However, the Constitution does not expressly protect privacy of communications, digital or otherwise. Moreover, Article 14 does not provide any limitations for laws that restrict the right to privacy to ensure that they are not arbitrary and that they comply with the principles of necessity and proportionality.
51. In the absence of safeguards, such as judicial oversight, state institutions have been carrying out surveillance on digital communications of individuals, groups and organisations. There is increasing concern that local law enforcement agencies (LEAs) and intelligence agencies have the ability to access into a range of devices to capture data, encrypted or otherwise. Following guidelines set out by the government, courts and Ministry of Information Technology, PTA and multiple law

enforcement agencies are able to conduct online surveillance and lawfully intercept and monitor data.⁸³

52. The state appears to be using the 2002 Electronic Transaction Ordinance, the Investigation for Fair Trial Act 2013 and the Pakistan Telecommunications (Re-organization) Act 1996 to collect privileged communication and conduct broad surveillance.⁸⁴
53. Additionally, the newly promulgated PECA 2016 also legitimizes state's activities to snoop into digital communications of the citizens, retain personal data for up to one-year and share it with foreign governments and agencies. PECA 2016 poses a serious threat to the right to privacy as it permits the PTA and the arbitrarily designated investigation agency to access traffic data of telecommunication subscribers and confiscate data and devices without prior warrants from the court under Section 31. Moreover, Section 35 permits decryption of information, making it impossible for persons to be anonymous.
54. Phone calls are routinely tapped, which was admitted by the state intelligence agencies before the Supreme Court in 2015, when they stated that they were monitoring over 7,000 phone lines every month.⁸⁵ In addition, the government has implemented a mass digital surveillance programme under the guise of securing the capital of the country.⁸⁶ Over 1,800 high-powered cameras have been installed all over the capital city of Islamabad. These high-definition cameras are technologically advanced and their facial recognition feature links to National Database and Registration Authority (NADRA).⁸⁷ Punjab,⁸⁸ Khyber-Pakhtunkhwa⁸⁹ and Sindh⁹⁰ governments have also unveiled their plans to install CCTV cameras in their respective jurisdictions.
55. The government has been using intrusive technology such as FinFisher that surveils private communications. FinFisher offers different intrusive modules that silently sit in the recipient's digital devices and enable remote surveillance such as key logging, webcam/microphone access, password gathering.^{91 92 93} In addition, Pakistan also contacted the Hacking Team to acquire a similar type of intrusion malware suites.⁹⁴

56. Punjab government's initiative binds all hotels in Lahore city to share guests' data including foreigners with the city police. Hotel Eye software is introduced which is attached with crime database in their control room.⁹⁵ Pakistan lacks in legislative framework that would protect data of citizens.

XII. ICT Driven Violence Against Women

57. Gender-based violence is prevalent in Pakistan and has consequently found ample opportunity to thrive in the cyberspace. Women and sexual minorities are coming under violent – often sexualised – attacks both online and offline for merely exercising their right to speak freely, whereas men exercising the same right would comparatively face less harmful consequences.⁹⁶ Moreover, online hate speech often has the potential to lead into physical or 'real' violence. Qandeel Baloch, a social media celebrity was murdered in July 2016 for posting bold videos and indulging in a controversy with a religious scholar.^{97 98}
58. Ratio of technology driven violence against women and revenge crimes such as non-consensual distribution of intimate images and videos of women has also increased in Pakistan, which often ends up in violence against the victim herself.⁹⁹ At least 62 reported cases of ICT driven violence against women have been recorded between 2013 and 2016.¹⁰⁰
59. PECA 2016 includes provisions to prevent violence against women in online spaces, cyber-bullying and cyber-stalking. A complaint mechanism has been specifically designed to deter hate speech, including the incitement to gender-based violence.
60. Pakistan lacks in legislation that seeks to protect sexual minorities and their rights in offline and online spaces. Existing legal framework pushes the sexual minorities towards the periphery of society. Moreover, section 377 of PPC 1860 penalises the relationships other than against the order of nature as punishable with life sentence.¹⁰¹

