



**Joint submission to the UN Universal Periodic Review of  
the Islamic Republic of Pakistan  
by ARTICLE 19, IFEX and Pakistan Press Foundation**

*For consideration at the 28th Session of the Working Group in October – November 2017*

## Executive Summary

1. This submission focuses on the situation for freedom of expression and media freedom in Pakistan since its last Universal Period Review. The submission does not aim to be comprehensive of all freedom of expression issues, but focuses on issues relating to:
  - The constitutional, legal and institutional framework;
  - The safety of journalists, media workers, and human rights defenders;
  - Broadcast and film regulation;
  - Freedom of expression online.
2. Overall, we find that the situation for the right to freedom of expression and media freedom in Pakistan has not improved since the last review. The constitutional, legal and institutional framework has, with few exceptions, deteriorated. The enforcement of Pakistan's blasphemy and criminal defamation laws remain a significant concern, as well as new laws to extend controls over the right to freedom of expression online. Killings and attacks on journalists, media workers and human rights defenders remain endemic and characterized by ongoing impunity, with discrimination and harassment against women journalists a particular problem. The regulatory environment for the media and film has also become increasingly hostile.

## Constitutional, legal and institutional framework

3. During its last UPR, Pakistan accepted recommendations to bring its constitution and legal framework into compliance with international human rights law and standards, including with the International Covenant on Civil and Political Rights (ICCPR), and to strengthen the national human rights institution. There has been little progress in implementing these recommendations, with many laws that require reform remaining unchanged.

### The Constitution:

4. The Constitution of Pakistan provides limited protection to the right to freedom of expression in its Article 19:

*“Every citizen shall have the right to freedom of speech and expression and there shall be freedom of the press, subject to any reasonable restrictions imposed by the law in the interest of Islam, or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.”<sup>1</sup>*
5. Article 19-A, introduced to Pakistan's constitution by amendment in 2010, additionally guarantees the right to information, but no progress has been made by the federal government to introduce implementing legislation.
6. Article 19 of the Constitution does not meet the high threshold for permissible limitations on the right to freedom of expression, set out in Article 19 (3) of the ICCPR. Limitations “in the interest of the glory of Islam”, for “friendly relations with foreign states”, are not recognised by international human rights law, and seriously limit discussion and debate on issues related to religion or belief, including discrimination on the grounds of religion or belief, and even on foreign policy. Moreover, the absence of any requirement in the Constitution that limitations on expression be shown to be necessary for the pursuit of legitimate objectives, such as national security or public order, (the Constitution only requires limitations be “reasonable”), is a particular concern.
7. The already limited Constitutional protections for the right to freedom of expression have been weakened further since the last UPR review. The 21<sup>st</sup> constitutional amendment, enacted in response to terrorist attacks in 2014, enabled changes to the Pakistan Army Act to allow the trial of civilians by military courts for terrorism related crimes. Though originally intended as a provisional measure, the National Assembly extended it for a period of two years in March 2017. The Supreme Court has dismissed challenges to the law, confirming that civilians tried in military courts do not enjoy Constitutional rights and do not have a right to appeal to civilian courts. Secrecy of the military court's proceedings, and selective publication of outcomes only through the media wing of Pakistan's armed forces (the Inter Service Public Relations), raise serious concerns for the right to

---

<sup>1</sup> The Constitution of the Islamic Republic of Pakistan; available at: <http://bit.ly/2o9t8cT>

a fair trial, the principles of open justice, and the public's right to information. The high confession rate has also given rise to allegations of torture, inhuman and degrading treatment.<sup>2</sup>

#### Access to information legislation

8. We welcome that two provinces, Khyber Pakhtunkhwa and Punjab, enacted enabling legislation on the right to information in 2013, while the parliament of Sindh province passed the Right to Information (RTI) law in March 2017.
9. At the federal level, however, the weak Freedom of Information Ordinance of 2002 has not yet been amended or replaced to bring it into compliance with the new Article 19-A of the Constitution. This law gives wide discretionary powers to government officials to classify documents as confidential and thereby provide grounds for refusing or even ignoring information requests. The province of Baluchistan has not yet reformed or replaced the Freedom of Information Act 2005, which essentially mirrors the outdated federal law.

