



Human Rights Commission of Pakistan

FREEDOM OF PEACEFUL ASSEMBLY IN PAKISTAN

A LEGISLATIVE REVIEW



Freedom of peaceful assembly in Pakistan

A legislative review



Human Rights Commission of Pakistan

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This version printed in April 2022.

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ISBN 978-969-8324-95-7

Printed by Visionaries Division
90A Airlines Housing Society
Khayaban-e-Jinnah, Lahore

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Acknowledgements

This study, conducted in partnership with the International Federation for Human Rights (FIDH), would not have been possible without Asfand Yar Warraich's tremendous effort in researching and writing this document. The Human Rights Commission of Pakistan (HRCP) is grateful to HRCP's working group on the right to freedom of peaceful assembly – Hina Jilani, Farhatullah Babar, Habib Tahir, Saroop Ijaz and Reema Omer – for their valuable input, to director Farah Zia for her guidance and feedback, and to project managers Maheen Rasheed and Marrium Rauf for copyediting the study and preparing it for publication.

Abbreviations

AACPR	Actions (in Aid of Civil Power) Regulations, 2011
AMP	Anjumane Mazareen Punjab
APCA	All Pakistan Clerks Association
ASWJ	Ahl-e-Sunnat Wal Jamaat
ATA	Anti-terrorism Act, 1997
CM	Chief Minister
CrPC	Criminal Procedure Code, 1898
DCO	District Coordination Officer
DHR	Defence of Human Rights
FATA	Federally Administered Tribal Areas
FC	Frontier Corps
FCR	Frontier Crimes Regulation, 1901
FIR	first information report
HRC	UN Human Rights Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
INGOs	international non-governmental organisations
JSQM	Jeay Sindh Qaumi Mahaz
KMC	Karachi Metropolitan Corporation
KP	Khyber Pakhtunkhwa
LEAs	law enforcement agencies
LHWs	lady health workers
MPO	Maintenance of Public Order Ordinance, 1960
MQM	Muttahida Qaumi Movement
NAB	National Accountability Bureau
NGOs	non-governmental organisations
NOC	no objection certificate
OSA	Official Secrets Act, 1923
PAA	Pakistan Army Act
PANAA	Prevention of Anti-National Activities Act, 1974
PAT	Pakistan Awami Tehreek
PDM	Pakistan Democratic Movement
PECA	Prevention of Electronic Crimes Act
PESCO	Peshawar Electric Supply Company
PKI	Pakistan Kissan Ittehad
PML-N	Pakistan Muslim League-Nawaz
PO	Police Order, 2002
POPA	Protection of Pakistan Act, 2014
PPC	Pakistan Penal Code, 1860
PPP	Pakistan People's Party
PTA	Pakistan Telecommunication (Re-organisation) Act, 1996
PTI	Pakistan Tehreek-e-Insaaf
PTM	Pashtun Tahaffuz Movement
SBBU	Shaheed Benazir Bhutto University
SIC	Sunni Ittehad Council
TLP	Tehreek-e-Labbaik Pakistan
UDHR	Universal Declaration of Human Rights
VBMP	Voice of Baloch Missing Persons
WAPDA	Water and Power Development Authority
WPVO	West Pakistan Vagrancy Ordinance, 1958
YDA	Young Doctors Association

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Executive summary

The right to freedom of peaceful assembly is a cornerstone of any democratic society. It enables individuals to congregate in public, private and online spaces, and collectively express their ideas, opinions and philosophies, thus facilitating a participatory model of government – one where change is pursued, not through the use of force or violence or terror, but through persuasion and free exchange of thought. The right to freedom of peaceful assembly thereby functions as a medium for political participation and engagement, and in this sense, serves as a critical tool for the achievement and realisation of socio-economic and cultural rights. However, its unhindered enjoyment is ultimately dependent upon the effective exercise of various other liberties, including the right to freedom of expression, the right of movement, the right to freedom of association, the right of non-discrimination and of course, the right to liberty.

This study takes an analytical look at ‘legislative’ and ‘procedural’ curbs on the freedom of peaceful assembly in Pakistan. The first chapter evaluates the constitutional articulation of the right and the manner in which it has been interpreted by superior courts. The second chapter then proceeds to review a number of federal and provincial statutes in order to identify and isolate legal provisions that directly or indirectly allow state authorities to impinge upon people’s freedom to assemble together and express their ideas in solidarity. The third chapter examines an assortment of assemblies from 2010 to 2020 and highlights the manner in which these laws and procedures occasion and legitimise different kinds of restrictions. The fourth chapter assesses the curbs imposed on the surveyed assemblies, such as the use of force or the registration of criminal charges. The fifth chapter outlines Pakistan’s international obligations with respect to the right of freedom of assembly, along with its duty to bring domestic law in consonance with international standards and best practices. Finally, the sixth chapter provides recommendations to reinforce the freedom of peaceful assembly in the country, including legislative and procedural amendments and practical suggestions.

For the purpose of this study, a review was conducted of 858 assemblies from 2010 to 2020. A methodological question, which became apparent at the very outset, was whether to include assemblies whose ‘peaceful’ character was either unclear or otherwise disputed on account of divergent explanations by law enforcement agencies and assembly participants. In order to avoid passing judgement upon any factual controversies, this review decided to include such assemblies within the scope of the study, especially given their utility in highlighting the manner in which these assemblies, regardless of their character, were policed and regulated by state authorities. In at least 392 of the 858 assemblies surveyed, unwarranted and disproportionate curbs on the right to freedom of peaceful assembly were noted. These included: (a) excessive or erratic use of force against participants of assemblies, at times with lethal consequences, (b) arbitrary and politically motivated arrest and detention of potential, suspected or actual demonstrators, including ‘mass arrests’ and preventive detention; (c) registration of criminal and terrorism charges against participants; (d) imposition of blanket bans and total prohibitions on assemblies for lengthy periods of time, typically under the pretext of security concerns; (e) overt attempts to obstruct assemblies by blockading access to public spaces; (f) obstruction of media access to assemblies; (g) imposition of strictures on freedom of association and/or

movement; (h) temporary suspension of cellular and Internet services; and (i) threats by 'unidentifiable' or non-state actors.

A detailed overview of the information collated through this study reveals that freedom of peaceful assembly in Pakistan exists in a state of extreme disarray. The frequency with which the state arbitrarily interferes with this fundamental right, despite it being extensively used by people from all walks of life, is alarming. This is largely made possible through a legislative framework still deeply rooted in colonial-era policing strategies and criminological perspectives. The basic penal code, the PPC, prescribes a number of archaic and ambiguous notions, such as sedition, criminal defamation, provisions against obscenity, vaguely defined insult or hate speech laws, and offences against religious sentiments, all of which flatly contradict international human rights law standards. Its procedural counterpart, the CrPC, fares no better. Section 144 equips district administrations and provincial governments with unchecked authority to ban assemblies on virtually any premise for extended periods of time. This power is pervasively abused, not only in geographical peripheries but also in urban centres. Supplementing these is a plethora of other statutes: MPO, ATA, PANAA, AACPR, and OSA, all of which contain provisions that allow state authorities to arbitrarily interfere with liberty and movement; discriminatory anti-vagrancy laws, and policy enactments explicitly designed to restrict the proper functioning of civil society organisations.

All this has generated a regulatory legal landscape that is unclear, over-legislated and plagued with red-tapeism. In such an environment, the right to freedom of peaceful assembly remains constantly under threat from arbitrary and illegal actions by public functionaries. This results in blatantly duplicitous policies being adopted, where violent protests by far-right politico-religious groups like the TLP consistently end in 'agreements', while peaceful agitation by ethnic collectives such as the PTM are met with a litany of extreme reprisals, including threats, harassment, filing of trumped-up criminal charges, and arbitrary arrest and detention. Overt and legally entrenched discrimination is also visible, and scant attention is paid to the fact that in an age where technological platforms have become a critical component of human communication and organisation, assemblies are not merely physical, but also virtual. Cyberspace must be protected and facilitated in full. Instead, it is being actively suppressed. The PECA suffers from ambiguously drafted laws against cyberterrorism and criminalises defamation in online spaces, while also giving the Pakistan Telecommunication Authority, which already has the power to shutdown Internet and cellular facilities on policy directives under its parent law, with near-absolute unilateral authority to block access to websites.

Lastly, despite being one of the founding signatories of the UDHR, and despite having ratified both the ICCPR and the ICESCR, there remains a massive disconnect between domestic and international human rights standards. Although Pakistan acknowledges that it is under a binding legal obligation to bridge these gaps under international law, ground realities depict an ingrained reluctance on part of the state to do so. Till this attitude is reversed, the freedom of peaceful assembly will continue to lose its essence.

Chapter 1: Constitutional safeguards regarding the right to freedom of peaceful assembly

Constitutional framework

Chapter 1 of Part II of the Constitution of the Islamic Republic of Pakistan, 1973, lays out a broad and comprehensive list of civil, political, cultural and economic fundamental rights. These govern the social contract between the state and the citizenry, and outline the extent to which, and the persons to whom, such rights are available. Some of these accrue to all natural persons, while some of them are guaranteed only to 'citizens' of the country. Some of them are absolute in their protection, while others are qualified and thus, subject to reasonable restrictions within the scope of the Constitution and the law.

By virtue of Article 8 of Chapter 1, any law or any custom having the force of law, which is inconsistent with or in derogation of these fundamental rights, is rendered void. Thus, while legislative or procedural fetters may be placed upon these rights, they are ultimately justiciable and may be struck down by the superior judiciary upon review if they are found to be unreasonable or disproportionate.

Scope, ambit and interdependence of Article 16

Article 16 of the Constitution states that, "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". As is evident from its language, four essential preconditions are necessary for the exercise of this right: firstly, the right is available only to a citizen of Pakistan, and thus, does not cover any non-national resident; secondly, the assembly convened must be peaceful in its conduct; thirdly, the participants of the assembly must be unarmed; and lastly, the right is subject to 'reasonable restrictions' imposed by 'law' in the interest of 'public order'.

The place of assembly may be either private or public or online, and the assembly itself may take any number of forms, such as a meeting, rally, a procession, a gathering, a convention, a demonstration, a picket or any other form of non-violent and orderly assemblage. Furthermore, the assembly must naturally be organised for a lawful purpose. In a recent case, the Supreme Court held that "every citizen and political party has the right to assemble and protest provided such and protest is peaceful and complies with the law imposing reasonable restrictions in the interest of public order. The right to assemble and protest is circumscribed only to the extent that it infringes

on the fundamental rights of others, including their right to free movement and to hold and enjoy property”¹.

Freedom of assembly forms a part of a corpus of political rights enshrined in the Constitution. It is complementary to and interdependent upon various other political freedoms, such as, amongst others, the right to freedom of movement pursuant to Article 15, the right to freedom of association guaranteed under Article 17, and the right to freedom of speech protected by Article 19. The exercise of political rights is deeply interwoven, and curtailment of one, often results in a curtailment of the other. Thus, in any assessment of the limits and extent of the freedom of assembly, it is pertinent to be equally wary of any restrictions that may have been placed on other interconnected freedoms.

Reasonable restrictions

As stated earlier, the right to freedom of assembly is subject to ‘reasonable restrictions’ imposed by ‘law’ in the interest of ‘public order’. The term ‘law’ here embraces both primary and secondary legislation, and signifies that the restrictions placed upon the right must have statutory sanction. This means that the “executive” arm of the state cannot, “without the backing of the law, impose any restriction on the exercise and enjoyment of [a] right”². As for the ‘reasonableness’ of any particular fetter, this is a question courts adjudicate upon on a case-to-case basis.

The exercise of fundamental rights by a citizen or a group of citizens may often compete with the exercise of the same by another citizen or a group thereof. It is primarily in this context that reasonable restrictions are placed upon fundamental rights – to protect the competing rights of citizens, and, in certain circumstances, to ensure the collective wellbeing and security of society at large. The protection of fundamental rights, therefore, ultimately rests on determining the reasonableness of the restrictions imposed upon them.

Courts have generally shied away from providing a one-size-fits-all definition of ‘reasonableness’, since it is a subjective question whose answer may differ according to the circumstances of a particular case. In *Pakistan Broadcasters Association v. Pakistan Electronic Media Regulatory Authority*³, the Supreme Court itself admitted that “... it is certainly not easy to define ‘reasonableness’ with precision. It is neither possible nor advisable to prescribe any standard of universal application of reasonableness. However, factors such as the nature of the right infringed, duration and extent of the restriction, the causes and circumstances prompting the restriction, and the manner as well as the purpose which the restriction are imposed are to be considered”.

¹ *Suo Motu Case No. 7 of 2017* (PLD 2019 Supreme Court 318) Para 53

² *Benazir Bhutto v. Federation of Pakistan* (PLD 1988 SC 416) 524, 525

³ PLD 2016 Supreme Court 692, Para 17

Similarly, in *East and West Steamship Co. v. Pakistan*⁴, the apex court had earlier held that: “A reasonable restriction ... is one which is imposed with due regard to the public requirement which it is designed to meet. Anything which is arbitrary or excessive will of course be outside the bounds of reasons in the relevant regard, but in considering the disadvantage imposed upon the subject in relation to the advantage which the public derives, it is necessary that the Court should have a clear appreciation of the public need which is to be met and where the statute prescribes a restraint upon the individual, the Court should consider whether it is a reasonable restraint, in the sense of not bearing excessively on the subject and at the same being the minimum that is required to preserve the public interest.”

From the foregoing elucidations, one may extract the general principle that while seeking to impose restrictions on any fundamental right, preference must be accorded to the least restrictive measures possible. A benchmark often employed by courts in determining this issue is the principle of proportionality, which implies that any restriction imposed on a right must be proportionate to the mischief that it is intended to cure or the harm that it wishes to prevent. In essence, courts must strike a balance between individual and collective rights in a society.

Public order

The phrase ‘public order’ appears in Articles 10, 17, 19 and 20, but has not been defined, either in the Constitution or in the General Clauses Act, 1897. It has, therefore, been construed by the superior judiciary in its ordinary context as being synonymous with public peace, safety and tranquillity. It has been distinguished from the “popular concept of law and order and of security of state”, and hence, an activity that affects law and order may not necessarily affect public order, and an activity that is prejudicial to public order, may not necessarily affect the security of the state⁵.

It is an expression of exceptionally wide connotations and includes public safety, public health and public interest in general. Before an act is held to be prejudicial to public order, it must, therefore, be shown it is likely to affect the public at large and that it carries with it the potential to disrupt orderly communal existence.

⁴ PLD 1958 SC (Pak.) 41, more recently cited with affirmation in *Pakistan Muslim League (N) v. Federation of Pakistan* (PLD 2007 Supreme Court 642), Para 29

⁵ *Benazir Bhutto v. Federation of Pakistan* (PLD 1988 SC 416) 524, 525.

Chapter 2: Review of legislative provisions that impact the right to freedom of peaceful assembly

Provisions of the Pakistan Penal Code, 1860

The Pakistan Penal Code (PPC), 1860⁶, is the primary source of substantive criminal law in the country. While initially promulgated by the British colonial administration, it was subsequently adopted by Pakistan upon independence, and, barring some amendments, remains much the same to this day.

Chapter VI of the PPC, titled 'Of Offences Against The State', contains at least three provisions that have the potential to impinge upon the right to freedom of peaceful assembly.

Section 123A of the PPC makes it a criminal offence for any person to "abuse Pakistan" or "condemn the creation of Pakistan by virtue of the partition of India which was effected on the fifteenth day of August, 1947" or "advocate the curtailment or abolition of the sovereignty of Pakistan in respect of all or any of the territories lying within its borders, whether by amalgamation with the territories of neighbouring States or otherwise". This may be done through "words, either spoken or written, or by signs, or by visible representation, or otherwise". A person convicted under this provision is liable to rigorous imprisonment of up to ten years and a fine. As is evident from its linguistic construction, Section 123A effectively criminalises any expression that may be construed as condemning or calling into question the rationale behind the creation of Pakistan and by extension, the events leading up to the partition of the South Asian subcontinent. It also criminalises any expression that may call for the 'curtailment' of any territory that lies within its declared borders. This is particularly problematic for the expression of ethno-nationalist, secessionist or separatist sentiments, for if any assembly, no matter how peaceful, should begin expressing such opinions, it will immediately render itself liable to prosecution for the same.

Section 123B states that whosoever "deliberately defiles the National Flag of Pakistan" may be punished with imprisonment of up to three years, or with fine, or with both. In similar vein, Section 124A establishes 'sedition' as a separate offence and provides that whosoever "brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Federal or Provincial Government established by law" shall be punished with either imprisonment for life or with imprisonment which may extend to three years, or with fine, or both. Although not originally

⁶ Act XLV of 1860

a part of the PPC, Section 124A was imported in as an amendment in the 1870s⁷ and was frequently employed by the colonial administration against pro-independence leaders. According to the statutory explanation appended to the provision, the expression “disaffection” includes “disloyalty and all feelings of enmity”, and as may be expected, the use of such ambiguous language has rendered this offence as an excellent weapon against various forms of dissent.

All three of these offences essentially impinge upon the right to freedom of expression. However, since free expression is a central component of the right to freedom of peaceful assembly, any curtailment of the former inevitably leads to imposing restrictions on the latter.

Chapter VIII of the PPC, titled ‘Of Offences Against the Public Tranquillity’, contains numerous provisions that collectively distinguish between what constitutes a ‘lawful assembly’ and an ‘unlawful assembly’ for the purposes of the law, aside from spelling out various other offences that disturb public order.

Section 141 delineates the precise definition of an ‘unlawful assembly’ as “any assembly of five or more persons” where “the common object of the persons composing that assembly” is: (a) to overawe by criminal force, or show of criminal force, the Federal or any Provincial Government or Legislature, or any public servant in the exercise of their lawful power; or (b) to resist the execution of any law, or of any legal process; or (c) to commit any mischief or criminal trespass or other offence; or (d) by means of criminal force, or show of criminal force, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or (e) by means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do. It comes with a statutory explanation, which clarifies that “an assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly”. Section 141 must be read with Section 142, which incorporates *mens rea* as a specific requirement by delineating that “whoever being aware of facts which render an assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of any unlawful assembly”, and Section 143, which states that a member of an unlawful assembly shall be punished with imprisonment of up to six months, or with fine, or both.

Conjunctively, these provisions create an exceptionally broad and expansive offence, one that ends up disproportionately restricting the purposes for which an assembly may be convened in the first place. As it currently stands, if five or more people assemble together with the common object of

⁷ Penal Code (Amendment) Act, 1870 (XXVII of 1870)

resisting the “execution of any law, or ‘of any legal process”, they will be deemed to have participated in an unlawful assembly and shall be liable to be prosecuted and convicted under Section 143. This raises innumerable questions by itself. For instance, if a group of citizens decide to stage a demonstration against an anti-encroachment operation being conducted by a governmental department, will this constitute offering resistance to a legal process? Similarly, if a group of people peacefully assemble together to demand that the government restrain itself from executing the death penalty against a convicted offender, does this amount to resisting the execution of a law? A purely literal interpretation of Section 141 leads to the conclusion that it most certainly would, seeing as it specifically omits the requirement that there must exist any criminal force or show of criminal force when it comes to citizens assembling together to resist the execution of any law or legal process.

Furthermore, the fact that the common object may include the commission of any “offence” naturally incorporates offences that may indirectly impinge on the freedom of peaceful assembly, such as Sections 123A and 124A. Thus, if a citizen participates in an assembly, knowing that the speaker of the assembly will be expressing an opinion that may be construed as ‘condemnation’ of the state or as ‘seditious’, they may be liable to be prosecuted for being a member of an unlawful assembly and punishable under Section 143.

Section 145 of the PPC provides that “whoever joins or continues in an unlawful assembly, knowing that such an assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both”. This is essentially an aggravated form of Section 143 – the aggravation being continued presence despite the fact that the assembly has been ordered to disperse.