XIII. Recommendations to the Government of Pakistan.

61. Ensure access to technology and the Internet with equity in exercising the fundamental rights and socio-economic uplifting of unserved and under-served people;
62. Hold telecom sector accountable in fulfilling their mandate and providing adequate quality and uninterrupted telecom services to the public at affordable prices;
63. Abolish the Official Secrets Act 1923 as it is in contradiction with the spirit of RTI Laws being enacted to ensure the constitutional right to information guaranteed via Article 19-A;
64. Enact effective RTI legislation at federal level and in Baluchistan province;
65. Ensure effective implementation of RTI legislation at the federal and provincial levels to ensure transparency and accountability in public institutions;
66. Ensure real participation and inclusion of civil society and human rights advocates in the planning meetings for Open Government Partnership workplan and framework;
67. Assure mandatory open standards within IT policy, particularly the services dealing with eGovernance;
68. Adopt interoperability framework for eGovernance services and for data management, archiving and sharing;
69. Ensure effective use of Universal Access Fund with added transparency so populace is not marginalised due to lack of access or inability to use technology;
70. Stop disconnecting mobile and the internet users in the name of security as network shutdowns cannot justify the denial of rights to freedom of expression, access to information and emergency services;

71. Remove unreasonable restrictions from Article 19 of the Constitution including 'in the interest of glory of Islam or the integrity, friendly relations with foreign states, decency or morality, or in relation to contempt of court';
72. Encourage press and electronic media to incorporate journalism ethics instead of policing free speech through the regulators;
73. Immediately end clampdown on civil society and human rights defenders to ensure safe spaces for their work;
74. Ensure absolute independence of media and telecommunication regulators in order to protect their institutional sovereignty;
75. Develop a national policy for the protection of human rights defenders and bring to justice all perpetrators of attacks on or threats against human rights defenders;
76. Revisit chapter XV of Pakistan Penal Code 1860, which deals with desecration of religion to protect and promote free speech;
77. Enforce the right to a fair trial for marginalised communities, and ensure protection of persons accused of blasphemy during custody and prosecutions;
78. Introduce effective legislation to ensure protection of whistleblowers in order to promote transparency and accountability in public institutions;
79. Revisit Section 37 of the Prevention of Electronic Crimes Act 2016 and remove unnecessary powers granted to the regulator for protecting online freedom of expression;
80. Introduce effective judicial safeguards on blocking or censoring online content to prevent misuse of powers by administrative authority;

81. Remove provisions from Prevention of Electronic Crimes Act 2016 barring access to critical, yet public interest information to promote investigative form of journalism and academic research;
82. Decriminalise libelous or slanderous speech and limit the scope of defamation laws;
83. Develop comprehensive law to guarantee the right to privacy ensuring safeguards for citizens' communications;
84. Enact data protection laws and mechanisms that comply with international human rights law on priority basis to avoid misuse of citizens' personal data;
85. Establish privacy commissions at federal and provincial levels urgently to ensure protection of citizen's privacy rights in offline and online spaces;
86. Ensure due process and judicial oversight in the matters of digital surveillance on citizens' private communications;
87. Ratify the Optional Protocol of the Convention of All Forms of Discrimination Against Women;
88. Ensure that all provinces enact legislation against domestic violence and increase number of support structures for women;
89. Develop a national policy based on global human rights principles to eliminate gender based technological divide at all levels;
90. Enact legislation to protect the lives and equal rights of gender and minorities.
91. Extend anti-harassment policies explicitly to include online harassment, abuse, hate speech and incitement to violence against all genders and minorities.

