

Denial of Freedoms and Restrictive Spaces: Challenges for Pakistan's Civil Society



PI L E R

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Foreword

Access to fundamental rights is a precondition for a functioning democracy. No democracy can ever flourish in an environment of rights deficit.

The picture of fundamental rights in Pakistan is incomplete without the contribution of Pakistan's resilient civil society that has been at the forefront of struggles, movements and efforts to push for a rights-driven agenda in Pakistan's state's value systems. Critical, as this has been, in the backdrop of successive military rules in the country, somehow the state's posture is yet to graduate from a national security led approach to a citizen-centric course. As a result, the reality of citizens' lives is defined by a system that prioritizes restrictions on expression, information, assembly and association – all critical for a democratic engagement. The state also exhibits a retreat and capacity deficits when it comes to delivering on basic services such as health, education, security and human development.

This rights deficit in expression, access to information, and freedoms of assembly and association, impedes Pakistan's civil society from performing its core function of rights promotion. Civil society's day to day operations are characterized by self censorship, a difficult RTI regime, crackdown on major forms of assembly and a stringent regulatory structure surrounding association - whether they are student unions, workers unions or international NGOs working in Pakistan. Much of this is an outcome of laws and policies created and amended in dictatorial regimes. However, it is also an outcome of state's regressive practices and approaches towards rights implementation. Most brutal form of this is state-led violence and intimidation and denial of protection and security from threats from private actors. Pakistan's civil society remains a frequent target of such acts.

The document "Denial of Freedoms and Restrictive Spaces: Challenges for Pakistan's Civil Society" is an effort by the Pakistan Institute of Labour Education and Research to highlight the picture of shrinking space for civil society in a rights-compromised environment. The document is one of the outcomes of PILER's engagement on the global Civic Charter Agenda that promotes participation of citizens in shaping their lives. Four key rights of expression, information, assembly and association are at the centre of this aspiration, as they form the very basis of a vibrant democracy.

The fundamental premise of the document is to address the need for an information based advocacy aimed at promoting discourse on the rights and security for those attached to the civil society sector. It documents major developments in laws, policies, actions and practices in the above-mentioned four areas from civil society's perspective, in recent years. The document also seeks to present an assessment on how a restrictive rights environment impacts civil society.

PILER, along with partners, hopes that the document will contribute to a more solid engagement for a safer environment for civil society, whose work is linked with the future of a vibrant democracy invested in citizens' wellbeing and security.

PILER is grateful to Heinrich Böll Stiftung Pakistan for support for the publication of this document.

Zulfiqar Shah
Joint Director, PILER

Abbreviations

AMP - Anjuman-e-Muzaraeen Pakistan

EIA - Environmental Impact Assessment

ESMA - Essential Services Maintenance Act

ICCPR - International Covenant on Civil and Political Rights

IP - Internet Protocol

ISI - Inter-Services Intelligence

ISPR - Inter Services Public Relations

NAP - National Action Plan

NGO - Non-Governmental Organization

PAT - Pakistan Awami Tehreek

PEMRA - Pakistan Electronic Media Regulatory Authority

PIA - Pakistan International Airlines

PILER - Pakistan Institute of Labour Education and Research

PTI - Pakistan Tehreek-e-Insaf

RTI - Right to Information

SAP-PK - South Asia Partnership – Pakistan

UDHR - Universal Declaration of Human Rights

WISE - Women in Struggle for Empowerment

Introduction

Pakistan's civil society is a diverse entity comprising individuals, groups, organizations, networks and collaborations espousing access to rights, equality, democracy, a political system of governance, and social justice, among other ideals. Its critical role in restoration of democracy in the backdrop of successive dictatorships in the country is well documented. In recent years, there has been a change in the context, approaches and methodologies of civil society's operations. However, a rights-based ideology continues to define the direction of those associated with the civil society.

The briefing paper seeks to contribute to the discourse on civil society's own access to rights. The need for such a discussion has been felt in the backdrop of increasing attempts at limiting the ambit of rights and spaces of engagement for those attached to the civil society. These actions come from both the state and the non-state actors. These have not only led to impediments in the work and struggles of the civil society actors and groups, they have resulted in loss of lives and created a culture of fear and silencing of dissent.

It can be argued that four fundamental rights: right of speech, information, association and assembly are essential for exercising free citizenship. For civil society, these rights are of greater significance as these are particularly crucial in espousing the cause of human rights and other specific rights. The four rights can be briefly described as:

1. Freedom of Expression: Every individual is free to share, discuss, and promote his/her views and ideas, support the ideas of others, or express dissent;
2. Freedom of Information: Every individual has easy and timely access to all public information;
3. Freedom of Assembly: Every individual is free to peacefully come together with others to pursue common goals and aspirations;
4. Freedom of Association: Every individual is free to form, join, or support organisations to advance common causes in a peaceful manner.¹

This set of rights creates conducive environment necessary for undertaking activities to espouse for causes and rights. It is also key to promoting "public participation", which in turn is critical for expansion of a democratic space and rights. These four rights also lie at the basis of civil society's approach to engaging systems for a pro-rights environment.

Civil Society of Pakistan: What it does

In the context of Pakistan, broadly, the work of civil society concerns campaigning for rights, by way of the following fundamental actions (For a detailed background on Pakistan's civil society's work, see Box 2)

- (i) Engaging forums of expressions to highlight issues and rights deficit, and create grounds for actions for solution;
- (ii) Develop and disseminate content for informed discourse;
- (iii) Organize and mobilize public and other stakeholders for collective action on access to rights.

These efforts are carried out through various activities such as public mobilization, community organization, public demonstrations, dialogue sessions, generation of research and knowledge content, legal assistance, and outreach to state, among others. Box 1 and 2 present an overview of Pakistan's civil society's work in recent years.

¹ Civic Charter: The Global Framework for People's Participation, Heinrich Böll Foundation, the Oak Foundation, the Open Society Foundations and the Wallace Global Fund, 2016 at www.civiccharter.org

Box 1

Definition of Civil Society

Drawing from the World Bank definition, civil society can be described as "...the wide array of non-governmental and not-for-profit organizations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations. Civil Society Organizations (CSOs) therefore refer to a wide array of organizations: community groups, non-governmental organizations (NGOs), labor unions, indigenous groups, charitable organizations, faith-based organizations, professional associations, and foundations".²

The major actors of Pakistan's civil society are NGOs, trade unions, professional bodies of doctors, lawyers, and traders, among others, charity organizations such as Edhi Foundation, educational and medical foundations such as the Sindh Institute of Urology and Transplantation, Layton Rahmatulla Benevolent Trust, and religious organizations that are mostly involved in charity and emergency relief work.

A very important sector of the civil society is human rights defenders. The term "Human rights defender" is used to describe people who, individually or with others, act to promote or protect human rights. The Declaration on Human Rights Defenders refers to "individuals, groups and associations ... contributing to ... the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals"³

The organizations involved in rights promotion mainly comprise the NGO sector. The broader areas of rights that are covered include human rights, organizations focused on human rights for women, and rights of workers, minorities, marginalized communities, organizations working on development, peace, conflict resolution, livelihoods, and access to basic services.

Continued...

This paper is set on the premise that Pakistan's democracy is better served by a vibrant and free civil society that has rights and public agenda at the root of its actions. As evident from their role in struggles for democracy, for public interest to prevail as the basis of the state agenda and actions, it is crucial that civil society finds conducive environment to engage on the cause of rights.

The paper seeks to identify challenges standing in the way of the civil society to carry out their functions effectively, despite use of democratic and peaceful means and legitimate channels. A number of recent developments indicate challenging times for the civil society as the state adopts an increasingly national security approach vis-à-vis its relationship with citizens, looking at rights as a threat rather than a compulsion, to the future of the country. The negative environment for civil society is further reinforced as non-state actors – in the form of militants, terrorists, criminals and regressive forces – find a favourable environment to pursue their agenda.

As a result, a negative narrative against civil society, openly espoused by the state; intimidation and open violence against political activists, NGO workers, lawyers, media persons and academics; enforced disappearances and frequent killings are becoming a new normal for those working in this sector. This is further reinforced by the state's denial to provide protection and security to the civil society and general public at large.

The paper is divided into four sections. Each section seeks to present an assessment of the status of the rights with regards to Freedom of Expression, Freedom of Information, Freedom of Assembly and Freedom of Association. Effort has been made to incorporate the existing critical review on legal and legislative provisions as well as experiences of practice of each of these rights. The information and assessment has been drawn from secondary resources, including media reports and research and analysis by NGOs and agencies working specifically on areas related to the rights outlined in this paper. Moreover, discourses from PILER's engagement on the theme of civic freedoms, carried out at different points in 2016 and

² The World Bank. (2013). *Defining Civil Society*. [online] Available at: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,,contentMDK:20101499~menuPK:244752~pagePK:20503~piPK:220476~theSitePK:228717,00.html> [Accessed 5 Aug. 2017].

³ United Nations Human Rights Office of the High Commissioner. (n.d.). *Who is a defender*. [online] Available at: <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx> [Accessed 5 Aug. 2017].

2017, and individual interviews with actors associated with the civil society have been incorporated. Bringing information and perspectives from these sources together, the paper attempts to present a picture of the status of rights and how this impacts civil society's experiences in rights advocacy.

The paper focuses on the events and developments in the period of 2014 to 2017. This period has seen critical actions directed at civil society, even after restoration of democracy with two successive elections (2008 and 2013), a system of governance run by political governments, and a wider consensus on democracy as the future of Pakistan. Despite these positive developments, civil society has found itself repeatedly under attack, both by the state and the private actors followed by a growing denial by the state to offer protection and secure justice for violation of rights. These three years register restricting space for civil society to operate with freedom.

Also included are organizations working on environment, digital rights; and right to freedom of expression and media freedom. Over the years, many non-government organizations have started to branch out in service delivery such as emergency response, livelihoods restoration, and development of specific geographical areas such as the Thar-deep Rural Development Programme in Tharparkar.

There are networks and alliances that collaborate and share resources to pursue particular area of concern. Major examples are: Pakistan-India Peoples Forum for Peace and Democracy, Joint Action Committee, Women's Action Forum and Pakistan Civil Society Forum etc. In addition, organizations also collaborate to advocate for common causes on consensus basis.

Box 2

Civil Society: Overview of Recent Work

The civil society sector working on rights mostly adopts the following work strategies:

1. Activities and products on awareness/information/knowledge exchange;
2. Legislative Advocacy;
3. Movements by way of public mobilization over issues. This may also include street protests;
4. Legal petitions.

A number of civil society organizations are also engaged in service delivery such as education, healthcare, clean drinking water, and rehabilitation in the aftermath of disasters, among others.

In terms of advocacy on rights, civil society has been engaged on many issues that seek to highlight the issue of rights deficits in Pakistan's society. These engagements center around publications, annual reports on status of rights, conferences/seminars/dialogues, outreach to the state and collaboration with civil society actors.

Out of these efforts, regular publications/reports play an important role in highlighting the state of affairs on the rights of specific sectors. Some of the most credible reports are: The Annual Status of Human Rights (Human Rights Commission of Pakistan); Report on Violence Against Women (Aurat Foundation), The Status of Labour Rights (Pakistan Institute of Labour Education and Research), The Status of Minorities Rights (Jinnah Institute), The Annual State of Education Report (by similarly named ASER), The State of Pakistan's Children (Society for the Protection of the Rights of the Child), Pakistan Security Report (Pakistan Institute for Peace and Security), periodic performance reviews of the parliament (Pakistan Institute of Legislative Development), and review of elections (mostly done by Free and Fair Elections Network).

These reports comprise statistics, case studies, opinion pieces and comments by leading experts in their respective fields. Publicized through the media, these reports help highlight the status of rights and act as key reference point for stakeholders engaged in advocacy.

Legislative Advocacy

Civil Society has actively led the development and implementation of rights based legislation. Many organizations also undertake programmes to promote public awareness and comprehension of rights legislation.

Continued...

The legislative advocacy of civil society has led to the development of important bills such as that on Domestic Violence Prevention and Protection Act (passed by the National Assembly and Senate in 2012; Sindh, Balochistan and Punjab adopted the bill in 2013, 2014 and 2016 respectively, while it is pending in Khyber Pakhtunkhwa). Three critical bills, Prevention of Anti-Women Practices Bill 2011, Acid Control and Acid Crimes Prevention Bill 2011, and The Women in Distress and Detention Fund (Amendment) Bill, 2011 were passed by the Senate, all in 2011.⁴ Due to consistent struggles of the labour rights organizations and trade unions, the Sindh Government passed the Industrial Relations Act 2013, first time recognizing the rights to organization of the agriculture workers.⁵ Similarly, following the efforts of the networks and alliances on home based workers a policy on home based workers has been approved by the Punjab and the Sindh provinces while the Home Based Workers Act is also at different legislative stages in all four provinces. The Punjab and the Sindh Governments have also started registration of workers in Lahore, Gujranwala, Multan and Sindh. Moreover, the Punjab and the Balochistan Governments have, for the first time, included Home Based Workers in their respective labour policies.⁶

Civil society has also been engaged in the development of the Right to information law that is now being adopted by provinces. Many organizations like Shehri, PILDAT and Coalition on Right to Information have been engaged in public outreach to expand understanding and the use of law. Pakistan Fisherfolk Forum's strong movement against the contract system has similarly led to the development of The Sindh Fisheries (Amendment) Act, 2011, which cancelled the licenses for fishing earlier given to exploitative contractors. PILER's and PFF's consistent advocacy has also highlighted the issue of arrest of fishermen around the sea border of Pakistan and India.