Section 146 then goes on to define the offence of rioting as thus: “whenever force or violence is used by an unlawful assembly, or by member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting”. It is punishable by imprisonment of up to two years, or with fine, or both⁸. This provision ends up penalising *every member* of an unlawful assembly for any force used or violence committed by any section or even a single member thereof. Thus, if a group of citizens is gathered together and only a section of them uses force or commits an act of violence, every member of the assembly shall still be liable to be punished for the offence of rioting. A similar position occurs with Section 149, which states that “if an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of committing of that offence, is a member of the same assembly, is guilty of that offence”. This too imposes collective responsibility on the entire assembly for an offence that may, in reality, have been committed by only a single

⁸ PPC, Section 147

member or a small group of members from that assembly. It places an onerous burden on the participants of the assembly, for not only must they be responsible for their own conduct, they must also be responsible for the conduct of every member of the assembly. Furthermore, the potential liabilities that this creates undoubtedly deters people from assembling in the first place, for if the participants of an assembly know that they may be held blameworthy for the actions and omissions of every other member, they may be likely to err on the side of caution rather than make liberal use of their political liberty.

Section 153 makes it an offence to “give provocation” to any person, intending or knowing it to be likely, that such provocation will “cause the offence of rioting to be committed”. It is punishable by imprisonment of up to six months, or with fine, or both. Having established that the offence of ‘rioting’ under Section 146 places a disproportionate encumbrance on the right to freedom of assembly, it only stands to reason that any offence which works in tandem with it will inevitably end up doing the same.

Section 153A penalises three sets of circumstances: (a) where a person promotes or incites, or attempts to promote or incite, “disharmony or feelings of enmity” between different groups; (b) where a person commits or incites another to commit, any act which is “prejudicial to the maintenance of harmony” between different groups; and (c) where a person organises or incites another to organise, any activity where the participants are trained in the use of criminal force or violence against any particular, identifiable group. The ‘groups’ referred to in this section include any religious, racial, linguistic or regional groups or caste or communities or any “group of persons identifiable as such on any ground whatsoever”.

As is evident, Section 153A is meant to cater to situations that may result in violence or strife between different groups – be they distinguishable on religious, linguistic, racial, ethnic or any other identifiable characteristic. While such an offence is no doubt necessary in any democratic society, and even more so in a country that had experienced severe sectarian and communal violence, it is far too ambiguously worded. Sections 153 (a) and (b) in particular, rely on archaic and elusive terminology such as ‘disharmony’ and ‘enmity’. The problem with such language is that it may be easily used to corrode freedom of expression in an assembly. For instance, if a Baloch or a Pashtun citizen were to make a speech decrying Punjabi dominance in the state machinery of the country, would be they liable for promoting ‘disharmony’ between different ethnic and linguistic groups?

It would, therefore, be far better if these offences were replaced altogether with a more stringent and more precise provision regulating all forms of ‘hate speech’, with a six-part threshold test that takes into account: the context of the speech, the identity and position of the speaker, the intent of

the speaker, the content and form of the speech, the extent of the speech, and, the likelihood of the speech to produce ‘immediate actions’ against its targets⁹.

Section 153B makes it an offence for anyone to induce “any student, or any class of students, or any institution interested in or connected with students, to take part in any political activity which disturbs or undermines, or is likely to disturb or undermine, the public order”. It is punishable with imprisonment, which may extend to two years, or fine, or both. There appears to be no discernible reason as to why inducing ‘students’ (presumably those old enough to vote) to take part in a political activity that disturbs or undermines public order justifies being a separate offence by itself. Students ought to be treated as any other cross-section of society and must be treated in the same manner. An offence of this nature may negatively impact the rights of students to participate in political activities with full force and may retard the natural development of political consciousness in universities and colleges. It seems to be wholly unnecessary and serves no legitimate purpose.

Chapter X, titled ‘Of Contempts of The Lawful Authority of Public Servants’, criminalises numerous actions that hamper, obstruct or otherwise interfere with the discharge of lawful duties by public servants.

Within the context of assemblies, Sections 186 and 188 bear the greatest relevance. Section 186 makes it an offence to “voluntarily obstruct any public servant in the discharge of his public functions”. It is punishable by fine or imprisonment for up to three months or both. It is applicable in any situation where a public servant (such as a police officer) is obstructed in any manner in the line of their duty. Naturally, this offence is of critical importance in any society, since there is no question that obstructing a public servant in the discharge of their functions must attract some form of criminal liability. However, when viewed in conjunction with Section 149 and the collective responsibility it imposes on the members of an assembly, it becomes pertinent to highlight that if any one member or a group of members of an assembly obstruct a public servant – say a law enforcer – from dispersing them or from controlling their conduct, their liability can easily be transposed on to every member of an assembly. This underscores the shockingly wide breadth of Section 149 and the manner in which it comes into play with various provisions of the PPC to restrict the right to freedom of assembly.

Section 188, on the other hand, states that whosoever has been “directed to abstain from a certain act” by an order promulgated by a public servant, and wilfully “disobeys such direction”, then, they shall be liable to be prosecuted. If the disobedience causes or tends to cause “obstruction,

⁹ This particular formulation of a six-part test has been adopted from the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. For more detail, see A/HRC/22/17/Add.4: ‘Report of the United National High Commissioner for Human Right on the expert workshop on the prohibition of incitement to national, racial or religious hatred’ (11 January 2013)

annoyance or injury or risk of obstruction, annoyance of injury, to any person lawfully employed”, then they shall be punished with simple imprisonment for up to one month or with fine, whereas if the disobedience causes or tends to cause “danger to human life, health or safety, or causes or tends to cause a riot or affray”, then they shall be punished with imprisonment of up to six months, or with fine, or both.

This is particularly important to highlight due to its interrelationship with Section 144 of the Criminal Procedure Code, 1898, which allows the government to place temporary ‘bans’ on assemblies of five or more people in any area¹⁰. Since orders issued under Section 144 act as orders ‘promulgated by a public servant’ and direct citizens to refrain from assembling during the period if they are in force, any person who does participate in or organise an assembly in contravention to an order passed under Section 144 becomes automatically liable for prosecution under Section 188 of the PPC.

Chapter XIV, titled ‘Of Offences Affecting The Public Health, Safety, Convenience, Decency And Morals’, contains at least one provision that certainly restricts the right to freely express oneself in a public assembly. Section 294 states that whosoever “does any obscene act in any public place” or “sings, recites or utters any obscene song, ballad or words, in or near any public place”, then such a person shall be punished with imprisonment of up to three months or with a fine or both. This provision may act as an unreasonable restriction, since ‘obscenity’ is a very vague and subjective concept and it is difficult to define its exact contours. What is obscenity to a person of a particular sensibility, may be something completely natural and ordinary for someone else. Furthermore, while Section 294 only envisages personal liability for an individual, it may be used in conjunction with Section 141 to characterize an entire assembly as ‘obscene’ and thereby render it unlawful.

Chapter XV, titled ‘Of Offences Relating To Religion’, encompasses a number of offences that disproportionately and unduly restrict the right to freedom of expression, and therefore, also end up impinging upon the right to freedom of peaceful assembly.

Section 295A states that whoever, “with deliberate and malicious intention of outraging the religious feelings of any class of the citizens of Pakistan”, “insults or attempts to insult the religion or the religious beliefs of that class” shall be punished with imprisonment which may extend to ten years or with fine or both. This may occur through words, either “spoken or written” or by “visible representation”. The offence is generally incompatible with the freedom of expression, as it uses very ambiguous parameters (such as ‘insult’ to religion or religious beliefs) in order to police speech in general. Since the condition of feeling insulted is a highly subjective psychological state, it becomes impossible to establish any objective criteria or threshold that may serve as a litmus test for

¹⁰ For a more detailed discussion on Section 144 of the Criminal Procedure Code, 1898, please refer to page 25.

when speech may be said to have crossed this limit. What is insulting to a person of a particular religion may not be insulting to another, who might perceive the same as legitimate criticism.

Similarly, Section 295C states that “whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine”. The alternative sentence of life imprisonment is no longer applicable, having been struck down as ‘unIslamic’ by the Federal Shariat Court¹¹. As such, Section 295C carries a mandatory death sentence.

The use of the term ‘defiles’ in this provision suffers from the same linguistic problems as the use of the word ‘insult’ in Section 295A. However, it is pertinent to note that Section 295C is even more expansive in its scope, since the element of intent, which is crucial for activating the provisions of Section 295A is visibly missing from Section 295C. Instead, the latter makes it abundantly clear that it is a strict liability offence, where the intent of the accused is entirely irrelevant. Not only is this incompatible with freedom of expression, it also infringes the principle of non-discrimination, since, unlike Sections 295 and 295A, which aim to protect all religious denominations, Section 295C attempts to safeguard the sanctity of a specific religious group over other the rights of others.

Section 298 is similar in character to Section 295A, although to attract liability under Section 298, there must be an element of “deliberate intention of wounding or outraging the religious feelings of any person or inciting religious”. It is punishable both by fine and a minimum sentence of one-year imprisonment, which may be extended up to three years. Section 298A mirrors the contents of Section 295C, but confines its ambit to anyone who “defiles the sacred name of any wife (Ummul-Mumineen), or members of the family (Ahle-bait), of the Holy Prophet (peace be upon him), or any of the righteous Caliphs (Khulafa-e-Raashideen) or companions (Sahaaba) of the Holy Prophet”. It is punishable with imprisonment of up to three years. As noted beforehand, these offences create permanent content-based restrictions on the right to freedom of expression, which ultimately hampers the right to freedom of peaceful assembly as well.

Chapter XI also contains at least two provisions, which, collectively, prohibit Ahmadi citizens from professing, practicing or preaching their religion, and thus, effectively deny them the right to freedom of expression, freedom of religion, freedom of association and freedom of peaceful assembly.

Section 298B(1) criminalises “any person of the Qadiani¹² group or the Lahori group” who: (a) refers to any person other than a caliph or companion of the Holy Prophet (PBUH) as ‘Ameer-ul-

¹¹ PLD 1991 FSC 10

¹² Qadiani or Qadiyani is a pejorative term often used for Ahmadi citizens of the country.

Mumineen', 'Khalifat-ul-Mumineen', 'Khalifat-ul-Muslimeen', 'Sahaabi' or 'Razi Allah Anho'; (b) refers to any person other than a wife of the Prophet (PBUH) as 'Ummul-Mumineen'; (c) refers to any person other than a family of the Holy Prophet (PBUH) as 'Ahl-e-Bait'; or (d) refers to, or names, or calls their place of worship as 'Masjid'. Similarly, Section 298B(2) criminalises any such person from referring to their call to prayer as 'Azan', or reciting Azan as "used by the Muslims". Both offences carry a penalty of imprisonment of up to three years and fine.

Furthermore, Section 298C states that any Ahmadi person who "directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith" or in "any manner whatsoever outrages the religious feelings of Muslims" shall be punished with imprisonment of up to three years and shall also be liable to a fine.

These offences have far-reaching implications on the right of Ahmadi citizens to peacefully assemble, since it effectively criminalises their entire belief system. Since Ahmadi citizens believe that they follow Islam and are Muslims, this constitutes a central component of their personal faith. The 2nd Amendment to the Constitution however, specifically excommunicates them from the folds of Islam and declares them as a 'non-Muslim' minority, and by virtue of Section 298B, they are prohibited from using certain Islamic epithets or referring to their call to prayer as 'Azan' or reciting the 'Azan' by itself. Further still, Section 298C bars them from 'posing' as Muslims or outraging the religious feelings of Muslims. The net result is that even though they may themselves 'believe' to be Muslims, they cannot in any way express this belief, for this would be tantamount to 'posing' as a Muslim and would make them liable for prosecution under these provisions.

The ability of these offences to cripple the right to freedom of peaceful assembly was most amply demonstrated in *Zaheeruddin & others v. State & others*¹³, where an order passed by the Home Secretary of the Government of Punjab under Section 144 of the CrPC, banning the centenary celebrations planned by the Ahmadi community was challenged on the touchstone of Article 20 (right to freedom of religion). The majority of the apex court reasoned that "if an Ahmadi is allowed by the administration or the law to display or chant in public the Shaair-e-Islam, it is like creating a Rushdie out of him. Can the administration in that case guarantee his life, liberty and property and if so at what cost? Again, if this permission is given to a procession or assembly on the streets or a public place, [that] it is like permitting civil war is not mere guesswork. It has happened, in fact, many a time, in the past, and had been checked at cost of colossal loss of life and property ... The reason is that when an Ahmadi or Ahmadis display in public on a placard, a badge, or a poster or write on walls or ceremonial gates or bunting, the 'Kalima' or chant other [Shaair-e-Islam] it would amount to publicly defiling the name of the Holy Prophet (PBUH) ... thus infuriating and instigating the Muslims so that there may be a serious cause for disturbance of the public peace, order and tranquillity and it may result in loss of life and property. The preventive actions, in such

¹³ 1993 SCMR 1718, per Justice Abdul Qadeer Chaudhry.

situations, are imperative in order to maintain law and order and save loss or damage to life and property, particularly of Ahmadis. In that situation, the decisions of the concerned local authorities cannot be overruled by this Court, in this jurisdiction. They are the best judges unless contrary is proved in law or fact.”

Chapter XXII, titled ‘Of Criminal Intimidation, Insult and Annoyance’, contains a number of provisions that impinge on freedom of expression and assembly. Section 499 states that whoever “by words” or “by signs” or “by visible representation”, “makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in cases hereinafter excepted, to defame that person”. Section 500 then goes on to elaborate that any person found guilty of defamation shall be punished “with simple imprisonment for a term which may extend to two years, or with fine, or with both”. Sections 499 and 500 essentially criminalise defamation. This creates a chilling effect on freedom of speech, and by extension, freedom of peaceful assembly, since it leaves journalists, activists, human rights defenders and political workers vulnerable to arrest and detention on the basis of false or trumped-up charges. While there is little doubt that defamation is a valid justification for limiting freedom of expression, it ought to be treated as a civil liability rather than a criminal liability in order to facilitate a free and open exchange of ideas and opinions.

The same chapter also contains a rather peculiar offence: Section 505. Sub-section (1) of the same states that whosoever “makes, publishes, or circulates any statement, rumour or report” with intent to cause or incite, or which is likely to cause or incite: (a) any officer, soldier, sailor or airman in the Army, Navy or Air Force of Pakistan to mutiny, offence or otherwise disregard their duty; (b) fear or alarm to the public or any section of the public whereby any person may be induced to commit an offence against the state or against the public tranquillity; or (c) any class or community of persons to commit any offence against any other class or community – then such person shall be punished with imprisonment of up to seven years and a fine. Of these, Section 505(1)(b) is perhaps the most ambiguous and thereby, the easiest to abuse, especially in the context of assemblies, where charged speeches and explosive rhetoric is often employed to rile up the audience.

Provisions of the Criminal Procedure Code, 1898

The Criminal Procedure Code (CrPC), 1898¹⁴, is the primary piece of legislation governing the procedural aspects of criminal law. Like the PPC, it was initially promulgated by the colonial administration but was subsequently adopted by Pakistan upon independence and barring a few very minor amendments, it too remains much the same to this day.

Chapter IX, titled 'Unlawful Assemblies and Maintenance of Public Peace and Security', provides for the manner in which public servants authorised by the state may control the conduct of assemblies and order their dispersal. Section 127 empowers "any officer in charge of a police station" to command "any unlawful assembly" or "any assembly of five or more persons likely to cause a disturbance of the public peace to disperse". Once such a command has been issued by the concerned officers, it becomes incumbent upon the members of the assembly to "disperse accordingly".

If an assembly that has been commanded to disperse under Section 127 fails to disperse or conducts itself in a manner that displays a "determination not to disperse", the officer in charge may, under Section 128, proceed to disperse such an assembly "by force" and may also require any "male person" to provide assistance for this dispersal. In addition, they may, if necessary, arrest and confine persons participating in the assembly in order to prosecute them later on. While the section fails to specify what amount of force is to be employed and how, a proviso to the same clarifies that "firing shall not be resorted to except under the specific direction of an officer of the police not below the rank of Assistant Superintendent or Deputy Superintendent of police".

According to Section 129, "if any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed", a police officer of the highest rank "not below an Assistant Superintendent or Deputy Superintendent of police", may cause it to be dispersed "by military force". Thus, where civil authorities feel that an assembly has become far too raucous or violent for it to control, it may call upon the military to act and disperse the assembly.

Section 130 is an enabling provision, which further supplements the powers enshrined under Section 128 and 129. It empowers the relevant officer that has called upon the "armed forces" to command these troops, not only to effectuate a dispersal of the assembly, but also to "arrest and confine" such persons forming a part of it as may be deemed necessary. Section 130(2) states that "every such officer shall obey such requisitioning in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons".

¹⁴ Act No. V of 1898

Furthermore, by virtue of Section 131, where “public security is manifestly endangered by such assembly” and the relevant officer cannot be communicated with, “any commissioned officer of the Pakistan Army may disperse such assembly by military force” and may also “arrest and confine” such persons forming a part of it as they deem necessary. However, as soon as the relevant officer becomes available, it becomes incumbent on the military to seek “instructions” from them regarding whether the action should continue or not. Under 131A, a provincial government is also generally empowered to “secure the assistance of the armed forces” if it is satisfied that it is necessary to do so for “public security, protection of life and property, public peace and the maintenance of law and order”.

Chapter X, titled ‘Public Nuisance’, delineates the preventive jurisdiction of a magistrate to issue orders with a view to address various types of public nuisances.

Section 133 provides that where the relevant authority¹⁵ considers, upon receiving a police report or other information or evidence, that “any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place”, then, in such circumstances, the authority may pass a “conditional order” requiring the person causing such obstruction or nuisance to remove it, or, if he objects to the order, to appear before the court and have the order set aside or modified accordingly.

Such a conditional order must be served upon the person against whom it is made, and if it cannot be served, it must be notified by proclamation and published accordingly¹⁶. The person may appear before the magistrate concerned and show cause or claim jury¹⁷, and upon failure to do so, they shall be held liable to the penalty prescribed under Section 188 of the PPC and the order shall attain finality¹⁸.

Since an order passed under Section 133 relates to ‘nuisance’, it begs the question of whether a peaceful assembly may at times constitute a nuisance for the purposes of this law. As the CrPC does not define the term nuisance, it is necessary to import its meaning from Section 286 of the PPC, which declares that a ‘public nuisance’ is any act or illegal omission “which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right”. It is therefore possible that an assembly, especially one that takes the form of a protest demonstration or a sit-in in or near a public thoroughfare or any

¹⁵ Pursuant to the Code of Criminal Procedure 1898 (Balochistan Amendment) Act, 2010 (Act No. XV of 2010), in Balochistan, the relevant authority is the ‘District Magistrate, a Sub Divisional Magistrate or Executive Magistrate’, while in all other provinces, the power continues to lie with a ‘Magistrate of the 1st Class’.

¹⁶ CrPC, Section 134

¹⁷ CrPC, Section 135

¹⁸ CrPC, Section 136

other public place, may be stated to cause ‘annoyance’ to the public or to people in general that dwell or occupy property in its vicinity. If this is so, an authority empowered by Section 133 may be used to pass conditional orders for its removal.

Chapter XI, titled ‘Temporary Orders In Urgent Cases Of Nuisance Or Apprehended Danger’, contains only a single provision – Section 144. It confers extraordinary powers upon the government to pass temporary orders prohibiting or mandating a certain action in cases where there is an urgent need to do so, either in an effort to prevent nuisances or to prevent any apprehended danger to public safety and order.

By virtue of Section 144(1), whenever there is “sufficient ground for proceeding under this section” and whenever “immediate prevention or speedy remedy is desirable”, the relevant authority¹⁹ may, by issuing a written order, “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 the authority considers that such direction is likely to prevent “obstruction, annoyance, or injury” to any person, or “danger to human life, health or safety” or “a disturbance of the public tranquillity, or a riot, or an affray”. The order may be passed *ex parte*²⁰. Section 144(3) further clarifies that such an order may be directed to a “particular individual” or to “the public generally, when frequenting or visiting a particular place”. The order cannot remain in force for more than a specified period²¹, however, in cases of “danger to human life, health or safety or a likelihood of riot or an affray” the Provincial Government may publish a notification extending the order²².

