

Universal Periodic Review 14th Session – Pakistan

Stakeholder Report

Internet & Human Rights in Pakistan

Submitted by:

Bytes for All, Pakistan, Association for Progressive Communications (APC) and Freedom House

About Bytes for All, Pakistan

Bytes for All (B4A), is a South Asian network of ICT professionals and practitioners. In Pakistan, it is legally registered as a human rights organization with a focus on Information and Communication Technologies (ICTs). It experiments and organizes debate on the relevance of ICTs for sustainable development and strengthening human rights movements in the country. In Pakistan, Bytes for All was legally registered in 2009.

About Association for Progressive Communications (APC)

Association for Progressive Communication (APC) is an international organization and network with UN's ECOSOC Status. Its mission is to empower and support organizations, social movements and individuals in and through the use of information and communication technologies (ICTs) to build strategic communities and initiatives for the purpose of making meaningful contributions to equitable human development, social justice, participatory political processes and environmental sustainability.

About Freedom House (FH)

Freedom House is an independent watchdog organization that supports democratic change, monitors freedom, and advocates for democracy and human rights around the world. It supports nonviolent civic initiatives in societies where freedom is denied or under threat and stands in opposition to ideas and forces that challenge the right of all people to be free. FH amplifies the voices of those fighting for freedom in repressive societies and works directly with democracy and human rights advocates in their own countries and regions.

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Introduction

1. This stakeholder report is a joint submission by Bytes for All (B4A), Pakistan, Association for Progressive Communications (APC) and Freedom House (FH). B4A is a human rights organization focusing on Information and Communication Technologies (ICTs). B4A believes that digital communication plays an important role in today's world and it is essential to recognize its importance by looking at challenges and obstacles this medium is facing in developing countries such as Pakistan. This submission outlines situation of internet freedom, access, laws, policies, practices, right to information, privacy rights and internet governance in Pakistan.

Internet and Human Rights

2. Internet is not just a medium of communication anymore. Its growing importance, effectiveness, and use, has built a strong case to recognize its fairness and independence as a basic human right. Founding documents on the United Nations World Summit of the Information Society¹, the Geneva Declaration of Principles², and the Internet Governance Forum³ highlights the connection between human rights and internet. Internet based human right issues were not part of Pakistan's first UPR in 2008. However, after the acceptance that freedom of expression (including the right to information and access to information) includes internet based expression by the human rights committee, it is binding on all member States as an existing human rights obligation⁴.

Follow-up with the first UPR

3. In the first UPR of Pakistan in 2008, there was no mention of promotion and protection of human rights and fundamental freedoms on the internet or right to information. However, it categorically demanded removal of restrictions on freedom of religion or belief, women rights and minorities' rights. It was also stressed upon the Government of Pakistan to "restore as soon as possible all fundamental freedoms – as guaranteed by Pakistan's Constitution" ⁵ and "to review laws and measures to ensure that restrictions imposed on freedom of expression". ⁶
4. This submission addresses human rights and right to information in the context of the Internet and Digital Communications sphere in the Country.

Freedom of Expression and the Right to Information

5. Article 19 of the Constitution of Pakistan states:

"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 defense of Pakistan or any

¹ World Summit on the Information Society, United Nations, and International Telecommunication Union, 2005, WSIS Outcome Documents

² Article 19 of the UDHR is cited in paragraph 4 of the Geneva Declaration of Principles (2003)

³ The Internet Governance Forum <http://www.intgovforum.org>

⁴ The UPR monitors existing human rights obligations: Human Rights Council, Institution-building of the United Nations Human Rights Council (18 July 2007, A/HRC/RES/5/1, affirmed in Resolution A/HRC/RES/16/21

⁵ Recommendation 16 http://www.upr-info.org/IMG/pdf/Recommendations_Pakistan_2008.pdf

⁶ Ibid.

part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, commission or incitement to an offence.”⁷

The above clause highlights the complexity of laws regarding freedom of speech in Pakistan. The newly inserted Article 19-A under the 18th Amendment about the right to access to information states:

“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.”⁸

Both of the above Articles qualify for the Fundamental Rights of the Citizens in terms of “reasonable restrictions, glory of Islam, security or defense of Pakistan, friendly relations with foreign States, public order, decency or morality”⁹. These wordings are vague and open to interpretation, allowing the authorities to grossly withhold information from the public. These clauses need to be clearly interpreted in respect of Internet Governance and Internet Freedom in the country.