Movements:

The civil society of Pakistan has championed many important movements that advanced the cause of rights in Pakistan. Most notable of these are the movement for restoration of democracy, fight against military dictatorships led by General Ayub Khan, General Zia-ul-Haq and General Pervez Musharraf, rights for women, prominent being Women's Action Forum's struggles, movement for press freedom, workers resistance against clampdown on labour rights and the recent lawyers movement. Issue based movements led by civil society have made significant contribution to the agenda of rights, democracy and political development. These include highlighting of the human rights violations in war on terrorism, Balochistan turmoil, resistance against extremism in Pakistan and the demolition of slum areas of Islamabad, among others. Comprehensive documentation is available on the history of many of these movements.

Petitions:

The third way that the civil society takes up its struggle for rights is through court petitions. This has been an important route following the judicial activism of the Supreme and the High Courts in the backdrop of the judicial crisis of 2007.⁷

Some of the most important petitions filed by the civil society or taken up by the courts on an application by the civil society include:

Petition Against YouTube Ban: Filed by the organization Bytes for All, the petition challenged the youtube ban by the Pakistan Telecommunication Authority, on constitutional grounds.

⁴ Seven pro-women laws in seven years. (2011). *Legislative Watch Aurat Publication and Information Service Foundation*.

⁵ Dawn (2011). Demand for Review of Draft Labour Laws. [online] Available at: <http://www.dawn.com/news/665885/demand-for-review-of-draft-labour-law> [Accessed 5 Aug. 2017].

⁶ Brief phone interview with the Executive Director of Homenet Pakistan

⁷ In March 2007, the then Chief Justice of the Supreme Court Justice Iftikhar Chaudhry was fired by the then military dictator General Pervez Musharraf. An intense movement was launched by the lawyers to reinstate him. Following two years long struggle that saw many bloody episodes of terrorism and lawyers confrontation with state, the CJ was eventually reinstated. Following this, the court launched into an aggressive drive to exercise judicial independence and took several suo moto notices pertaining to human rights and citizens access to basic services. It passed several important orders including its famous ruling on minorities rights in 2014.

Baldia Fire Tragedy 2012: The petition was filed by a group of civil society actors including PILER, National Trade Union Federation, Pakistan Fisherfolk Forum, Human Rights Commission of Pakistan and Hosiery Garments Workers Union as an intervention on behalf of the victims requesting the Sindh High Court to determine the causes of the disaster, prosecute the persons and the state bodies for negligence and ensure compensation to the affected families.

Land Rights: A petition was filed by the Workers Party, challenging the earlier ruling of the Shariat Appellate Bench of the Supreme Court declaring land rights as un-Islamic.

Bar on Women from Voting: In June 2015, by-elections were held in Lower Dir II, PK-95. Employing the traditional exclusionary tactic, the participating political parties entered into an alliance to bar 53,000 women from casting vote. Upon outrage raised by rights organisations that also filed multiple petitions, the Election Commission of Pakistan took suo moto notice of this violation of fundamental right. It declared the by-elections null and void and ordered re-polling on grounds of the disenfranchisement of women in that constituency.⁸

Thar droughts: A petition on droughts in Thar that killed over 200 people in 2013 and 2014 was also pursued by the Pakistan Institute of Labour Education and Research in 2014. The petition sought enforcement of fundamental rights and the law, for the victims, the survivors and their families, and directions from the High Court to deal with the Tharparkar tragedy and to avoid such tragedies in the future.

Karachi's Nuclear Power Plants: Following the launch of nuclear power plants in Karachi in late 2013, the civil society sought engagement on the subject as the plants were initiated in violation of environmental procedures which included an environmental impact assessment followed by a public hearing. A group of civil society actors including Dr Pervez Hoodbhoy, Dr AH Nayyar, Arif Belgaumi, Sharmeen Obaid-Chinoy, PILER and PFF filed a petition on the grounds that the plants were not in compliance with the environmental protection rules. After hearing the case, the court ordered the concerned agencies to carry out the EIA again and follow it up with a public hearing as per procedure.

Among other instances of legal routes taken by the civil society is a Right to Education petition filed by PILER, Idara-e-Taleem-O-Agahi, Pakistan Fisherfolk Forum and others seeking Sindh High Court's intervention in declaring the Sindh Government's responsibility to provide free and compulsory mandatory education to all children in line with Article 25A of the constitution. PILER and PFF also filed a petition in the Supreme Court for the release of fishermen detained by India and Pakistan for alleged violation of maritime borders.⁹ Huge number of fishermen have been released since then despite the continuation of the process of arrests.

Among key environmental petitions taken up by civil society include a case against the metro bus project in Islamabad seeking court's intervention over the potential risks to environment and the city's green belt because of the project.¹⁰ Another one with the Lahore High Court sought intervention over the pollution of the Ravi River.¹¹

⁸ Hasan, D. (2015). Cheers for the Election Commission of Pakistan and the Women's Movement. [Blog] *Pakistan Horizon*. Available at: <https://pakistanhorizon.wordpress.com/2015/06/05/cheers-for-the-election-commission-of-pakistan-and-the-womens-movement/#more-5922> [Accessed 11 Aug. 2017].

⁹ NDTV. (2010). *Pakistan issues orders for the release of 442 Indian fishermen*. [online] Available at: <https://www.ndtv.com/india-news/pakistan-issues-orders-for-the-release-of-442-indian-fishermen-429134> [Accessed 11 Aug. 2017].

¹⁰ Express Tribune. (2014). *Environmental impact: SC to take up Metro Bus case on Dec 30*. [online] Available at: <https://tribune.com.pk/story/810701/environmental-impact-sc-to-take-up-metro-bus-case-on-dec-30/> [Accessed 11 Aug. 2017].

¹¹ Express Tribune. (2012). *Environment watch: LHC asks for list of polluting industries*. [online] Available at: <https://tribune.com.pk/story/377611/environment-watch-lhc-asks-for-list-of-polluting-industries/> [Accessed 11 Aug. 2011].

Section I

Freedom of Expression

Constitutional Background

Freedom of Expression is rooted in Article 19 of the Constitution of Pakistan that covers Freedom of Speech. The article outlines the fundamental right as:

“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 law in the interest of the glory 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, [commission of] or incitement to an offence.”

International and constitutional regulations outline freedom of expression as represented in freedom of speech (also used interchangeably) and freedom of press. Freedom of the press, as component of the freedom of expression, is critical to the very nature of a democratic society, promoting free debate and pluralism of ideas. This comes with the acknowledgement that the exercise of the Freedom of Press is accompanied by obligations and liabilities.¹²

Freedom of Expression is described as an ‘enabling right’. It is the human right that allows people to secure and defend all the other human rights.¹³

The Constitution links the exercise of freedom of speech to “any reasonable restrictions imposed by law in the interest of the glory of Islam...”

The right to speech is crucial for the promotion of good governance by enabling citizens to raise their issues. An environment where people can speak their minds without fear, and the media is allowed to report freely may serve as the only means for a serious government to become aware of the concerns of the public and address them. Freedom of speech, along with freedom of information, promotes the implementation of other human rights. “They help improve government policy in all areas, including human rights. They also enable journalists and activists to highlight human rights issues and abuses and persuade the government to take action.”¹⁴

Reviewing the status of freedom of expression in the last three years, the following picture emerges.

Conditions attached to Constitutional Provision of Freedom of Speech: The Constitution links the exercise of freedom of speech to “any reasonable restrictions imposed by law in the interest of the glory 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, [commission of] or incitement to an offence.”

These conditions, because of their loose interpretation, are essentially problematic. “Glory of Islam”, “security of Pakistan” and “friendly relations with state”, are very subjective areas with no official consensus on their meaning and representation. It has also been observed that not only these restrictions fail on the count of international frameworks intrinsic in UDHR and ICCPR, these also fail the three-part test of “legality, legitimacy and proportionality” marked in Article 19 (3) of the ICCPR. It has been specifically noted that some of the conditions linked with freedom of expression, such as “friendly relations with other States”, are not recognised under international law.¹⁵

¹² IANCU, D. (2010). Freedom of the Press – A Component of Freedom of Expression. *JURIDICA (ACTA UNIVERSITATIS DANUBIUS)*, [online] 6(1). Available at: <http://journals.univ-danubius.ro/index.php/juridica/article/view/236/222> [Accessed 11 Aug. 2011].

¹³ Sharp, R. (2015). *Free Speech And Why It Matters*. [online] Rights Info: Human Rights News, Views &Info. Available at: <https://rightsinfo.org/free-speech-and-why-it-matters/> [Accessed 11 Aug. 2017].

¹⁴ Article 19. (n.d.). *Freedom of Expression*. [online] Available at: <https://www.article19.org/pages/en/freedom-of-expression.html?sa=U&ei...> [Accessed 11 Aug. 2017].

¹⁵ Joint submission to the UN Universal Periodic Review of the Islamic Republic of Pakistan. (2017). [online] ARTICLE 19, IFEX and Pakistan Press Foundation. Available at: <https://www.article19.org/data/files/medialibrary/38704/Pakistan-Joint-Submission-A19,-IFEX,-PPF.pdf> [Accessed 15 Oct. 2017].



Protection for Journalists: Pakistan’s media has a rich history of struggles for free and independent media. Leading journalists and newspaper houses have paid a heavy price for media independence in terms of torture, imprisonment and media blackout. However, the biggest price continues to come in the form of harassment, intimidation and killing of journalists.

The International Federation of Journalists, describing Pakistan as among the most dangerous countries in the world for journalists, lists 102 killings of journalists and media workers from 2005 to 2016. Conflict zones such as Balochistan and Khyber Pakhtunkhwa are particularly volatile for journalists. However, instead of providing security and working around the challenge of conflict, the state seeks to restrict the flow of information in these two zones, further making the job of the media difficult. This is not helped by the fact that there is very limited support in terms of safety trainings and insurance, among others, offered by the media houses to their employee journalists. Moreover, there have been merely five convictions in the entire history of the cases of killing of journalists since 2002.¹⁶

The government is yet to complete its work on the development of legislation on media safety (in progress since 2014). This does not inspire confidence in the state’s willingness and capacity to protect journalists.

The Human Rights Commission of Pakistan publishes an annual report on the status of human rights in the country. Assessing the source of threat and violence directed at journalists, the report points to militants, terrorists, criminals, political workers and paramilitary forces as actors that seek to target journalists. The impunity enjoyed by these actors and absence of state’s willingness to stand up for the fourth estate is a hanging sword that continues to restrict media persons to deliver on their responsibility to freely report on public issues.

Media Pluralism

Two aspects of restrictions on pluralism are of concern: concentration of media and representation of voices.

Commercialism is at the root of the recent media boom encouraged by the media liberalisation policy of the state. This boom is represented in over 50 privately-owned TV channels, 170 FM radio channels and more than 250 news publications, including both newspapers and periodicals.¹⁷ Thirty five million Pakistanis use the Internet, and 40 million people use a smart phone.¹⁸ The broadcast media in Pakistan is much homogenised with few media groups owning a range of news, entertainment and info-

¹⁶ Pakistan Press Freedom Report Covering the Period January 01, 2016 to April 30, 2017. (2017). [online] Pakistan Press Foundation. Available at: <https://www.pakistanpressfoundation.org/wp-content/uploads/2017/05/Pakistan-Press-Freedom-Report-5-MAY-17.pdf> [Accessed 2 Sep. 2017].

¹⁷ Media and Gender in Pakistan: A special report by the International Federation of Journalists (Asia-Pacific). (2015). International Federation of Journalists.

¹⁸ Shaikh, A. (2017). Rethinking digital. *Aurora*. [online] Available at: <https://aurora.dawn.com/news/1142113/rethinking-digital> [Accessed 11 Oct. 2017].

*Photos downloaded from the Internet.

tainment outlets including television, radio and newspapers. This concentration of media ownership has also sought to reinforce commercialisation as ratings inform media policy and actions, while public interest takes a backseat. The regulatory body PEMRA has had limited control over the actions of the broadcast media.

Rampant commercialisation and concentration seeks to suppress diversity and offer viewers/readers a limited range of perspectives.

Another issue linked with the subject of plurality is the internalisation of the military's propaganda. This is driven by a variety of factors that also include media's past alliances with the military, self-censorship to evade repercussions of ambiguous laws prioritising "national security" and the militant threat and protection of commercial interests. Pakistan's media, especially the broadcast sector, has shown very limited willingness to challenge the dominant national security narrative. This is most evident in the presentation of the coverage of various military operations taking place in FATA, Karachi and Balochistan as well as the narrative of the ISPR (Military's public relations wing) with regards to armed forces' position on national issues. Such internalisation and absence of independence severely compromise citizen's right to access independent information while it also threatens democracy by promoting self-censorship and projecting a narrow-based perspective on issues of national importance.¹⁹

Cultural factors and social castigation also put a bar on free expression. While certain topics remain social outcasts and restricted under the scope of "Islamic tradition" (for e.g. interactions between men and women, issues of sexual health), themes concerning religion (especially controversial provisions such as the blasphemy laws, religion centric provisions in the Constitution and the law), friendly ties with estranged neighbours such as India or Afghanistan, and questioning the military or the national security narrative remains off limits. Discussing them on open public forums can invite all kinds of risks.