The statutory scheme of Section 144 makes it abundantly clear that the order passed under it must be transitory in nature, meant to cater for a temporary situation or to facilitate stop-gap arrangements till alternate, more permanent solutions can be found. As such, orders of a similar nature that are made successively on short intervals may be violative of Section 144(6)²³. As

¹⁹ Initially, this relevant authority was the ‘District Magistrate’. In 2001, through Ordinance XXXVII of 2001, this power was given to the ‘Zila Nazim’ of an area, who would exercise it on written recommendation from the relevant DSP or EDO. Where local elections had not been held and no Zila Nazim had assumed charge, it was to be exercised by the District Coordination Officer (now a Deputy Commissioner). This appears to be the position in Punjab today. In KP, the power under Section 144 was transferred to ‘District Coordination Officer(s)’ through the Code of Criminal Procedure (NWFP) (Amendment) Act, 2008. Sindh has, through the Code of Criminal Procedure (Sindh Amendment) Act, 2017 (Act No. VI of 2018), substituted the words ‘Zila Nazim’ with “Provincial Government or its authorised officer”. Similarly, Balochistan has replaced the word ‘Zila Nazim’ with “District Magistrate, Sub-divisional Magistrate or any other Executive Magistrate” through the Code of Criminal Procedure 1898 (Balochistan Amendment) Act, 2010 (Act No. XV of 2010)

²⁰ CrPC, Section 144(2)

²¹ In Punjab, this period is limited to ‘two consecutive days and not more than seven days in a month’, while in KP, Sindh and Balochistan, the specified period is ‘two months’.

²² CrPC, Section 144(6)

²³ *Muhammad Shafi v. Government of Sindh* (2003 YLR 893)

discussed earlier, since Section 144 is an order ‘promulgated by a public servant’, its disobedience is an offence under Section 188 of the PPC. However, unlike ordinary offences, in case a violation of an order passed under Section 144, the machinery of the law can only be moved by filing of a complaint by the public servant who has issued such an order or by their superior as envisaged under Section 195(1)(a) of the CrPC²⁴.

Section 144 provides vast discretionary powers to the state to pass orders directing any person or collection of persons to abstain from a certain act, provided such a direction is, in the subjective opinion of the authority (or officer) issuing the order, necessary in order to prevent (a) obstruction, annoyance or injury to any person, (b) danger to human life, health or safety, or (c) a disturbance of public tranquillity, or riot, or affray. As such, it equips the state with the power to even pass preventive orders that direct citizens not to gather or congregate in public. The most common example is the routine issuance of orders that place wholesale bans on all assemblies of five or more people. This is typically justified on grounds of ‘security risks’ and deteriorating ‘law and order’. The constitutionality of Section 144 has already met a challenge. In *Abdul Hameed v. District Magistrate*²⁵, the Lahore High Court held that restrictions under Section 144 of the CrPC imposed by a District Magistrate prohibiting assemblies in cantonments for a period of two months were reasonable and proportionate due to the presence of armed forces in cantonment areas which merited ‘special consideration’.

²⁴ *Kifayatullah v. Ibrahim and others* (2018 YLR 95) *Muhammad Afzal v. State* (1999 P.Cr.L.J 1252), *Ghulam Abbas Abbasi v. Senior Superintendent of Police* (2004 YLR 380) and *Shah Muhammad Khan v. State* (1993 P.Cr.L.J 2306)

²⁵ PLD 1957 Lahore 213

Provisions of the Maintenance of Public Order Ordinance, 1960

The Maintenance of Public Order Ordinance (MPO), 1960, was promulgated by the martial law administration of General Ayub Khan in order to equip the state with wide-ranging powers for “preventive detention and control of persons and publications for reasons connected with public safety, public interest and the maintenance of public order”. It provides state authorities with incredibly expansive powers to restrict both freedom of speech and movement, which, in turn, are used to indirectly interfere with the proper exercise of freedom of peaceful assembly. Since the coming into force of the 18th Amendment, the MPO has been adopted by provincial legislatures under the same name. Barring minor alterations, the substantive provisions of these statutes remain more or less the same.

Section 3(1) provides the relevant government with the power to issue an order in writing, directing that a person be arrested and detained in custody, provided that it is satisfied that it is necessary to do so in order to prevent the said person from “acting in any manner prejudicial to public safety or the maintenance of public order”. An order under Section 3(1) may be addressed to any police officer or any other person and in carrying out the order, they may use “such force as may be necessary”²⁶. In ordinary circumstances, the detention order should not last more than three months²⁷, however, this period may be extended if a duly constituted “Board” has reviewed the case and has held that there is “sufficient cause” for further detention²⁸. The proceedings of the Board are to be kept “confidential”, as is its report, save for the particular part that specifies its opinion²⁹. In any case, a person may only be detained for a total period “not exceeding six months at a time”³⁰.

By virtue of Section 5(1), a government, or any person³¹ authorised by a government in this behalf, may, if satisfied that it is necessary to do so in order to prevent a person from acting in any manner prejudicial to public safety, pass an order in writing, directing that a person: (a) shall not enter, reside or remain in any area specified in the order; (b) shall not reside or remain in any area specified in the order; (c) shall remove himself from, and shall not return to, any area that may be specified in the order; (d) shall conduct himself in such manner or abstain from such acts, as may be

²⁶ MPO, Section 3(3)(a)

²⁷ MPO, Section 3(5)

²⁸ In Punjab and Balochistan, this is covered under Section 3(5). In Khyber Pakhtunkhwa, the *pari materia* provision is Section 3(5a). It is also worth mentioning that in KP, Section 3(5c) disentitles a detained person from appearing before the Board “by any legal practitioner”.

²⁹ MPO, Section 3(5f) for Punjab, Sindh and Balochistan. For KP, Section 3(5e).

³⁰ MPO, Section 3(1)

³¹ In Punjab, this power is accorded to the relevant “Deputy Commissioner” of the area concerned. In KP, it may be delegated to “any servant of Government, authorized in this behalf by a general or special order”, while in Balochistan, it is officially conferred upon the “District Administrative Officer in B Area and the District Police Officer in A Area”.

specified in the order; and (e) shall enter into a bond, with or without sureties, for the due observance of the directions specified in the order.

An order issued under Section 5(1) (by an authority other than the government) cannot remain in force for more than three months, unless the government directs otherwise through a “special order”³². If the order is passed under Section 5(1)(a) by the government, the area specified may be the whole of a province or any part thereof, whereas if it is passed by any other authorised person, the area specified may be the whole of the concerned district under their jurisdiction or any part thereof – provided that where a person is “ordinarily resident” in a province, the government may not pass an order directing their exclusion or removal from that province, and similarly, where the person is “ordinarily resident” in a particular district, the deputy commissioner (or any other relevant officer so authorised) cannot pass an order directing their exclusion or removal from that district³³.

The order must be communicated to the person against whom it is issued along with the grounds on which it has been passed, and they must be provided an opportunity to make a representation against it³⁴. Where such a representation is made, the government may, after providing them an opportunity of being heard, “modify, confirm or rescind the order”³⁵. As with detention orders passed under Section 3(1), if an order passed under Section 5(1)(b) exceeds three months, it will be referred to a Board before the expiry of this period, which shall use the exact same procedures provided above and render an opinion regarding whether there is sufficient cause for the order to be extended³⁶. That being said, all orders passed under Section 5(1) have an automatic expiry limit of two years³⁷.

Section 13 states that whosoever “contravenes any provision of this Ordinance or disobeys or neglects to comply with any order made or direction given in accordance with its provisions shall, where no express provision is made by this Ordinance for the punishment for such contravention, disobedience, or negligence, be punished with imprisonment which may extend to three years, or with fine or both”. Thus, if any person against whom an order has been passed under Section 5(1) violates the directives given in that order, they may be prosecuted and convicted under Section 13.

Section 16 creates a specialised offence penalising anyone who, through any form of expression – by speech or by words, whether written or spoken, or by any visible or audible representations – “publishes any statement, rumour or report” that either causes or is likely to cause “fear or alarm to

³² MPO, Section 5(2)

³³ MPO, Section 5(4)

³⁴ MPO, Section 5(5)

³⁵ MPO, Section 5(5-a)

³⁶ MPO, Section 5(5-b)

³⁷ MPO, Section 5(6)

the public or any section of the public” or furthers or is likely to further “any activity prejudicial to public safety or the maintenance of public order”. A person prosecuted and convicted under this provision may be punished with imprisonment of up to three years, or with fine, or both.

By virtue of Section 21, the government may, by notification, direct that any offence under the MPO be dealt with as a summary trial, and by virtue of Section 22, all offences under the MPO are “cognizable and non-bailable”.

The MPO is a draconian piece of legislation, which provides governments with extraordinarily wide and utterly arbitrary powers of preventive arrest and detention as well as restricting movement. Section 3(1) may be used by any government to detain any person that it believes may be acting prejudicially to public safety and public order for months on end, and since ‘public safety’ and ‘public order’ are difficult notions to encapsulate, they may be used to justify the detention of various figures deemed ‘controversial’ by the state, including political workers, human rights activists, and leaders and members of ethno-nationalist movements. Most problematic is that this detention has no nexus to the commission of an offence per se (as that would make a person liable to be arrested, investigated and charged pursuant to that offence), and instead, it allows a person to be kept in custody because of mere suspicion on part of the state. This has far-reaching effects on the right to freedom of peaceful assembly, since it equips the state with the ability to preventively arrest and detain a person that may be organising, planning or intending to participate or appear in an assembly.

Similarly, orders passed under Section 5(1) can directly control, restrict and monitor the movements of certain individuals deemed a risk to public order. This means that the state can essentially ban a person from a particular area, or order them to remain inside the area at all times, or even order to them to refrain from certain actions – such as taking part in an assembly, or convening a gathering, or making a speech – while residing in a particular area. Once again, this obviously provides limitless opportunities for abuse, as it gives far too much discretion to executive authorities and thus, leaves open the door for politically motivated decisions being made. Section 16 too suffers from the same pitfalls, since it allows the criminalisation of any manner of speech under broad heads such as ‘causing fear or alarm to the public’ or furthering any activity ‘prejudicial to safety’ or ‘public order’. Much like Section 505(1)(b) of the PPC, which was discussed earlier, Section 16 of the MPO constitutes a dangerous restriction within the context of assemblies, where impassioned oratory and bombastic polemic is not only in display but is perhaps necessary for the full exercise of the right in the first place.

Provisions of the Police Order, 2002

The Police Order (PO), 2002³⁸, was promulgated by the dictatorial regime of General Pervez Musharraf. Passed as an executive order pursuant to the Provisional Constitutional Order No. 1 of 1999, it was enacted to “redefine the police role, its duties and responsibilities” and to “reconstruct the police for efficient prevention and detection of crime and maintenance of public order”. It is currently applicable in Punjab and Sindh, while Khyber Pakhtunkhwa and Balochistan have supplanted it with newer legislation.

Chapter XIII³⁹, titled ‘Powers to Issue Orders’, contains a number of provisions that authorise the police to take a variety of actions that directly and indirectly intervene in the right of citizens to assemble in public spaces. Under Article 118 of the PO, the “Head of District Police” is generally empowered to “issue orders to give effect to the provisions” of any municipal law, rules or bylaws for the time being in force, provided that such an order is passed in cases of “emergency” and only for the purpose of “the maintenance of public order or preventing public nuisance”.

Article 119 authorises “a police officer not below the rank of a Sub-Inspector” to give “such directions as may be necessary” in order to: (a) direct the conduct and behaviour or actions of persons constituting processions or assemblies on roads or streets; (b) prevent obstructions on the occasion of processions and assemblies, in the neighbourhood of places of worship during the time of worship, and when a street or public place or place of public resort may be thronged or liable to be obstructed; and (c) keep order on streets, mosques, churches or other places of worship and places of public resort when these may be thronged or liable to be obstructed.

By virtue of Article 120, the police have been provided with broad authority to control the conduct of any assembly or procession. Article 120(1) states that the “Head of District Police or Assistant or Deputy Superintendent of Police” may “direct the conduct of assemblies and processions on public roads, on in public streets or thoroughfares and prescribe the routes by which and the time at which, such processions may pass”. In similar vein, under 120(2), such an officer⁴⁰ may, upon being satisfied that any persons or a class of persons intend to convene or collect any assembly on any road, street or thoroughfare, or to form a procession, “require by general or special notice” that the persons “convening or collection such assembly or directing or promoting such processions shall apply for a licence”. Where such persons then proceed to file an application under 120(2), the office

³⁸ C.E Order No. 22 of 2002

³⁹ In Khyber Pakhtunkhwa, Sections 82 to 89 of Chapter VII of the KP Police Act, 2017 (Act No. II of 2017), represent the *pari materia* of this chapter and its contents. In Balochistan, the powers under this chapter are now catered to by Sections 26 to 29 of the Balochistan Police Act, 2011 (Act X of 2011).

⁴⁰ In Sindh, 120(2) authorises the relevant ‘deputy commissioner’ of a district to carry out this duty. This change was enacted recently through the Sindh (Repeal of the Police Act, 1861 And Revival of Police Order, 2002) (Amendment) Act, 2019.

“may issue a licence specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place”. If the conditions of the licence are violated, the officer in question “may stop any procession” and “may order it” to “disperse”⁴¹. Where the assembly “neglects or refuses to obey” such an order, it shall “be deemed to be an unlawful assembly”⁴² – thus opening its participants to prosecution under Chapter VIII of the PPC, as discussed beforehand.

Through Article 123(1), whenever there is risk of “serious disorder or breach of the law or imminent danger to those assembled” at “any assembly or meeting to which the public are invited or which is open to the public”, any police officer “of the rank of Assistant Sup-Inspector or above” who is presented at the place, may give “such reasonable directions” as to the “mode of admission of the public to” and the “lawful conduct of the proceedings and the maintenance of the public safety”, as they think necessary and “all persons shall be bound to conform to every such reasonable direction”. Furthermore, under Article 124, “any police officer may in an emergency temporarily close any street or public place through erection of barriers or other means, to prohibit persons or vehicles from entering such area”.

It is worth mentioning here that there is considerable lack of clarity over the constitutionality of the PO in the post-18th Amendment legal landscape. According to a report issued by the Law and Justice Commission of Pakistan, “the Police Order 2002 stands upon the same legal pedestal as the Code of Criminal Procedure, 1989, Pakistan Penal Code 1860 or the Qanun-e-Shahadat Order 1984. Therefore, the power of a Provincial Assembly to *amend, vary or modify* Police Order 2002 is subject to repugnancy provision of Article 143 of the Constitution. However, a judicial declaration from the Hon’ble Supreme Court of Pakistan will be needed to emphatically resolve the contentious issue of the constitutionality of the Police Order 2002”⁴³.

⁴¹ PO, Article 121(1)

⁴² PO, Article 121(2)

⁴³ Law and Justice Commission of Pakistan, *Police Reforms: Way Forward*, Page 38

<<http://ljcp.gov.pk/nljcp/assets/dist/Publication/b1896-title-brochure-final-14-01-2019-pdf.pdf>>

Provisions of the Anti-Terrorism Act, 1997

The Anti-terrorism Act (ATA), 1997⁴⁴, was enacted in order to provide for the prevention of terrorism, sectarian violence and for speedy and expeditious trials of heinous offences and all ancillary matters. While the Act does not regulate assemblies per se, and in fact, explicitly exempts peaceful assemblies from its operation, its overly broad definition of terrorism has led to it being consistently employed against participants of protests and demonstrations.

Section 6(1) of the ATA defines 'terrorism' as "the use or threat of action" where, firstly, the action falls within the meaning of Section 6(2)⁴⁵ and secondly, where the use or threat is "designed to coerce or overawe the Government or the public or a section of the public or community or sect or a foreign government or population or an international organisation or create a sense of fear or insecurity in society"⁴⁶ or the use or threat is "made for the purpose of advancing a religious, sectarian or ethnic cause or intimidating and terrorising the public, social sectors, media persons, business community or attacking the civilians, including damaging property by ransacking, looting, arson or by any other means, government officials, installations, security forces or law enforcements agencies"⁴⁷. A proviso to the same states that Section 6(1) shall not apply to a "democratic and religious rally or a peaceful demonstration in accordance with law".

Section 6(2) provides a long list of 17 potential 'actions'⁴⁸, which virtually cover everything from murder and extortion to inciting hatred or contempt and serious violence against a public servant. It also includes a catchall provision under Section 6(2)(i), which subsumes anything that "creates a serious risk to safety of the public or a section of the public, or is designed to frighten the general public and thereby prevent them from coming out and carrying their lawful trade and daily business, and disrupts civil life"⁴⁹. When any of these 'actions' are coupled with the *mens rea* requirements of Section 6(1)(b) and (c), a person is liable to be tried under the ATA.

Section 7 of the ATA provides the requisite punishment for the commission of terrorism. Depending upon its classification, this may range from "death" or "imprisonment for life" to more lenient sentences such as "imprisonment for up to two years"⁵⁰.

The ATA creates special mechanisms for investigation and prosecution of offences that ordinarily fall within the general criminal legal system. The cornerstone of these mechanisms is the

⁴⁴ Act No. XXVII of 1997

⁴⁵ ATA, Section 6(1)(a)

⁴⁶ ATA, Section 6(1)(b)

⁴⁷ ATA, Section 6(1)(c)

⁴⁸ ATA, Section 6(2)(a) to (p)

⁴⁹ ATA, Section 6(2)(i)

⁵⁰ ATA, Section 7(1)(a) to (i)

establishment of the Anti-Terrorism Courts (ATCs)⁵¹, which may be set up by the government at its discretion, and are subject to specialised summary procedures. The prosecution has seven days to complete an investigation⁵² and the ATC is provided with seven days to try the case⁵³. Recalling of witnesses may be dispensed with⁵⁴ and adjournments should not be longer than two days⁵⁵. Anyone accused under the ATA may be tried in absentia, provided that adequate notices regarding the hearing of the case have been delivered⁵⁶. Furthermore, the ATA provides both police and armed forces with discretionary powers to “arrest, without warrant” anyone suspected of committing an offence under the Act⁵⁷. Further still, it empowers the government to “arrest and detain” certain suspected persons for a period of up to 12 months⁵⁸, and to issue orders for the “preventive detention” of any person for a period of thirty days for “purposes of inquiry”⁵⁹.

Over the years, the ATA has garnered a special reputation for being one of the most misused laws in the country. According to a study by the Justice Project Pakistan (JPP) and Reprieve in December 2014, “as many as 80 percent of those convicted of terrorism related offences under the ATA were accused of offences that had nothing to do with terrorism as it is commonly understood. Furthermore, 86.3 percent of those sentenced to death by the ATCs were convicted for offences bearing little or no connection to terrorism”⁶⁰.

As far as assemblies are concerned, such an overly broad definition of terrorism spells out grievous danger for participants of an assembly that starts off peacefully but subsequently descends into violence. While they may not have anything to do with the violence themselves, their presence at the site of the violence may nonetheless easily open them up to liability. Even in the context of assemblies that remain peaceful throughout, such an opaque definition leaves room that may be easily exploited by the state apparatus to arrest and detain protesters or dissenters under the garb of anti-terrorism.

⁵¹ ATA, Section 13

⁵² ATA, Section 19(1)

⁵³ ATA, Section 19(4)

⁵⁴ ATA, Section 12(3)

⁵⁵ ATA, Section 19(8)

⁵⁶ ATA, Section 19(10)

⁵⁷ ATA, Section 5(2)(ii)

⁵⁸ ATA, Section 11EEEE

⁵⁹ ATA, Section 11EEEE

⁶⁰ Special Report, ‘Trial and Error: The Overreach of Pakistan’s Anti-Terrorism Act’, Justice Project Pakistan [Page 12]

Provisions of ancillary laws

A) Provisions of the Protection of Pakistan Act, 2014

The Protection of Pakistan Act (POPA), 2014, was enacted in order to provide for protection against waging of war or insurrection, prevention of acts threatening the security of Pakistan and for speedy trial of offences falling under the Act.

Section 6(1) of the POPA empowers the government to authorise, by an order in writing, the detention of a person for a period specified in the order, if the government has “reasonable grounds to believe that such person is acting in a manner prejudicial to the integrity, security, defence of Pakistan or any part thereof or external affairs of Pakistan or public order or maintenance of supplies and services”, provided that such an order “shall not exceed ninety days” and provided that it shall comply “with the provisions of Article 10 of the Constitution”.

POPA suffers from the same complications as preventive detention under the MPO. While detention under the latter could take place upon reasonable suspicion that a person was acting prejudicially to public safety and public order, detention under the former appears to have even larger ambit. POPA was enacted with a built-in sunset clause, which provided that it would “remain in force for a period of two years from the date it comes into force”⁶¹. The law lapsed in 2016.