#### Blasphemy under the Penal Code

10. Pakistan accepted and noted recommendations relating to the reform of and preventing the abuse of the blasphemy laws. Progress has not been used to either repeal or reform the blasphemy law, and it continues to be used against Muslims and non-Muslims in violation of the right to freedom of expression.
11. The Pakistan Penal Code (PPC) 21 contains four types of blasphemy prohibition:<sup>3</sup>
  - Article 295-C of Pakistan Penal Code (PPC) provides the death penalty, life imprisonment and/or fine for “whoever by words, either spoken or written, or by visible representation or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him).”
  - Article 295-B stipulates life imprisonment for “whoever willfully defiles, damages or desecrates a copy of the Holy Qur'an.”
  - Article 295-A stipulates imprisonment of up to ten years, and/or fine for “whoever, with deliberate and malicious intention of outraging the 'religious feelings of any class of the citizens of Pakistan, by words, either spoken or written, or by visible representations insults the religion or the religious beliefs “.
  - Article 295 of the Pakistan Penal Code stipulates an imprisonment of up to two years, and/or fine for “Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction damage or defilement as an insult to their religion”.
12. As identified in the Rabat Plan of Action, and in the Human Rights Committee's General Comment No.34, prohibitions on blasphemy are incompatible with international human rights law. Blasphemy laws are regularly used by authorities to target open inquiry and legitimate dissent, where there is neither intent nor likelihood for the expression to advocate hatred or incite hostility, violence, or discrimination.
13. One thousand and fifty four (1054) Blasphemy cases were registered in Pakistan from 2012 to 2015, the majority against Muslims. Complaints leading to blasphemy charges are often not connected to or motivated by an individual actually engaging in blasphemy.
  - On 24 March 2017, the Federal Investigation Agency (FIA) arrested three persons on blasphemy charges relating to social media posts. The three were presented before an anti-terrorism court and handed over to the FIA for a seven-day remand. Earlier, the Interior Ministry informed the Islamabad High Court that one arrest had been made in connection with the case, while the names of several others have been put on the Exit Control List.<sup>4</sup>
  - In relation to the case of five kidnapped bloggers, detailed below, a petition was filed in the Islamabad High Court against them for blasphemy. In the first hearing on 27 February

---

<sup>2</sup> “The sun has set on Pakistan's military courts – here's why it should never rise again”, *Daily Dawn*, updated March 6 2017; available at: <https://www.dawn.com/news/1306792>

<sup>3</sup> Pakistan Penal Code, Act XLV of 1860; available at: <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>

<sup>4</sup> FIA arrests three in social media blasphemy case. *Daily Dawn*, 25 March 2017; available at: <https://www.dawn.com/news/1322531/fia-arrests-three-in-social-media-blasphemy-case>

27 2017, the Islamabad High Court ordered the Pakistan Telecommunications Authority to block social media pages deemed to be blasphemous. The case is ongoing.

14. On 7 March 2017, the Chief Justice of the Islamabad High Court declared blasphemers to be terrorists and directed the government to remove blasphemous content from social media. Prime Minister Nawaz Sharif directed the state machinery to find those responsible for putting blasphemous content on social media and bring them to justice without delay. On 16 March 2017, the National Assembly passed a resolution condemning blasphemous content posted on social media and unanimously agreed to the formation of a committee of parliamentary leaders to monitor such content.

#### Criminal defamation

15. Recommendations from Pakistan's last UPR review to decriminalise defamation have not been acted on. Sections 500 and 501 of the Pakistan Penal Code and the Anti-Terrorism Act continue to be used to harass and intimidate journalists in particular:
  - In January 2017, journalists Akhlaque Jokhio and Qurban Ali Gadahi faced criminal defamation charges under the Penal Code in front of an Anti-Terrorism Court (ATC). The use of anti-terrorism courts for a case involving defamation is a severely regressive step, making the enforcement of an already problematic law even more draconian.
  - On 19 March 2017, a reporter of Mahran TV channel was charged under Anti-Terrorism Act on the complaint of a school head master and teachers, whom he had broadcast story.