Blackouts / Censorship

It is an unfortunate reality that in this age of digital content delivery, media content is still censored or forcefully blacked out in Pakistan. PEMRA takes the lead in this regard, following Section 30 of the PEMRA (Amendment) Act 2007, suspending the transmission of TV channels over violation of PEMRA rules. Major channels suspended in the last three years were accused of airing content that sought to target the military (Geo TV in 2014, 2015) and the judiciary (ARY in 2015).²⁰

PEMRA's style of working can be gauged from a 2015 episode. The Authority sent text messages to the top management of news channels warning them to refrain from negative comments against Saudi Arabia over the country's handling of the Mina tragedy during the Hajj season that year, that resulted in the killing of 769 people.

It is an unfortunate reality that in this age of digital content delivery, media content is still censored or forcefully blacked out in Pakistan.

This was preceded by an earlier warning following debates on the media over Pakistan's refusal to send ground forces to Yemen as part of a Saudi-led coalition against the Houthi uprising. The media was reminded of the provision related to relations with friendly country in the Article 19 of the constitution.²¹

¹⁹ In a paper by Sadaf Liaquat, Ayesha Qaisrani, Elishma Noel Khokhar, "Freedom of Expression in Pakistan: A myth or a reality", Sustainable Development Policy Institute, 2016, respondents said that entities, in the name of national security, silence any debate in the media or on any other platform, which is against their 'unlawful' actions. In case of criticism, they instil fear and terror amongst the population. Some of the respondents said military and intelligence agencies are two actors, who influence people; however, many others were hesitant to be vocal in this regard, which shows an element of fear among them.

²⁰ Freedom House. (2015). *Pakistan: Freedom of Press*. [online] Available at: <https://freedomhouse.org/report/freedom-press/2015/pakistan> [Accessed 8 Jul. 2017].

²¹ Ali, K. (2015). Pemra warns against criticism of Saudi response to Mina tragedy. *Dawn*. [online] Available at: <https://www.dawn.com/news/1210153/pemra-warns-against-criticism-of-saudi-response-to-mina-tragedy> [Accessed 8 Jul. 2017].

Even newspapers face blackouts. In 2014 and also on several occasions in later years, the New York Times edition attached to the daily newspaper Express Tribune appeared with blank space, removing reports/articles covering controversial topics such as relations of Pakistani state authorities with banned militant groups.²² Media houses are restricted from publishing such articles and reports on the grounds of these being “against national interest”.

Internet Freedom

The Freedom House, a freedom and democracy watchdog organisation, ranks Pakistan as one of the ten worst countries in terms of internet freedom. Pakistan ranks poorly on all three benchmarks of internet freedom, namely “Obstacles to Access”, “Limits on Content”, and “Violations of User Rights”.²³

The limitations on the internet usage come from government surveillance as well as online exploitation and abuse. Pakistan has an internet penetration of 11 percent.²⁴ However, due to mobile phone access, the internet usage has increased tremendously.²⁵

The restrictions on internet freedom is reflected in the blockage of internet websites, and monitoring of internet content.

The most famous of the cases of curbs on internet content is the ban on You Tube since September 2012, over the controversy of alleged blasphemous video on the website. Sites carrying political content, especially blogs and independent news media from Balochistan are also blocked. Freedom House reports that more than 200,000 websites are banned in the country because of their allegedly anti-Islamic, pornographic, or blasphemous content.

Personal use of internet is also closely monitored as evident from independent reports from internet freedom watchdogs. The Government of Pakistan has been a confirmed user of the FinFisher Command and Control Servers in Pakistan, according to a report by the Citizen Lab, Toronto.²⁶



The three year long ban on video-sharing website YouTube represents the restrictive state of internet freedom in Pakistan.

²² See section Freedom of Expression in State of Human Rights in Pakistan 2014. (2015). Human Rights Commission of Pakistan.

²³ Pakistan: Freedom on the Net. (2014). [pdf] Freedom House. Available at: <https://freedomhouse.org/sites/default/files/resources/Pakistan.pdf> [Accessed 8 Jul. 2017].

²⁴ Ibid

²⁵ Bytes For All launches Pakistan's Internet Landscape report. (2014). *Spider Magazine*. [online] Available at: <https://www.dawn.com/news/1079633> [Accessed 9 Jul. 2017].

²⁶ Abdullah, H. (2015). Fishing in troubled waters. *Sunday Magazine, Dawn*. [online] Available at: <https://www.dawn.com/news/1177605> [Accessed 9 Jul. 2017].

The servers operate digital software that conduct mass surveillance. In an earlier report by Guardian, based on documents made public by Edward Snowden, it was revealed that the British e-spy agency General Communications Headquarters has acquired the ability to access almost any user of the internet inside the entire country of Pakistan. Herald Magazine observes that such surveillance could not have been possible without the approval of Pakistani authorities.²⁷

Another threat concerning the internet comes from user's exposure to hostile elements. In a report titled "Technology Driven Violence Against Women", a series of cases were presented covering how internet has been used to inflict harm upon women who were threatened and abused.²⁸ Likewise, the internet has also been used to persecute people on religious and sectarian grounds. One of the most famous cases has been the imprisonment of Junaid Hafeez, an academician in Multan who was accused of writing blasphemous material on Facebook and was arrested by Law Enforcement Agencies without going through a formal investigation. The Digital Rights Foundation has mapped several cases where people have been sentenced on accusations of blasphemy based on their alleged comments on social media. Apart from Pakistan's highly controversial blasphemy laws that facilitate one-sided conviction of the accused, the absence of coherent law defining online hate speech, or one that protects citizens' digital rights also perpetrates injustice against internet users seeking to express their religious and political views.

Cyber Crime Laws

The Prevention of Electronic Crimes Act, 2016 has been regarded as a serious attempt at curbing internet freedom. When it was being developed, the Bill met heavy resistance from civil society groups that campaigned rigorously against the regressive provisions being incorporated in the bill. Not only the civil society was kept out of the consultative process and its recommendations side-lined, the PECB earned criticism by the United Nations' Special Rapporteur on freedom of opinion and expression for its content, including vagueness of its provisions.²⁹

The bill seeks to block any content that contradicts "interest of the glory of Islam or the integrity, security or defense of Pakistan..., friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offence". As observed by Digital Rights Foundation, the Pakistan Telecommunications Authority has been granted "unlimited powers" to decide what was illegal.³⁰

Major sections of the Bill that have come under criticism by civil society are as follows:

Using the term "dishonest intention", sections 3, 4, and 5 raise the possibility of criminalizing speech when data is accessed, copied or transmitted without permission. This threatens the work of journalists, bloggers, citizen journalists, whistle-blowers, researchers, academics, and NGOs seeking to carry out analysis and highlight public issues for accountability.

Section 10 poses the risk of linking political expression and online campaigns with threat to public order.

²⁷ Khan, S. (2017). The state bytes back: Internet surveillance in Pakistan. *Herald*. [online] Available at: <https://herald.dawn.com/news/1153312/the-state-bytes-back-internet-surveillance-in-pakistan> [Accessed 9 Jul. 2017].

²⁸ Technology Driven Violence Against Women. (2014). [online] Bytes for All. Available at: <http://content.bytesforall.pk/sites/default/files/ViolenceAgainstWomenPakistanCountryReport.pdf> [Accessed 10 Jul. 2017].

²⁹ Kaye, D. (2015). *UN expert urges Pakistan to ensure protection of freedom of expression in draft Cybercrime Bill*. [online] Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16879&LangID=E> [Accessed 9 Oct. 2017].

³⁰ Amber, S. (2016). Critics highlight issues in Cyber Crimes Bill passed by NA. [online] Available at: <https://dailytimes.com.pk/64033/critics-highlight-issues-in-cyber-crime-bill-passed-by-na/> [Accessed 1 Oct. 2017].

Sections 13 and 16 criminalises the production, distribution and use of encryption technology, which is commonly used to avoid mass surveillance and violation of privacy, especially by whistle-blowers, human rights defenders, and journalists.

Comprising major breach of privacy, the Bill authorises the Federal Government to extend cooperation to foreign governments, agencies, and international organizations seeking to collect, preserve and transfer of network information and digital data of Pakistani citizens, without any permission from the Court (Section 39).³¹

The PECB has been swiftly used by the government to target those criticizing the government on social media. In 2016, Interior Minister Chaudhry Nisar Ali Khan ordered a crackdown after the “Dawn Leaks” episode that exposed military’s support for militancy. A series of arrests were made under the PECB for criticising the government on social media.

Around the same time, the government also hounded political opponents – arresting a member of Pakistan Tehreek-e-Insaf and journalist Zafarullah Achakzai charging them under the Cyber Crimes Law for “making defamatory remarks” and “harming the reputation of a person”. Meanwhile, the Federal Investigation Agency sent out a number of inquiries to outspoken critics and political figures, directing them to report to its counter-terrorism wing in Islamabad for a hearing.³²

Curbs on Artistic Freedoms

Artistic creativity and freedom are important aspects of the Right to Expression. Artistic freedom has a bearing on societal development as it advances free thinking and exchange of ideas.

In Pakistan, Freedom of Expression in artistic endeavours faces considerable restrictions. These are not only represented in laws and state policies and actions towards artistic expression, those associated with the field of art and culture also stay at the threat of violence by private and non-state actors.

Below is a brief on laws and institutions seeking to regulate artistic expression, followed by a recount of recent incidents targeting artistic forums and cultural products, discouraging art as a medium and tool for social engagement. This has been drawn from a Joint Stakeholder Submission of Universal Periodic Review of Pakistan prepared by Shirkat Gah and Freemuse, consolidating laws and actions regulating artistic expression in Pakistan.



All theatre performances and other forms of artistic expressions are required to obtain NOC before presentation. The NOC can be canceled anytime without explanation.

³¹ Baloch, H. (n.d.). *Internet Rights and Legislation in Pakistan: A Critique on Cyber Crime Bill, 2016*. [online] Bytes for All, APC Impact, Association for Progressive Communications. Available at: http://www.netfreedom.pk/wp-content/uploads/2016/06/CSO-criticism-on-PECB-2016_IssuePaper.pdf [Accessed 2 Oct. 2017].

³² Marcus, M. (2017). *Pakistan’s pluralist digital space is under threat as the government goes after dissidents*. [online] Scroll.in. Available at: <https://scroll.in/article/845133/pakistans-pluralist-digital-space-is-under-threat-as-the-government-goes-after-dissidents> [Accessed 2 Oct. 2017].

Regulators of Artistic Expression: Laws and Policies

Provision	Details	Penalty
Pakistan Penal Code 1860 (PPC)14 Section 123	Crime for any person to abuse the State, to condemn the creation of the State through the partitioning of India in 1947, or to advocate for the abolition of its sovereignty, knowing or intending that this expression would influence a person / segment of society in a manner that is prejudicial to the safety or ideology of Pakistan or endangers the sovereignty of Pakistan.	Maximum punishment is imprisonment of up to 10 years and a fine
PPC - Section 124-A	Offence of sedition, whereby a person, who by words, either spoken or written, or by signs or visible representation, brings or attempts to bring hatred or contempt, or excites or attempts to excite disaffection towards the Federal or Provincial Government.	Life imprisonment and fine.
PPC - Section 153-A	Criminalizes conduct that promotes enmity between different groups. Expression or speech promoting or inciting disharmony, feelings of enmity, hatred or ill-will between different religious, racial, linguistic, or regional groups, castes, and communities on grounds of religion, race, place of birth, residence, language, caste or community or any other ground.	Five years imprisonment and a fine.
PPC - Section 292	Criminalizes the production for sale, possession for sale, sale, hire, distribution, circulation, public exhibition, import, export, and advertisement of "obscene" books, pamphlets, papers, drawings, paintings, representations or figures or any other obscene object whatsoever. Exempts items with a religious purpose or of a religious nature.	Three months imprisonment or a fine, or both.
PPC - Section 294	Offence for a person to sing, recite or utter any obscene songs, ballads or words, in or near any public place, to the annoyance of others.	Three months imprisonment or a fine, or both.

Continued...

Provision	Details	Penalty
Anti-Terrorism Act 1997 (ATA) 20 - Section 8	<p>Offence for a person to:</p> <p>(a) use threatening, abusive or insulting words or behaviour, or;</p> <p>(b) display, publish or distribute any written material which is threatening, abusive, or insulting, or;</p> <p>(c) distribute, show or play a recording of visual images or sounds which are threatening, abusive, or insulting, or;</p> <p>(d) have in their possession written material, a recording, visual images or sounds which are threatening, abusive, or insulting with a view to their being displayed or published by themselves or another; if by doing so they intend to stir up sectarian hatred or sectarian hatred is likely to be stirred up.</p>	Rigorous imprisonment for a maximum term of seven years, or with a fine, or both.
The Motion Pictures Ordinance 1979 (MPO)	A film shall not be certified for public exhibition if: "the film or any part thereof is prejudicial to the glory 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 amounts to the commission of, or incitement to, an offence".	Exhibition of an uncertified film or failure to comply with the provisions of the MPO is liable to imprisonment of a maximum term of three years, or a maximum fine of Rs.100,000.
The Dramatic Performances Act 1876	Offence if the provincial government is of the opinion that a play, pantomime, or other drama performed or about to be performed in a public place is: a) of a scandalous or defamatory nature, b) likely to excite feelings of disaffection to the Government, or c) likely to deprave and corrupt persons present at the performance, it may prohibit such a performance.	Prohibition of the concerned performance by the provincial government.
The Code of Criminal Procedure 1898 (CrPC) – Section 99A (Power to declare certain publications forfeited and to issue search warrants for the same)	"Newspaper, book or any document (including painting, drawing, photograph, or other visual representation) that appears to the Provincial Government to contain any treasonable or seditious matter, or any matter which is prejudicial to national integration, or any matter which promotes or is intended to promote feelings of enmity or hatred between different classes of the citizens of Pakistan, or which is deliberately and maliciously intended to outrage the religious feelings of such class by insulting the religion or the religious beliefs of that class..."	Forfeiture, seizure, and issuance of warrants for the search (by any Magistrate or any police-officer not below the rank of sub-inspector) of certain publications by the provincial government.