6. According to a study conducted by the Centre for Civic Education Pakistan to gauge the effectiveness of the Freedom of Information Ordinance 2002:

“Though the FIO-2002 was promulgated to give Pakistani citizens the opportunity to monitor government activities and provide for good governance, a lot is still needed to allow for its effective implementation. The non-existence of resources allocated for FIO-2002 implementation is as disappointing as the citizens’ interest in seeking information over the past years. Publicity campaigns and quantity of trainings of Designated Officers in the FIO mindset has been poor. It is distressing to observe that even after five years there is no mechanism of coordination, facilitation and monitoring of the implementation of FIO-2002.”¹⁰

Areas where some improvements have been recorded in recent years

7. In 2011, a lawmaker from the Government party, Ms. Sherry Rehman introduced the Right to Information Bill in the National Assembly (NA) which is meant to prevent all public bodies from blocking requester’s access to public records¹¹.
8. As of June 2011, the number of internet users in Pakistan stood at around 20.4 million with 11% internet penetration and there were about 1.6 million broadband users as of mid-2011^{12,13}.

⁷ Constitution of Pakistan (Fundamental Rights and Principles of Policy) <http://www.pakistani.org/pakistan/constitution/part2.ch1.html>

⁸ Ibid.

⁹ Ibid.

¹⁰ Centre for Civic Education Pakistan Report <http://rtiworkshop.pbworks.com/f/2007-10-PK-The-Freedom-of-Information-Ordinance-5-Years-On-Window-Yet-to-be-Opened-CCE.pdf>

¹¹ Right to Info Bill lands in NA <http://nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/12-Oct-2011/Right-to-Info-Bill-lands-in-NA>

¹² Internet World Stats <http://www.internetworldstats.com/stats3.htm#asia>

¹³ PTA Telecom Indicators http://www.pta.gov.pk/index.php?option=com_content&view=article&id=269:telecom-indicators&catid=124:industry-report&Itemid=599

9. In November 2011, Prime Minister of Pakistan gave Pakistan's 3G policy the green light. However, implementation on this policy is still awaited¹⁴. In addition, many civil society activists and technical professionals consider 3G to be not sufficient enough for the Internet connectivity needs of the citizens in Pakistan. B4A has been advocating that Pakistan should go for 4G or LTE spectrum. It is extremely important that a multi-stakeholder independent group closely monitor the licensing process as otherwise it can be subject to major corruption scandals.
10. Government of Pakistan initiated the Universal Service Fund (USF) to promote access to ICT services across Pakistan. USF plans to establish over 100 Multipurpose Community Telecenters (MCTs) across Pakistan eventually bringing internet connectivity to every corner of the country¹⁵.
11. Civil society in Pakistan is taking advantage of ICTs and employing them to make the interaction with people and stakeholders more convenient and effective. However, this is subject to certain restrictions imposed by the government or authorities from time to time.
12. In recent years, mainstream political parties in Pakistan also started to use ICTs effectively for spreading their political message through web and mobile phones; however, restrictions by the government on certain political factions especially in Balochistan continue to hinder Internet Freedom in the country.

Areas of Concern

Access to the Internet

13. While the penetration of mobile phones in Pakistan is around 65.2 %¹⁶, the internet penetration is comparatively low at 11%¹⁷. Many factors are responsible for this including poor infrastructure, high costs, low literacy, energy crisis, difficult economic conditions, and culture¹⁸.
14. Remote areas of the country have no access to broadband, and are left with only a slow, intermittent dial-up connection, rendering any meaningful online activities very difficult¹⁹.
15. High quality broadband services remain concentrated in large cities like Karachi, Lahore, Peshawar, Quetta, Faisalabad and Islamabad. Wireless service providers using WiMAX and EVDO along with mobile operators are struggling to attract consumers because their services are expensive, and performance and coverage is poor.²⁰
16. In August 2011, Pakistan Telecommunication Authority sent a legal notice to all internet providers (ISPs), ordering them to ban encryption and inform authorities if any of their

¹⁴ Gillani gives Pakistan's 3G policy green light <http://tribune.com.pk/story/296573/gilani-gives-3g-policy-green-light/>

¹⁵ USF Connects Pakistani Villages to the World of Infinite Possibilities <http://insider.pk/technology/usf-connects-pakistan/>