#### National human rights commission

16. Pakistan has only partially implemented recommendations accepted during its last UPR to establish an effective and independent National Human Rights Institution.
17. The National Commission for Human Rights Act (2012) led to the eventual establishment of the National Human Rights Commission (NHRC) in 2015. Though operational, it lacks adequate independence, including financial independence, autonomy or powers.<sup>5</sup> NHRC does not have authority to call or investigate any complaint against intelligence or security agencies, including those related to enforced disappearances and other human rights violations (including against persons for exercising their right to freedom of expression). This has seriously limited Pakistan's ability to implement recommendations on combating impunity for enforced disappearances.
18. The NHRC has also failed to live up to expectations by failing to effectively exercise its mandate to review and suggest amendments to Pakistan's legal framework. It failed to criticise the extension of the powers of military courts to prosecute civilians, and did not respond to calls to raise concerns or advocate for improvements to the 2016 "Prevention of Electronic Crimes Act (PECA)".

#### **Safety of journalists, media workers and human rights defenders**

19. During its second UPR, Pakistan accepted several recommendations to bring to justice the perpetrators of attacks on journalists and human rights defenders, and to investigate all individuals and organisations suspected of such abuses. Attacks against journalists, media workers, and human rights defenders, and a high level of impunity for these abuses, remains a significant problem, demonstrating a lack of progress in implementing these recommendations. The problem of impunity is compounded by issues around the independence of judges, corruption of local police forces, and inadequate resources and training for investigators, in particular in rural areas.
20. PPF has recorded 73 instances of journalists or media workers being killed for their work since 2002. Impunity has been the norm, and there have only been five convictions for murders of journalists.<sup>6</sup> There were 20 killings of journalists and media workers in the line of duty during the reporting period since the last UPR, and there are many other cases of serious attacks. The following two cases are offered by way of example:
  - On 31 December 2013, Shan Dahar, reporter of "Abb Takk" TV channel was shot and killed in Badah, Larkana district of Sindh province of Pakistan. The local police termed the death as

---

<sup>5</sup> "Pakistan: New National Human Rights Commission welcome but may be 'toothless' at birth", International Commission of Jurists; available at: <https://www.icj.org/pakistan-new-national-human-rights-commission-welcome-but-may-be-toothless-at-birth/>

<sup>6</sup> "Pakistan Press Foundation 2016 Report on Impunity for Crimes against Journalists in Pakistan." *Pakistan Press Foundation*, 1 November, 2016.

'accidental' although Dahar identified his attackers before he died. While the reopening of the case on 19 April 2016 is welcome, there has been little progress and impunity continues.<sup>7</sup>

- On 19 April 2014, Hamid Mir, a talk show host for Geo Television, was shot six times and seriously injured in the high security zone around Karachi Airport. The government set up a judicial commission in response to national and international furor, but refused to release its report after the passage of almost three years. On 10 April 2016, a copy of the report was leaked to the press, which did not identify the culprits, but rejected the involvement of intelligence agencies in the attack.<sup>8</sup> Impunity in the case continues.
21. Five bloggers and social media activists were abducted in early January 2017: Asim Saeed; Waqas Goraya; Ahmed Raza Naseer; Professor Salman Hyder, and Samar Abbas.<sup>9</sup> Four were released after more than two weeks, though Samar Abbas remains missing. They have alleged they were tortured during their detention, possibly with the involvement of government agencies. No individuals have been held accountable for the kidnapping and there is seemingly no attempt to investigate the possible role of government agencies in alleged torture. The government has instead focused its attention on additionally bringing blasphemy charges against the bloggers (see below).
  22. The Government of Pakistan supported recommendations at its last UPR to implement national legislation to prohibit attacks against journalists, and to effectively investigate such acts and prosecute the perpetrators. The 2016 draft "Journalists Welfare and Protection" bill does not adequately address this issue, and imposes significant restrictions on media freedom and independence. Section 6 of the draft bill requires media organisations to get approval from the government "before deputing a journalist for duty in a sensitive area, which can be potentially harmful to the journalist." Section 12 of the draft bill gives government the authority to ban media organisations for up to three months and to impose fines of up to twenty million Pakistani Rupees (about USD190, 000) in a case of violation.
  23. Although Pakistan accepted UPR recommendations to combat violence and discrimination against women in the workplace, and to ensure legislation for protection of women against violence and discrimination more broadly, sexual and gender-based harassment and threats faced by women journalists and media workers remains a significant problem.
  24. According to the report, "Media and Gender in Pakistan" published by the International Federation of Journalists (IFJ) in 2015, we note that more than 50% of women journalists witnessed sexual harassment in Pakistan, with a fifth personally experiencing workplace sexual harassment.<sup>10</sup> The government has failed to ensure implementation of even the minimum protections offered by the "Protection against Sexual Harassment of Women at Workplace Act 2010",<sup>11</sup> and very few media outlets have implemented the Act.
  25. The number of human rights defenders killed and attacked in Pakistan since the last UPR shows an abject failure to implement recommendations to protect against these abuses and ensure accountability for perpetrators. In almost all cases there is ongoing impunity. Legal measures have not been introduced to enhance the protection of human rights defenders or for witness protection. Many defenders targeted work in the field of protecting the rights to freedom of expression and freedom of religion or belief; with many accused on "apostasy" or crimes against religion and subjected to vigilante justice. The following cases are illustrative:
    - Syed Khurram Zaki, a writer and activist working against religious extremism and supporting freedom of expression, was murdered in Karachi on 7 May 2016, following threats he