B) Provisions of the Punjab Civil Administration Act, 2017

The Punjab Civil Administration Act (PCAA), 2017, was formulated to institute a comprehensive system of civil administration in the province for “efficient administration” and “improved service delivery to the people”.

Section 16(1) of the Act states that “no public meeting, procession, assembly or gathering shall take place without prior permission in writing of the Deputy Commissioner”. On receipt of an application under 16(1), the deputy commissioner concerned, “in consultation with the head of District Police”, may either grant permission “subject to such terms and conditions as he deems fit” or reject the same “after recording reasons”⁶².

⁶¹ POPA, Section 1

⁶² PCAA, 2017, Section 16(2)

C) Provisions of the Khyber Pakhtunkhwa Civil Administration (Public Service Delivery and Good Governance) Act, 2020

The Khyber Pakhtunkhwa Civil Administration (Public Service Delivery and Good Governance) Act (KPCAA), 2020, was enacted in order to “enhanced the legal and administrative capacity of civil administration” in the province. It extends to the whole Khyber Pakhtunkhwa, which now includes the ‘tribal districts’ that previously comprised Federally Administrated Tribal Areas (FATA).

Section 14 of the Act states that “any public meeting, procession, assembly or gathering” shall not take place in a district “without prior permission from the Deputy Commissioner, who upon receipt of an application from the organisers, may forward it to the police, and other relevant Public Agencies for opinion, and after making such enquiry as may be necessary, approve, or regret the grant of permission to hold such public procession or gathering”. A proviso to the same further clarifies that while granting permission to hold such a gathering, “the Deputy Commissioner may set certain conditions to be observed by the organisers or may requisition the assistance and resources of a Public Agency for smooth and safe conduct of such public gathering”.

D) Provisions of the Frontier Crimes Regulation, 1901

From pre-colonial times till 28 May 2018, the area formerly known as FATA was governed through the Frontier Crimes Regulation (FCR), 1901. The FCR was completely silent on whether or not the people administered through it enjoyed any right to peaceful assembly or not. In the absence of any clear bar on assemblies, it may be concluded that while people could assemble, their right to do so did not have the sanction of any law, nor was it protected by any law. This meant that for decades, the right to assembly existed in FATA as a privilege, never as a ‘right’⁶³. The FCR has been repealed with the passage of the 25th Amendment and FATA has by now been merged into Khyber Pakhtunkhwa (KP).

E) Provisions of the Sound Systems (Regulation) Acts

Punjab, Sindh and Balochistan have enacted one version or another of the Sound Systems (Regulation) Act⁶⁴, in order to provide for the prevention of public nuisances and the voiding of utterances of a controversial nature that are “likely to cause public disorder”, while Khyber Pakhtunkhwa still relies on the West Pakistan Regulation and Control of Loudspeakers and Sound Amplifiers Ordinance, 1965⁶⁵.

⁶³ Mahsud et al., ‘Frontier Crimes Regulations (FCR), Status of Human Rights in FATA and Pakistan’s International Obligations’, *Global Social Sciences Review* (Volume 1, No. II, Fall 2016) Page 74-97

⁶⁴ Punjab Sound Systems (Regulation) Act, 2015 (Act XVIII of 2015); Sindh Sound System (Regulation) Act, 2015 (Act No. XXIII of 2015); Balochistan Sound Systems (Regulation) Act, 2016 (Act II of 2016)

⁶⁵ Ordinance No. II of 1965

Section 4(1)(d) of each of the Sound Systems (Regulation) Act prohibits anyone from operating or using or causing to be used, any sound system in any public or private place, for the voicing of “sectarian or other utterances of controversial nature likely to lead to public disorder”. Anyone found liable for breaching this condition may be prosecuted and upon conviction, may be sentenced under Section 6 to “imprisonment, which may extend to six months and fine which shall not be less than twenty-five thousand rupees but shall not exceed one hundred thousand rupees”. Section 2(f) provides the definition of a “sound system” as including “a loudspeaker, sound amplifier or such other equipment as may be prescribed”.

Under the West Pakistan Regulation and Control of Loudspeakers and Sound Amplifiers Ordinance, 1965, Section 2(1)(d) provides for the exact same prohibition. Contravention of the said provision is an offence under Section 3, punishable with “simple imprisonment for a term which may extend to one month, or with fine, which may extend to two hundred rupees or with both”.

F) Provisions of laws related to epidemics or infectious diseases

Each province has a separate law in vogue for dealing with epidemics or infectious diseases. In Punjab and Khyber Pakhtunkhwa, the government recently enacted the Punjab Infectious Diseases (Prevention and Control) Act, 2020⁶⁶ and the Khyber Pakhtunkhwa Epidemic Control and Emergency Relief Act, 2020 respectively. The Acts are more or less replicas of one another. Section 3(1) allows the provincial governments to issue a notification declaring that “the incidence or transmission of an infectious disease poses a serious and imminent threat to public health”. Once such a declaration had been made, Section 7(1) empowers the designated officer to issue directions “prohibiting or imposing one or more requirements or restrictions in relation to the holding of an event or gathering for a specified period”. Section 8(1) further authorises the designated officer to “issue directions prohibiting or imposing one or more requirements or restrictions in relation to the entry into, exit from, or location of persons in a premises for a specified period”. Further still, Section 9 states that after a declaration has been made, “the Deputy Commissioner of the concerned area” may issue directions “prohibiting, or imposing requirements of restrictions in relation to the entry into, exit from, local of persons, goods, vehicles, vessels and other means of transportation in any area for a specified period”. Where a person fails without reasonable excuse to comply with any such direction, instruction, duty, requirement or restriction imposed under the Act, they have committed an offence under Section 17, punishable by “imprisonment for a term not exceeding two months or a fine not exceeding fifty thousand rupees, or both”.

Sindh, on the other hand, relies on the Sindh Epidemic Diseases Act, 2014. Section 3 of the same provides that where the government is satisfied that the province or any part thereof is “threatened with the outbreak of any disease”, it may “take or require or empower any person to take, such

⁶⁶ Act XIII of 2020

measures, and, by public notice, prescribe such temporary regulations to be observed by the public or by person or class of persons” as it shall deem necessary to prevent the outbreak of such disease. These powers may be delegated to the deputy commissioner of any district⁶⁷, and where a person disobeys any regulation or order made under the Act, they are liable under Section 188 of the PPC, which criminalises disobedience to an order lawfully promulgated by a public servant⁶⁸. Balochistan and the Islamabad Capital Territory (ICT) continue to fall back on the much older Epidemic Diseases Act, 1958. It follows more or less the same scheme as the Sindh Epidemic Disease Act, 2014.

In and of themselves, none of these laws hamper the right to freedom of peaceful assembly per se, as they are invoked only in cases of an actual or potential pandemic or endemic. However, it is necessary to note that these laws empower the state to restrict and control the movement of people, and, in certain circumstances, may lend themselves to abuse.

G) Provisions of the Pakistan Telecommunication Act, 1996

The Pakistan Telecommunication (Re-organisation) Act (PTA), 1996⁶⁹, was enacted in order to establish the Pakistan Telecommunication Authority and to provide generally for the regulation of the telecommunication industry and the transfer of telecommunication services to the private sector. Under the law, the Pakistan Telecommunication Authority is entrusted with numerous functions, including but not limited to: granting, renewing, enforcing and monitoring licences, collecting information with respect to telecommunications within and outside Pakistan and issuing regulations the exercise of its powers.

Section 8 of the Act allows the “Federal Government” to “issue policy directives” to the Pakistan Telecommunication Authority on numerous matters enumerated in sub-section (2). These include “requirements of national security and of relationships between Pakistan and the Government of any other country or territory outside Pakistan and other State or territories of Pakistan”. Pursuant to these policy directives, the Pakistan Telecommunication Authority has time and again issued directions whereby cellular services provided by telecommunication licensees have been suspended in specified areas under the guise of national security.

This power was challenged before the superior judiciary, and has recently been interpreted in the case titled *Ministry of Information Technology and Telecommunications v. CM Pak (Pvt) Ltd*⁷⁰ as such: “Section 8(2)(c) contemplates pre-emptive action as it allows for the disruption of services before

⁶⁷ Sindh Epidemic Diseases Act, 2014, Section 3(2)

⁶⁸ Sindh Epidemic Diseases Act, 2014, Section 4

⁶⁹ Act No. XVII of 1996

⁷⁰ 2020 PLD 551

any perceived threat in a specified area materialises ... disruption of services under Section 8(2)(c) is likely to be event specific and localised, in effect applying only for a temporary period of time across a limited area". The apex court concluded that policy directives under Section 8(2)(c) were tantamount to secondary legislation and as long as they had been passed "reasonably, fairly, justly and for the advancement of the purposes of the Act" the court would decline to interfere with them.

In addition to the powers under Section 8, Section 54(3) of the PTA provides that "upon proclamation of emergency by the President, the Federal Government may suspend or modify all or any order of licences made or issued under [the] Act or cause suspension of operation, functions or services of any licensee for such time as it may deem necessary". This provision essentially strengthens the power of the government and allows for complete suspension of all telecommunication licenses issued in the country whenever the President uses their powers under Article 232 of the Constitution to declare a state of emergency.

The power to suspend cellular and Internet services may in some cases be a powerful fetter upon the right to freedom of peaceful assembly. The right to assemble does not exist in a vacuum and is thus contingent on the exercise of various other political and civil freedoms. If citizens are to effectively assemble together, they naturally need to communicate with one another in order to plan, organise and strategize upon where to convene and how to convene. If the state has the authority to temporarily suspend telecommunication networks, it can, in theory, hold considerable leverage over assemblies by imposing unannounced network shutdowns and thereby cripple people's ability to communicate with each other and gather accordingly.

H) Provisions of the Prevention of Anti-National Activities Act, 1974

The Prevention of Anti-National Activities Act (PANAA), 1974⁷¹, was promulgated by the government of Prime Minister Zulfikar Ali Bhutto in order to provide for effective prevention or certain "anti-national" and "treasonable" activities.

Section 2(a) of the Act defines "anti-national activity" as anything done by an association or a person, which: (i) is intended or supports any claim to bring about the secession of any part of Pakistan, or which incites any individual or group of individuals to bring about secession; (ii) disclaims, questions, disrupts, or is intended to disrupt the sovereignty and territorial integrity of Pakistan; (iii) which encourages or incites the public or any group to create any regional front or 'mahaz' based on racial, linguistic or similar ideologies with a view to disrupting the unity of Pakistan; or (iv) which in any manner propagates or advocates that the citizens of Pakistan comprise more than one nationality. With such an all-encompassing definition in place, Section 3 then goes on to authorise the federal government to, if it is satisfied that any association is or has

⁷¹ Act No. VII of 1974

become an anti-national association, declare such association to be “anti-national” and thereby proscribe it.

Once any association has been designated as an anti-national association, the government may prohibit it from the use of its funds⁷², and, under Section 8, the government may also, by issuing a notification, declare any place “used for the purposes of such association” as a “notified place”. Section 8(4) further empowers a designated authority to issue an order prohibiting any person not residing in the notified place from entering or being in the place in question. If any unauthorised or prohibited person is found in the notified place, they may be forcibly removed therefrom by any police officer⁷³.

PANAA also provides for various offences. Under Section 10, anyone who is or continues to be a member of an association declared “anti-national” under Section 3, or who takes parts in its meetings, or receives or solicits any contribution for it, or in any other way assists its operations may be imprisoned “for a term which may extend to two years, and shall also be liable to fine”. Similarly, Section 12 penalises anyone who “knowingly and wilfully is in, or effects or attempts to effect entry into” a notified place with imprisonment for up to one year, and fine; while Section 13 declares that anyone who “takes part in or commits” or “advocates or abets” the commission of any anti-national activity shall be “punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine”.

The Act provides broad powers to declare various associations as anti-national and thereby proscribe their membership and continued operation. Since the definition of “anti-national activity” under Section 2(a) extends to persons who express any support for secessionism or anyone who disrupts sovereignty or even anyone who raises the idea that the people of Pakistan comprise of “more than one nationality”, it has a very real potential of being misused against ethno-linguistic or sub-nationalists groups. By targeting them through PANAA, the state can effectively prohibit their activities, and with their activities prohibited, they are no longer entitled to protection under Article 16, nor can their members associate with the group without opening themselves up to criminal liability.

1) Provisions of the Actions (in Aid of Civil Power) Regulations, 2011

The Actions (in Aid of Civil Power) Regulations (AACPR), 2011, was enacted to provide the armed forces requisitioned and stationed in the tribal districts of ex-FATA with “certain measures for incapacitating miscreants by interning them”. In essence, it allows for the establishment of detention centres in different regions that fall within the purview of the Regulations. Although

⁷² PANAA, Section 7

⁷³ PANAA, Section 8(7)

initially circumscribed to ex-FATA, its territorial jurisdiction was expanded to cover the entirety of KP through the Khyber Pakhtunkhwa Acts (in Aid of Civil Power) Ordinance, 2019.

Section 9 of the AACPR provides the “Interning Authority”⁷⁴ with the ability to “intern any person” who: (i) may obstruct actions in aid of civil power in any manner whatsoever; (ii) may strengthen the miscreant’s ability to resist security forces if not restrained or incapacitated through internment; (iii) may cause a threat to the solidarity, integrity or security of Pakistan by any action; or (iv) may have committed or may be likely to commit any offence under the Regulation. By virtue of Section 11, the power to intern shall be valid from the day that the Regulation comes into force or the date the order of internment is issued and may continue “till the continuance of actions in aid of civil power”. This means that there is no time limit on the duration of internment under the Regulations, although an “Oversight Board” consisting of “two civilians and two military officers” must review the case of each interned person within a period of time not exceeding 120 days⁷⁵.

As with the MPO, the ATA and POPA, the most problematic part of the AACPR within the context of assemblies is the grant of extraordinary powers of preventive detention or ‘internment’ to security forces. Like all pre-emptive measures of detainment, the AACPR ends up potentially infringing the right to liberty, and consequently, a whole host of other civil and political freedoms.

J) Provisions of provincial anti-vagrancy laws

Anti-vagrancy laws were first introduced in a consolidated form⁷⁶ via the West Pakistan Vagrancy Ordinance, 1958 (WPVO)⁷⁷. It defined a “vagrant” as a person who (i) solicits or receives alms in a public place, (ii) exposes or exhibits any sore, wound, injury or deformity or disease in a public place for the purpose of soliciting or receiving alms, (iii) allows themselves to be used as an exhibit for the purpose of soliciting or receiving alms, or (iv) enters any private premises without the invitation of the occupier for the purpose of soliciting or receiving alms⁷⁸. It established government-controlled and operated “welfare homes”⁷⁹, where any “old, infirm or disabled person or child” could present themselves for voluntary admission⁸⁰. Section 7 of the Ordinance provided police officers with sweeping powers to “arrest and search” any person who “appears” to be a vagrant “without an order from a magistrate and without a warrant”⁸¹. If the person is able to

⁷⁴ Section 8 of the AACPR states that “the Governor, or any officer authorized by it in this behalf may issue an order of internment under [the] Regulation.”

⁷⁵ AACPR, Section 14

⁷⁶ The first piece of anti-vagrancy legislation in the country was the provincial Sindh Vagrancy Act, 1947. It was repealed through Section 26 of the West Pakistan Vagrancy Ordinance, 1958.

⁷⁷ W.P. Ordinance XX of 1958

⁷⁸ WPVO, Section 2

⁷⁹ WPVO, Section 3

⁸⁰ WPVO, Section 6

⁸¹ WPVO, Section 7(1)

furnish bail to the satisfaction of the officer, they may be released⁸². Otherwise, they are to be detained in custody⁸³ and tried before a magistrate under Section 8. In case of a guilty verdict, the person so arrested may be sentenced to imprisonment for up to three years⁸⁴. Section 11 even created a rebuttable presumption of guilt if the suspect had no ostensible source of subsistence and wandered about or remained in a public place in such condition or manner “as raises a reasonable suspicion that he is there to solicit or receive alms”.

Today, three provinces – Punjab, Sindh and Balochistan – retain an adopted version of the WPVO in their statute books. Barring negligible changes, the contents of these provincial laws mirror those of the 1958 Ordinance. Khyber Pakhtunkhwa recently enacted the Khyber Pakhtunkhwa Vagrancy Restraint Act, 2020⁸⁵. Aside from minor departures, this too is largely similar to the WPVO, although under this Act, a first-time conviction of vagrancy cannot lead to a prison sentence and instead, the person must be sent to ‘Dar-ul-Kafala’ for detention for a period of three years. However, in case the person is deemed to be a “habitual vagrant”, they may be sentenced to imprisonment for up to three years, unless they are “released on furnishing of surety bond with two sureties for the satisfaction of the Court”⁸⁶.

Vagrancy laws essentially criminalise the socio-economic condition of a being a ‘vagrant’. In this sense, they penalise destitution, homelessness and cultural marginality. By providing broad-reaching authority of arrest and detention without warrant on mere suspicion of vagrancy, they empower law enforcement agencies with sweeping powers that allow them to round up poverty-stricken citizens from public spaces without any criminal culpability or wrongdoing. In the context of freedom of peaceful assembly, these laws can readily provide an avenue with which to target marginalised and vulnerable groups, especially people or groups of people that may exhibit homelessness (such as ethnic nomadic groups and refugees) or those who are forced to rely on receiving and soliciting alms for their general sustenance (such as members of transgender and intersex communities).

For instance, the International Commission of Jurists has noted that: “Laws related to beggary, including the Punjab Vagrancy Ordinance, have been significantly misused against the transgender community, allowing for law enforcement agencies to harass, blackmail, imprison and sexually assault transgender people. Furthermore, the police routinely interpret the vague penal clauses on “begging” and “vagrancy” to prohibit and penalize spiritual and celebratory rituals of the

⁸² WPVO, Section 7(2)

⁸³ WPVO, Section 7(3)

⁸⁴ WPVO, Section 9. A proviso to this particular section allowed the sentencing authority to dispense with imprisonment and release the person on the execution of a bond (with or without sureties) to “appear and receive the sentence when called upon” and “in the meantime to refrain from conducting himself as a vagrant”.

⁸⁵ KP Act No. VIII of 2020

⁸⁶ Khyber Pakhtunkhwa Vagrancy Restraint Act, 2020, Section 13

khawajasira community (for instance, at weddings and childbirth) that have crucial significance in the community's folk tradition"⁸⁷.

K) Provisions of the Official Secrets Act, 1923

The Official Secrets Act (OSA), 1923⁸⁸ is the primary anti-espionage statute in the country. It is a federal law, hence territorially applicable to every part of Pakistan. Section 3(1) of the Act outlines the offence of 'spying' in general. It states that "if any person for any purpose prejudicial to the safety or interests of the State: (a) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or (b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or (c) obtains, collects, records or publishes or communicates to any other person any secret official code or password, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to be an enemy", then such a person shall be guilty of an offence. This is punishable by imprisonment of up to 14 years⁸⁹. Moreover, in case of prosecution under this provision, it is legally "not necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State" and instead, judicial authorities may draw inferences of guilt from "the circumstances of the case" and/or the "conduct" or "known character" of the accused⁹⁰.

Furthermore, by virtue of Section 4, in any proceedings against a person for an offence under Section 3, the fact that they have been "in communication with, or attempted to communicate with, a foreign agent" is deemed to have probative value in establishing whether they were acting for a purpose prejudicial to the safety or interests of the State⁹¹. A person may be presumed to have been in communication with a foreign agent if they have visited the address of a foreign agent or "consorted or associated with" a foreign agent or even if the "name or address" or "any other information" regarding a foreign agent has been found in their "possession"⁹². These ambiguous provisions become all the more problematic when coupled with the definition of "foreign agent" under Section 4(2)(b), which states that it includes "any person who is or has been or in respect of whom it appears that there are reasonable grounds for suspecting him of being of having been

⁸⁷ ICJ Briefing Paper Pakistan: Transgender Persons (Protection of Rights) Act, 2018, (March 2020), Page 19. These comments were made in a discussion pertaining to Section 17 of the Transgender Persons (Protection of Rights) Act, 2018, which states that "whoever employs, compels or uses any transgender person for begging shall be" guilty of an offence. The paper rightly points out that "the provision's language appears to cast the net too wide: it is not just restricted to 'compelling' transgender people to beg, which would entail some find of coercion, but also includes: "employing' or 'using', which may therefore also apply to voluntary and willful actions on the part of transgender people".