¹⁶ PTA Telecom Indicators http://www.pta.gov.pk/index.php?option=com_content&view=article&id=269:telecom-indicators&catid=124:industry-report&Itemid=599

¹⁷ Internet World Stats <http://www.internetworldstats.com/stats3.htm#asia>

¹⁸ A. Khan, Gender Dimensions of the Information Communication Technologies for Development (Karlstad: University of Karlstad Press, 2009)

¹⁹ Broadband penetration in Pakistan <http://www.ispak.pk/Downloads/MoITStudyonBroadbandPenetration.pdf>

²⁰ Freedom House (Freedom of Internet report 2011) <http://www.freedomhouse.org/template.cfm?page=664>

customers are using virtual private networks (VPNs) to browse the web. Virtual Private Networks (VPNs) allow internet users to connect to the web undetected, meaning that they can access banned websites and send emails without fear of government interception.²¹

17. The Government of Punjab is preparing legislation for regulating internet cafes across the province²². On 14th January, 2012, Provincial Cabinet gave formal approval to the proposal of Net Cafe Regulations Act (Punjab Cyber & Gaming Cafe Regulation Act 2012)²³. It is said that bill heavily focuses on the work procedures of internet cafes²⁴.

Access to information and the Internet

18. A large part of rural Pakistan is still not connected to the Internet. Government's initiatives to promote access to the internet for the masses have not been satisfactory, and very few initiatives have been started for this purpose. One example of such an investment has been the establishment of 365 Rabta Ghar (Connectivity centers) in rural areas of Pakistan to provide internet and telephony services to people²⁵. After the pilot phase of this project in 2007, there is very less information available about the success of this project. Majority of rural areas of Pakistan are still without any internet connectivity whatsoever.
19. Universal Service Fund (USF), another initiative by the government of Pakistan to promote access to ICT services across Pakistan by establishing Multi-purpose Community Telecenters (MCTs) in rural areas is also a victim of organizational corruption and mismanagement²⁶ and so far unable to deliver any satisfactory results. More alarmingly, this development fund is now being heavily used by the current president and prime minister for payment of TV advertisements to promote their political scoring.
20. While setting up Rabta Ghar or MCTs, no real sustainability model has been employed. Instead, the PTA selecting the owners of the Telecentres, these Telecentres could be successfully setup in collaboration with various community based organizations (CBOs). There are examples all over the world that such centers were ultimately self-sustainable with support from communities themselves. This may well be disastrous if an owner may shut the Telecentre down, finding it not enough profitable, while community will sustain it for its other benefits and usage.

Content Blocking

21. Content blocking on the internet is being practiced by the government of Pakistan in variety of ways including direct orders from the government authorities, using courts to get desired websites or content banned on internet and/or using regulatory authorities to take advantage of vague laws and regulations to ban content on internet by using the excuse of national security, religious morality and sensitive issues like blasphemy.

²¹ Pakistan to ban encryption software <http://www.guardian.co.uk/world/2011/aug/30/pakistan-bans-encryption-software>

²² Punjab makes laws to regulate internet cafes <http://samaa.tv/newsdetail.aspx?ID=40390&CID=1>

²³ Provincial Cabinet Sanctions Net Café Regulations Act <http://chiefminister.punjab.gov.pk/index.php?q=node/1228>

²⁴ Punjab to Regulate Internet Cafes <http://propakistani.pk/2011/12/21/punjab-to-regulate-internet-cafes/>

²⁵ PTA Rabta Ghar <http://www.pta.gov.pk/Rural/page1.htm>

²⁶ Gillani suspends PTA finance boss for causing Rs7.6 bn loss <http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=5800&Cat=13>