---

<sup>7</sup> "Shan Dahar: A Family's Fight for Justice." *IFEX*, June 20, 2016; available at: [http://www.ifex.org/noimpunity/cases/shan\\_dahar\\_impunity/](http://www.ifex.org/noimpunity/cases/shan_dahar_impunity/)

<sup>8</sup> "Pakistani group calls for release of official report into 2014 attack against journalist Hamid Mir." *Pakistan Press Foundation*, April 12, 2016.

<sup>9</sup> "Bring Pakistan's Missing Bloggers Home", *New York Times*, 20 January 2017; available at: [https://www.nytimes.com/2017/01/20/opinion/bring-pakistans-missing-bloggers-home.html?\\_r=0](https://www.nytimes.com/2017/01/20/opinion/bring-pakistans-missing-bloggers-home.html?_r=0)

<sup>10</sup> "Media and Gender in Pakistan", International Federation of Journalists (IFJ), 2015; available at:

[http://www.ifj.org/fileadmin/images/Asia\\_Pacific/IFJ\\_AP/reports-etc/Gender\\_and\\_Media\\_in\\_Pakistan](http://www.ifj.org/fileadmin/images/Asia_Pacific/IFJ_AP/reports-etc/Gender_and_Media_in_Pakistan)

<sup>11</sup> Protection against Harassment of Women in the Workplace Act, 2010; available at: <https://gau.edu.pk/pdfs/ha.pdf>

received after filing a legal complaint against Maulana Aziz, a cleric at Lal Masjid (The Red Mosque) in Islamabad.<sup>12</sup>

- Zaman Mehsud, coordinator of the Human Rights Commission of Pakistan (HRCP) in FATA, was murdered by unidentified armed men on 2 November 2015. He was reporting various human rights violations for the HRCP and the media. No perpetrators have been arrested and an investigation is pending with police, though the Taliban has claimed responsibility for the attack.<sup>13</sup>
- Rashid Rehman, a well-known lawyer and coordinator for HRCP in South Punjab, was murdered in his office on 7 May 2014. He was defense counsel in a blasphemy case at the time, and opposing counsel had accused him of “blasphemy” for defending his client. No one has been held accountable for his murder.<sup>14</sup>
- Sabeen Mehmood, head of the T-2F discussion forum for progressive ideas, was murdered on 24 April 2015 in Karachi and her mother injured in the same attack. She provided support to women victims of violence and organized programs on missing persons. On 20 May 2015, authorities arrested the alleged culprit, who has since been prosecuted sentenced to death.<sup>15</sup>

26. Travel bans are also a concern. On 10 October 2016, the Federal Ministry of Interior placed Cyril Almeida, assistant editor of daily *Dawn*, on the Exit Control List (ECL), which barred him from traveling outside the country, pursuant to the Exit from Pakistan (Control) Ordinance of 1981. On 6 October, he had published a story titled “Act against militants or face international isolation, civilians tell military”, reporting a meeting of senior government officials where concerns on connections between intelligence agencies and some militant organisations were raised. His name was removed from the list four days later, following pressure.<sup>16</sup>

## Broadcast and film regulation

### Censorship of broadcast channels and programs

27. The Pakistan Electronic Media Regulatory Authority PEMRA, introduced through the PEMRA Ordinance 2002, has banned a number of media channels under its 2009 Rules, and Electronic Media Code of Conduct 2010-2015.