⁸⁸ Act No. XIX of 1923

⁸⁹ OSA, Section 3(3)

⁹⁰ OSA, Section 3(2)

⁹¹ OSA, Section 4(1)

⁹² OSA, Section 4(2)(a)(i) and (ii)

employed by a foreign power, either directly or indirectly, for the purpose of committing an act ... prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without Pakistan, committed, or attempted to commit, such an act in the interests of a foreign power”.

While espionage is a legitimate national security concern for any state, the OSA is an extremely expansive, obscure and out-dated piece of legislation. Its broad definition of “foreign agent” allows the law to be selectively used to label virtually any person as a foreign agent on grounds of mere suspicion, automatically creating liability for any other person who comes into contact or communication with said person to be tried and sentenced under Section 3. This potentially impinges on the freedom of peaceful assembly, especially in the context of private spaces, not to mention freedom of expression and the press. This danger is further compounded by the fact that the OSA, when read with Section 2(d)(ii) of the Pakistan Army Act (PAA), 1952, allows civilians charged for an offence under the law to be tried by a military court⁹³.

L) Provisions of the Prevention of Electronic Crimes Act, 2016

Despite vocal criticism from civil society organisations, the Prevention of Electronic Crimes Act (PECA)⁹⁴ was enacted in 2016, ostensibly in order to “prevent unauthorized acts with respect to information systems and provide for related offences”. It extends to the “whole of Pakistan”⁹⁵ and applies to “every citizen” and “every other person for the time being in Pakistan”⁹⁶. Moreover, it is also meant to have extraterritorial application, as the provisions of the law apply to “any act committed outside Pakistan” if the act constitutes an offence under the Act and “affects a person, property, information system or data located in Pakistan”⁹⁷.

PECA contains a plethora of provisions that constitute a disproportionate restriction on the exercise of various civil and political liberties in cyberspace, especially the right to freedom of thought, conscience and expression and the freedom of peaceful assembly. These restrictions may be divided into two subsets: firstly, vaguely defined criminal offences, and secondly, sweeping powers regarding regulation and control of online content.

Section 10 of the Act states that any person who commits or threatens to commit certain offences⁹⁸ under the law with the intent to “coerce, intimidate, create a sense of fear, panic or insecurity in the

⁹³ The manner in which the OSA and the PAA can be weaponized against human rights defenders and dissidents is amply demonstrated by the case of Idrees Khattak, discussed later in Chapter 4.

⁹⁴ Act XL of 2016

⁹⁵ PECA, Section 1(2)

⁹⁶ PECA, Section 1(3)

⁹⁷ PECA, Section 1(4)

⁹⁸ These include offences under Sections 6, 7, 8 and 9 of PECA.

Government or the public or a section of the public or community or sect or create a sense of fear or insecurity in society”⁹⁹ or to “advance inter-faith, sectarian or ethnic hatred”¹⁰⁰ shall be guilty of “cyber terrorism”. This is punishable by imprisonment of up to 14 years and/or a fine that may extend to 50 million rupees¹⁰¹. It is also non-bailable, non-compoundable and cognisable¹⁰². Similarly, Section 11 states that anyone who prepares or disseminates information that “advances or is likely to advance interfaith, sectarian or racial hatred” shall be punished with imprisonment for a term, which may extend to seven years and/or a fine. While both of these provisions have clearly been drafted to curb promotion of religious, ethnic and sectarian violence via online spaces, the ambiguity in their language leaves much to be desired. Criminal laws must be drafted with absolute precision and clarity, since vague terminologies easily lend themselves to misuse and manipulation. As noted beforehand with respect to Section 153A of the PPC, laws regulating hate speech must take into account various other factors, including, the context of the speech, the identity and position of the speaker, the intent of the speaker, the content and form of the speech, the extent of the speech, and, the likelihood of the speech to produce ‘immediate actions’ against its targets. This helps structure discretion and ensures that they cannot be misused by executive and judicial authorities.

Another problematic provision is Section 20 of the Act, which provides that “whoever intentionally and publicly exhibits or displays or transmits any information through any information system, which he knows to be false, and intimidates or harms the reputation or privacy of a natural person, shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to one million rupees or with both”¹⁰³. Like Sections 499 and 500 of the PPC, Section 20 of PECA treats defamation as a criminal offence, creating serious repercussions for freedom of speech in online spaces. This has the potential to inhibit open discussion and dialogue in virtual assemblies, for it allows the weaponisation of defamation charges by state authorities against journalists, human rights defenders and other dissidents. Although prohibiting defamation is both a necessary and legitimate aim, it ought to be catered through civil law rather than criminal law.

⁹⁹ PECA, Section 10(a)

¹⁰⁰ PECA, Section 10(b)

¹⁰¹ PECA, Section 10(3)

¹⁰² PECA, Section 43

¹⁰³ As of 18 February 2022, Section 20 has been amended via a presidential ordinance. The amended provision has omitted the word “natural” and has extended the maximum sentence from “three” to “five” years. The ordinance has also added the definition of the term “person” in Section 2(xxva), which includes “any company, association or body of persons, whether incorporated or not, institution, organization, authority or any other body established by the Government under any law or otherwise”. This indicates that Section 20 may now be invoked against criticism of public institutions such as the military and the judiciary. At the time of the writing of this report, the ordinance has been challenged before the Islamabad High Court, which has directed state authorities to refrain from making any arrests under the law. As the ordinance may lapse (unless given parliamentary approval) or may otherwise be declared illegal, this report has elected to analyse Section 20 as it stood prior to the promulgation of the ordinance.

PECA also empowers the government machinery with wide-ranging authority to control access to information available on online spaces. Section 37 authorises the Pakistan Telecommunication Authority with the power to “remove or block or issue directions for removal or blocking of access to an information through any information system if it considers it necessary in the interest of the glory of Islam or in the integrity, security, or defence of Pakistan or any part thereof, public order, decency or morality, or in relation to contempt of court”. This provides the Pakistan Telecommunication Authority with near-absolute and unquestioning authority over the dissemination of information in cyberspace. It allows the state regulator to unilaterally decide what content may be available to Internet users, that too on the touchstone of impossible to define parameters such as ‘the glory of Islam’ and ‘integrity’ of the country and ‘decency’ and ‘morality’. Such unbridled powers not only amount to a disproportionate restriction on the right to freely impart and receive information, but also serve as a direct violation of the right to freedom of peaceful assembly, since they may be used to deny people access to social platforms specifically designed to facilitate online ‘assemblage’.

M) Procedural policy initiatives related to non-governmental organisations (NGOs)

In November 2013, the Economic Affairs Division of the Ministry of Finance issued a federal notification, enacting a policy to create a “regulatory framework” for “foreign organizations” and “those national organizations which receive or intend to receive foreign contributions”¹⁰⁴. It created a mandatory regime for “prior registration” with the government, whereby all NGOs (whether international or national) were required to file an application for registration, and “subject to concurrence”, sign a “Memorandum of Understanding” containing information specified by the state, including, among other things, the work it was involved with and the geographical area it sought to operate in¹⁰⁵. The Memorandum of Understanding would automatically lapse after a total duration of five years, after which the registration process would have to be repeated¹⁰⁶.

In October 2015, another notification was issued in this regard, this time by the Ministry of Interior¹⁰⁷. Styled as a ‘*Policy for regulation of International Non-governmental Organizations (INGOs) in Pakistan*’, its stated objective is to “facilitate and streamline the registration and functioning of INGOs contributing to socio-economic development of Pakistan while ensuring that they abide by the relevant laws and norms of Pakistan”¹⁰⁸. It creates an elaborate set of rules governing the registration, funding, monitoring and functioning of INGOs. Like the 2013 Policy, it requires all

¹⁰⁴ NGO Policy of 2013 (Notification No. 1(5)INGO/05, dated 28 November 2013, issued by the Ministry of Finance, Revenue, Economic Affairs, Statistics and Privatization, Government of Pakistan)

¹⁰⁵ Ibid

¹⁰⁶ Ibid

¹⁰⁷ INGO Policy of 2015 (Notification No. 6/34/2015-PE-III, dated 1 October 2015, issued by the Ministry of Interior, Government of Pakistan)

¹⁰⁸ Ibid, Para 3.1

INGOs “receiving foreign contributions” or “utilizing foreign economic assistance” to apply for “prior registration”¹⁰⁹ with an “INGO Committee” (to be chaired by the Secretary of the Interior Ministry), which is to be “the sole authority for approving registration of INGOs”¹¹⁰. This is followed up by the signing of a “Memorandum of Understanding” between the INGO and the government, which expires after a three-year period¹¹¹. It also bars INGOs from raising funds or receiving donations locally without express authorization from the state¹¹², and requires them to seek state approval before providing “assistance (monetary and/or material) to a local or international NGO”¹¹³. Foreign nationals can only be hired or retained as staff at INGOs after receiving “security clearance”¹¹⁴ and even then, can only be issued a maximum one-year visa¹¹⁵. In addition, they may not request a change of status of visa or visit areas outside their designated areas of activity without prior approval from the Ministry of Interior¹¹⁶. If an INGO is found to be “involved in any activity inconsistent with Pakistan’s national interest, or contrary to Government policy”, its registration shall be liable to be cancelled. They are also bound “not to take part or assist in any kind of political activities, conduct research or surveys unrelated to their TORs”¹¹⁷.

Both policies represent a blatant attack on freedom of association and, therefore, clearly end up impinging on the right to freedom of peaceful assembly. They create a difficult and unclear registration process, which offers little to no safeguards against arbitrary denial of registration. No judicial appeal is available. State authorities are not required to provide detailed written justifications for their decision to decline an application and the requirement to re-register after every three or five years creates further risks by presenting authorities with periodic opportunities to deny registration to NGOs and INGOs that may be critical of state actions. Furthermore, by restricting their work to government-authorized geographical areas, they severely curtail the day-to-day functioning and territorial reach of such organisations and hamper their ability to work effectively. Recently, the NGO Policy of 2013 was successfully challenged by the Marie Stopes Society before the Sindh High Court, which has declared that since the policy was only meant to be a “stop-gag arrangement” and “the Federal Government did not take any step to provide a legislative cover”, it is “of no legal effect”¹¹⁸. This verdict automatically calls into question the validity of the INGO Policy of 2015, which too, appears to lack any legislative cover, despite the passage of several years.

¹⁰⁹ Ibid, Para 4.1

¹¹⁰ Ibid, Para 4.4

¹¹¹ Ibid, Para 5.1

¹¹² Ibid, Para 4.2

¹¹³ Ibid, Para 5.4

¹¹⁴ Ibid, Para 5.5

¹¹⁵ Ibid, Para 5.6

¹¹⁶ Ibid, Para 5.8

¹¹⁷ Ibid, Para 5.11

¹¹⁸ Ishaq Tanoli, ‘Policy for NGOs getting foreign funding declared ‘of no legal effect’, DAWN, 1 February 2022

Chapter 3: Mapping of curbs on the right to freedom of assembly (2010 - 2020)

Freedom of assembly in 2010

A collection of approximately 74 different protests, assemblies, rallies and demonstrations were surveyed for the year 2010, out of which at least 56 were indicative of undue and disproportionate restrictions being placed on the right to freedom of peaceful assembly. These constraints included: (a) excessive use of force against participants; (b) arrest or detention of actual, suspected or potential demonstrators; (c) registration of criminal or terrorism charges against participants; and (d) bans on assemblies.

Excessive use of force against participants

The most dominant and noticeable curb was an excessive use of force against participants, either in an effort to control the conduct of assemblies or in an attempt to make protesters disperse from an area. More often than not, law enforcement agencies (LEAs) resorted rather too quickly to extremely coercive measures, including baton charge, aerial firing, use of water cannons, teargas shelling and at times, even firing with live ammunition. A case in point is 14 January, when scores of powerloom workers staged a protest against prolonged power outages in Kasur. Protesters burnt a motorcycle, damaged two vehicles and pelted stones at police officers. In retaliation, police officials charged at protesters with batons, thrashing many of them and fired warning shots into the air. At least 10 people were injured as a result.

Similarly, on 18 February, hundreds of people affected by the Diamer-Bhasha Dam project took out a protest rally in Chilas, demanding rehabilitation and fairer compensation for their compulsorily acquired properties. Police called in to control the crowd opened fire upon the gathering, killing three people and injuring four others. Later, the government had to order a judicial inquiry into the matter and announced a compensation package for the victims – Rs 500,000 for the families of the deceased protesters and Rs. 100,000 for all injured parties.

Another heinous example occurred in early April, when protests erupted in Abbottabad and Mansehra over the renaming of the North West Frontier Province (NWFP) as ‘Khyber Pakhtunkhwa’ through the 18th Amendment. On 12 April, protesters clashed with police, who opened fire upon the crowd, injuring numerous people and killing at least 10 of them. This caused widespread anger throughout the region, and subsequently, enraged protesters attacked two police stations, ransacked and torched public property and looted several shops. Smaller protests continued for a number of days thereafter.

Similarly on 17 April, scores of people took to the streets to demonstrate against prolonged power cuts in Jhelum. As the assembly was about to disperse, a group of young boys reportedly threw some rocks at law enforcers. Police retaliated with brute force, baton charging the protesters, lobbing teargas shells at them and firing warning shots into the air. A teenager was killed and five others were injured. Afterwards, an angry mob blocked a public highway for several hours, burning tyres, torching four vehicles and ransacking a government building.

On 21 May, residents of Chashma Goth, a village of indigenous fishers in Karachi, demonstrated against the Malir Cantonment Board for constructing a boundary wall on their ancestral lands, encasing a centuries-old Goth graveyard in the process. Security forces allegedly opened fire on the protesters, killing four people. LEAs on the other hand, denied that the protesters had been fired upon. Near the end of May, activists belonging to the Balochistan National Party-Mengal (BNP-M) staged a demonstration against raids being conducted on the houses of their party workers in connection with a murder investigation. A large number of BNP-M activists took to the streets and blocked a public thoroughfare. When police arrived at the scene, clashes ensued. Nasir Lango, a political leader, was killed, while three others were severely injured. Although demonstrators said that the man had died after police opened fire on them, law enforcers maintained that the protesters had fired first, causing them to retaliate in kind.

In early July, members of the Loond tribe in Sanghar staged a protest against the police, reportedly besieging a police station in the process. They were demonstrating against the arrest of one of their members. Police resorted to opening fire and lobbing teargas shells at the crowd, killing one man and injuring four others. On 1 July, relatives and supporters of five men arrested by Lahore police in connection with a meeting they had held at a local mosque staged a demonstration in Narang Mandi. Police claimed to have resorted to aerial firing alone, however, several men were still injured in the process and the next day, local traders observed a complete shutter-down strike in response to excessive police action. Similarly, on 31 July, when hundreds of residents held a protest against the construction of the Ring Road in Lahore, police fired teargas canisters at the protesters, who began charging at the police. In the ensuing clashes, one person was injured and succumbed to his wounds before he could be hospitalised. This infuriated the protesters, who proceeded to block a main road for several hours, throwing traffic out of gear and causing mayhem in the area.

At least three such cases also cropped up in the month of August. Firstly, when scores of residents protesting against power outages set a local Peshawar Electric Supply Company (PESCO) office on fire in Swabi, police opened fire on the mob, killing four people and injuring 10 others. Secondly, when residents in Attock blocked a section of the GT Road in protest, police baton charged the protesters with such severity that one person was killed and several others injured. Lastly, in Nowshera, when scores of residents blocked a highway in protest against excessive loadshedding, police once again baton charged the crowd and fired teargas canisters at them. At least 12 people were injured as a result.

In late September, members of the Islami Jamiat-e-Talaba (IJT) took out a protest rally in Karachi and attempted to march towards the US consulate in order to register their protest regarding the treatment being meted out to Dr Aafia Siddiqui. In a bid to disperse the protesters, police fired shots into the air, lobbed teargas shells at them and conducted a baton charge. More than 12 people were injured. On 1 October, when lawyers in Lahore took out a rally to protest against the arrest of one of their colleagues and to demand the transfer of the district and sessions judge of the city, scuffles ensued. Protesters threw rocks and glass bottles at police officials, and later, after the assembly had dispersed, police raided the premises of the Lahore Bar Association, stormed into its barroom and began thrashing lawyers without discrimination. Dozens of people were injured, including many who had no connection to the protests, and several female lawyers complained of being manhandled by the police.

In November, scores of cattle traders in Lahore protested against the government for its decision to shift the cattle market from Babu Sabu to another location. Protesters blocked a section of Bund Road by burning tyres and staged a sit-in, blocking the thoroughfare for traffic on both ends. When police ultimately arrived, they baton charged the protesters and opened fire, injuring four traders. On 8 December, in Karachi, when hundreds of residents of Kunwari Colony staged a demonstration against Rangers personnel for arresting an area local, one man was killed and another was severely injured. Protesters asserted that the police had opened direct fire upon them, whereas law enforcers maintained that the firing had come from the protesters themselves.

These are merely some of the choicest examples of the assemblies surveyed, especially as they predominantly involve fatalities or severe injuries. In the vast majority of the cases studied for this year, police resorted to excessive use of force in one way or another. Thrashing demonstrators with batons was the most favoured method, with teargas shelling coming in at second and aerial firing landing in third. Mostly, LEAs relied on a combination of all three. Newly acquired water cannons were tested out by the Sindh government upon protesting teachers in Karachi, just as they attempted to stage a sit-in outside the Governor's House. All in all, the survey strongly indicated that police had little to no specialised knowledge of the manner in which force ought to be employed against an assembly – be it peaceful or otherwise.

Arrest or detention of actual, suspected or potential demonstrators

Another prominent trend was the seemingly arbitrary arrest and detention of actual, suspected or potential demonstrators. For instance, on 20 February, when dozens of people in Mandi Bahauddin demonstrated outside the office of the District Coordination Officer (DCO) to protest against the renaming of a local high school, police not only baton-charged the protesters, injuring five people, but also arrested 25 protesters. Then, on 23 February, when hundreds of employees of different education boards were observing a two-week pen-down strike, police conducted large-scale operations across Punjab and arrested scores of protesting employees, and at times, even their

relatives. This amounted to a blatant misuse of authority and can reasonably be expected to have created a significant chilling effect upon the right to freedom of peaceful assembly.

In early March, when members of the All Pakistan Oil Tankers Association blocked multiple roads in Muzaffargarh leading to installations of the Pakistan State Oil (PSO) and the Pak-Arab Refinery Company, police initiated a crackdown on the protests and arrested 30 people. On 15 March, students and transporters staged protests against the closure of the Lahore Transport Company at Ferozepur Road, blocking a major thoroughfare and torching at least six buses in the process. Thereafter, police arrested 144 protesters, all of whom were remanded back to police custody for further investigation. Similarly, on 18 March, scores of protesters, mostly students and young men, held a demonstration in Islamabad and Rawalpindi against a 17 percent increase in transport fares. When police arrived to quell the protests, clashes erupted and 50 people were arrested from the scene. The next day, the agitation continued, and police and Rangers personnel resorted to baton charge, aerial firing and teargas shelling. Afterwards, police arrested almost 200 people.

On 19 April, when a large number of people staged a protest in Gujranwala against unscheduled loadshedding, police baton charged the protesters, resorted to aerial firing and arrested 30 people on charges of rioting. Another rather telling example of the arbitrary nature in which LEAs conducted arrests cropped up in July. Scores of protesters in Tibba Sultanpur blocked a main highway for about five hours in protest against prolonged power cuts, with some of them allegedly ransacking the office of the local electricity department and even attacking public officials. The police arrested five men and reportedly tortured them at the police station, thus triggering another wave of protests – this time against police brutality. Law enforcers fired shots into the air, baton charged demonstrators and arrested 32 people.

In August, female students of Quaid-e-Azam Medical College (QMC), Bahawalpur, agitated outside the residence of the college principal to record their protest against prolonged loadshedding and exorbitant utility charges in their hostels. Police conducted search raids on college dormitories and arrested 23 people. In early September, when serving employees of the Pakistan Telecommunication Company Limited (PTCL) staged a protest in Islamabad demanding an increase in their salaries, the police detained 30 workers, including 15 union leaders. The same strategy was employed against the 1 October demonstrations by the legal fraternity in Lahore. After storming barrooms and thrashing any lawyers that could be found, police arrested dozens of people – all of whom had to be released later on the orders of the Lahore High Court. Then, on 20 October, when flood affectees in Shahdadtak took out a procession demanding provision of ration and Watan cards, police conducted raids and arrested 52 people.