Performing Art and Space for Expression

A performance license or a No Objection Certificate (NOC) has to be obtained from either the provincial government authorities or magistrates empowered by the government prior to staging performances in public places.

Following conditions for the NOC, laid down by General Zia-ul-Haq's martial law regime in 1983, are still applicable:

- i. Clearance from the excise and taxation department;
- ii. Exhibition of any part of the body, such as legs, arms, hips etc., are not allowed;
- iii. Only proper dresses of Pakistani origin will be displayed;
- iv. Dresses are not so tight or reveal the vital curves of the body;
- v. Dances, obscenity and nudity are not allowed; Islamic values are not violated.

Any NOC obtained is liable to be cancelled at any stage without explanation of any reason.

Authorised departments responsible for different stages of NOC are: Information and Culture, Excise and Taxation departments, and local government offices for police clearances.

PEMRA Rules

Pakistan Electronic Media Regulatory Authority (PEMRA), established under the PEMRA Ordinance 2002, regulates the establishment and operation of all broadcast media and distribution services in Pakistan that cater to international, national, provincial, district, local or special target audiences. PEMRA's terms of license includes:

The license-holder shall ensure:

- (i) The preservation of the sovereignty, security and integrity of the Islamic Republic of Pakistan;
- (ii) The preservation of the national, cultural, social and religious values and the principles of public policy as enshrined in the Constitution;
- (iii) That all programmes and advertisements do not contain or encourage violence terrorism, racial, ethnic or religious discrimination, sectarianism, extremism, militancy, hatred, pornography, obscenity, vulgarity or other material offensive to commonly accepted standards of decency;
- (iv) And comply with the codes of programmes and advertisements approved by the Authority, and appoint an in-house monitoring committee, under intimation to the Authority, to ensure compliance of the Code.

The 2015 Electronic Media (Programmes and Advertisements) Code of Conduct informs PEMRA's regulation of media content. The regulation includes: no content is aired which is: against Islamic values, the ideology of Pakistan; passes derogatory remarks about any religion, sect, community; contains anything indecent, obscene or pornographic; contains abusive comment that incites hatred; is likely to incite, aid, abet, glamorize or justify violence, commission of any crime, terror or lead to serious public disorder; depicts behaviour such as smoking, alcohol consumption, narcotics and drug abuse as glamorous or desirable.

Violations of provisions of the PEMRA Ordinance are punishable with a maximum fine of ten million Rupees. However, a person who repeats the violation or abetment shall be punished with imprisonment for a maximum term of three years, or with a fine, or both.

Censorship Board

The Censor Board is established under the Central Board of Film Censors (CBFC) to provide for the censorship of films and the regulation of film screenings. The provinces of Punjab and Sindh have instituted their own of censorship following the 2010 devolution of powers to the provinces. The CBFC requires certification for the public or private exhibition of films by means of cinematograph, and provides four outcomes of an application for certification: (i) unrestricted public exhibition; (ii) restricted public exhibition as may be prescribed; (iii) direction to the applicant to carry out such excisions as the CBFC considers necessary before unrestricted or restricted public exhibition and; (iv) a refusal of any public exhibition.³³

Laws For Regulation of Books and Publications/Print Material

The Press, Newspapers, News Agencies and Books Regulation Ordinance 2002, the Press, Newspapers, News Agencies and Books Registration Rules 2009 and the Press Council of Pakistan Ordinance 2002, regulate text books, and newspaper publication. In addition, Section 292 of the Pakistan Penal Code criminalises the sale of obscene books.

Clampdown on Artistic Expression and Cultural Products

Using the tools provided in the regulations covering media, theatre, films and newspapers/print the government has taken a number of actions that can be seen as a clear clampdown on freedom of artistic expression. Artistic work also stands at risk from violent reaction by public, with little security offered by the government. Most recent examples are presented below:

1. “Abdullah: The Final Witness”, a feature film, released in 2015 was denied certification. The film covered a 2011 incident when FC personnel gunned down foreigners in Kharotabad, Balochistan on the charges that they were "suicide bombers". The film was later cleared for exhibition only on the condition that the climax would be blurred and two major scenes would be cut entirely.
2. A complete ban on Indian channels by PEMRA imposed on 21st October 2016. PEMRA cancelled the one-sided rights given to India without any prior notice. It was warned that anyone who violated this ban would be prosecuted under the law.
3. The song “Dhinak Dhinak” by music band Beyghairat Brigade, released in 2013 on vimeo was banned by ISPs across the country. The song was seen as satirizing the country’s military.
4. The Pakistan Telecommunication Authority banned You Tube in September 2012, after the website did not remove the trailer of Sam Bacile's film “Innocence of Muslims”, a film insulting Islam. The ban remained in place for four years.
5. 45-year-old Amjad Sabri was shot by a militant group on 22 June 2016. The Taliban claimed responsibility for his killing.
6. In March 2017, the police banned music at wedding ceremonies in the village of Mattani in Khyber Pakhtunkhwa due to the Taliban fear. The ban was announced with the threat of mass raids and arrest for violators. In May 2016, local government officials in the village of Sheikhan,

³³ The content presented is a summary of a Joint Stakeholder Submission by Shirkat Gah and Freemuse on the Universal Periodic Review Pakistan 2017.

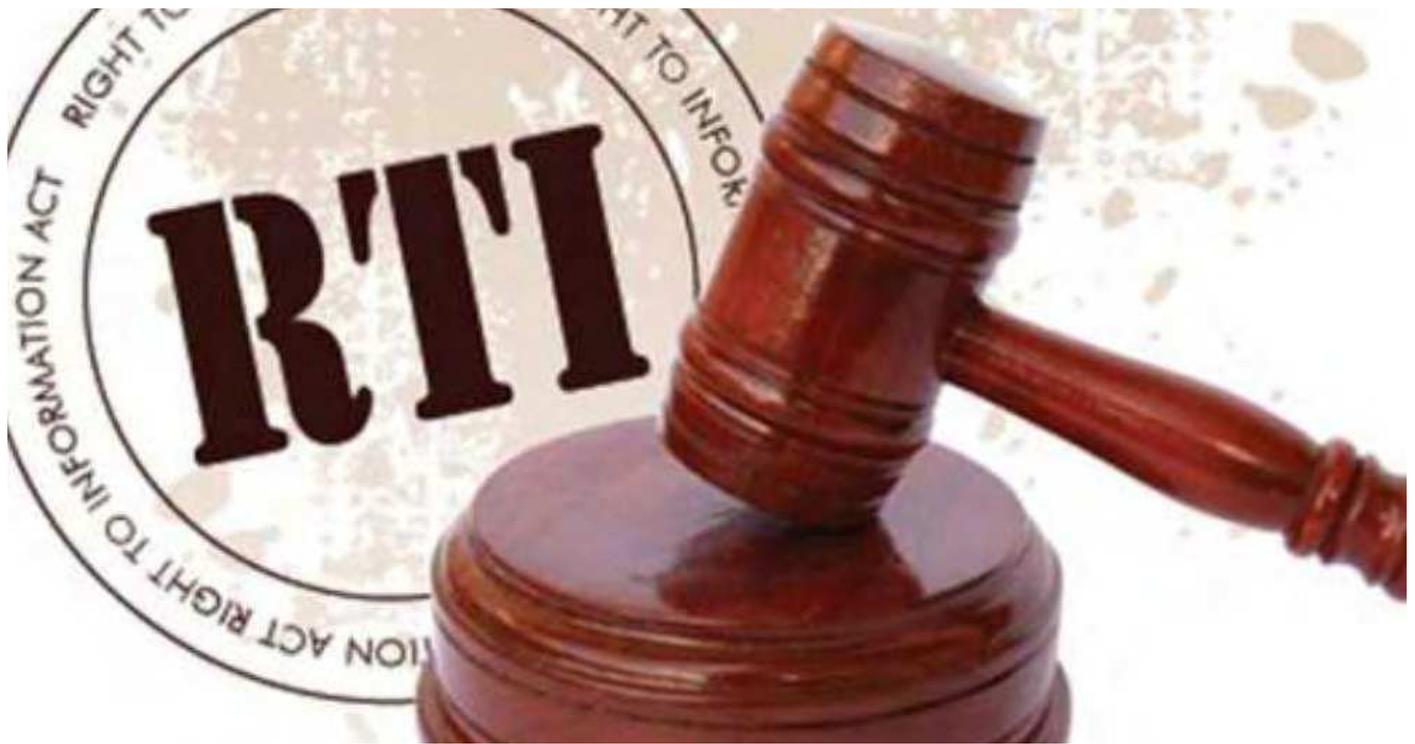
in the eastern province of Punjab, also banned music and dancing at weddings. The officials also said the ban was to “prevent any attack” from militants as the village neighbours an area known to harbour them.

7. Recently, the Karachi Grammar School removed a performance of the song “Imagine” by John Lennon, out of security concerns, after a social media campaign by a conservative journalist Ansar Abbasi complained that the song promoted atheism.
8. Artist Mohsin Shafi's show “Sada-ism” was taken down in Karachi in April 2014 after he received death threats. The show carried comments on Dadaism (a pre-WWI European art movement that critiqued the political status quo). It also had “controversial” pieces like a parody caricature “Jesus Charlie” and a portrait of England’s Queen Victoria with Former Prime Minister Late Benazir Bhutto’s face superimposed on to it.³⁴
9. It is pertinent to mention here that a similar incident happened in 2009 when a visual arts festival, Shanaakht Festival, was vandalized by a small group of individuals on the grounds that one of the exhibits was objectionable and disrespectful of Benazir Bhutto.
10. “Among the Believers”, a documentary directed by Ali Naqvi was banned by the Federal government in 2015. The documentary was based on the controversial “Lal Masjid”. It was banned on the pretext that it projected a negative image of Pakistan in the context of the ongoing fight against terrorism.

³⁴ Harrison, A. (2015). Close ‘Encounters’. *Good Times*. [online] Available at: <http://goodtimes.sc/santa-cruz-arts-entertainment/close-encounters/> [Accessed 2 Oct. 2017].

Section II

Freedom of Information



Constitutional Background

The 1973 Constitution of Pakistan did not explicitly recognize the Right to Information. The constitutional gap was first addressed through a court ruling in the 1993 Nawaz Sharif case that linked the right to information to freedom of expression, and then in another similar ruling in 2007.

In 2002, the then military regime, led by General Pervez Musharraf, promulgated the Freedom of Information Ordinance 2002, responding to an initiative by the Asian Development Bank. The Ordinance was given constitutional protection by way of the Seventeenth Amendment, legitimizing all orders of the military regime. However, due to its controversial background, the Ordinance neither enjoyed legitimacy nor did it find any credibility for its content that was devoid of stakeholders' consultation.

In 2010, the parliament, under a democratically elected system, passed the Eighteenth Amendment to the Constitution, bringing in the Right to Information with Article 19-A. The article reads: "Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law."

During these years, the provincial assemblies also legislated on Right to Information.³⁵ These include Balochistan's Freedom of Information Act, 2005, Sindh's Freedom of Information Act, 2006, Punjab's Transparency and Right to Information Act, 2013 and Khyber Pakhtunkhwa's Right to Information Act, 2013.

In 2017, the Senate passed the "Right of Access to Information Bill 2017". The bill, covering federal government and national institutions, incorporates an attempt to break through the "national interest" limitations restricting access to information in Pakistan. While it denies access to the official record of armed forces, defence installations, details of individuals' bank accounts, defence and national security, information regarding defence-related commercial and welfare activities are allowed to be accessed. Moreover, information cannot be denied, even on national security grounds, if the information sought pertains to corruption or a threat to life.³⁶

³⁵ Right to Information. (2014). *History of Freedom of Information legislation in Pakistan*. [online] Available at: <http://shehri.org/rti/history-of-freedom-of-information-legislation-in-pakistan.html> [Accessed 3 Aug. 2017].

³⁶ Raza, S. (2017). Senate passes 'historic' Right of Access to Information Bill. *Dawn*. [online] Available at: <https://www.dawn.com/news/1353292> [Accessed 12 Aug. 2017].

The following table presents a comparative round up of the RTI Bills in all four provinces and the Pakistan's Freedom of Information Ordinance, 2002. The assessment has been compiled from the Pakistan Institute of Legislative Development's RTI Scorecard.³⁷ The data covers period of January 01, 2014 to July 31, 2015. The scorecard seeks to assess the strength of the laws as well as the performance of implementing agencies under the law. A brief picture is captured in the table presented below. The scorecard has been selected because it represents a concise and thorough analysis of the content of the five Right to Information bills functional in the country.