28. The 2009 Rules contain a restrictive and legally binding code of conduct that prohibits, *inter alia*, criticism of the armed forces and any “anti-national or anti-state attitudes against basic cultural values, morality, and good manners.” Programmers are also required to provide warnings of content that may be potentially disturbing or upsetting. Compliance is a license condition for broadcasters.

29. On the basis of the Rules and Code of Conduct, PEMRA regularly issues directives to exercise excessive control over the media, undermining media independence and having a significant chilling effect on freedom of expression. Channels or programmes have been banned over twenty times in the last four years. On 20 February 2016, PEMRA delegated to its chairman the authority to instantly shut down any media outlet violating the PEMRA Code of Conduct, which is likely to increase the rate of media shutdowns.<sup>17</sup>

30. The enforcement of the PEMRA Code of Conduct through the chairman lacks sufficient procedural safeguards, with shutdowns authorized through irregular processes, and often to deter, through disproportionate sanctions, unfavourable coverage of the government. This includes in relation to coverage of protests, as well as reporting on military operations. Examples include:

- On 29 February 2016, television channels responded to a PEMRA directive to black out coverage of protests across Pakistan against the execution of Mumtaz Qadri, who was

---

<sup>12</sup> “Rights activist Khurram Zaki killed in Karachi gun attack”, *Daily Dawn*, 8 May 2016; available at:

<https://www.dawn.com/news/1256995>

<sup>13</sup> “Taliban claim responsibility for killing of tribal journalist in Pakistan”. Pakistan Press Foundation, November 4, 2016.

[http://www.ifex.org/pakistan/2015/11/04/tribal\\_journalist\\_killed/](http://www.ifex.org/pakistan/2015/11/04/tribal_journalist_killed/)

<sup>14</sup> “Under threat rights lawyer Rashid Rehman Khan shot dead in Multan” *Daily Express*, May 7, 2014.

<https://tribune.com.pk/story/705493/under-threat-rights-lawyer-rashid-rehman-khan-shot-dead-in-multan/>

<sup>15</sup> “Director T2F Sabeen Mahmud shot dead in Karachi”, *Daily Dawn*, 25 April 25 2015; available at:

<https://www.dawn.com/news/1177956>

<sup>16</sup> “Pakistan lifts travel ban on Dawn journalist Cyril Almeida.” *Hindustan Times*, 14 October 14 2016; available at:

<http://www.hindustantimes.com/world-news/pakistan-to-remove-travel-ban-on-journalist-cyril-almeida-interior-minister/story-IzZT3cyEcXmtqL9fsVEFEM.html>

<sup>17</sup> “PEMRA chief empowered to take TV channels off the air”, *Daily Dawn*, 3 March 2016; available at:

<https://www.dawn.com/news/1243254>

convicted for the murder of Punjab Governor Salman Taseer, following criticisms Taseer made of Pakistan's blasphemy laws. PEMRA claimed coverage would "spread sectarianism", create a danger to public order, and glorify the actions of the convicted.

- In 2016, five channels faced suspensions: Royal TV and Sohni Dharti, both for not paying a fine or airing an apology for abusive remarks against a talk show anchor; Neo TV, for critical remarks against the judiciary; Din, for remarks of a live caller considered abusive of the judiciary; and Punjab TV, for not paying fees. Four programmes were suspended: "Inam Ghar", for the re-enactment of a person's suicide; "Live with Shahid Masood" for abuse of the judiciary, "Ramazan Hamara Eeman", for questioning the State's powers to determine who is and isn't a Muslim, and "Ishq-e-Ramazan" for broadcasting hatred against Ahmadi Muslims. All suspensions raised due process and proportionality concerns, with several also not pursuing legitimate aims as required under Article 19(3) of the ICCPR;
- In a May 2015 directive, PEMRA advised programmes not to air programmes that may harm Pakistan's relations with friendly countries, seemingly to suppress discussions in the media of Pakistan's refusal to send ground forces to Yemen as part of the Saudi-led coalition. A similar October 2015 directive warned of strict action against any news outlets that criticized Saudi Arabia's handling of the stampede in Mina during the Haj pilgrimage, in which many Pakistani citizens died.<sup>18</sup>