END NOTES

1. Bytes for All, Pakistan is a human rights organization and a research think tank with a focus on Information and Communication Technologies (ICTs). B4A organizes debates on the relevance of ICTs with regard to sustainable development, democracy, social justice and strengthening human rights movements in Pakistan. B4A's strategic plan delivers the following key result areas, including securing digital rights and freedom of expression for civil liberties; strengthening digital security of human rights defenders & media professionals; ending technology-driven gender-based violence; and network building at the national, regional and global level.
2. Association for Progressive Communications is a network of organisations across the world, advocating for the protection, promotion and respect of human rights on the internet. APC aims to empower and support organisations, social movements and individuals through the use of ICTs, to build strategic communities and initiatives for the purpose of making meaningful contributions to equitable human development, social justice, participatory political processes and environmental sustainability. It is actively engaged in internet governance mechanisms and processes at the WSIS, UNHRC and the regional and international internet governance forums.
3. The Asian Forum for Human Rights and Development (FORUM-ASIA) works to promote and protect human rights, including the right to development, through collaboration and cooperation among human rights organisations and defenders in Asia and beyond. The Regional Secretariat of FORUM-ASIA has been based in Bangkok since 1992. The International Office was opened in Geneva in 2006. Since 2010 FORUM-ASIA also has an office in Jakarta, and since 2015 one in Kathmandu. FORUM-ASIA has had consultative status to the United Nations Economic and Social Council (ECOSOC status) since 2004.
4. The promotion, protection and enjoyment of human rights on the internet <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/20/L.13&Lang=E>
5. The promotion, protection and enjoyment of human rights on the Internet http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/32/L.20
6. Dawn (2016). Internet governance. Editorial. <http://www.dawn.com/news/1269587>
7. National Assembly (2016). http://www.na.gov.pk/uploads/documents/1472635250_246.pdf
8. UNSR David Kaye letter to Pakistani state http://www.ohchr.org/Documents/Issues/Opinion/Legislation/PAK_8_2016.pdf
9. Prevention of Electronic Crimes Act (2016). www.na.gov.pk/uploads/documents/1472635250_246.pdf
10. Notorious spy spy technology found in Pakistan. <http://content.bytesforall.pk/node/99>
11. WikiLeaks. (2015). Email communication between Hacking Team and their Pakistani agent. <https://wikileaks.org/hackingteam/emails/email-id/616153>

12. Haque, J. (2016). *Pakistan's Internet Landscape*. http://content.bytesforall.pk/sites/default/files/Pakistan_Internet_Landscape_2016_Web.pdf
13. UPR Review (2008). *Report of the Working Group on the Universal Periodic Review Pakistan*. <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/8/42&Lang=E>
14. *Universal Periodic Review Second Cycle – Pakistan*. <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PKSession14.aspx>
15. *Universal Periodic Review. Second Cycle – Pakistan* <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PKSession14.aspx>
16. *Columnist, anchor Raza Rumi attacked, driver loses life*. <https://www.dawn.com/news/1096198>
17. *I had threats from state and non-state actors: Hamid Mir*. <https://tribune.com.pk/story/699778/i-had-threats-from-state-and-non-state-actors-hamid-mir/>
18. *Bytes for All, Pakistan*. (2016). *Internet Landscape of Pakistan 2016*. <https://content.bytesforall.pk/node/195>
19. *Annual report (2016)*. Pakistan Telecommunication Authority. www.pta.gov.pk/annual-reports/pta_annual_rep_15-16_071016.pdf
20. *\$1.1 billion raised from 3G, 4G auction*. <http://www.dawn.com/news/1101760>
21. *Telenor Pakistan awarded 4G License* <https://propakistani.pk/2016/07/27/telenor-pakistan-awarded-4g-license/>
22. *Global states of Mobile Network*. <https://opensignal.com/reports/2016/08/global-state-of-the-mobile-network/>
23. 1. *Ibid.*
24. Baig, A. & Khan, S. (2015). *Expression Restricted: An account of online expression in Pakistan*. <http://content.bytesforall.pk/sites/default/files/ExpressionRestricted.pdf>
25. *National Assembly (2012). The Constitution of Islamic Republic of Pakistan*. Article 19
26. *Ibid.*
27. *Ibid.*
28. *Mehboob, Ahmed B. (2016). The right to information*. Dawn. <https://www.dawn.com/news/1240632>
29. *Ghori, H. K. (2017). Sindh assembly passes transparency, right to information bill*. <https://www.dawn.com/news/1320315>
30. 2. *Media Self-regulating Guidelines*. www.osce.org/fom/31497?download=true
31. *Hashim, A. (2017). LHC suspends government move to bring regulatory bodies under ministries*. <https://propakistani.pk/2017/02/22/lhc-suspends-govt-move-bring-regulatory-bodies-ministries/>
32. *Official Secrets Act, 1923*. (2017). [Pakistancode.gov.pk](http://pakistancode.gov.pk). Retrieved 29 March 2017, from <http://pakistancode.gov.pk/english/UY2FqaJw1->