22. In a recent development, the National ICT R&D Fund²⁷ has placed an advertisement in the press, calling relevant national and international service providers, companies to submit proposals “for the development, deployment and operation of a national level URL Filtering and Blocking System”. Bytes for All, Pakistan termed this outrageous attempt to impose restrictions on internet as ‘cold blooded murder of Internet in Pakistan.’²⁸ After the strong reaction from human rights groups and civil society in Pakistan against this proposed censorship attempt, Government of Pakistan decided to step back from the implementation of this proposed system.
23. In the last few years, the Pakistani authorities, either by government order or court decision, have on several occasions blocked access to various Web 2.0 applications, such as the video-sharing website YouTube, Flickr, and the social-networking tool Facebook²⁹.
24. The content which was most targeted by the Pakistani authorities can be categorized in three parts;
- a. **Political/Anti-Military Dissent:** Government of Pakistan is involved in blocking content on the internet which is not favorable towards the government and most importantly towards the strong security establishment of the country. In terms of politics, content that portrays politicians in a negative light has resulted in censorship, with YouTube being [temporarily blocked in February 2010](#) because of circulating videos of President Asif Ali Zardari telling members of a gathering to “shut up”. In term of anti-military dissent, the most systematically censored is information disseminated by Baloch and Sindhi political dissidents³⁰. The Baloch Hal, the first English language news website focused on Balochistan, remained banned since last few years³¹. In May 2011, Pakistan banned the popular American music magazine Rolling Stone. The block comes shortly after the magazine published an article highlighting Pakistan's "insane military spending"³².
 - b. **Religious Morality:** In June 2011, a petition was moved in Lahore High Court (LHC) seeking directions to the ministry of telecommunications to control obscene content on the internet. Petitioner used religious morality to seek a ban on pornographic material on internet. In October 2011, PTA announced that a list of 150,000 pornographic websites has been sent to ISPs, Mobile Phone service providers, and international bandwidth providers to get them blocked. Later that month, in the first stage of blocking pornographic material on internet in Pakistan, over 13,000 pornographic websites were in the process of being blocked by internet service providers (ISP)³³.
 - c. **Blasphemous Material:** Government of Pakistan is involved in blocking many websites after bowing to the demands of conservative religious groups, who demand such bans by using the excuse of blasphemous material on websites. It started at the end of February 2006, when the Pakistan Telecommunication

²⁷ National ICT R&D Fund <http://ictrdf.org.pk/>

²⁸ Locking up the Cyberspace in Pakistan <http://content.bytesforall.pk/node/39>

²⁹ Pakistan blocks access to YouTube in internet crackdown <http://www.bbc.co.uk/news/10130195>

³⁰ Booking of Websites Access <http://pakistan451.files.wordpress.com/2006/04/PTA%20-%20Blocking%20of%20website%2025-4-06.pdf>

³¹ The Baloch Hal <http://www.thebalochhal.com>

³² Pakistan escalates its internet censorship <http://www.aljazeera.com/indepth/opinion/2011/07/2011725111310589912.html>

³³ Government blocks 13,000 obscene websites <http://tribune.com.pk/story/334055/government-blocks-13000-obscene-websites-official/>

Authority issued instructions to all internet-service providers (ISPs) in Pakistan to block any website displaying the controversial caricatures of the Prophet Muhammad (PBUH) published in a Danish newspaper. The block particularly focused on Google and BlogSpot³⁴. The ban continued for approximately two months. In October 2011, Lahore High Court (LHC) has asked the federal government to reply about the ban on social network site, Facebook and steps taken regarding stoppage of publication of blasphemous material on the site³⁵. The ban resulted in the blocking of 10,548 websites and critical information sources like YouTube, Flickr, the user-generated online encyclopedia Wikipedia, and more³⁶. Responding to public protests, the blanket blocks were generally temporary, and as of the end of 2011, most of these services were available, though the authorities appeared to shift their efforts to blocking individual YouTube videos or Facebook pages instead.

However, it has been observed that lately blasphemous content is openly accessible in the country but political discourse is massively blocked, especially the online content pertaining to Baloch/Sindhi nationalist movement.

Online Privacy Rights

25. Pakistan has been active for years and currently hosts world's largest online biometric database of its citizens³⁷. As the use of digital communication is surging up in Pakistan, the issues regarding online safety and privacy of the citizens are also becoming a huge challenge, especially for women and religious/ethnic minorities in the country. Unfortunately, there are no legal protections available for the citizens making them lot more vulnerable to discrimination and high handedness of law enforcing agencies. In addition, in the name of 'National Security' and fighting 'War on Terror', the government is imposing a massive surveillance regime. This further complicates the situation of civil liberties in the country. In the absence of any data protection mechanism and cyber crimes legislation, citizens are vulnerable to the perils of digital age. In this regard, Govt have miserably failed to protect its citizens.