### Censorship of films

31. The Censor Board (CBFC), constituted under the Motion Pictures Ordinance of 1979, has broad powers to block the distribution of films, raising freedom of expression concerns. Examples of these powers being exercised excessively, include:

- On 27 April 2016, CBFC banned the movie "Maalik", ostensibly because of complaints of ethnic profiling of a politician and parallels with the assassination of the former governor of Punjab province by his personal security guard. However, the ban was nullified by the Lahore High Court on 22 September 2016.<sup>19</sup>
- On 21 April 2016, the CBFC banned the documentary film "Besieged in Quetta", produced and directed by Asef Ali Mohammad on the treatment of Hazara people in the city. The CBFC determined that it promoted "ethnicity and sectarianism" and presented a "negative image of Pakistan."
- In April 2016, the CBFC also banned the documentary "Among the Believers", which was produced by Hemal Trivedi and directed by Mohammed Naqvi. The reason given by the Censor Board was similar in that it claimed the film presented a "negative image of Pakistan in the context of the ongoing fighting against extremism and terrorism".<sup>20</sup>

### **Freedom of expression online**

32. The situation for freedom of expression online has deteriorated significantly since the last review, in spite of previous UPR commitments to address these concerns.

### The Pakistan Telecommunications Act 1996

33. The Pakistan Telecommunications Act is the basis for much online censorship, frequently of political and social content, often in the name of protecting national security. This includes generic blocking and filtering, DNS tampering, and directives to ISPs to make interventions, without judicial authorization or oversight.<sup>21</sup> The Act also provides extensive surveillance powers and powers to shut down telecommunications systems entirely. ARTICLE 19 has issued a full analysis of the Pakistan Telecommunications Act.<sup>22</sup>

34. Examples of website blocking include:

<sup>18</sup> "Pemra warns against criticism of Saudi response to Mina tragedy", *Daily Dawn*, 1 October 2015; available at: <https://www.dawn.com/news/1210153>

<sup>19</sup> "Maalik cleared for screening after SHC declares ban on film illegal." *Daily Dawn*, 6 September 2016; available at: <https://www.dawn.com/news/1282421>

<sup>20</sup> "Pakistan's banning spree continues as two documentaries axed for 'negative portrayals'", *Daily Dawn*, 30 April 2016. <https://images.dawn.com/news/1175251/pakistans-banning-sprees-continues-as-two-documentaries-axed-for-negative-portrayals>

<sup>21</sup> "Expression Restricted: An Account of Online Expression in Pakistan," 20 May 2015, Bytes for All; available at: <http://content.bytesforall.pk/ExpressionRestricted>

<sup>22</sup> "Pakistan Telecommunications (Re-organization) Act 1996", January 2012, ARTICLE 19; available at: <https://www.article19.org/data/files/medialibrary/2949/12-02-02-pakistan.pdf>

- In July 2013, Aljazeera’s website was blocked after it published a document called “Pakistan’s Bin Laden Dossier”, detailing the findings of a commission of inquiry established by Pakistan’s military and intelligence branches into the Bin Laden raid.
  - On 27 February 2015, a Facebook page called “The Beauty of FATA” was taken down after discussions were posted about Pakistan’s controversial Frontier Crimes Regulation Law of 1901.
  - In September 2013, the country’s first Lesbian, Gay, Bisexual and Transgender website, *queer.pk* in September 2013.
35. The suspension of Internet and mobile services during times of political unrest has also been a frequent occurrence, often on broad justifications related ostensibly to national security. Examples include:
- In August 2014, Internet and mobile services were suspended in various cities in Punjab during demonstrations carried out by two political parties – Pakistan Tehreek e Insaaf (PTI) and Pakistan Awami Tehreek (PAT).<sup>23</sup>
  - On 23 March 2015, Islamabad and Quetta experienced outages for approximately 12 hours during the Pakistan Day Parade.<sup>24</sup>
  - In October 2013, Instant messaging applications such as WhatsApp and Viber also faced suspensions in Sindh province.<sup>25</sup>
36. A longstanding ban on YouTube was lifted on 17 January 2016, after more than three years. The website was banned by PTA on 17 September 2012 after the film "Innocence of Muslims" was uploaded on the website, which led to violent protest demonstrations across the county.