It is important to note that being a new law, the "Right of Access to Information Bill 2017" has not been adequately reviewed so far.

Right to Information Scorecard

Categories	Province Wise Status				
	Balochistan Freedom of Information Act, 2005	Punjab Transparency and Right to Information Act, 2013	Khyber Pakhtunkhwa Right to Information Act, 2013	Sindh Freedom of Information Act, 2006	Federal Freedom of Information Ordinance
Provision of access to a comprehensive list of different categories on records and information held by public offices	No	Yes	Yes	No	No
Access to information held by public offices performing all three functions of government, i.e. legislative, judicial, executive and local government	Yes	Yes	Yes (Blanket exemption to Peshawar High Court granted)	Yes	Yes
Blanket exemptions to defense institutions	No		Yes	Yes	Yes

Continued...

³⁷ PILDAT RTI Scorecard: Right to Information (RTI) Legislation and Implementation in Pakistan at Federal and Provincial levels. (2016). Pakistan Institute of Legislative Development And Transparency.

Categories	Province Wise Status				
	Balochistan Freedom of Information Act, 2005	Punjab Transparency and Right to Information Act, 2013	Khyber Pakhtunkhwa Right to Information Act, 2013	Sindh Freedom of Information Act, 2006	Federal Freedom of Information Ordinance
Has the law been declared an overriding legislation?	No	Yes	No (However, in practice, access to information is only denied if this is justified by one of the law's exception clauses.)	No	No
Right of Appeal and Powers of the Appellate Forum (<i>Relative score from 1-100 based on restrictions. Lower score representing higher restrictions</i>)	50	90	75	51	52
Exceptions within the law and level of restrictions	Considered restrictive. Exemptions based on type rather than content exist; Considerable powers for governments to notifying additional exemptions; Do not adequately restrict the application of exemptions even for public interest.	Considered less restrictive. Law ensures access, in principle, to all possible categories of information held by public offices. Information may only be withheld if it features in the list of protected interests – minimal and clearly defined - in the law.	Considered less restrictive. Law ensures access, in principle, to all possible categories of information held by public offices. Information may only be withheld if it features in the list of protected interests – minimal and clearly defined - in the law.	Considered restrictive. Exemptions based on type rather than content exist; Considerable powers for governments to notifying additional exemptions; Do not adequately restrict the application of exemptions even for public interest.	Considered restrictive. Exemptions based on type rather than content exist; Considerable powers for governments to notifying additional exemptions; Do not adequately restrict the application of exemptions even for public interest.

Continued...

Categories	Province Wise Status				
	Balochistan Freedom of Information Act, 2005	Punjab Transparency and Right to Information Act, 2013	Khyber Pakhtunkhwa Right to Information Act, 2013	Sindh Freedom of Information Act, 2006	Federal Freedom of Information Ordinance
Schedule of Costs	Yes. A flat fee for submission of each request, regardless of magnitude. No imposition of additional fees for the filing of complaints. No reimbursement of cost on complaints offered.	Yes. All documents less than 20 pages are provided free-of-cost; No additional fees for the filing of complaints	Yes. All documents less than 20 pages are provided free-of-cost; No additional fees for the filing of complaints; Reimbursement of travel and legal costs borne by complainants in case their appeals are upheld.	Not notified.	Yes. A flat fee for submission of each request, regardless of magnitude. No imposition of additional fee for the filing of complaints. No reimbursement of cost on complaints offered.
Timeframe for decision on information requests and communication of decision by Public Information Officers	21 days	14 days (extendable)	10 days (extendable)	21 days	21 days
Timeframe for deciding complaints	No timeframe given	30 days	60 days	No timeframe given	60 days
Require expeditious disposal of requests or complaints in case the life or liberty of the applicant is at stake	No	Yes (Two working days)	Yes (Two working days)	No	No
Special request form for seeking information required	Yes (applicants must mention purpose of seeking information)	No	No	Yes (No rules formulated yet)	Yes (applicants must mention purpose of seeking information)

Resources and Performance of Implementing Agencies

In terms of resources devoted and the performance of the implementing agencies, PILDAT observed Khyber Pakhtunkhwa followed by Punjab as the most progressive implementers. Both initiated monitoring of RTI implementation, trained higher proportion of Provincial Information Officers and received budget on time. The Federal Government, Balochistan and Sindh were seen to perform poorly on these indicators.

In terms of output of implementing agencies, Khyber Pakhtunkhwa has been observed to be speedy and responsive followed by the Punjab. PILDAT notes that as the relevant Ombudspersons are not bound by law to process complaints within a given period, they were not ranked. In another survey by PILDAT, the Federal Government has been noted to demonstrate a better performance.³⁸

Civil Society's Experience with RTI Law

Sharing their experience with the Right to Information law, organisation Bolo Bhi in an article "Bolo Bhi's work utilising the Right to Information" - details interactions with the Ministry of Information Technology and Telecom (MoITT), the Pakistan Telecommunication Authority (PTA) and Pakistan Telecommunications Company Limited (PTCL). These requests pertained to censorship, filtering and surveillance. Bolo Bhi took a long fight against the initial withholding of the information, seeking the grievance redressal mechanism for denial of information. This was duly followed by the Federal Ombudsman's office's response to non-compliance complaint.

The experience was described by Bolo Bhi as: "Though the procedures instituted by the Ordinance prove to be cumbersome, Bolo Bhi's engagement with the law is demonstrative of the way it can serve as a powerful and effective tool to obtain information about the way the government functions and to hold it accountable".³⁹

There has been a mixed review on the effectiveness of the provincial and the federal Right to Information Acts. The Centre for Peace and Development Initiative lists 44 newspaper investigative stories from 18 September 2014 to 29 March 2016 that made use of the Right to Information Act to find relevant records and details from the government agencies. This signals a positive trend.⁴⁰ However, the general public, despite strong advocacy by civil society, has been noted to be refraining from pursuing their right under the law. This could be attributed to the anticipation of bureaucratic delays, inefficient response – journalists complain that they are given alternate information rather than what they sought⁴¹ – and cost in terms of time and resources involved to engage the institutions delivering on RTI.

The Right of Access to Information Bill 2017 has been observed to be a marked improvement compared to the 2002 Ordinance and more attuned to the internationally recognized principles of maximum disclosure, minimum exemptions and the right to appeal.

There has been a mixed review on the effectiveness of the provincial and the federal Right to Information Acts.

³⁸ Score Card Third Year of Governance 2015-2016: Assessment of the Quality of Governance In Pakistan 2015-16. (2017). Pakistan Institute of Legislative Development And Transparency.

³⁹ International RTI Day: Bolo Bhi's work utilising the Right to Information. (2017). [online] Bolo Bhi. Available at: <http://bolobhi.org/international-rti-day-bolo-bhis-work-utilising-the-right-to-information/> [Accessed 11 Oct. 2017].

⁴⁰ Country Briefing Paper Right to Information Legislation in Pakistan. (2016). [online] Centre for Peace and Development Initiatives. Available at: <http://www.cpd-pakistan.org/wp-content/uploads/2017/09/country-briefing-paper-right-to-information-legislation-in-pakistan.pdf> [Accessed 11 Aug. 2017].

⁴¹ See Yousafzai, S. (2015). In KP: Who needs a Right to Information Act if it prevents access to information?. *Dawn*. [online] Available at: <https://www.dawn.com/news/1225019> [Accessed 11 Aug. 2017]

However, the civil society feels the Bill still represents hurdles to access to information. Issues such as discretion for Ministers to deny the disclosure of information, or indemnity for the Principal Officer or designated officials for anything done in “good faith” still exist.⁴²

Laws Contradicting Right to Freedom of Information

Official Secrets Act: Inherited from the colonial era, the law based on the British Official Secrets Act 1923 protects “classified” information. Moreover, under the law the government is free to declare any piece of information “confidential” and the law provides no guidelines. However, a Declassification Committee in the Cabinet Division has been authorized to reconsider the classifications.

The Security of Pakistan Act 1952: Section 11 of the Act authorises the federal government to require an editor, publisher or printer to disclose the name of a confidential source of information that the government may have considered likely to have endangered the defence, external affairs or security of Pakistan. These are very broad terms and may be used most detrimentally against whistle-blowers.

The West Pakistan Maintenance of Public Order Ordinance, 1960: The Ordinance authorises the government to prohibit the printing or publication of any document, newspaper or periodical or require scrutiny before publication to combat “any activity prejudicial to the maintenance of public order.”

Under Article 7 of the Ordinance, the government can prohibit the entry of newspaper, periodical, leaflet or other publication into (West) Pakistan.

The Qanoon-e-Shahadat Order: Article 6 forbids disclosure of official record relating to the affairs of the State unless authorized to do so by the head of the department concerned. The HoD has further been authorized to give or withhold such information, as he thinks appropriate. Furthermore, the law also stipulates that no government official can be compelled to give information ‘when he considers that the public interest would suffer by disclosure’.

The Pakistan Penal Code: Section 123-A criminalizes anything prejudicial to the safety or ideology of Pakistan or which amounts to ‘abuse’ of Pakistan. There is no definition as to what constitutes prejudice against or abuse of Pakistan.

⁴² International RTI Day: Bolo Bhi’s work utilising the Right to Information. (2017). [online] Bolo Bhi. Available at: <http://bolobhi.org/international-rti-day-bolo-bhis-work-utilising-the-right-to-information/> [Accessed 11 Oct. 2017].

Section III
Freedom of Assembly

Constitutional Background

Freedom of Assembly is a fundamental right enshrined in the Article 16 of the Constitution of Pakistan. Stated as: “Every citizen shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order.” The ICCPR and the Universal Declaration of Human Rights, both stress the right to Freedom of Assembly. Being a signatory, the State of Pakistan has an obligation to make this right accessible for the citizens.

Treading slowly on the democratic path, Freedom of Assembly – manifested in rallies, public protests and collective action for rights – as a means for political expression has witnessed episodes of confrontation, intimidation and violence, executed both by state and private actors. It comes across as the most at risk of the rights to practice. Apart from stringent laws aimed at cracking down on public by the state as a means to “restore peace”, the right to Freedom of Assembly is threatened by miscreants and non-state actors seeking to create mayhem.



Public rallies and protests, as a form of the exercise of the right to Freedom of Assembly remain subject to brutal action by LEAs as well as confrontation by private forces.

In Pakistan, in any given year, public rallies and protests are mostly led by political parties, religious groups, trade unions, civil society, and members of the public. Issues range from political positions, religious ideologies, protest over violation of rights, poor law and order or civic services, among others. These protests are usually held at the Press Club present in cities across Pakistan, outside offices of Provincial Chief Ministers, National and Provincial Assemblies, court rooms, or prominent spots of the concerned city/district. In times of public unrest, areas surrounding the protest locations are often closed down for public access.

Demonstrations: Procedures and Practices

Formal written permission from the Head of District Police or Assistant or Deputy Superintendent of Police is required in advance of any assembly. This requirement leaves little room for spontaneous assemblies. Such assemblies do take place, however, at the Press Clubs as well as popular public places of cities. Sometimes they happen without police intervention.⁴³

⁴³ Civic Freedom Monitor: Pakistan. (2017). [online] The International Center for Not-For-Profit Law. Available at: <http://www.icnl.org/research/monitor/pakistan.html> [Accessed 11 Oct. 2017].

The most common and regular barrier against the Right to Assembly is the imposition of the Section 144 of CrPC i.e. “Power to issue order absolute at once in urgent cases of nuisance or apprehended danger”. The section also empowers the authorities to restrict any action or procession if it causes nuisance that the state is trying to prevent. This restriction may last up to two months.⁴⁴

The imposition of the Section 144 appears as the most convenient tool for the government of Pakistan to stop people from assembling. Apart from preventing political protests, the Section has been imposed on occasions like the New Year, local government elections, examinations at government institutions, and even on picnics at Karachi’s beaches.⁴⁵

The violation of Section 144 is punishable under Section 188 of the Pakistan Penal Code. The punishment may range from one month to six months depending on the extent of damage the violation of the Section 144 has caused, in addition to Rs. 200 as fine. However, the provision can only be moved by filing a complaint within Section 4(h) of the CrPC by a public servant, who ordered the promulgation of Section 144 or by his superior as envisaged under section 195(1) (a) of the CrPC.⁴⁶

Another tool employed by the State to prevent Freedom of Assembly is the suspension of mobile phone services. This is often done in the name of security “thus limiting the ability of civil society to communicate, mobilise and assemble.”⁴⁷ Other communication services such as Viber and WhatsApp too have been suspended on many occasions, sometimes unannounced, on the pretext of security.⁴⁸

Freedom of Assembly and Security Concerns

It would be a denial of reality to assert that security is not a genuine concern. In volatile times, Pakistan has seen the worst instances of terrorism directed at political rallies that have led to hundreds of deaths. Former Prime Minister Benazir Bhutto was assassinated as she was exiting an election rally on 27 December 2007, two months after escaping death at her home-coming rally in Karachi that killed 180 party workers participating in the procession. In the last few years, political rallies, especially those during the election campaign of 2013 have been frequently targeted by terrorists. Senior politician and Minister from Khyber Pakhtunkhwa Bashir Bilour was killed in late 2012 at the end of a political rally in Peshawar.⁴⁹ In 2013 general elections, political parties deemed secular were unable to run their election campaigns due to frequent terrorist attacks on their political assemblies.⁵⁰

However, suspending communication services in response to the so-called security threat – even on religious occasions of Muharram or Eid-e-Milad -- appears more as a matter of convenience than a compulsion on the part of the State.