In November, when members of the Sunni Ittehad Council (SIC) attempted to stage a ‘long march’ from Lahore to Islamabad to pressurise the government against making any changes to the blasphemy law, the police arrested numerous leaders and workers of the SIC in Lahore in an effort to ensure that the march could not take place. This amounted to an egregious abuse of power and

effectively cancelled the right of the SIC and its members to peacefully assemble, especially as there was no indication or evidence that their protest would have taken a violent form. On 8 December, hundreds of students, together with members of the Punjab Professors and Lecturers Association (PPLA), assembled outside the Punjab Assembly building and demonstrated against recent appointments to the board of governors at 26 different colleges in Punjab. Police baton charged the protesters and arrested 40 students, all of whom had to be released later.

Registration of criminal or terrorism charges against participants

In numerous instances, police registered criminal charges against the participants of an assembly. For instance, on 14 February, activists and supporters of the Pakistan People's Party (PPP) staged a demonstration outside the Lahore Press Club against a recent decision of the Supreme Court. They burnt an effigy of the Chief Justice of Pakistan and chanted slogans against the judiciary. Afterwards, police registered a first information report (FIR) against 200 people, including two senior PPP leaders. At the tail end of March, when students of QMC gathered together at Circular Chowk in Bahawalpur to protest against the university administration, police registered cases against 14 of the participants. Similarly, when they held another protest later in the year, police filed an FIR against 160 protesters. In late April, hundreds of clerks in Islamabad staged a protest rally and marched towards Parliament House to press for their demands. After they had dispersed, police registered a case against 300 people for violating bans on public gatherings under Section 144 of the CrPC.

In May, after PPP activists held a protest against deteriorating law and order in Mirpur Mathelo, a case of rioting was registered against 25 people. On 20 July, when scores of people demonstrated against power cuts in Tibba Sultanpur, a criminal complaint was registered against 140 people. In the same month, when members of the Christian community protested against the murder of two Christians over allegations of blasphemy in Faisalabad, police registered a case against 800 protesters. In similar vein, after protesting indigenous fishers were fired upon by security forces in Malir, Karachi, police registered a case against the villagers for disturbing 'law and order' and when flood-affected people in Dadu took to the streets to demand ration and Watan cards, police registered an FIR against them under various provisions of the PPC and even conducted raids to arrest them.

Bans on assemblies

Throughout the year, Section 144 was employed by both the federal and provincial governments to impose wholesale bans on public gatherings and assemblies of five or more people, mostly under the pretext of 'security' and maintenance of 'law and order'. In addition, it was also used to restrict the movements of citizens, particularly by banning pillion riding. On 17 January, Section 144 was imposed across Peshawar for a period of one month. This was repeated in June and August. In Karachi, Section 144 was imposed throughout February, June and August. In Lahore, it was

imposed for an unidentified period of time in October, while in Rawalpindi, it was imposed in December – although Muharram processions were exempted from the ban.

The most widespread use of this power was recorded in Balochistan, where the provincial government first imposed it on 6 March, banning all assemblies of five or more people, pillion riding on motorcycles and display of weapons. In April, this was extended for two months, followed by two more extensions in September and November. As a result, for most of the year, the right to freedom of peacefully assembly remained effectively suspended in the province.

Freedom of assembly in 2011

A collection of approximately 67 different protests, assemblies, rallies and demonstrations were surveyed for the year 2011, out of which at least 55 were indicative of undue and disproportionate restrictions being placed on the right to freedom of peaceful assembly. These constraints included: (a) excessive use of force against participants; (b) arrest or detention of actual, suspected or potential demonstrators; (c) registration of criminal or terrorism charges against participants; (d) bans on assemblies, and (e) strictures on freedom of movement.

Excessive use of force against participants

Excessive use of force remained the most persistent problem throughout this year as well, as once again, police resorted to extreme methods of crowd control – either charging at people with batons, firing teargas shells, using water cannons, conducting aerial firing and, unfortunately, even shooting at protesters with live bullets.

On 11 January, hundreds of people staged a protest in Bannu against prolonged electricity cuts, blocking a main road for traffic for up to three hours. Police beat the protesters with batons, fired teargas shells into their midst and ultimately opened fire. A protester was killed and 14 others were seriously injured. On the same day, in Peshawar, teargas shelling injured a teacher and five students at a demonstration they were holding against the administration of Islamia College. In the same month, unarmed students and teachers of the University of Education in Lahore too found themselves being baton charged by police officials.

In early February, peacefully protesting college students in Toba Tek Singh were subjected to baton charge and teargas, injuring at least 20 of them. On 15 February, lady health workers (LHWs) staged a protest outside the Karachi Press Club over non-payment of salaries and non-regularisation of service. At one point, they decided to march towards the Sindh Governor's House. Police intercepted them with batons and lobbed teargas canisters into their midst, injuring several protesters. A couple of days later, when contractual employees of the Sindh education department adopted a similar strategy, they were pushed back using water cannons and batons. This exercise was repeated three times over the course of two months, and on the final day, the baton charging was so intense that it ended up injuring 14 protesters.

In March, police in Karachi once again used water cannons and batons against protesting teachers, injuring 20 of them. When people in Faisalabad and Lahore staged demonstrations in response to the suicide of a widow of one of the men killed by US national, Raymond David, police baton charged the protesters, injuring more than a dozen. On 19 March, when flood affectees staged a protest in Nowshera against non-delivery of financial assistance, law enforcers once again resorted to the same methodology, injuring at least 10 people. Similarly, when LHWs held a sit-in on the National Highway near Ghotki, police officials came in the dead of the night, assaulted them with

batons, fired teargas canisters at them and managed to clear the highway – although not without injuring dozens of LHWs in the process. In Peshawar, protesting teachers of the Institute of Business and Management Sciences were met with the same brute force when they attempted to stage a protest outside the Governor’s House. Seven people were injured as a result. At the tail end of the month, tenants from Khanewal took out a ‘long march’ to Lahore in order to demand ownership rights for the land they had been tilling for generations. As they reached the Khanewal Toll Plaza, police officials charged at them with batons and fired teargas shells. Scores of tenants, including women and children, were injured.

In April, scores of protesters staged a sit-in on a main road in Karachi, blocking the area for traffic. Police arrived at the scene, attempted to negotiate their dispersal and upon failure to do so, charged at the protesters with batons and fired teargas canisters at them. On 26 April, protesting students and teachers of the Federal Urdu University in Karachi found themselves being baton charged by Rangers personnel, who also fired shots into the air. 24 students and six teachers were seriously injured as a result. In early May, a young man and a teenager – aged 24 and 14 respectively – were killed by policemen during a demonstration against prolonged power cuts in Gujjar Khan. Immediately after, an enraged mob ransacked government offices, torched several vehicles, opened up a judicial lock-up and stormed the office of the Deputy Superintendent of Police (DSP). In the same month, use of teargas shells, batons and aerial firing was noted in at least four other protests.

On 14 June, doctors in Quetta staged a sit-in outside the Chief Minister’s (CM) House, demanding a raise in salaries and other benefits. Police first resorted to teargas shelling and later opened fire upon the protesters, injuring eight people. In Islamabad, a three-day-long sit-in organised by employees of the National Commission of Human Development outside Parliament House was broken up by police officials using batons and teargas shells. In early July, police in Khanewal thrashed a group of female protesters who had been demonstrating against the arrest of one of their relatives in a criminal case. On 4 July, scores of people, under the aegis of Tehreek Huqooq Mianwali, started marching towards the Chashma Hydel Power Plant. Police intercepted the marchers and after firing teargas shells for some period, opened fire upon the crowd. Two people were killed and 30 were severely injured.

On 4 August, police opened fire on a group of protesters blocking a main road in Peshawar – killing one person and injuring another. In Sargodha, when scores of protesters staged a demonstration on Bhera-Bhalwal Road, law enforcers charged at the protesters with batons and then finally opened fire, injuring at least 20 people, including women and children. On 11 August, hundreds of people staged a demonstration in Hunza during a visit of the Gilgit-Baltistan Chief Minister. The protesters demanded payment of compensation to all the families that had been displaced by a massive landslide in Attabad in early 2010. Police opened fire upon the crowd, killing one person and injuring six others. As news of the incident spread, protests erupted all over the region. On 25 August, police beat up paramedical staff in Lahore for holding a demonstration outside CM House.

In September, scores of students held demonstrations in Parachinar against the closure of the Thall-Parachinar Road, which had effectively stranded them in the area. They set up a protest camp outside the office of the political agent of the area, and after three days, Levies personnel turned up to disperse the crowd. They fired shots in the air, lobbed teargas shells and finally, opened fire. Three students received bullet wounds as a result.

On 15 October, four people were injured when Levies personnel opened fire on a group of tribesmen blocking the main Peshawar-Bajaur Road in protest against prolonged loadshedding. In this case, the local political agent had reportedly explicitly authorised the law enforcers to use live ammunition against the protesters. On the same day, in Lahore, LHWs gathered on The Mall and staged a sit-in right in front of the Governor's House, causing mass suspension of traffic. Police arrived at the scene and charged at LHWs with batons. Six of them fell unconscious and had to be hospitalised as a result. In Haripur, police used batons against retired employees of the Telephone Industries of Pakistan, injuring five elderly pensioners.

In late November, scores of nurses from public hospitals took out a protest rally on The Mall in Lahore. Police led a baton charge against them, injuring several. Lastly, on 25 December, when hundreds of farmers in Chitral gathered together and peacefully began marching on a checkpost installed by the forest department, police baton charged them and fired teargas shells into their midst.

Arrest or detention of actual, suspected or potential demonstrators

The arbitrary manner in which demonstrators were arrested was once again apparent this year. In February, five LHWs were arrested in Karachi after they and their colleagues attempted to march towards the Governor's House. The same thing happened to 19 contractual employees of the Sindh Education Department, after they attempted to turn to CM House in order to press their demands for payment of outstanding dues and regularisation of service. In Lahore, over a 100 provincial service officers were arrested after they gathered together to demonstrate against the arrest of two of their colleagues, who, incidentally, had been detained for distributing pamphlets calling for a strike. In Ghotki, over a 100 LHWs were arrested for staging a sit-in on the National Highway.

On 13 April, in Tank, 58 Khasadar Forces personnel were arrested after they staged a peaceful protest outside the office of the assistant political agent for non-payment of salaries. Similarly, in Islamabad, 57 employees of the Oil & Gas Development Company Limited (OGDCL) were arrested for staging a sit-in at the company office. In June, 70 doctors were arrested for staging a sit-in outside the CM House in Quetta and 40 employees of the National Commission of Human Development were arrested in Islamabad for staging a three-day-long sit-in outside Parliament House. 25 political activists, mainly belonging to the Pakistan Tehreek-e-Insaaf (PTI), were arrested at Battagram for gathering at an intersection in protest against prolonged power cuts.

On 12 July, over 100 protesters in Lahore were arrested after a particularly violent demonstration against the government's decision to shift Kot Lakhpat fruit market to another location. In August, 33 people were arrested in Hunza after riots erupted following the death of a protester at the hands of LEAs. Later, in October, when a flurry of protests erupted all over Punjab against unscheduled power cuts, police arrested hundreds of people in a crackdown, while in Haripur, 12 pensioners were arrested after they staged a sit-in at Hassanabdal-Abbottabad Road.

Registration of criminal or terrorism charges against participants

In several instances, criminal or terrorism charges were registered against the participants of an assembly. In February, police in Thatta filed an FIR against 390 people, including three parliamentarians, for various offences under the PPC and the ATA. An FIR was also filed against 700 protesting LHWs in Ghotki, and against 500 protesting tenants in Khanewal. In Sheikhpura, police registered a case against the relatives of a man killed in police custody for 'inciting violence' and 'blocking a public highway'. After enraged protesters ran riot in Gujjar Khan following the killing of a young man and a teenager, an FIR was filed against 2,000 people. This once again highlighted the proclivity of police officials to register complaints against thousands of 'unidentified people'.

In Lahore, a case was registered against 100 protesters after a mob ransacked a Lahore Electric Supply Company (LESCO) office, and in the aftermath of the protest held by Tehreek Huqooq Mianwali near the Chashma Hydel Power Plant, police registered a case under the PPC and the ATA against 42 nominated and 800 unidentified people. After spontaneous protests erupted in Lahore over the relocation of the Kot Lakhpat fruit and vegetable market, a criminal complaint was registered against 500 people. In Jhelum, after people took to blocking a section of the GT Road in protest against prolonged loadshedding, a case was registered against 60 people. In November, Lahore police registered a case against 500 nurses for violating a Section 144 ban by demonstrating on the Mall, while in December, police registered an FIR against 100 people after they assaulted an officer and forcefully attempted to stage a religious procession. The report was filed under Sections 148 (rioting with deadly weapon), 149 (every member of a lawful assembly guilty of an offence committed in prosecution of common object), 186 (obstructing public servant), 188 (disobedience to order by public servant) and 353 (assault or criminal force against public servant) of the PPC.

Bans on assemblies

The use of Section 144 to impose bans on assemblies continued this year. On 19 March, the Home Department of Punjab issued a notification prohibiting all rallies, processions, public meetings, demonstrations, objectionable speeches and assemblies of five or more people in and around the Civil Secretariat and various other governmental buildings. Section 144 also remained imposed in Hangu, KP, for a considerable period of time after murder of a leader of the Ahl-e-Sunnat Wal Jamaat (ASWJ) caused sectarian tensions to rise in the region.

Strictures on freedom of movement

In late January, the government issued an order under Section 5 of the MPO, restricting Shahzain Bugti, leader of the Jamhoori Watan Party (JWP) from exiting Quetta. The order came shortly after he had announced his intentions to stage a 'long march' in order to highlight the plight of the Bugti tribesmen from their ancestral home, Dera Bugti. A similar order was also made for his brother. This amounted to a serious, unnecessary and disproportionate restriction on the right to freedom of assembly, and thus, also serves a frightful indication of the immense power that the MPO provides to the state, allowing it to take pre-emptive measures to detain potential protesters, all under the guise of 'public order'. In November, the district administration of Abbottabad issued a notification under Section 144, banning the entry of 27 religious clerics of various sects into the area. The ban remained in place for a period of one month. Similarly, in Islamabad, Section 144 was employed to ban the entry of six religious figures ahead of the holy month of Muharram.

Freedom of assembly in 2012

A collection of approximately 67 different protests, assemblies, rallies and demonstrations were surveyed for the year 2012, out of which at least 40 were indicative of undue and disproportionate restrictions being placed on the right to freedom of peaceful assembly. These constraints also included: (a) excessive use of force against participants; (b) arrest or detention of actual, suspected or potential demonstrators; (c) registration of criminal or terrorism charges against participants; and (d) bans on assemblies.

Excessive use of force against participants

Excessive – and at times lethal – use of force continued to be a defining feature of the manner in which LEAs handled assemblies. In the beginning of January, compressed natural gas (CNG) station owners and transporters held two-day-long protests in various parts of Islamabad. While most of these were peaceful, a demonstration being held at Faizabad Interchange turned violent, prompting police to resort to baton charging, conducting aerial firing and lobbing teargas shells at the protesters. In Peshawar, a violent protest by rickshaw drivers was also met with batons and teargas canisters. In Karachi, when a group of unarmed teachers demonstrating against non-regularisation of service attempted to march towards CM House, police intercepted their movements and retaliated with heavy use of force, employing a troika of batons, water cannons and teargas shells. Similarly, in Nawabshah, when relatives of a sacked employee of Habib Sugar Mills staged a demonstration outside the local press club, police thrashed them with batons, injuring three people and a cameraman that was standing by. On 20 February, protesting contractual employees of Karachi Metropolitan Corporation (KMC)'s hospitals were beaten with batons by security guards stationed outside the KMC building.

In March, protesting doctors and paramedics faced batons in Sukkur, while power-loom workers found themselves in a similar situation in Faisalabad. In both cases, the protesters had blocked a major thoroughfare, causing mass suspension of traffic. On 26 March, hundreds of LHWs from Punjab and Sindh gathered together at Parade Ground in Islamabad and staged a sit-in for regularisation of services. At around 3 PM, they began marching towards Parliament House, where police charged at them with batons. Over a dozen health workers received serious injuries, while many fell unconscious and had to be shifted to hospitals. At the tail end of the month, dozens of nurses and nursing students staged a protest rally and attempted to march towards the Sindh Governor's House in Karachi. Police used water cannons against them and baton charged the protesters, injuring several people.

On 12 April, at least 10 people were injured when police used teargas shells and batons in order to break up a rally organised by members of the Pakistan Paramedical Staff Association (PPSA) in Karachi. On 19 April, after around 300 people staged a sit-in on GT Road against power cuts, police ended up charging at them with batons, leaving a considerable number of them injured in the

process. A baton charge was also conducted against a protest organised by members of the All Pakistan Clerks Association (APCA) in Islamabad.

On 1 May, residents of Lyari staged a massive demonstration, demanding an end to the military operation being conducted in their area. Police carried out a baton charge, lobbed teargas shells and finally, resorted to aerial firing. In May, violent protests against prolonged loadshedding erupted in various parts of Punjab. In Vehari, protesters took to the streets and ransacked public and private property, prompting police to resort to aerial firing and teargas shelling. At least five people were injured. In the same month, in Mardan, 12 people, including a cameraman of a private news channel, were injured after police baton charged anti-loadshedding protesters just as they were about to storm a local WAPDA office. On 16 May, after police baton charged a peaceful protest organised by government employees in Lahore, two female employees were injured. A glaring example of highhandedness came on 18 May, when dozens of transgender persons staged a peaceful demonstration outside the office of the Chaklala Cantonment Board (CCB) in order to protest against excessive delays in the property transfer of a house in the name of their guru (leader). Reportedly, CCB invited two members inside for negotiations, while its security guards subjected the rest to a vicious baton charge. Afterwards, the protesters staged a protest on a major thoroughfare, blocking the area for traffic for more than an hour.

On 9 June, dozens of protesting teachers and students of Shaheed Benazir Bhutto University (SBBU) were injured in Nawabshah after police baton charged their demonstration. Similarly, on 26 June, hundreds of applicants for the post of 'police constable' were baton charged and lobbed with teargas shells after they blocked a VIP route near Jinnah Park in Rawalpindi in order to protest against the government's decision to postpone the recruitment process. In Peshawar, when participants of a rally against excessive loadshedding attempted to approach the vehicle of a KP minister, police beat them with batons as a pre-emptive measure. On 18 June, dozens of peaceful PTI activists were baton charged for attempting to enter Karachi's 'Red Zone area' while undertaking a march for 'judicial independence'. A number of the protesters received injuries in the police action.

In July, Karachi's Red Zone twice became the site of violence - firstly, when government employees attempted to stage a sit-in at the area, and secondly, when a group of protesting teachers tried to stage a march to the Governor's House. In the same month, residents of Karachi's Pak Colony staged violent protests against a recently conducted police raid in which 14 area locals were taken into custody. One person sustained a gunshot wound - although it remained unclear whether this was a result of police action or not. On 4 July, residents of Peshawar staged demonstration at various parts of the city, clogging traffic for up to six hours. Following multiple rounds of failed negotiations, police carried out a baton charge and lobbed teargas shells at the protesters. At the tail end of month, when enraged protesters took to the streets in multiple parts of KP against frequent power cuts, police in Charsadda resorted to intense teargas shelling, baton charges and even aerial firing.

On 3 August, farmers from various villages from rural Sindh came to Larkana city and blocked a major thoroughfare in protest against water shortages in their localities. A heavy contingent of police arrived at the site of the protests and thrashed the protesters with batons, injuring two people. Violence carried into the next month too, as police conducted teargas shelling and baton charges against a group of angry protesters who had blocked a section of the main Hub River Road.

Perhaps the most glaring example of LEAs inability to effectively tackle violent protesters came on 21 September, when hundreds of people took to the streets in Karachi in order to protest against the release of a sacrilegious foreign film. When protesters attempted to remove shipping containers that had been placed to block the road leading to the US consulate, police retaliated with heavy teargas shelling and aerial firing. At least 15 people were killed, while more than 200 were wounded. Several protesters were also injured after police baton charged a similar protest in Lahore.