#### Prevention of Electronic Crimes Act

37. On 11 August 2016 Parliament passed the “Prevention of Electronic Crimes Act (PECA) 2016” with potentially severe chilling effects on online freedom of opinion and expression. The law was passed without significant input from civil society stakeholders and the process was characterised by a general lack of transparency. The prioritisation of security over civil liberties has created many problematic aspects that demand the law be repealed or reformed. ARTICLE 19 has issued a full analysis of the law.<sup>26</sup>
38. Vague definitions and broadly framed offences allow for broad interpretation of the law. For example, Section 9 of the Act criminalises the ‘glorification of an offence or the person accused or convicted of a crime relating to terrorism or activities of proscribed organisations’. Terms such as ‘glorification’ are entirely unclear and fail to meet the requirement of legality under international human rights law. This clause could stifle debate on matters of public interest, including national security, as well as the application of criminal law in individual cases. Broad offences of hacking (Sections 3 – 8) and “cyber-terrorism” (Section 10) are also open to abuse.
39. The PECA expands the already considerable power of the PTA to remove or block access to information and to issue guidelines to ISPs. Section 34 provides the PTA with a virtual *carte blanche* to restrict access to “any” information if it considers it necessary “in the interests of the glory of Islam” or the “integrity, security or defence of Pakistan” or on the grounds of ‘public order, decency or morality’, or “in relation to contempt of court or commission of or incitement to an offence”. In addition to many of these aims not being legitimate under Article 19 of the ICCPR, there are no safeguards allowing for an appeals mechanism or judicial review of such decisions.
40. Powers to issue directives to ISPs are also broadened “in the interest of preventing any offence” (Section 45). These directives provide an additional layer of obligations, and it is a criminal offence to violate them.

<sup>23</sup> “73 Mobile Internet service suspended in Islamabad red zone area,” ARY News; available at: <http://arynews.tv/en/mobile-internet-service-suspended-in-islamabad-red-zone-areas/>

<sup>24</sup> “Mobile internet services suspended for parade,” The Nation; available at: <http://nation.com.pk/islamabad/23-Mar-2015/mobile-internet-services-suspended-for-parade>

<sup>25</sup> “77 Sindh decides to block Skype, Viber, Whatsapp,” The News; available at: <http://www.thenews.com.pk/Todays-News-13-25840-Sindh-decides-to-block-Skype-Viber-Whatsapp>

<sup>26</sup> “Pakistan: An Analysis of the Prevention of Electronic Crimes Bill 2015”, 20 June 2016, ARTICLE 19; available at: <https://www.article19.org/resources.php/resource/38416/en/pakistan:-an-analysis-of-the-prevention-of-electronic-crimes-bill-2015>



41. PECA contains troubling details that may have the effect of criminalizing encryption tools and technology used by individuals for remaining anonymous online (Sections 13 and 16). PECA also creates opportunities for expanded surveillance through measures such as mandatory mass data retention (Section 29), mandatory SIM card registration (Section 15), granting of broad powers to law enforcement to demand decryption of information without proper judicial oversight (Section 32), and the sharing of information obtained through the Act with foreign governments, also without judicial oversight (Section 39).
42. In March 2017, the Government launched a media campaign encouraging people to exercise self-restraint in their online activities, reminding them of the penalties that are in place under legislation in Pakistan.

## **Recommendations**

ARTICLE 19, IFEX and PPF calls on the UN Member States to make the following recommendations to the government of Pakistan:

### Constitutional, legal and institutional framework

- Reform Article 19 of the Pakistan Constitution to bring it in line with Article 19 of the ICCPR, including by requiring all limitations on the right to freedom of expression by justified by principles of necessity and proportionality, and by removing bases for restriction that are not recognised in Article 19(3) of the ICCPR;
- Repeal the 21<sup>st</sup> Constitutional Amendment, and amend the Pakistan Army Act, to restore civilian trials for expression related offences committed by civilians;
- Implement Article 19A of the Constitution by enacting at the Federal level an access to information law in line with international human rights standards, to replace the Freedom of Information Ordinance of 2002, ensuring equivalent protections for the right at the state level;
- Reform Article 295 of the Penal Code to repeal the criminal offence of blasphemy, in line with the recommendations of the Rabat Plan of Action, drop outstanding charges under the Penal Code and quash any convictions made pursuant to the provision;
- Ensure that public officials at all levels desist from public pronouncements that may incite violence against persons perceived or imputed to have committed blasphemy;
- Cease pressuring social media companies and other intermediaries to monitor or remove blasphemous content online;
- Decriminalise defamation by repealing Sections 500 and 501 of the Pakistan Penal Code, and reform the Anti-Terrorism Act, and drop all outstanding charges and drop any convictions of persons under these provisions, in particular journalists;
- Empower the NHRC to investigate human rights violations in which intelligence or security agencies are implicated, and provide them with sufficient financial independence and autonomy to provide objective advice on bringing existing and draft legislation in line with Pakistan's human rights obligations and commitments.