Another tool employed by the State to prevent Freedom of Assembly is the suspension of mobile phone services. This is often done in the name of security.

⁴⁴ Latif, M. (2013). To ban or not to ban. [Blog] *Bolo Bhi*. Available at: <http://bolobhi.org/to-ban-or-not-to-ban/> [Accessed 11 Aug. 2017].

⁴⁵ For a timeline of the imposition of Section 144, see Bolo Bhi. (2013). *Section 144: Through The Years in Pakistan*. [online] Available at: <http://Section 144: Through The Years in Pakistan> [Accessed 11 Aug. 2017].

⁴⁶ Shehzad, R. (2014). Section 144: Accused go scot-free for want of ‘real’ complainant. *Express Tribune*. [online] Available at: <https://tribune.com.pk/story/667053/section-144-accused-go-scot-free-for-want-of-real-complainant/> [Accessed 9 Aug. 2017].

⁴⁷ Report on Key Emerging Freedom of Assembly and of Association Issues in India and Pakistan. (2014). In: *Regional Consultation on the Rights to Freedom of Peaceful Assembly and of Association*. [online] Available at: <http://www.netfreedom.pk/wp-content/uploads/2014/11/Burning-Issues-Report-on-FoAA-in-India-Pakistan1.pdf> [Accessed 11 Aug. 2017].

⁴⁸ Dawn (2013). Sindh govt to block WhatsApp, Viber & other services for 3 months. [online] Available at: <https://www.dawn.com/news/1047209> [Accessed 8 Aug. 2017].

⁴⁹ See: Habib, N. (2018). *Bomb blast at political rally in Pakistan kills 7, police say - CNN*. [online] CNN. Available at: <https://edition.cnn.com/2012/07/13/world/asia/pakistan-unrest/index.html> [Accessed 8 Aug. 2017]. Bacha, A. (2012). Bashir Bilour assassinated: Secretary, 7 others die in blast. *Dawn*. [online] Available at: <https://www.dawn.com/news/773332> [Accessed 11 Aug. 2017].

⁵⁰ Asiadespatch.org. (2013). *Pakistan’s Bloody Elections 2013 | Asia Despatch*. [online] Available at: <http://www.asiadespatch.org/2013/05/07/pakistans-bloody-elections-2013/> [Accessed 11 Aug. 2017].

Police's Use of Force

In a society defined by military authoritarianism, police brutality to clampdown on protests in the form of baton charge and tear gas is a common practice. In extreme cases, the police has resorted to gunfire that led to the loss of several lives.

In June 2014, eight people were killed in Lahore during a standoff between the police and supporters of the political party Pakistan Awami Tehreek (PAT). The confrontation followed weeks' long political protests by PAT workers against the government over the issue of corruption. On 17 June 2014, the anti-encroachment squad sought to remove security barriers – described as “encroachment” – from outside the PAT leader's house. The move was resisted by PAT workers. As a result, police resorted to firing and killed eight PAT workers including two women.⁵¹ The whole episode received immense media attention and also cast a negative light on the image of the government of Prime Minister Nawaz Sharif and the Punjab Government ruled by the Pakistan Muslim League-Nawaz.

In another incident in Lahore, 70 Pakistani blind men were beaten by police as they protested against non-availability of jobs for the disabled people on the International Day of Persons with Disability on 3 December 2014.⁵² A year later, Lady Health Workers protesting over non-payment of salaries were also manhandled by the police in Karachi leading to injury of several protestors.⁵³

In late January 2016, following government's move to privatise the Pakistan International Airline, PIA workers reacted by launching agitation, which also included suspension of flight operations. On 1 February 2016, the government imposed the Essential Services Maintenance Act (ESMA), 1952, invalidating the right to strike by workers. The next day, on 2 February 2016, as the workers gathered at the Karachi Airport's old terminal to formally agitate against the ESMA, they were met with violent response from the police and Rangers that resorted to baton charge, tear gas and water cannon use to disperse the crowd. During the confrontation, bullets were fired, killing two workers. To date, the perpetrator is still at large as workers and Rangers have accused each other of pulling the trigger. The event, however, led to public outcry against the security forces for the murder of the protesting workers.

On 17 April 2017, the Anjuman-e-Muzaraeen Pakistan (AMP), representing 15-year-old struggle by peasants in Okara for ownership rights of the land they had been tilling for generations, faced worst state atrocity as they marked the International Day of Peasants' Struggle. In the run up to the International Day, the administration, on the pretext of security in the backdrop of a recent bomb blast in Lahore, imposed Section 144 and launched a massive crackdown, arresting the AMP workers. Thirty five people including four women – two of them differently abled – were arrested. These workers were booked under terrorism offences. Police registered 26 criminal cases against the AMP Secretary General Mehar Sattar who was later arrested.⁵⁴ Apart from the arrests, there has been widespread propaganda projecting the AMP members as criminals and extortionists.

A rally to mark the International Day of Peasants' Struggle by AMP was not only blocked through Section 144, the state launched a massive crackdown against AMP members booking them under terrorism offences.

⁵¹ BBC News. (2014). *Pakistan: Eight die as Lahore police clash with Qadri supporters*. [online] Available at: <http://www.bbc.com/news/world-asia-27885827> [Accessed 11 Aug. 2014].

⁵² International Business Times UK. (2014). *Pakistan: Blind men 'beaten by police' during protest for more jobs for disabled people*. [online] Available at: <https://www.ibtimes.co.uk/pakistan-blind-men-beaten-by-police-during-protest-more-jobs-disabled-people-1478089> [Accessed 11 Aug. 2017].

⁵³ dunyanews.tv. (2014). *Karachi: Lady health workers protest for salaries, clash with police | Pakistan | Dunya News*. [online] Available at: <http://dunyanews.tv/en/Pakistan/292925-Karachi-Lady-health-workers-protest-for-salaries> [Accessed 11 Aug. 2017].

⁵⁴ Gillani, W. (2016). The long drawn struggle. *The News on Sunday*. [online] Available at: <http://tns.thenews.com.pk/long-drawn-peasants-struggle/> [Accessed 11 Aug. 2017].

Threats by Private/Non State Actors

Civil society protests over issues are frequently challenged by religious groups that often resort to violence and vandalism to disrupt such assemblies. Following the December 2014 terrorists attack at the Army Public School in Peshawar, some sections of the civil society, mainly comprising activists, academics, and rights advocates, came together to protest against cleric Maulana Abdul Aziz of Islamabad's Red Mosque who refused to condemn the attack and openly supported the Taliban violence. These protests continued for many days in Islamabad. Though the state provided protection to the protestors, the protestors were arrested for a brief period for "disturbing the peace".⁵⁵ The then Interior Minister of Pakistan played a highly partial role in the entire episode pursuing an overt defense of the Cleric, while also falsely claiming that the Cleric has tendered an apology for his remarks over the APS tragedy. Maulana Abdul Aziz denied any such act.⁵⁶

One of the most disturbing follow up of civil society's participation in the protests against Maulana Abdul Aziz was the murder of Sabeen Mahmud, activist and Director of The Second Floor – a dialogue space in Karachi -- who actively participated in these rallies. Her alleged murderer admitted Sabeen's participation in anti-Taliban assemblies as one of the reasons why she was targeted.⁵⁷

In another act that can be described as a display of extremists' prowess in Pakistan, a candle light vigil in Lahore to mark the death anniversary of former Governor Punjab Salman Taseer, on 4 January 2015, was vandalized by baton-wielding men who tore the banners, portraits and posters and thrashed the vigil participants.⁵⁸ Taseer was murdered by his guard for supporting the repeal of Blasphemy Laws in 2011. A case was registered against the culprits under the anti-terrorism laws. Five convicts were given a collective imprisonment of sixteen and a half years for their act of attack at a peaceful vigil.⁵⁹



Laws Restricting Freedom of Assembly⁶⁰

The Pakistan Penal Code 1860: Counts as offensive "unlawful assembly", "being member of unlawful assembly", "owner or occupier of land on which unlawful assembly is held", "rioting" and "assaulting to oppress public servants when suppressing rioting", among other acts.⁶¹

⁵⁵ Iqbal, A. (2014). *Civil Society Protests Against Lal Masjid Cleric*. [online] Newsweek Pakistan. Available at: <http://newsweekpakistan.com/civil-society-protests-against-lal-masjid-cleric/> [Accessed 7 Aug. 2017].

⁵⁶ Raza, S. (2015). Indispensable. *The Friday Times*. [online] Available at: <http://www.thefridaytimes.com/tft/indispensable/#sthash.2JzLiKdl.dpuf> [Accessed 11 Aug. 2017].

⁵⁷ Ali, N. and Zaman, F. (2015). Anatomy of a murder. *The Herald*. [online] Available at: <https://herald.dawn.com/news/1153199> [Accessed 11 Aug. 2017].

⁵⁸ Gabol, I. (2015). 40 held for attacking Salman Taseer vigil. *Dawn*. [online] Available at: <https://www.dawn.com/news/1155139> [Accessed 11 Aug. 2017].

⁵⁹ Dawn (2015). ATC convicts Taseer vigil attackers. [online] Available at: <https://www.dawn.com/news/1196855> [Accessed 11 Aug. 2017].

⁶⁰ Civic Freedom Monitor: Pakistan. (2017). [online] The International Center for Not-For-Profit Law. Available at: <http://www.icnl.org/research/monitor/pakistan.html> [Accessed 11 Oct. 2017].

⁶¹ Anon, (2018). *Pakistan Penal Code*. [online] Available at: <http://www.oecd.org/site/adboecdanti-corruptioninitiative/46816797.pdf> [Accessed 11 Jul. 2017].

Police Order 2002: Under the Police Order 2002, regulation, processions and licensing of public assemblies come under the jurisdiction of the Head of District Police or Assistant or Deputy Superintendent of Police. They may “direct the conduct of assemblies and processions on public roads, or in public streets or thoroughfares and prescribe the routes by which and the times at which, such processions may pass.” They may also require the persons seeking to collect an assembly to apply for a license. Upon finding the conditions of the license being unmet, these authorities may declare such assembly as unlawful and take action accordingly.⁶²

Criminal Procedure Code 1898: The Pakistan Criminal Procedure Code in its Chapter IX provides the procedure regarding the use of force to disperse unlawful assemblies. According to Section 127, ‘Assembly to disperse on command of Magistrate or police office’, “Any officer in charge of a police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.”

The Code also provides the provision for the use of civil force or military force to disperse an “unlawful assembly”. The provincial government has also been granted the power, with prior approval from the Federal Government, to direct officers of armed forces or civilian armed forces to assist in helping with the protection of life and property, public peace and maintenance of law and order.⁶³

The most important part of the Code of Criminal Procedure is Section 144 that empowers district administration to issue orders in public interest that may place a ban on an activity for a specific period of time.⁶⁴ Such a ban is enforced by the police that can register cases under section 188 of the Pakistan Penal Code for violations of the ban. Section 188 carries a maximum penalty of six months in prison or fine or both.⁶⁵

West Pakistan Ordinance XXXI of 1960: Grants power to the government to arrest or detain if it seeks to prevent any person from “acting in any manner prejudicial to public safety or the maintenance of public order”⁶⁶

Services listed as “public utilities” in the Schedule of the Industrial Relations Act are marked for restrictions over the right to strike. The law permits the government to interfere in cases of strikes or lockouts, if it deems that the industrial dispute is of “national importance”. Currently, “public utilities” cover the generation, production, or supply of electricity, gas, oil or water to the public, systems of public conservancy or sanitation, hospitals, ambulance and fire-fighting services, postal, telegraph and telephone services, railways and airways, ports, watch and ward staff, and security services maintained in any establishment.

The most important part of the Code of Criminal Procedure is Section 144 that empowers district administration to issue orders in public interest that may place a ban on an activity for a specific period of time.

Furthermore, with regards to the right to strike, successive industrial relations laws have set stringent conditions, including cumbersome mandatory procedures, to obstruct the legitimate exercise of assembly.

⁶² See sections 118-123, Chapter Xiii "Powers to Issue Orders", The Police Order, 2002 at Punjab Police. (n.d.). The Police Order, 2002. [online] Available at: <https://www.punjabpolice.gov.pk/system/files/police-order-2002-updated-version.pdf>

⁶³ See Anon, (2014). *Regulating the Use of Force by Law Enforcement Agencies*. [online] Available at: <http://www.icla.up.ac.za/images/un/use-of-force/asia-pacific/Pakistan/State%20Response%202014.pdf> [Accessed 11 Mar. 2018].

⁶⁴ Section 144, Power to issue order absolute at once in urgent cases of nuisance or apprehended danger. In cases where, in the opinion of a District Magistrate, Sub-Divisional Magistrate, (or of any other Executive Magistrate) specially empowered by the Provincial Government or the District Magistrate to act under this section, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

⁶⁵ Anon, (n.d.). *Frequently Asked Questions*. [online] Available at: <https://www.punjabpolice.gov.pk/faqs>

⁶⁶ Anon, (n.d.). *The West Pakistan Maintenance Of Public Order Ordinance, 1960*. [online] Available at: <http://www.icla.up.ac.za/images/un/use-of-force/asia-pacific/Pakistan/Maintenance%20of%20Public%20Order%20Ordinance%20West%20Pakistan%201960.pdf> [Accessed 11 Mar. 2018].