In early October, when students took out a protest rally and staged a sit-in on a main thoroughfare in Toba Tek Singh, police thrashed them with batons, while in November, Hyderabad police subjected a rally of political activists to batons, teargas shells and aerial firing. Similarly, on 19 November, after hundred students belonging to Jeay Sindh Muttahida Mahaz (JSMM), a Sindhi nationalist organisation, staged a three-hour-long sit-in outside the Sindh University, police charged at the protesters with batons, in addition to firing teargas shells in their midst. Lastly, in December, when scores of women from Sita village, Dadu, took out a protest rally against the arrests of their loved ones, police conducted a severe baton charge against them, injuring eight people in the process.

Arrest or detention of actual, suspected or potential demonstrators

Arrest and detention of demonstrators too continued in the same haphazard manner as previous years. At times, the arrests appeared to be justifiable. For instance, in early February, 23 people were arrested in Jacobabad for attempting to force shopkeepers to pull down their shutters and join a protest over the murders of the wife and daughter of a provincial lawmaker, Mir Bakhtiar Khan. At other times however, the arrests appeared arbitrary and capricious.

In April, at least a dozen protesting paramedics were arrested in Karachi for attempting to march towards CM House in order to press their demands. Similarly, on 25 May, Mardan police arrested 12 activists of the Pakhtun Students Federation on charges of 'vandalism' after they staged a protest against the construction of a wall in place of an existing gate between Abdul Wali Khan University and an adjacent postgraduate college. On 9 June, protesting teachers of SBBU were arrested after they held a demonstration in Nawabshah against the recent termination of a lecturer and registrar from the varsity. Five protesters were arrested in May from Lahore, although this was reportedly for ransacking offices in the Civil Secretariat. In July, 14 protesting teachers were arrested in Karachi after they attempted to march towards the Sindh Governor's House, and in August, several protesting farmers were arrested in Larkana for staging a demonstration against water shortages in

their localities. In the latter, police even impounded the vehicles that the protesters had been travelling on. In September, activists of the IJT were briefly detained by Lahore police after they staged a protest on a main road, demanding action against the killer of Awaiz Aqeel, a university student.

Registration of criminal or terrorism charges against participants

In a handful of cases, criminal complaints were filed against the participants of an assembly. For instance, on 31 March, PTI workers and activists held a protest rally against prolonged power cuts on The Mall in Lahore. Immediately after, police registered an FIR against 600 people for violating a ban imposed under Section 144. Complaints were also registered against 14 protesting teachers in Karachi, for attempting to march towards the Governor's House, and against a group of students and teachers in Nawabshah, for staging a demonstration outside SBBU.

Bans on assemblies

At numerous points throughout the year, Section 144 was imposed by district administrations or provincial governments to outright ban assemblies altogether. On 14 April, the entirety of Parade Avenue in Islamabad was designated as a 'no-go area' for the general public for an indefinite period of time. In the same month, while a sensitive case regarding the alleged forced conversion of a Hindu girl was being heard, the Sindh government imposed Section 144 throughout the province, banning all rallies, processions and assemblies of five or more people for a period of 10 consecutive days. In September, the Sindh government once again imposed Section 144 for a period of three days, although this time, its ambit was limited to Karachi.

In August, fearing the eruption of violence after the Naran bus attack, the district administration imposed Section 144 throughout Gilgit. Earlier in April too, a curfew had also been imposed throughout the region following a bout of sectarian violence that killed 14 people and left over 50 others injured in Gilgit and Chilas. Similarly, in September, an indefinite curfew was imposed in North Waziristan following a bomb attack that left two security personnel injured. On 2 October, a three-day curfew was again announced after an attack on a checkpoint killed a Frontier Corps (FC) member.

Freedom of assembly in 2013

A collection of approximately 72 different protests, assemblies, rallies and demonstrations were surveyed for the year 2013, out of which at least 19 were indicative of undue and disproportionate restrictions being placed on the right to freedom of peaceful assembly. These constraints included: (a) excessive use of force against participants; (b) arrest or detention of actual, suspected or potential demonstrators; (c) bans on assemblies; and (d) media blackouts.

Excessive use of force against participants

Yet again, excessive use of force against the participants of an assembly featured as the most dominating trend. In January, scores of tribesmen marched from Bara to Peshawar and staged a sit-in outside the KP Governor's House. They carried with them the dead bodies of 18 people, who, they alleged, had been killed by security forces in an illegal raid. LEAs denied this however and claimed that the men had been killed in a militant attack. After initial negotiations failed, police used teargas to disband the assembly, forcibly loaded the bodies onto trucks and transported them to a morgue. According to all reports, the demonstrators had been both unarmed and peaceful, which made the imperious attitude of law enforces strikingly hostile and inconsiderate in comparison.

In February, protesters belonging to Jamiat Ulema-e-Islam (JUI-F) and the Balochistan National Party-Awami (BNP-A) claimed that police had resorted to teargas shelling in order to break up their entirely peaceful sit-in in Quetta. In Lahore, a group of doctors, who had been holding a week-long hunger strike, created a ruckus when they failed to meet the Punjab CM at the inauguration of the Metro Bus Service. Police launched a baton charge against the protesters, dragged them on roads and then threw them into police vans. On 8 February, security forces conducted aerial firing and baton-charged several protesting passengers who had been stranded outside Lowari tunnel in Chitral for several hours.

Another striking example of highhandedness cropped up in May, when angry protesters staged a 10-hour-long sit-in against prolonged power cuts in Faisalabad. Police used teargas against the participants and conducted a baton charge. When they dispersed into the surrounding neighbourhoods, police reportedly chased after them, forcibly entered various houses and began thrashing anyone they found there. Some policemen even abused and dragged women who objected to their conduct, and several women and children who were not even part of the protests complained of mistreatment.

In July, when hundreds of enraged protesters staged violent demonstration against prolonged power cuts in Bannu, police resorted to baton charging and firing teargas shells in a bid to make them disperse. In Nawabshah, railway police baton charged a protest against an anti-encroachment operation being conducted by railway authorities. A female protester and a minor girl suffered

injuries as a result. In Karak, police resorted to aerial firing in order to break up a sit-in against power cuts on a section of the Indus Highway. On 18 July, scores of people blocked a section of the National Highway to protest against the detention of two leaders of JSSM, who had been allegedly picked up by intelligence agencies a few days prior. When police attempted to disperse them, they began pelting back stones. At this, police conducted a baton charge, fired warning shots and lobbed teargas shells at the crowd. Five people, including a woman and her five-year-old son, were injured, while several women fainted during the shelling.

On 25 August, police in Lahore thrashed several PTI activists with batons for setting up a token hunger strike camp in front of the Punjab Assembly, and in early November, police employed batons and teargas against protesting students of Punjab University for taking out a protest rally in contravention of Section 144. On 17 November, after protests erupted in Multan over the alleged use of 'objectionable language' by an Ashura Day procession, police conducted baton charges and fired teargas shells to break up various sit-ins. At least 25 people were injured, with seven of them receiving bullet wounds. Although the police denied using live ammunition, the fact that several people were shot points to an alternate account of the truth.

Similarly, on 27 November, when a group of 200 or so enraged lawyers staged a rather violent sit-in outside the Supreme Court building, police resorted to conducting baton charges, teargas shelling and firing rubber bullets in an effort to control them. Several lawyers were injured, with some needing immediate hospitalisation. At the tail end of the month, police baton charged a demonstration of teachers and students outside the University of Gujrat, while in December, the same treatment was meted out to scores of BBA students from Bahauddin Zakariya University, after they blocked a section of the Dera-Quetta Road in protest against the university's decision to bar them from appearing in exams.

Arrest or detention of actual, suspected or potential demonstrators

In February, at least 20 protesters belonging to JUI-F and BNP-A were arrested in Quetta after they blocked multiple thoroughfares. In the same month, doctors on hunger strike were arrested in Lahore after they created a ruckus about not being able to meet the Punjab CM. In August, several PTI found themselves briefly detained in Lahore for violating a Section 144 ban on public gatherings on The Mall.

In November, the PTI leadership called for a complete blockade of the North Atlantic Treaty Organisation (NATO) convoys passing through to Afghanistan in an effort to pressurise the US government to stop drone strikes in the country. Despite objections from the federal government (which maintained that the authority to block NATO supply routes rested with it), PTI activists established 24-hour checkpoints on various roads and highways throughout KP. Several PTI activists were arrested for manhandling truck drivers, while others were detained for blocking public pathways. Dozens of people were also arrested in Bannu for staging a violent demonstration

against prolonged power outages in the district. In December, police in Dera Ghazi Khan arrested 10 protesting students for blocking the Dera-Quetta Road, while in Karak, at least three people were arrested for staging a protest on a section of the Indus Highway.

Bans on assemblies

The use of Section 144 to ban public gatherings continued as a tool to restrict the right to freedom of peaceful assembly. In January, the Rawalpindi district administration imposed Section 144 across the city for a period of two days, seemingly in an effort to obstruct the 'long march' announced by Dr Tahir-ul-Qadri. A similar ban had been announced earlier too after the Supreme Court issued an order for the arrest of PM Raja Pervez Ashraf. A 24-hour curfew was also enforced in Rawalpindi in the aftermath of an attack on an Ashura procession, when unidentified people snatched guns from on-duty policemen stationed along the procession's route and opened fire on the crowd. Eight people were killed and almost 80 were injured.

On 4 May, the Lahore DCO issued a notification under Section 144, imposing a ban on holding sit-ins and protests in public places. The order was kept in place till the elections had been conducted. Once the elections had taken place, the Sindh Home Department issued a notification imposing Section 144 across the province for an indefinite period of time. It banned all political gatherings, rallies, demonstration and assemblies of five or more persons. The move came as several political parties began protests against alleged rigging in the recent elections.

On 9 October, the district administration in Nowshera imposed Section 144 across the district for a period of three months, ostensibly after receiving information about potential terrorist activity in the area. In November, Section 144 was imposed across Punjab, KP, Balochistan and Gilgit-Baltistan in anticipation of Muharram. In the same month, after a clash occurred between rival Sunni and Shia groups, the local administration in Kohat imposed Section 144 across the district, banning pillion riding and all rallies, assemblies or demonstrations of any kind.

Media blackouts

On 27 October, Voice of Baloch Missing Persons (VBMP) staged a 'long march' from Quetta to Islamabad in order to protest against enforced disappearances and the state's 'kill and dump' policy regarding Baloch dissidents. The 20-strong group, which included women and children, marched over 2,000 kilometres across the country before finally arriving at Islamabad in February of 2014. Strangely, the VBMP's march received little to no attention from any mainstream electronic media channel, leading to the impression that state agencies had specifically directed media houses to refrain from providing coverage to the event.

Freedom of assembly in 2014

A collection of approximately 81 different protests, assemblies, rallies and demonstrations were surveyed for the year 2014, out of which at least 23 were indicative of undue and disproportionate restrictions being placed on the right to freedom of peaceful assembly. These constraints included: (a) excessive use of force against participants; (b) arrest or detention of actual, suspected or potential demonstrators; (c) registration of criminal or terrorism charges against participants; (d) bans on assemblies; (e) strictures on freedom of movement; and (f) actions by unidentifiable or non-state actors.

Excessive use of force against participants

In February, LHWs protesting against non-payment of salaries were baton charged in Toba Tek Singh. Several demonstrators were injured. On 22 April, at least six people – two women and four children – sustained injuries after police baton charged them at a protest against an anti-encroachment drive in Faisalabad. At the end of April, relatives of missing persons, led by Amna Janjua, the chairperson of Defence of Human Rights (DHR), held a protest rally at D Chowk in Islamabad. When the protesters began marching towards Parliament House, police charged at them with batons, lobbed teargas shells and resorted to aerial firing. Footage of the operation showed Ms. Janjua being violently shoved and pushed, thrown into a police van and whisked away to a nearby police station. A number of the participants fell unconscious. Moreover, journalists covering the incident were also targeted with batons, while their equipment was either snatched or destroyed. In all of these cases, the demonstrators had been completely peaceful and totally unarmed, and yet, police felt it necessary to use corporal methods.

In mid-March, Punjab police provided an exceptionally brutal example of unwarranted and indiscriminate use of force. Temporary nursing staff, who had been staging a five-day-long sit-in at Edgerton Road for regularisation of service, began marching towards the Punjab Assembly building. They were intercepted by police in anti-riot gear, who conducted a severe baton charge. Witnesses reported seeing police kick and punch nurses in an effort to disperse them. Several protesters were severely injured, while a 7-month pregnant nurse was hospitalised, where she slipped into a coma. After the clash, nurses all over the province staged demonstrations in solidarity with their sisters in Lahore. On 16 May, PTI workers demonstrating against alleged rigging in the 2013 general elections were baton charged in Islamabad. On 5 June, when members of the Punjab Teachers Union (PTU) and the APCA attempted to march towards Constitutional Avenue in Islamabad, police resorted to conducting baton charges and firing teargas shells and rubber bullets at the protesters. Over 100 people were injured.

In early June, a large number of Mallah tribesmen and tribeswomen assembled at DC Chowk in Dadu and blocked three intercity highways at critical junctures, suspending traffic all around. They were demanding action against an influential figure who had reportedly snatched an 18-month-old

child from his mother. After initial negotiations, police resorted to baton charging and teargas shelling the protesters, who, in turn, pelted LEAs with stones and beat them with clubs. 35 protesters, including women, were wounded, while 20 police officials also received injuries in the process. On 14 June, hundreds of residents from Chak 61 near Faisalabad staged a protest in response to the killing of two men from their village. They placed the bodies of the deceased victims on a section of the Lahore-Faisalabad highway, blocking the area for any traffic. When police arrived at the scene, they baton charged the protesters and fired warning shots into the air.

On the eve of 17 June, Punjab police conducted a purported 'anti-encroachment operation' and began removing barricades from outside Minhaj-ul-Quran, a religious institution run by the chief of the Pakistan Awami Tehreek (PAT), Dr Tahir-ul-Qadri. PAT workers and supporters gathered outside and began demonstrating against the operation. They claimed that the barricades had been erected years ago after Qadri had issued an anti-Taliban fatwa and were necessary for the security of the building. At some point, clashes ensued. Police retaliated with excessive force, using batons, teargas canisters, rubber bullets, and ultimately, live bullets. 14 people were killed, including women and one teenager, while almost 80 people were severely injured, many with bullet wounds. Later, a judicial enquiry conducted into the incident by Lahore High Court's Justice Baqar Ali Najafi noted among other things that the operation had been 'planned and designed' under the chairmanship of the Punjab Law Minister, Rana Sanaullah. This was a barbaric incident and finds few other parallels according to this report.

On 24 June, when hundreds of internally displaced people (IDPs) blocked the main road from Bannu to Peshawar in order to protest against problems related to food distribution in their camps, security forces retaliated by firing warning shots into the air. Then, on 18 July, after scores of LHWs, polio workers and office-bearers of the Pakistan Nursing Association staged a sit-in on the main road leading from Hyderabad to Superhighway, police led a baton charge in order to evacuate the area. In September, dozens of teachers held a nine-day-long sit-in near Boat Basin in Karachi. On the ninth day, after rejecting the latest proposal offered by the government, the protesters began marching towards Bilawal House, the residence of PPP co-chairpersons, Asif Ali Zardari and Bilawal Bhutto Zardari. Police baton charged the demonstrators and also used water cannons against them.

On 30 October, several protesting employees of the Oil and Gas Development Company Limited (OGDCL) were injured in Islamabad after police baton charged them and fired teargas shells at them. Similarly, on 25 November, when hundreds of students in Toba Tek Singh staged demonstrations against the death of a man being held in police custody, LEAs charged at them with batons and lobbed teargas shells at them. Two policemen and a teenager were seriously injured, while scores of people received minor injuries.

A case of extraordinary heartlessness cropped up on 3 December. Scores of visually impaired people took out a protest rally in Lahore, in order to mark World Disability Day and to agitate for

their fundamental rights. In an effort to prevent them from marching towards the Chief Minister's Secretariat, police baton charged the protesters. Several people were injured, while one of them had to be hospitalised. On 9 December, two civic bodies took out protest rallies against prolonged power cuts in Muzaffarabad. As they attempted to cross a bridge over the Neelum River, they were met with a heavy contingent of police. LEAs charged at the protesters with batons and fired teargas canisters at them. Three women fell unconscious as a result. From 8 December to 11 December, thousands of protesters in Karak district assembled on various public highways and staged sit-ins against low gas pressure, long power cuts and misdistribution of oil and gas royalties. Police resorted to intense teargas shelling and charged at the protesters with batons in order to make them disperse.

From late August all the way till mid-December, Islamabad played host to one of the longest protest demonstrations in the country's history. Organised by the PTI and PAT, it started off as two separate marches that ultimately converged together and landed at D Chowk. Thousands of people were in participation. On 20 August, PTI and PAT supporters forcefully entered the capital's Red Zone. Although sea containers had been placed to block the area, the protesters managed to shift them using privately hired cranes. On 30 August, the protesters attempted to move towards PM House. Initially, police stepped back, allowing the protesters to continue moving forwards. However, immediately thereafter, police retaliated in full force and began charging at protesters with batons and firing teargas canisters into their midst. Three people lost their lives, while more than 400 people, including women and children, were injured.

Arrest or detention of actual, suspected or potential demonstrators

Scores of protesters were arrested throughout the year. At times, their arrests appeared understandable, whereas in others, they smacked of arbitrariness. For instance, in April, Islamabad police arrested 13 protesters for staging a peaceful rally against enforced disappearances. They were kept detained for several hours and then later released. Similarly, when temporary nursing staff marched on the Punjab Assembly in March, Lahore police arrested 10 protesters and kept them detained without even registering an FIR against them.

On 5 June, over 300 protesting teachers and clerks were arrested by Islamabad police when they attempted to march upon Constitutional Avenue. After people from the Mallah tribe staged a demonstration in Dadu, an unspecified number of protesters, including women, were taken into police custody. In September, dozens of teachers were arrested after they attempted to march their way to Bilawal House, while on 30 October, Islamabad police arrested 25 employees of the OGDCL for staging a demonstration outside the company's building and then marching towards the Red Zone. In December, police in Karak arrested 35 people after they staged sit-ins on public highways and allegedly pelted stones at law enforcers.

Some of the arrests were purely pre-emptive in nature, and thus, amounted to a gross interference in the fundamental freedoms of the detainees. For instance, in anticipation of PTI and PAT's twin marches to Islamabad, the Punjab government conducted numerous raids and arrested approximately 2,520 office-bearers and activists of the two parties. Their detention orders were reportedly issued under Section 3 of the MPO.

Registration of criminal or terrorism charges against participants

On 17 May, residents of Sehwan took to the streets to agitate against prolonged loadshedding in their area. Some of the protesters reportedly caught hold of a lineman and severely beat him. Afterwards, police booked 17 people and began conducting raids to arrest them. In June, when Mallah tribesmen staged sit-ins in Dadu, police registered an FIR against 60 suspects under the ATA. Karak police booked 42 elders after they and hundreds of others staged protests on multiple highways.

In December, civil society activists, politicians and students staged a demonstration outside Lal Masjid in Islamabad in order to protest against the mosque's chief clerics refusal to condemn the APS massacre. The protesters held a candlelight vigil for the victims and raised slogans against the administration of the mosque. An FIR was registered against the participants of the protest for violating a ban on assemblies imposed under Section 144, blocking a public pathway and 'hate speech'.

Bans on assemblies

A curfew was imposed in Mohmand Agency after an IED blast on 24 May, and remained in place till 19 July. Similarly, in North Waziristan, a curfew was enforced throughout the district from 8 May till 17 May. Ahead of the PTI and PAT's collective protests, the district administration in Islamabad imposed Section 144 across the entire city, banning all manners of public meetings, processions and assemblies of five or more people. A similar order was made for Lahore on 14 August, the day that the two parties were supposed to launch their marches, and for Multan, on 22 August.

Strictures on freedom of movement

Ahead of Muharram, the Punjab government issued orders banning the entry of 158 religious leaders into the Rawalpindi division. These included 62 clerics from the Deoband school of thought, 65 from the Shia community and 31 from the Barelvi sect.