apaUY2Fqa-ap2W-sg-jjjjjjjjjjjj

33. Ghauri, I. (2017). Remnants of colonialism: Anything can be a secret under the Official Secret Act - The Express Tribune. The Express Tribune. Retrieved 29 March 2017, from <https://tribune.com.pk/story/684110/remnants-of-colonialism-anything-can-be-a-secret-under-the-official-secret-act/>
34. Raees, E., & Anwar, M. (2017). Right to information legislation in Pakistan - The Express Tribune. The Express Tribune. Retrieved 29 March 2017, from <https://tribune.com.pk/story/946635/right-to-information-legislation-in-pakistan/>
35. A national rating index comparing the different laws on RTI has been developed by Centre for Peace and Development Initiatives, CPDI and is accessible through <http://www.crti.org.pk/wp-content/uploads/2015/11/CPDI-Score-Sheet-of-Right-to-Information-Laws-in-Pakistan.pdf>
36. Abdullah, Z. (2017). Needless delay. DAWN.COM. Retrieved 29 March 2017, from <https://www.dawn.com/news/1319656/needless-delay>
37. Abdullah, Z. (2017). Federal govt's RTI draft law termed weakest in South Asia |. Crti.org.pk. Retrieved 29 March 2017, from <http://www.crti.org.pk/?p=864>
38. Abdullah, Z. (2017). Cite a Website - Cite This For Me. Freedominfo.org. Retrieved 29 March 2017, from <http://www.freedominfo.org/2016/05/rti-and-citizens-emerging-trends-in-pakistan/>
39. Pakistan to join global Open Government Partnership forum. (2017). Thenews.com.pk. Retrieved 29 March 2017, from <https://www.thenews.com.pk/print/169685-Pakistan-to-join-global-Open-Government-Partnership-forum>
40. MOIT. (2016). National IT Policy 2016 (1st ed.). Ministry of IT and Telecommunications, Pakistan. Retrieved from http://moit.gov.pk/policies/National_IT_Policy_2016.pdf
41. Impossible to block all obscene content, PTA tells SC. <https://www.dawn.com/news/1237500>
42. Pakistan to block over 400,000 porn websites. <http://tribune.com.pk/story/1034224/objectionable-content-isps-ordered-to-block-400000-pornographic-websites/>
43. Facebook (2016). Transparency Report. <https://govtrequests.facebook.com/country/Pakistan/2016-H1/>
44. Facebook (2016). Transparency Report. <https://govtrequests.facebook.com/country/Pakistan/2014-H1/>
45. Twitter (2016). Twitter transparency report. <https://transparency.twitter.com/en/countries/pk.html>
46. Pakistan unblocks access to YouTube <http://www.bbc.com/news/world-asia-35345872>
47. Call for clarity on terms of lifting of Youtube ban in Pakistan. <http://content.bytesforall.pk/node/188>

48. National Assembly (2016). http://www.na.gov.pk/uploads/documents/1472635250_246.pdf
49. Anti-terrorism Act (1997). www.ppra.org.pk/doc/anti-t-act.pdf
50. Baloch, H. (2016). How far is the state willing to go to police the internet in Pakistan. <http://blogs.tribune.com.pk/story/37898/how-far-is-the-state-willing-to-go-to-police-the-internet-in-pakistan/>
51. 3. The Constitution of the Islamic Republic of Pakistan. www.na.gov.pk/uploads/documents/1333523681_951.pdf
52. 4. Ibid.
53. Qadiani is a derogatory term used for Ahmadi Muslims in Pakistan
54. Bytes for All, Pakistan. (2016). Summary of Information. Mid-Term Universal Periodic Review: Pakistan. www.netfreedom.pk/wp-content/uploads/2016/06/NationalUPRConsultations.pdf
55. Sabeen Mahmud, an activist, arts advocate and founder of a café that encouraged community interaction, was gunned down in Karachi in April 2015. Ali, N. S., & Zaman, F. (2016, 12 May). Anatomy of a Murder. Herald. www.herald.dawn.com/news/1153209
56. Rashid Rehman, a lawyer who was defending a university lecturer accused of blasphemy, was killed in 2014. Dawn. (2014, 8 May). Rights advocate Rashid Rehman Khan gunned down in Multan. Dawn. www.dawn.com/news/1104788
57. In January 2011, the then governor of Punjab province, Salmaan Taseer, was gunned down by his official guard due to his public advocacy about a Christian woman jailed on blasphemy charges (see: www.bbc.co.uk/news/worldsouth-asia-12111831). Federal Minister for Religious Minorities Shahbaz Bhatti, a Christian, was killed by militants in March 2011 (see: www.theguardian.com/world/2011/mar/02/pakistan-minister-shot-dead-islamabad). Both were vocal defenders of religious tolerance and critical of oppressive blasphemy laws. In 2013, a case was filed against Senator Sherry Rehman for committing blasphemy because she had submitted a bill to the National Assembly seeking the removal of the death sentence for blasphemy from the Penal Code (see: www.dawn.com/news/787651/blasphemy-case-registered-against-sherry-rehman-report).
58. NDTV. (2011, 10 January). Pak cleric declares Sherry Rehman 'fit to be killed'. NDTV. www.ndtv.com/worldnews/pak-cleric-declares-sherry-rehman-fit-to-be-killed-444484
59. Shah, N. (2012, 29 September). Bilour to offer bounties for future blasphemers. Express Tribune. [tribune.com.pk/story/444255/bilour-to-offer-bounties-for-future-blasphemers](http://www.tribune.com.pk/story/444255/bilour-to-offer-bounties-for-future-blasphemers)
60. Khandadai, G. (2016). Desecrating expression. An account of freedom of expression and religion in Asia. http://content.bytesforall.pk/sites/default/files/Final_FoER_Report.pdf
61. HRCP. (2015). State of Human Rights in 2015. <http://hrpweb.org/hrpweb/wp-content/uploads/2016/04/Freedom-of-association.pdf>