Section IV

Freedom of Association

Constitutional Background

Freedom of Association is enshrined in the Constitution of Pakistan. Article 17 Freedom of Association states:

1. Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality.
2. Every citizen, not being in the service of Pakistan, shall have the right to form or be a member of a political party, subject to any reasonable restrictions imposed by law in the interest of the sovereignty or integrity of Pakistan or public order and such law shall provide that where the Federal Government declare that any political party has been formed or is operating in a manner prejudicial to the sovereignty or integrity of Pakistan or public order, the Federal Government shall, within fifteen days of such declaration, refer the matter to the Supreme Court whose decision on such reference shall be final.
3. Every political party shall account for the source of its funds in accordance with law.

Pakistan has also ratified the ILO core labour rights. The Freedom of Association and Protection of the Right to Organize (1948), Convention 98 and the Right to Organize and Collective Bargaining (1949) are components of the core labour rights.

Moreover, the UN Declaration of Human Rights and International Covenant on Civil and Political Rights (ICCPR) also carry strong provisions concerning Right to Freedom of Association.

A review of the status of the Right to Association need to consider that this right is not only restricted to workers' right to unionisation, it is also manifested in a larger human rights framework connected with other rights such as freedom of political and religious expression and association.



Sabeen Mahmud, founder of dialogue space T2F in Karachi, was killed in 2015. Activist Punhal Sario remained enforced disappeared for over three months in 2017, for running a campaign for missing persons.

Status of the Right to Freedom of Association

Unionisation for Workers:

In terms of unionisation, figures for Pakistan (there is no regular publication of related data), indicate one to three percent unionisation rate.⁶⁷ Successive restrictive regimes for trade unions have further hampered the capacity and strength of unions. There is a silent agreement among stakeholders

⁶⁷ According to latest available non-official data, there are 949 registered trade unions with a total membership of 1,865,141 amounting to 3 per cent unionized workers of the labour force. Pakistan Labour Market Profile 2013, Ulandssekretariatet LO-FTF http://www.ulandssekretariatet.dk/sites/default/files/uploads/public/PDF/LMP/pakistan_2013_final_web.pdf

(employers, government and supply chain actors) to bar unions from functioning with freedom and independence. This is not only evident in the extremely low rate of unionisation, it is also reflected in clampdowns such as firing of workers on attempts at unionisation and violence against workers by employers as well as the state (as manifested in Okara Peasant movement case).

NGOs:

NGOs, especially those working on rights, are increasingly facing the brunt of state's distrust and a deliberate campaign aimed at discrediting their work and portray them in a negative light. Threats against NGOs also come from private actors including criminals, as well as groups espousing intolerant religious views. For details on recent actions against NGOs by state and non-state actors, see Box 3.

Professional Associations:

Groups such as bar associations, medical associations, traders' associations and other professional bodies – though assertive in their struggles – are threatened by violence and criminal activities, in addition to being targeted on sectarian grounds. The Pakistan Medical Association reports target killing of 47 doctors in Karachi between 2010 and 2014.⁶⁸ This is in addition to the killing of 68 polio workers and police persons guarding them (from 2012 to 2015).⁶⁹ Lawyers remain equally threatened for their professional association. In August 2016, 56 lawyers were killed in a bomb attack in Quetta. South Asia Terrorism Portal documents another 54 cases of lawyers killed from 2001-2017.⁷⁰

Political Parties:

Political parties, as another forum of association, are constantly under threat not only from military regimes (there have been four extended martial laws in the country since independence in 1947), but practicing of political ideologies is also increasingly becoming restricted. Nationalist and ethno-nationalist political parties and groups are especially targeted for their ideologies and political participation.

Student Unions:

Right to Association is also restricted for groups such as students that have been denied unionisation since 1984 when General Zia-ul-Haq banned student unions on the pretext of campus violence linked with student bodies. In 2008, the then newly elected Prime Minister Yusuf Raza Gillani announced lifting of this ban. However, no practical action beyond announcement was taken.

While students' wings of political parties are still active in universities, most universities take an undertaking by students at the time of enrolment that they would not get involved in any political activities and student unions.

⁶⁸ Express Tribune (2014). Violence continues: 47 doctors killed in past four years. [online] Available at: <https://tribune.com.pk/story/755879/violence-continues-47-doctors-killed-in-past-four-years/> [Accessed 9 Aug. 2017].

⁶⁹ Raza, M. (2016). Seven policemen guarding polio workers shot dead in Karachi. *Dawn*. [online] Available at: <https://www.dawn.com/news/1253283> [Accessed 11 Aug. 2016].

And Business Standard (2015). Policeman guarding polio workers shot dead in Pakistan. [online] Available at: http://www.business-standard.com/article/pti-stories/policeman-guarding-polio-workers-shot-dead-in-pakistan-115011901233_1.html [Accessed 11 Mar. 2018].

⁷⁰ Satp.org. (n.d.). *Lawyers killed in Pakistan: 2001-2018*. [online] Available at:

http://www.satp.org/satporgtp/countries/pakistan/database/Lawyers_Killed_Pakistan.htm [Accessed 11 Mar. 2018].

Legal and Legislative Restrictions Concerning Right to Association

The Industrial Relations laws, regulating the right to unionisation for workers, are restrictive and exclusionary. The law, based on the Industrial Relations Ordinance 1969, under a dictatorial regime, is not applicable to the agriculture sector (barring in Sindh Province), where 45 percent of the labour force works. It also excludes PIA security staff workers in administration, civil service, army, social sector (education, health), export processing zones and several public sector establishments. It further puts restrictions on unionisation and collective bargaining by limiting the number of unions in establishments, and setting a standard on membership for a union to be officially recognised.

The right to strike is similarly restricted. Being a largely informal economy, unionisation is limited as it is. In addition to that, weak implementation mechanisms ensure that the sectors where unions are allowed, either follow a paper union regime or remain without one.

Political parties and their members aspiring representation in the parliament face limitations and disqualifications in the face of the following laws and constitutional provisions:

The First Constitutional Amendment places a ban on state employees to form, or become members of, a political party. Moreover, it gives power to the federal government to refer the matter to the Supreme Court if it finds any political party operating in a manner prejudicial to the interest and sovereignty of Pakistan.

The Fourth Constitutional Amendment counts “the sovereignty” or “integrity of the country” in the list of grounds for imposing restrictions on freedom of association.

The Industrial Relations laws, regulating the right to unionisation for workers, are restrictive and exclusionary.

More clauses for disqualification for political parties were brought in by the Revival of Constitutional Order (RCO), 1985, the Legal Framework Order (LFO), 2002, the Conduct of General Elections Order, 2002 and the Qualification to Hold Public Offices Order, 2002.

The controversial Articles 62 and 63 – outlining basic eligibility of members National Assembly – is now being debated in the parliament for amendment. Article 62 of the Constitution requires a parliamentary candidate to be “of good character, sagacious, righteous, non-profligate, honest, and ameen (trustworthy)”. Article 62 and 63 also specify terms that could disqualify a candidate. These include: “has not worked against the integrity of the country or opposed the ideology of Pakistan, and not to be propagating any opinion, or acting in any manner prejudicial to the ideology of Pakistan.” Vague interpretations of such broad terminologies put political parties’ candidates open to threat of disqualification.

Policy and Legislative Actions against NGOs

NGOs in Pakistan are registered under a range of laws including The Societies Registration Act 1860, The Charitable Endowments Act (Vi of 1890), The Voluntary Social Welfare Agencies (Registration and Control Ordinance 1961) and The Companies Ordinance 1984. However, in recent years, the government has been introducing a range of measures seeking to regulate the operations and funding of the NGOs. The context for these measures is mostly drawn from the National Action Plan, that details steps to address terrorism and extremism.

Moreover, the government has been debating to introduce the Foreign Contributions Act (FCA), targeting international NGOs as well as domestic NGOs operating on foreign funding. The proposed Act carries provision for INGOs and domestic NGOs to obtain prior government permission to utilize

foreign funding. It also seeks to bring NGOs under the Ministry of Interior (typically dealing with security and law and order) and issue term-bound certificates to NGOs and INGOs that may then be required to specify their field and districts of activity, and their foreign sources of funding, services, and goods.⁷¹

A new arbitrary measure now requires new NGOs to register with a “Consultative Committee” established in 2016. The Committee – whose approval overrides all other procedures – includes representatives of the Inter-Services Intelligence (ISI) and the Intelligence Bureau, along with a joint secretary of the federal Interior Ministry and a director of the Securities and Exchange Commission of Pakistan.⁷²

Human Rights Defenders and the Swords of Fear

Blasphemy Laws

Pakistan’s blasphemy laws are the most powerful silencing tool against dissent and opposition. A mere rumour of an alleged blasphemy case has led to several instances of mob and individual acts of violence, not only harming individuals but entire communities. According to reports, 1,274 people have been charged under the stringent blasphemy laws of Pakistan between 1986, from when they were included in the Constitution by General Zia ul Haq, until 2010.⁷⁴

As it stands, the blasphemy laws refer to Sections 295, 296, 297, and 298 of the Pakistan Penal Code and address offences relating to religion. The blatant abuse of legislative discretion evident in these laws set a dangerous context for the disadvantaged. Common citizens are at great risk of violence at the hands of any individual or group seeking to misuse the blasphemy provision carrying death sentence. Civil society actors are even more at risk as their work and actions are subjected to malicious campaigns – that may turn into false charges of blasphemy.

In recent years, the blasphemy laws have been increasingly used to silence the civil society. In March 2013, the police arrested Junaid Hafeez of Rajanpur, who was a Fulbright scholar, a gold medallist, studied theatre and literature, and was a visiting faculty at Bahauddin Zakariya University, teaching English language. He was falsely

Box 3

Crackdown against NGOs

In December 2016, Women in Struggle for Empowerment (WISE), a Lahore-based NGO with operations in other parts of the province, suddenly found its name in a local newspaper highlighting a news item about IG Punjab’s orders for action against the NGO and its director, Bushra Khaliq, for being involved in “anti-state activities”. Next, the organisation’s activities were stopped in Bahawalpur and Nankana Sahib. This was also accompanied by a malicious campaign in the media describing her organisation as “anti-state”. WISE, along with other NGOs, moved the Lahore High Court that eventually ruled in their favour and the NGO was allowed to operate.

Around the same time, South Asia Partnership – Pakistan (SAP-PK), based in Lahore, but running programmes in other parts of the country, was also targeted similarly. A letter issued by the Federal Interior Ministry to all districts in Punjab directed a ban on the activities of SAP-PK observing that the NGO has been pursuing anti-state agenda as it prepared a shadow report for UN Human Rights Commission “presenting a very bleak picture of NAP and Operation Zarb-e-Azab.” SAP-PK turned to the High

Continued...

⁷¹ Civic Freedom Monitor: Pakistan. (2017). [online] The International Center for Not-For-Profit Law. Available at: <http://www.icnl.org/research/monitor/pakistan.html> [Accessed 11 Oct. 2017].

⁷² Jalil, X. (2017). Government versus non-governmental organisations in Punjab. *Herald*. [online] Available at: <https://herald.dawn.com/news/1153702> [Accessed 11 Sep. 2017].

⁷⁴ Dawn.com. (2012). *Timeline: Accused under the Blasphemy Law*. [online] Available at: <https://www.dawn.com/news/750512> [Accessed 11 Oct. 2017].

accused by Islami Jamiat-e-Talaba (student wing of controversial political-religious party Jamat-e-Islami) – that opposed Hafeez’s progressive views and bright prospects – for making blasphemous comments on social media. The police never verified his ip details and arrested him on the basis of a mere complaint.

Advocate Rashid Rehman who took Junaid’s case in Multan was openly threatened in the court in April 2014 by a District Advocate and an accomplice. He was killed within a month for defending Junaid Hafeez. Junaid still lies in prison while Rehman’s killers remain at large.

In January 2016, the government picked four activists who ran active social media pages campaigning for human rights and religious freedoms. While they were released a few weeks later, a campaign to describe them as blasphemers was launched putting their lives and that of their supporters at risk.

In April 2017, a vocal student activist Mashal Khan was killed by a mob at Abdul Wali Khan University, Mardan on false allegations of blasphemy. An investigation revealed that the University Administration encouraged the violence as a way to punish Mashal for his vocal stand on students’ rights in the University.⁷⁵

The fertile ground for Mashal’s brutal murder was laid by the public discourse generated in the wake of Islamabad High Court’s orders of March 7, 2017 directing the Interior Ministry to ensure the removal of all alleged blasphemous material from websites in Pakistan, even if it required blocking access to all social media. Later the Interior Minister issued strong worded statements against “blasphemers” calling them as “enemies of humanity.” civil society organisations as Western agents, receiving millions of dollars of funding for imposing a foreign agenda.”

A few weeks later millions of Pakistanis received a series of text messages warning them against sharing “blasphemous content” online. The message also asked people to record cases of blasphemy (for reporting). Experts believed that this was akin to encouraging “mob justice.”⁷⁶

Court seeking restraint orders against illegal government orders while also asking the concerned authorities to present themselves in the court to prove their allegations against the organisation. A few weeks later, the Federal as well the provincial government “withdrew” and “cancelled” their letters in the court.

