

Pakistan's human rights record under scrutiny at the Human Rights Committee



Members of the UN Human Rights committee in Geneva. Source: acnudh.org

The manner in which the government of Pakistan orchestrated the forceful enactment of the controversial [Prevention of Electronic Crimes Act \(PECA\) 2016](#) is demonstrative of its blatant disregard for human rights and due process. Civil society, citizens and journalists have [repeatedly raised concerns](#) about the provisions of this legislation and have warned of the undesirable consequences to the state's [fragile democracy](#). PECA is likely to trample a whole host of rights currently exercised online: the right to freedom of expression, freedom of assembly and association, and the right

to privacy, among others. This recent regression is also in direct contravention to Pakistan's commitments under international human rights law, specifically the [International Covenant on Civil and Political Rights](#).

Pakistan ratified the ICCPR in 2010 and as such is bound to upholding the human rights enumerated within it. The government's ratification of the ICCPR responds to demands from Pakistani civil society to align its domestic laws with international human rights law, despite its reservations to some key provisions. One of the obligations of ratifying the treaty is that Pakistan will be before the [Human Rights Committee](#), a body of international human rights legal experts required to oversee compliance with the treaty.

The [Association for Progressive Communications](#) (APC), [Bytes for All, Pakistan](#) (B4A) and [Media Matters for Democracy](#) (MMfD) worked on a [joint submission to the Human Rights Committee](#), highlighting concerns with PECA and presenting a detailed picture of the practices that impact internet rights in Pakistan. The joint submission highlighted rights violations particularly concerning the right to privacy, freedom of religion or belief, freedom of opinion and expression, and freedoms of assembly and association.

Privacy

The Constitution of Pakistan does not expressly provide protection to citizens' correspondence, leaving inadequate safeguards for the right to privacy in Pakistan. This has been exploited often to arbitrarily interfere with digital communications and for surveillance. Mass surveillance, tapping of personal communications, and unsafe collection and use of biometric data are a reality in the state. National security, prevention of terrorism, and public order are the most commonly cited excuses for violating the right to privacy. The government of Pakistan has moved towards greater surveillance of users and networks through technological and

legislative means in recent years. The [Islamabad Safe City Project](#) and its extension to Lahore is particularly problematic given that there are no safeguards to ensure data protection of citizens.

The government of Pakistan is also failing to protect its citizens from surveillance by foreign entities. Pakistan is collaborating with foreign governments such as the US and UK through intelligence-sharing arrangements, which violates the right to privacy of Pakistani citizens. Surveillance, either digital or physical, is intimidating, especially for marginalised groups, including gender and religious minorities.

Religious freedoms under attack

While the ICCPR provides for freedom of religion and belief, in Pakistan, growing discourse on defamation of religion, alongside blasphemy laws to combat dissent and criticism of religions or beliefs, are proving to be serious threats to the fundamental rights to freedom of expression and the right to religion as well. Laws on blasphemy or hurting religious sentiments have a stifling effect on dissent and freedom of expression and prohibit the free exchange of ideas and views on political, social, legal and academic issues that may touch upon religion. The stifling effect of such laws and policy is equally applicable to online spaces, with social media and other websites being blocked and filtered on grounds of them hurting religious sentiments. Application of these laws in cyberspace has serious offline consequences in real life; for example, the case of Junaid Hafeez and the killing of his legal council Rashid Rehman, the killing of three Ahmadi women including two minors as a result of mob violence over allegedly blasphemous posts on Facebook, and many more are indicative of this.

Freedom of opinion and expression

Both the ICCPR and the Constitution of Pakistan guarantee the right to freedom of expression. Despite this, some of the restrictions imposed in Article 19 of the Constitution are inconsistent with the ICCPR, such as restricting expression that may offend “the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign States, decency or morality, or contempt of court.” Given the challenges faced in offline spaces for free expression in Pakistan, many have taken to online platforms to express themselves. Unfortunately, the government is [extending restrictions](#) to freedom of expression in the online environment, by criminalising legitimate speech and creating hurdles to unrestricted internet access, often with more severe consequences. The Pakistan Telecommunications Authority routinely blocks websites; and journalists and bloggers are under threat, especially when reporting on sensitive matters like the Federally Administered Tribal Areas (FATA) and Balochistan. In addition, mobile network shutdowns are another tool that the government of Pakistan uses to deny access to online spaces in Pakistan. PECA is the final nail in the coffin for free expression online in Pakistan.