### Safety of journalists, media workers and human rights defenders

- Engage journalists and media workers, as well as civil society, in improving the Journalists Welfare and Protection Bill, to ensure that it complies with international freedom of expression standards;
- Implement measures to ensure the protection of journalists, media workers or human rights defenders who face threats due to their work, for example by establishing a protection mechanism with adequate resources to grant practical assistance to those at risk;
- Ensure public authorities publicly, unequivocally and systematically condemn all violence and attacks against all journalists and other media workers, as well as against human rights defenders;
- End impunity for crimes against journalists, media workers and human rights defenders, including by ensuring impartial, prompt, thorough, independent and effective investigations into all alleged crimes to hold those responsible to account;
- Appoint a special prosecutor on violence against media at the federal and provincial levels to investigate and prosecute cases of violence against journalists, media workers and human rights defenders;
- Provide updated information about the judicial status of cases of murdered journalists for the UNESCO Director-General's Report on the Safety of Journalists and the Danger of Impunity;
- Establish a fund for families of journalists who had been murdered or injured;

- Ensure the implementation of legislation to prevent and protect against gender-based and sexual harassment against women journalists in the workplace, ensuring also their access to effective remedies;
- Reform the Exit from Pakistan (Control) Ordinance of 1981 to ensure it is not used arbitrarily to block journalists, media workers or human rights defenders from leaving the country.

#### Broadcast and film regulation

- Reform PEMRA, its 2009 Rules and Code of Conduct, to ensure its independence from political influence, so that its main purpose is to promote an independent and pluralistic media sector, ensuring that any limitations it may impose comply with international freedom of expression and due process standards, and are subject to judicial review;
- Reform the CBFC to ensure its independence from political influence, and to ensure any powers it has to block the distribution of films complies with international freedom of expression standards

#### Freedom of expression online

- Comprehensively reform the Pakistan Telecommunications Act of 1996 and the Preventing of Electronic Crimes Act 2016 to bring them into compliance with international human rights standards on the rights to freedom of expression and privacy;

## **Annex: List of Organisations**

**ARTICLE 19: Global Campaign for Free Expression** (ARTICLE 19) (established 1987, in consultative status with the Economic and Social Council since 1991) is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression and the right to freedom of information. It takes its name from Article 19 of the Universal Declaration of Human Rights. ARTICLE 19 monitors threats to freedom of expression in different regions of the world, as well as national and global trends, and develops long-term strategies to address them, and advocates for the implementation of the highest standards of freedom of expression, nationally and globally. ARTICLE 19 has a regional office for South Asia based in Bangladesh, and has been actively engaged in promoting and protecting freedom of expression and information in Pakistan for over 12 years.

**Pakistan Press Foundation (PPF)** is an independent media documentation and training centre, committed to promoting and defending freedom of expression in Pakistan. It has been involved in assisting the development of independent media by conducting training program for journalists; carrying out projects in research and documentation; and campaigning to defend and promote freedom of the press. PPF has, since 1992, been monitoring attacks on freedom of expression. It serves as the secretariat of Pakistan Coalition on Media Safety (PCOMS) and Editor for Safety (EfS), a network of senior editors and news directors, united on the agenda of safety of journalists. PPF advocates nationally and internationally for promotion of freedom of expression and safety of journalists, in collaboration with national media organizations and IFEX.

**IFEX** (established 1992) is the global network of 110 organisations working to promote and defend the right to freedom of expression and information in over 60 countries worldwide. Through its local members, IFEX supports awareness raising, campaigning and advocacy on a range of issues related to freedom of expression and information in Pakistan.