62. Amnesty International. (2016). <http://www.amnestyusa.org/news/press-releases/human-rights-defender-is-killed-in-pakistan>
63. Akbar, A. (2016). Transgender Alisha succumbs to wounds at Peshawar hospital. <https://www.dawn.com/news/1260559>
64. HRCF. (2014). State of Human Rights in 2014. <http://hrfp-web.org/hrfpweb/data/ar14c/3-5%20Freedom%20of%20association%20-%202014.pdf>
65. Pakistan Today. (2016, 21 March). Mobile phone service suspended in Islamabad for Pakistan Day parade rehearsal. www.pakistantoday.com.pk/2016/03/21/city/islamabad/mobile-phone-service-suspended-in-islamabad-for-pakistan-day-parade-rehearsal
66. Iqbal, A. (2013, 28 September). 'Don't hate us, know us', but PTA disagrees: Pakistan's first gay website banned. *Express Tribune*. blogs.tribune.com.pk/story/19033/dont-hate-us-know-us-but-pta-disagrees-pakistans-first-gaywebsite-banned
67. The Nation. (2014). Section 144 enforced in Punjab. *The Nation*. nation.com.pk/lahore/01-Sep-2014/section-144-enforced-in-punjab
68. Khan, A. & Baloch, H. (2016). Shrinking Spaces: Arbitrary measures by authorities impact rights to assembly and association online. <http://www.netfreedom.pk/shrinking-spaces-arbitrary-measures-by-authorities-impact-rights-to-assembly-and-association-online/>
69. The two other relevant Pakistan Penal Code provisions are: Section 144: Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offense, is likely to cause death, is a member of an unlawful assembly/shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and Section 145: Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.
70. Shrinking Spaces: Online freedom of assembly and of association in Pakistan. <http://www.netfreedom.pk/shrinking-spaces-arbitrary-measures-by-authorities-impact-rights-to-assembly-and-association-online/>
71. Salman Haider. (2017). Front Line Defenders. <https://www.frontlinedefenders.org/en/profile/salman-haider>
72. Waqas Goraya. (2017). Front Line Defenders. <https://www.frontlinedefenders.org/en/profile/waqas-goraya>
73. Asim Saeed. (2017). Front Line Defenders. <https://www.frontlinedefenders.org/en/profile/asim-saeed>
74. Ahmed Raza Naseer. (2017). Front Line Defenders. <https://www.frontlinedefenders.org/en/profile/ahmed-raza-naseer>
75. Samar Abbas. (2017). Front Line Defenders. <https://www.frontlinedefenders.org/en/profile/samar-abbas>