Open Governance

26. Pakistan is lagging behind when it comes to e-government development or open governance. According to United Nations e-Government Survey of 2010, Pakistan ranked 131 in 2008 in the world e-government development index, and fell further to 146 in 2010³⁸.
27. In 2003, the Government of Pakistan took the initiative to develop a specialized Electronic Government Directorate (EGD) under the supervision of the Ministry of Information Technology. The basic task of the EGD was to improve people-to-government interaction

³⁴ Pakistan's Blog Blockade http://blog.washingtonpost.com/worldopinionroundup/2006/03/pakistans_blog_blockade.html

³⁵ LHC seeks reply from federal got regarding ban on Facebook <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/politics/20-Oct-2011/LHC-seeks-reply-from-federal-govt-regarding-ban-on-facebook>

³⁶ The shameful saga of the Internet Ban in Pakistan <http://www.apc.org/en/node/10786/>

³⁷ Pakistan Has World's Largest Biometric Citizen Database http://www.nadra.gov.pk/index.php?option=com_content&view=article&id=142:pakistan-has-worlds-largest-biometric-citizen-database&catid=10:news-a-updates&Itemid=20

³⁸ United Nations Statistics 2010

and make it easy for people to contact, obtain information from, and give feedback to the government.

28. According to the Special Audit Report on the EGD, the specialized department failed to achieve its targets due to corruption, mismanagement and the inefficient allocated of funds. Quoting from the report:

*“Several projects were initiated, which either could not be completed or the infrastructure deployed was under-utilized. Consequently, government offices have not leveraged information and communication technology effectively.”*³⁹

The Special Audit Report also laid out instances of leakages and control failures that made realization of the project objectives difficult:

*“Stakeholders were not adequately involved in project implementation despite the fact that such involvement was critical to the awareness, ownership and sustainability of automation initiatives.”*⁴⁰

Cyber Crime Legislation

29. The first, draconian, anti Cyber Crime law was introduced by the Musharraf’s Government in 2007 as a presidential ordinance. However, this ordinance was finally lapsed in 2009. Since then no real efforts have been made to develop much needed people-centered law in Pakistan⁴¹. Currently, citizens are vulnerable to all kinds of cyber-crimes in absence of any legislation. This situation is particularly challenging for vulnerable online communities including women, young girls, sexual/religious minorities and human rights defenders.

Recommendations

We recommend that Government of Pakistan should:

30. Acknowledge the critical importance of universal access to the internet in this modern world as a facilitator of not only in civil, political and economic progress but also in improving human rights.
31. Launch 4G/LTE for real meaningful Internet access by masses instead of 3G spectrum. The service provision and the tariff structures should be affordable for the citizens.
32. Ensure free and fair real broadband internet access, especially in rural areas of Pakistan where the reach, education and opportunities are scarce. Government should check the progress delivered by previous schemes like Rabta Ghar and Universal Service Fund (USF) to analyze the weak areas and develop better infrastructure and projects in rural Pakistan.
33. Ensure the freedom of Internet in Pakistan by removing all the restrictions on accessing the internet in the country. Provide its citizens the basic right to express themselves in any way

³⁹ Electronic governance project fails to deliver <http://www.pakistantoday.com.pk/2011/06/electronic-governance-project-fails-to-deliver/>

⁴⁰ Ibid

⁴¹ A world without law <http://herald.dawn.com/2012/01/17/a-world-without-law.html>

they want to on internet and stop any kind of internet surveillance/banning by using political, religious and social excuses.

34. Adopt Right to Information Law in the country. Make sure that people are aware of such law and can use it as their basic right to demand information for openness and transparency. Government should minimize the use of vague terminologies of such laws to restrict people to access information on the basis of national security, religion or morality.
35. Take necessary steps towards Open Governance and ensure flawless and corruption-free working of Electronic Government Directorate (EGD) to use this important department to ease the interaction between Government departments and citizens in Pakistan.
36. Ensure that guidelines for accessibility are followed in the development of all online information platforms to help people with disabilities.
37. Establish a National Privacy Commission urgently to ensure protection of citizen's online/offline privacy rights and accountability of violators, especially by government departments and law enforcing agencies.
38. Enact Data Protection legislation that comply with international human rights standards.
39. Enact pro-people Cyber Crime Law to protect online safety and privacy of Pakistani citizens.
40. Ensure due process and judicial oversight and refrain from the surveillance of its own citizens in the name of national security. Government should work towards upholding the fundamental rights and democratic principles.
41. Assign White Spaces purely for 'communications for development' purposes, while allocating 3G/4G frequencies.