Limitations on freedom of assembly and association online

The freedoms of assembly and association are enshrined in Pakistan’s Constitution in Articles 16 and 17. However, the provisions for limiting these rights are more broad than the reasonable restrictions that the ICCPR provides for. Currently, these rights can be restricted in the interest of the sovereignty or integrity of Pakistan, which are subjective terms and open to interpretation and abuse. As a result, the rights to freedom of assembly and association, both offline and online, have been trampled upon by the state and non-state actors, often in the guise of national security, public order or morality. In Pakistan, the government’s arbitrary shutdown of mobile services, banning of websites and blogs, and implementation of other laws such as section 144 and 145 of

the Pakistan Penal Code are a few examples of how the rights to freedom of peaceful assembly and association are being violated.

Significance of Pakistan's review before the Human Rights Committee

Pakistan's first review before the Human Rights Committee in July 2017 marks the first time the government's record on civil and political rights will be scrutinised in a comprehensive manner by international human rights experts. The Committee will make recommendations to the government of Pakistan to improve the exercise of specific human rights, including by weighing in on specific pieces of legislation. It is for this reason that the joint submission highlighted the incompatibility of PECA with various provisions of the ICCPR, such as freedom of expression, the right to privacy, and organising peaceful campaigns and protests online.

PECA legitimises and legalises many of the violations mentioned above, which further emboldens the state and leaves citizens vulnerable to abuse. In violation of Article 17 of the ICCPR, the Act permits the PTA and other investigation agencies to access traffic data of telecommunication subscribers and confiscate netizens' data and devices without prior warrants from the court. It also permits decryption of information, making it impossible for persons to use anonymity. Encryption and anonymity, and the security concepts behind them, provide privacy. In addition, internet service providers (ISPs) are required to retain specified traffic data of users, which increases the risks of misuse of citizens' data. In violation of Article 19 of the ICCPR, PECA also grants blanket authority to the PTA to block, censor or remove any content online. All of this is to be carried out with no oversight and no remedy.

Ahead of the July 2017 review, the Human Rights Committee will meet in October 2016 to develop a list of issues for Pakistan

to respond to in its review. APC, B4A and MMfD proposed the following questions for the list of issues for Pakistan:

- What safeguards is the government of Pakistan taking to ensure that its surveillance practices comply with international human rights standards, namely the principles of legality, necessity and proportionality?
- What measures is the government taking to ensure that its citizens are not subject to unlawful and arbitrary surveillance by foreign governments?
- What form of judicial oversight is available for violations of the right to privacy?
- What steps has the government taken to repeal blasphemy laws, in line with international norms in this area?
- What protections has the government afforded to those accused of blasphemy against mob violence?
- Has the government taken any steps to prevent application of blasphemy laws to online expression?
- What steps has the government taken to ensure the protection of journalists and bloggers from attacks by non-state actors and to end impunity for such attacks?
- What measures is the government taking to ensure that restrictions to online content are consistent with Article 19, paragraph 3 of the ICCPR, and that the least restrictive means are employed?
- How will the government ensure that the proposed PECA meets international guarantees on freedom of expression, privacy, assembly and association?
- What measures has the government taken to ensure that network shutdowns imposed in the name of national security meet standards set out in Articles 19, 21 and 22 of the ICCPR?

We encourage the Committee to take on these issues in examining Pakistan's human rights record, and for the government to take this process seriously as an opportunity to improve its laws and practices.

(END/2016)

This is a joint submission by APC, Bytes for All, Pakistan and Media Matters for Democracy

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