76. *Disappearance of activists echoes in parliament.* <http://www.dawn.com/news/1307532/disappearance-of-activists-echoes-in-parliament>
77. BBC. (2017). *Pakistan activist Waqas Goraya: The State tortured me.* <http://www.bbc.com/news/world-asia-39219307>
78. Ghumman, K. (2015, 17 June). *INGOs get three months to re-register themselves.* Dawn. www.dawn.com/news/1188668
79. *Dunya News.* (2015, 7 August). *Registration of 23 foreign NGOs canceled.* *Dunya News.* dunya.com/news/292334-Registration-of-23-foreign-NGOs-canceled
80. *Including the US-based Catholic Relief Services, World Vision International and iMMAP; UK-based International Alert; the Norwegian Refugee Council, the Danish Refugee Council, ZOA International of the Netherlands and the Bangladesh-based Dhaka Ahsania.*
81. Hashim, A. (2015). *Pakistan announces new policy for foreign aid groups amid crackdown,* <http://uk.reuters.com/article/uk-pakistan-ngos-idUKKCN0RV50Y20151001>
82. *Constitution of Pakistan.* http://na.gov.pk/uploads/documents/1333523681_951.pdf
83. *Ibid.*
84. *Bytes for All, Pakistan.* (2016). *Internet Landscape of Pakistan 2016.* <https://content.bytesforall.pk/node/195>
85. *Dawn.* (2015). *Nearly 7,000 phones tapped in May, ISI tells SC.* [www.dawn.com/news/1186013/nearly-7000-phones-tapped-in-may-isi-tellscutm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+dawn-news+\(Dawn+News\)](http://www.dawn.com/news/1186013/nearly-7000-phones-tapped-in-may-isi-tellscutm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+dawn-news+(Dawn+News))
86. *AidData.* (2010). *Loan for "Safe City Islamabad" project.* china.aiddata.org/projects/37016
87. *Bytes for All Pakistan and APC.* (2015, 17 November). *Safe City Project or Mass Digital Surveillance?* <https://content.bytesforall.pk/node/181>
88. *Punjab Safe City Project Inaugurated.* <https://www.dawn.com/news/1289650>
89. *Peshawar Safe City Project gets go-ahead.* <http://dailytimes.com.pk/khyber-pakhtunkhwa/28-Jan-17/peshawar-safe-city-project-gets-go-ahead>
90. *Karachi Safe City Project: State-of-the-art security system to secure Karachi.* <https://timesofislamabad.com/karachi-safe-city-project-state-art-security-system-secure-karachi/2016/10/12/>
91. *Elaman German Security Solutions. FinFisher IT Intrusion Products.* https://wikileaks.org/spyfiles/files/0/310_ELAMAN-IT_INTRUSION_FINFISHER_INTRODUCTION_V02-08.pdf
92. *Citizen Lab.* (2013). *For Their Eyes Only: The Commercialization of Digital Spying.* <https://citizenlab.org/2013/04/for-their-eyes-only-2>
93. *Haque, J.* (2014). *Customer 32 – who used FinFisher to spy in Pakistan?* Dawn. <https://www.dawn.com/news/1127405>

94. WikiLeaks. (2015). *Email communication between Hacking Team and their Pakistani agent*. <https://wikileaks.org/hackingteam/emails/emailid/616153>
95. Chaudhry, A. (2016). *43 criminals arrested through Hotel Eye Software*. Dawn. <https://www.dawn.com/news/1283437>
96. *Tech driven violence against women*. <http://content.bytesforall.pk/sites/default/files/ViolenceAgainstWomenPakistanCountryReport.pdf>
97. Gabol I & Subhani, T. (2016). *Qandeel Baloch murdered by brother in Multan: Police*. <https://www.dawn.com/news/1271213>
98. Geo News. (2016). *Mufti Qavi instigated murder of Qandeel Baloch: mother*. <https://www.geo.tv/latest/109637-Mufti-Qavi-instigated-murder-of-Qandeel-Baloch-mother>
99. Bukhari, G. (2014). *Technology driven violence against women*. Bytes for All, <http://content.bytesforall.pk/sites/default/files/ViolenceAgainstWomenPakistanCountryReport.pdf>
100. *Reported cases of violence against women monitored by Bytes for All*. <https://www.vawmap.pk/main>
101. Khan, Z. Asim & Baloch, H. (2016). *Shrinking spaces: Online freedom of assembly and of association in Pakistan*. APC-IMPACT. Bytes for All. http://www.netfreedom.pk/wp-content/uploads/2017/01/FoAA-Report_web.pdf