In December 2015, the Pakistan Institute of Labour Education and Research was also targeted with a malicious campaign projecting false allegations of receiving funding from India. The negative media campaign caused a great sense of insecurity among the PILER set up and posed grave risks to the lives of the staff. Apart from a sustained civil society led response, PILER also filed a court petition to respond to the false allegation and propaganda.

Restrictions on Activities

In a consultation organised by PILER in November 2016, activists and civil society members in Balochistan, Khyber Pakhtunkhwa, and the South Punjab shared that obtaining NOC ahead of the public engagement activities organised by NGOs is a pre-requisite while the concept notes and programme agendas are also reviewed to “assess” the suggested content of their activities. Any item on the agenda “threatening national security” is either ordered to be removed or is withdrawn by NGOs themselves leading to exercise of self-censorship.

In Khyber Pakhtunkhwa, NGOs are also threatened by private actors including criminals and Taliban. Qamar Naseem of Blue Veins, an NGO in Peshawar shared the threats for extortion received by organizations working in the province. He further described the negative role of the media that led “malicious campaigns portraying civil society organisations as Western agents, receiving millions of dollars of funding for imposing a foreign agenda.”

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⁷⁵ Akbar, A. (2017). Mashal murder case: JIT finds group in university incited mob against student on pretext of blasphemy. *Dawn*. [online] Available at: <https://www.dawn.com/news/1337373> [Accessed 11 Sep. 2017].

⁷⁶ Sophia Saifi and Ben Westcott, C. (2017). *Death sentence over Facebook post amid Pakistan crackdown*. [online] MYARKLAMISS. Available at: <http://www.myarklamiss.com/news/world-news/death-sentence-over-facebook-post-amid-pakistan-crackdown/742050634> [Accessed 11 Mar. 2018]. And (2017). *Pakistan: Escalating Crackdown on Internet Dissent*. [online] Available at: <https://www.hrw.org/news/2017/05/16/pakistan-escalating-crackdown-internet-dissent>.

Apart from curbing space for dialogue on internet through such measures, the state's active championing – led by the military, the judiciary and politicians – of a one-sided narrative on blasphemy, ignoring its widespread use as a revenge weapon, is an indication of a consensus on the part of the decision makers to keep it as a harassment tool against opponents that also includes the civil society.

Enforced Disappearances

There are varying figures on missing persons in Pakistan. The official Commission of Inquiry on Enforced Disappearances reports over 1,200 cases. The Human Rights Commission of Pakistan has documented 400 cases since 2014. Political parties and groups tracking missing persons quote figures running into thousands.

Threats by security agencies and conservative government officials are also common in other parts of Pakistan. In a newspaper article, Jan Odhano of Community Development Foundation, Jacobabad, Sindh shared: "In one of our consultations on minorities' rights at the local press club, a man who identified himself as an ISI official, jumped in the middle of the discussion, terming this as a RAW-funded programme. He later told me that I should expect a call from the security agencies soon."**

Odhano also described how a text message campaign following a tableau performance at a local school organized by his Foundation was pursued by conservative elements. The District Education Officer then issued a notification banning the entry of NGOs in the premises of schools without his office's permission.

Regardless of the numbers, the most important concern remains that enforced disappearances exists as a matter of silent policy practice. The profiles of a majority of those disappeared includes males between the age of 25-45, political workers, political rights and development activists, and those belonging to religious groups. Journalists have also faced abductions. Political workers subjected to disappearance mostly come from Baloch and Sindhi nationalist parties and groups, in addition to Karachi-based Muttahida Qaumi Movement.

In 2017, in a chilling series of moves, four bloggers – vocal supporters of rights and critical of military actions -- were picked within a quick succession from different parts of the country. Salman Haider, Ahmed Raza Naseer, Waqas Goraya and Asim Saeed returned within three weeks. A Shia activist picked with them is yet to return.

In recent years, the blasphemy laws have been increasingly used to silence the civil society.

In a similar move in August 2017, a widespread crackdown was launched on rights activists. Sindh Human Rights Defenders compiled a list of 80 persons abducted from the Sindh province alone. Included in the list was Punhal Sario who was leading a campaign "Voice for Missing Persons of Sindh" to highlight the rising cases of enforced disappearances targeting Sindhi political workers, activists and other citizens. Within that week, Partab Shivani, writer Naseer Kumbhar and political worker Umer Uner, all from Mithi, were picked. They returned in a couple of days. While they do not wish to share the details of events following their abduction, it is widely believed that they were rounded off because of their activism on Ghorrano Dam in Tharparkar (details in a separate section).

Pakistan Fisherfolk Forum activist Saeed Baloch was also picked by the Pakistan Rangers in January 2016. His arrest was declared a week later. The allegations levelled against him remained vague and ambiguous with a vociferous media campaign declaring him a RAW Agent, without any proof. Saeed was released six months later. However, charges against him have not been removed.

**Jan Odhano in an interview for article "NoGo areas", Shaukat, Z. (2017). NoGo Areas. *The News on Sunday*. [online] Available at <http://tns.thenews.com.pk/nogo-areas/>

The most harrowing aspect of the enforced disappearances phenomenon is that the disappearances are not only followed by refusal to acknowledge the arbitrary detention by the police and the security agencies, but that they are followed by recovery of dead bodies, sometimes decomposed and mutilated, while families are informed by way of a phone call to collect them from a designated spot. This is most common in Khyber Pakhtunkhwa and Balochistan. According to the Home and Tribal Affairs Department of Balochistan, 592 mutilated dead bodies have been found from 2010 to Sept 2013 in the province.⁷⁷ According to Pakistan's Attorney General's submission in the Supreme Court over the missing persons case, 4,557 bodies were found from all across the country – highest being from Khyber Pakhtunkhwa – from 2011-2015.⁷⁸ The legal and political impunity enjoyed by the security agencies is further distressing for civil society that finds limited support from the judicial system or the parliament to help the case.



Enforced disappearance of vocal activists and political workers has been expanding non-stop.

Those advocating for the release of the missing persons have also been targeted. In 2013, The Voice of Baloch Missing Persons (VBMP), a campaign led by activist Mama Qadeer undertook a march, travelling a distance of 2,000 kilometers for over four months, to highlight the case of enforced disappearances. The group faced a malicious campaign discrediting their activism.

Activist Punhal Sario's abduction is similarly linked to his vocal stand on the missing persons case. In 2015, Sabeen Mahmud, Director of a dialogue platform, The Second Floor (T2F) was killed on 24 April 2015, following a session her organization hosted on Baloch missing persons. Though her killers, later arrested, expressed her liberal ideology as a reason behind their action, activists find it difficult to delink her murder with the dialogue session on missing persons at T2F on the last day of her life.

Eco Movements under Attack

Activists, journalists and rights advocates working on natural resource conservation, eco and development movements are also being targeted through a series of aggressive actions both by the state and the non-state actors, aimed at silencing them.

⁷⁷ Syed Ali Shah, "Balochistan unrest: 592 mutilated bodies found in last three years", Dawn, Sep 12, 2013

⁷⁸ Iqbal, N. (2015). 4,557 bodies found in four years, SC informed. *Dawn*. [online] Available at: <https://www.dawn.com/news/1162832> [Accessed 11 Sep. 2017].

In mid 2016, the residents of Gorrano, Tharparkar, where an array of US\$2 billion coal development and electricity generation projects⁷⁹ are being undertaken as a part of over US\$55 billion China-Pakistan Economic Corridor, launched a resistance campaign undertaking a march in Karachi. The march was to protest against the building of the Gorrano and Dukkur Cho dams in their area. The reservoirs were aimed at storing brackish mine wastewater. Gorrano residents argued that the dam will adversely affect surrounding villages with a population of around 20,000 people.⁸⁰

The movement also included a litigation against the Sindh Coal Authority, which owns over half the share in the Sindh Engro Coal Mining Company that is building the reservoir, and active street and media campaigning by the Gorrano residents⁸¹. A year-long sit in outside Islamkot Press Club still continues as of the writing of this report.

Apart from the campaign by the residents of the Gorrano Dam, two movements Thar Sujag Sath and Thar Voice Forum (involving professionals hailing from Tharparkar) emerged. Activists in both these movements, while wishing to remain anonymous, share harassment and threats received during their active campaigning on the issue. “The Engro Management even threatened to call the army to control the protests against the Gorrano Dam,” says one of the activists involved in the campaign.

Dileep Doshi of Thar Sujag Sath also faced the threat of a false blasphemy case when an application was filed against him by local religious persons. Three local activists rounded off in August (mentioned above) were also active participants in the anti-coal movement. The coal reservoir was eventually built bypassing local population’s resistance over the damaging impact of the project on their livelihood and environment.

In July 2016, Zafar Lund, a Seraiki intellectual, rights activist and founder of the Hirrak Development Centre in Muzaffargarh was murdered at his own home. The 55-year-old activist was described as eco-socialist who worked all his life advocating for empowering populations displaced by the state for development. In his last days, Lund, who had also founded the Sindhu Bachao Tarla, a civil society forum working for the rights of the communities depending on the Indus in Kot Addu, was involved in campaigning against the community’s displacement due to a nuclear power project being set up in Kot Addu. His last public appearance was on June 9, 2016, when he held a rally for the people displaced by the nuclear power project.⁸² His murder, though explained by the police as a part of the targeting of the Ahmediya community,⁸³ is largely seen as an outcome of his campaign against the impact of the nuclear power plants in the region.

Also discouraging is the absence of a proper investigation and follow-up on Perween Rahman’s killing’s case in March 2013. Perween Rahman was the Director of the Orangi Pilot Project and worked for local communities’ right to housing and land. Police investigation indicated involvement of land mafia in her murder. In the last four years since her murder, followed by one more murder of her colleague and an attack on the life of another OPP Director – there have been repeated attempts at misleading the investigation and slowing down the legal procedure.

Activists, journalists and rights advocates working on natural resource conservation, eco and development movements are also being targeted through a series of aggressive actions both by the state and the non-state actors, aimed at silencing them.

⁷⁹ Anon, (2017). [online] Available at: <https://dailytimes.com.pk/39695/thar-villagers-protest-against-construction-of-drainage-reservoir/> [Accessed 11 Mar. 2018].

⁸⁰ Ibid

⁸¹ Express Tribune (2016). Thar coal project: Dam will destroy our livelihoods, claim locals. [online] Available at: <https://tribune.com.pk/story/1134288/thar-coal-project-dam-will-destroy-livelihoods-claim-locals/> [Accessed 11 Aug. 2017].

⁸² Raza, M. (2016). Seraiki social worker Zafar Lund murdered. *Dawn*. [online] Available at: <https://www.dawn.com/news/1270991> [Accessed 11 Aug. 2017].

⁸³ Ahmed, A. (2017). *The mysterious murder of an NGO worker in Pakistan*. [online] the Guardian. Available at: <https://www.theguardian.com/world/2017/mar/03/the-mysterious-murder-of-an-ngo-worker-in-pakistan-zafar-lund> [Accessed 14 Aug. 2017].

Conclusion

Pakistan's civil society is a diverse entity that has played a crucial role in restoration of democracy fighting successive dictatorships. The sector primarily works on rights and undertakes a range of operations directed at advocating for fundamental rights and social justice.

Pakistan's civil society has been battling a progressively restricting legislative and policy regime that not only seeks to curb their activities, these pose a threat to the lives of the civil society members by way of violence and intimidating tactics such as enforced disappearances. Majority of the cases of intimidation and killings have remained unaccounted for. The emboldening of the private and non-state actors continues to threaten civil society, as manifested in the form of violence, vandalism, extortion and blasphemy accusations.

Four fundamental rights, i.e. Right to Freedom of Expression, Right to Information, Freedom of Assembly and Freedom of Association, are essential for ensuring civic freedoms. In Pakistan, all four rights, marked in the constitution, are riddled with deficits, both in terms of their constitutional definitions as well as institutional implementation. The exceptions listed in the constitutional definition of the Right to Speech, Freedom of Assembly, Freedom of Association, and the structure of the Provincial and the Federal Right to Information laws, impose limitations on the exercise of these fundamental rights. Their regulation is conducted by a series of restrictive provisions and actions employing pretexts of national security, law and order and maintenance of public order among others. The post 9/11 surge in terrorism incidents have further provided grounds for restricting space for exercise of fundamental freedoms.

The recent crackdown against NGOs come on top of an already narrow scope of the freedom of association, severely containing fundamental rights of workers, students, and political workers while turning a blind eye to violence against civil society. The crackdown, executed by the state, is a dangerous precedent that not only restricts the activities of the national and international NGOs, it comes with a malicious campaign putting the lives of the staff and associates of NGOs under direct threat.

Civil society's response in the face of the restricting space has come in the form of fight-back by way of protests, legal recourse, advocacy with the state and mobilisation of public opinion. Media, political parties, NGOs, bar associations and academia have been specifically active in advocating for free space. However, for a progressive and democratic future of Pakistan, the state will have to revisit its regressive approach vis-a-vis citizens and remove barriers that restrict fundamental freedoms. The fact that the very advocates of fundamental freedoms – Pakistan's civil society – are constantly at risk of clampdown, violence, false accusations, and malicious campaigns over their legitimate activities is an indication of how democratic norms continue to be undermined in the 21st Century Pakistan.



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