Actions by unidentifiable or non-state actors

On 28 March, relatives of missing persons, led by DHR chairperson Amna Janjua, staged a protest rally in Islamabad. They gathered at D Chowk and slowly began marching towards Parliament House. At this point, they were stopped by police, and immediately thereafter, unidentified persons in plainclothes arrived at the scene and repeatedly touched participants with what was described as an 'electric torch'. Many of the protesters claimed of having received electric shocks, leading to the conclusion that the device must have been some form of an electroshock weapon.

Freedom of assembly in 2015

A collection of approximately 80 different protests, assemblies, rallies and demonstrations were surveyed for the year 2015, out of which at least 35 were indicative of undue and disproportionate restrictions being placed on the right to freedom of peaceful assembly. These constraints included: (a) excessive use of force against participants; (b) arrest or detention of actual, suspected or potential demonstrators; (c) registration of criminal or terrorism charges against participants; (d) bans on assemblies; and (e) acts by unidentifiable or non-state actors.

Excessive use of force against participants

The year began with an eruption of spontaneous protests against the publication of blasphemous caricatures of the Prophet Muhammad (PBUH) in the satirical French magazine, *Charlie Hebdo*. While most of the protests remained peaceful, in Karachi, protesters demonstrating outside the French consulate clashed with police, who used baton charges, water cannons and aerial firing to disperse the protesters. In the same month, when parents and students of Government Islamia High School in Lahore staged a demonstration against its closure, police charged at the protesters with batons, causing severe injuries to a 13-year-old boy.

In February, when hundreds of government employees took to the streets of Islamabad in order to demand an increase in their basic pay packages, they were met with intense teargas shelling. A few days later, members of the proscribed ASWJ took out a rally with the body of their murdered leader and staged a sit-in before the Supreme Court building. Police initially retaliated by charging at them with batons and lobbing teargas shells at them, but afterwards, allowed them to continue staging their demonstration. Conversely, in Thatta, Sindh, dozens of area locals staged a demonstration against the killing of an alleged dacoit by the police in a purported 'encounter'. They staged a sit-in with the body of the deceased on the National Highway, prompting police to use teargas to make them disperse. Similarly, when employees of the KP prison department protested outside the KP Assembly against their termination from service, police once again used baton charge and teargas shelling in response.

In early March, when scores of visually impaired protesters staged a sit-in on the stairs of the Punjab Assembly, baton-wielding police officials attempted to clear the area by force, injuring several people. A few days later, the Punjab police was in the limelight once again, this time for its brutality against agriculturalists. In Okara, scores of farmers, under the aegis of Pakistan Kissan Ittehad (PKI), gathered together and blocked a section of the Multan Road in protest against prevailing 'anti-farmer' policies. They were answered with an intense combination of batons, teargas shells and aerial firing. At least six people were injured in the process. In the same month, police used teargas shelling once again in an effort to disperse a violent protest by members of the Christian community in response to a deadly Taliban attack on two churches in Lahore. At least one person died in the police action, while seven were injured.

In April, residents of Kohat held four-day-long demonstrations against prolonged power cuts. On the fourth day, they ransacked the local office of PESCO, prompting police to rely on aerial firing in order to make them evacuate the area. Similarly, in Mirpurkhas, police baton charged cattle traders holding a demonstration against the forced relocation of their animal market, injuring several protesters in the process. On 22 April, when employees of various government departments and universities staged a sit-in on Peshawar's main Khyber Road, blocking the thoroughfare for several hours, police lobbed teargas shells and baton charged the crowd. In late May, an anti-encroachment drive being conducted by the Daska Tehsil Municipal Administration (TMA) was met with fierce protest by area locals and a few lawyers. Police opened direct fire, killing two protesting lawyers as a result and prompting mass protests against the police action.

In early June, when residents of Narowal took to the streets in protest against frequent power cuts, police baton charged the demonstrators. Similarly, when a group of clerks took out a protest rally in Islamabad and attempted to enter the Red Zone area, they too were baton charged. Later in the month, on 20 June, hundreds of residents in various areas of KP held violent demonstrations against excessive loadshedding, prompting police to let loose a volley of teargas shells and charge at protesters with batons. Dozens of people, including police officials, were injured. On 22 June, in Peshawar, IDPs staged a protest against lack of drinking water and other facilities in their camps. As the protesters became unruly, security forces opened fire on them, killing a 22-year-old man. Another equally callous example came in the final days of July. Residents of an informal settlement in Sector I-11 of Islamabad staged desperate demonstrations against a proposed operation for the removal of their entire colony. After a 1,200-strong contingent of police and Rangers personnel arrived to assist the operation, protesters pelted them with stones, prompting LEAs to fire teargas shells and baton charge them. News channels even showcased footage of area residents, including women and children, being forcibly dragged away from their homes.

In early August, hundreds of people from different villages in Kasur held a protest demonstration against police failure to nab a gang suspected of raping, filming and blackmailing scores of children. A heavy contingent of police was deployed to deal with them, but as they charged at protesters with batons and fired teargas shells at them, the protesters went berserk and clashes soon ensued. 15 protesters and dozens of policemen were injured. In Karachi, police used baton charge and teargas shelling against protesting students of Dawood University of Engineering and Technology for blocking a thoroughfare. Another grotesque example also cropped up in Karachi, when police used batons to thrash a group of disabled persons who were demonstrating outside the Sindh Assembly over non-implementation of job quotas for people with disabilities.

On 9 September, police baton charged hundreds of protesting healthcare professionals and paramedics after they attempted to enter Constitution Avenue. At least 30 doctors and paramedics were injured. On 21 November, an enraged mob in Jhelum set an Ahmadi place of worship on fire following allegations of blasphemy against a member of the community. Thereafter, protests erupted all over the city, and police attempted to quell the riots using batons, teargas shells and

rubber bullets. Ultimately, the armed forces were called in to take control of the area. In Karachi, scores of government teachers staged a protest against non-payment of salaries. As they attempted to march to the Red Zone, police kept them at bay using water cannons. Afterwards, they staged a sit-in at a major intersection, where police resorted to intense baton charge and teargas shelling in order to disperse them. In December, in Sahiwal, losing candidates of a recently conducted local election, along with their supporters, besieged a police station in order to protest against the registration of a case against them under the MPO. When the crowd refused to budge, police baton charged the protesters.

Arrest or detention of actual, suspected or potential demonstrators

In late April, several protesting cattle traders were arrested after they blocked a section of the Ring Road near Mirpurkhas. In March, close to 70 protesting farmers were arrested in Okara for participating in a protest organised by the PKI. In Sahiwal, PKI's central leader was briefly detained, while in Vehari, at least 52 protesters were sent to jail - including several PKI office-bearers. In the same month, 35 activists of Jeay Sindh Qaumi Mahaz (JSQM), a Sindhi nationalist party, were arrested for making anti-state speeches in a political gathering in Malti, while two activists were also detained in Mirpurkhas.

In March, police in Punjab arrested 106 people in relation to violent protests that erupted in retaliation to the Taliban attack on two churches in Lahore. On 4 June, Narowal police arrested six area residents for blocking a road in protest against prolonged loadshedding, and a day later, police in Islamabad arrested over 200 protesting clerks after they attempted to enter the capital's Red Zone.

In August, at least 12 students of Dawood University of Engineering and Technology were arrested after they blocked a thoroughfare outside the varsity's campus. On 17 December, members of civil society were briefly picked up by LEAs and shifted to a police station after they staged a demonstration outside Lal Masjid in Islamabad. Authorities later explained that the action was only taken to avoid a confrontation between the protesters and mosque's administration. In the same month, Sahiwal police arrested 19 local politicians for besieging the police station in order to protest against the registration a case against them under the MPO.

Registration of criminal or terrorism charges against participants

In March, police in Malti registered cases against 35 JSQM activists under Sections 123A (condemnation of the creation of Pakistan), 124A (sedition), 148 (rioting armed with deadly weapon) and 153B (provocation with intent to cause riot) of the PPC. When farmers gathered together in Vehari on the call of the PKI, police registered a criminal complaint against 600 unidentified protesters.

On 30 July, police in Quetta arrested 12 activists of the ASWJ after they took out a protest rally in response to the killing of Malik Ishaq, leader of the proscribed terrorist organisation Lashkar-e-Jhangvi. The arrests were made under the MPO. The MPO was also used to detain 50 people for attempting to take out a Muharram procession without obtaining express permission from the district administration. In November, at least 12 protesting teachers were arrested for attempting to protest in Karachi's Red Zone area, while an FIR was registered against nine Muttahida Qaumi Movement (MQM) leaders and 2000 unidentified people under Section 144 (joining unlawful assembly armed with deadly weapon) of the PPC and Section 6/7 of the Sindh Sound (Regulation) Act, 2015.

In December, police in Sahiwal registered a case under Section 16 of the MPO against 22 losing candidates of a local election and 300 of their supporters for arranging an 'unlawful' gathering in the town. When the candidates and their supporters besieged the police station in protest, an FIR was filed against 10 political activists and 39 other people under Sections 348 (wrongful confinement), 349 (force), 386 (extortion), 352 (punishment for assault) and 341 (punishment for wrongful restraint) of the PPC and Section 7 of the ATA.

Bans on assemblies

In May, the district administration of Peshawar imposed Section 144 throughout the city for a period of one month, banning pillion riding, aerial firing, display of weapons, use of loudspeakers and political rallies of any kind. This was ostensibly done in anticipation of the upcoming local body elections in KP. In Karachi, the Sindh government also issued a notification under Section 144, banning sit-ins and public meetings at Teen Talwar, a popular landmark. The move was largely seen as an attempt to stop the month-long campaign planned by civil society organisations to protest against the murder of activist Sabeen Mahmud. In October, as part and parcel of the Muharram security plan, the district administration in Abbottabad imposed Section 144 in the city for 30 days, proscribing all assemblies of five or more people.

Actions by unidentifiable or non-state actors

On 29 April, Sabeen Mahmud, the director of 'The Second Floor', an independent community space in Karachi, was shot dead by unidentified gunmen following a seminar she had organised regarding the Balochistan conflict, titled 'Unsilencing Balochistan (Take 2)'. Intriguingly, the seminar was initially supposed to take place at the Lahore University of Management & Sciences (LUMS), but was later cancelled after a 'delegation' allegedly met with the university's administration and directed them to stop the event.

Freedom of assembly in 2016

A collection of approximately 77 different protests, assemblies, rallies and demonstrations were surveyed for the year 2016, out of which at least 28 were indicative of undue and disproportionate restrictions being placed on the right to freedom of peaceful assembly. These constraints included: (a) excessive use of force against participants; (b) arrest or detention of actual, suspected or potential demonstrators; (c) registration of criminal or terrorism charges against participants; and (d) bans on assemblies.

Excessive use of force against participants

On 7 January, thousands of teachers from various parts of Azad Jammu and Kashmir assembled on the premises of a state-run school in Muzaffarabad and called for the implementation of a 'commitment' made to them in 2013 by the PPP-led government. When they attempted to move from the area, police fired teargas shells and charged at them with batons, injuring over a dozen teachers. A week later, relatives of a man who had died in police custody in Gujranwala staged a sit-in on GT Road, blocking the highway for traffic for up to four hours. Police arrived at the scene and straightaway conducted a baton charge against them.

In early February, Pakistan International Airlines (PIA) employees called for a total strike and staged a sit-in against the proposed privatisation of the national flag carrier and the recent activation of the Essential Services (Maintenance) Act, 1952, which effectively barred them from participating in any union activity. Police resorted to intense force, using virtually everything in their arsenal, including batons, water cannons, teargas shells and rubber bullets. Two protesters died after sustaining bullet wounds, while several others were injured. Police and Rangers personnel, who had been called to clear the area denied using live bullets. In the same month, several Sindhi nationalist parties took out a protest rally in Badin against what organisers claimed were 'anti-Sindh plans and projects'. Police charged at the protesters with batons and lobbed teargas canisters into their midst. At least 40 people fainted from the fumes, while many others were injured.

On 31 March, a congregation of 1,500 teachers held a demonstration in Karachi demanding reforms of their service structure. As they attempted to march towards CM House, police baton charged them and used water cannons against them. Similarly, in early April, when PTI activists and members of social movement 'Fixit' staged a protest rally for police reforms and attempted to march towards CM House, law enforcers resorted to baton charges, teargas shelling, aerial firing and use of water cannons to disperse them. On 17 April, which marks the International Day Peasants' and Farmers' Struggles, scores of tenants from Okara Military Farms blocked GT Road in order to protest against the detention of one of their leaders under the MPO. Police and army personnel carried out baton charges and fired teargas shells at the protesters in order to clear the area. In the same month, scores of farmers in Sahiwal staged a protest against inadequate arrangements at

wheat procurement centres and non-distribution of gunny bags. Police baton charged the protesters and manhandled several of them.

In May, workers of Tehreek Hussaini staged a sit-in on a main highway near Parachinar, in order to protest against the ban on entry of two Peshawar-based religious clerics. FC and Levies personnel were called in to remove the protesters. LEAs claimed that an armed protester fired at them, at which point they began lobbing teargas shells and baton charged the demonstrators. Three people were killed, while 11 others were injured. On 14 May, several people in Toba Tek Singh were injured after police baton charged a sit-in they had staged on a public highway. On 25 May, hundreds of residents of Green Town staged a protest against the sexual assault and subsequent disappearance of an 8-year-old boy at the hands of his schoolteacher. Demonstrators ransacked the school in question, following which, police were forced to baton charge them.

In mid-June, people from Manki village blocked a major highway to protest against frequent power outages. When police attempted to disperse them, the protesters pelted them with stones. At this, police fired teargas shells and baton charged the demonstrators. On 23 June, the heavy hand of the law fell on unarmed students of Azad Jammu and Kashmir Medical College (AJKMC), who had staged a peaceful demonstration on the varsity's campus against what they said was a 'flawed' examination rule. Upon arrival, police charged at the protesters with batons and lobbed teargas canister at them, leaving dozens of students. On 23 July, members of the Majlis-e-Wahdat-ul-Muslimeen (MWM) too were baton charged after they staged sit-ins on multiple thoroughfares in Karachi.

In August, several members of the MQM were injured after they clashed with police at a demonstration they had staged outside the Karachi office of ARY News. On 31 October, police and FC personnel used teargas shells and fired rubber bullets in an effort to disperse hundreds of PTI supporters en route to Islamabad to join the party's planned 2 November 'lockdown' of the capital. In early November, scores of people blocked the National Highway in Karachi in order to protest against the arrest of numerous Shia clerics. Police resorted to intense teargas shelling and aerial firing in an effort to evacuate the highway. On 15 November, employees of the provincial irrigation department staged a protest outside the Karachi Press Club and then turned their direction towards the Sindh Assembly. As they neared the area, police baton charged the protesters and used water cannons to disperse them. A rather strange example of police excess came up on 19 November, when police in Badin resorted to aerial firing and baton charged unarmed pilgrims at a local shrine after they refused to disperse according to their orders.

On 10 December, chickpea farmers staged a demonstration in Bhakkar to protest against damage caused to their crops by members of the Qatari royal family while they were busy hunting the endangered houbara bustard. When protesters attempted to march to the place where the royal family was encamped, police began thrashing them with batons, forcing them to retreat.

Arrest or detention of actual, suspected or potential demonstrators

In early April, the founder of 'Fixit' and several PTI workers were arrested in Karachi for attempting to move their march towards CM House. Arrests also took place at Cantt Railway Station, where eight porters were taken into custody after they organised a demonstration to highlight the exploitative nature of the contractual system that governed their employment. On 17 April, tenants of Okara Military Farms had planned to hold a convention to mark the International Day of Peasants' and Farmers' Struggles. A day before the event, the relevant DCO issued 30-day detention orders for Mehr Abdul Sattar, the secretary general of the Anjumane Mazareen Punjab (AMP) – the key organisation behind the convention. When scores of tenants came out to protest his detention, police arrested dozens of them under various anti-terrorism and public order legislation, with many being shifted to undisclosed locations. According to Human Rights Watch, and according to domestic and international law, this effectively amounted to 'enforced disappearance' of the protesters.

In May, 47 workers of Tehreek Hussaini were arrested in Parachinar after staging demonstrations against the ban on entry of some Peshawar-based religious scholars. In the same month, at least 14 people were arrested by police in Toba Tek Singh for occupying a major highway. On 16 June, at least 10 protesters were picked up by police in Swabi – also for occupying a highway, while on 23 June at least 50 students were taken into custody in Muzaffarabad for staging a protest on their university's campus. In early July, three workers of a garment factory were arrested for staging a violent protest in the Korangi Industrial Area in Karachi, and on 30 September, police arrested close to 100 workers of MOL Pakistan, a foreign oil and gas exploration company, after they staged a protest outside the company's processing facility in Karak.

In October, Islamabad police stormed a youth convention organised by PTI and arrested scores of party activists, but, later in that very month, when ASWJ held a massive rally in the capital despite the imposition of Section 144, it failed to arrest a single person – leading many to call the police out for its hypocrisy. In Karachi on the other hand, over 100 employees of the provincial irrigation department were taken into custody for attempting to march towards the Sindh Assembly, while dozens of pilgrims were briefly arrested from a local shrine in Badin after they refused to evacuate the area per police directions.

Registration of criminal or terrorism charges against participants

In the first week of January, government schoolteachers staged a sit-in at Express Chowk in Islamabad and blocked the junction. Thereafter, they attempted to march towards the capital's Red Zone, but were stopped by police midway. Law enforcers claimed that at this point, the protesters began to physically assault them, prompting them to file an FIR against 60 – 70 unidentified people for rioting and participating in an unlawful assembly. In February, police in Badin registered a complaint against 45 activists of Sindhi nationalist parties and 150 of their unidentified associates

for taking out a rally against development projects that, in their opinions, negatively impacted the province. The charges were framed under both the PPC and the ATA.

In April, police registered cases against almost 4,000 tenants of Okara Military Farms after they participated in a protest to demand the release of an office-bearer of the AMP. In the same month, police in Karachi registered cases against an undisclosed number of porters after they organised a demonstration to shed light on the unfair terms of their employment. An FIR was also lodged in Sahiwal against 6 identified and 40 unidentified farmers for staging a protest against mismanagement at wheat procurement centres.

On 12 May, Karachi police registered a criminal complaint against MQM chief, Altaf Hussain, and several other high-profile members of the party over charges of terrorism and criminal conspiracy. The FIR was lodged after they staged a protest camp near the Quaid-e-Azam Mausoleum. Days later, police in Toba Tek Singh filed an FIR against 14 people under Sections 353 (assault or criminal force to deter public servant), 186 (obstructing public servant), 148 (rioting with deadly weapon) and 149 (every member of unlawful assembly guilty of offence committed in prosecution of common object) of the PPC for staging a sit-in on a public highway. A case was also registered in September against PTI leader, Faisal Vawda, after he led a protest demonstration on Shahrah-e-Faisal in Karachi, blocking the thoroughfare for traffic.

Bans on assemblies

On 16 April, the district administration of Okara imposed Section 144 across the city for 30 days, banning all assemblies of five or more persons. The move was largely seen as an effort to suppress the AMP's intention to hold a convention of International Peasants' Day. A similar strategy was employed in late October, when Section 144 was imposed throughout Islamabad for a period of two months. This too was seen a politically motivated attempt to restrict freedom of assembly, seeing as it came days before the PTI's anti-corruption rallies. On 16 December, the district administration of Chakwal issued a notification under Section 144, right after various religious parties announced their intention to observe a 'day of protest'.

Freedom of assembly in 2017

A collection of approximately 83 different protests, assemblies, rallies and demonstrations were surveyed for the year 2017, out of which at least 35 were indicative of undue and disproportionate restrictions being placed on the right to freedom of peaceful assembly. These constraints included: (a) excessive use of force against participants; (b) arbitrary arrest and detention of actual, suspected or potential demonstrators; (c) registration of criminal or terrorism charges against participants; (d) bans on assemblies; (e) attempts to obstruct assemblies; and (f) suspension of cellular services, Internet and broadcast services.

Excessive use of force against participants

In early January, police baton charged a group of demonstrators blocking a main road in Faisalabad to protest against the alleged torture of Mehmood Alam, a primary schoolteacher. Similarly, at the start of the next month, members of the Khoso community took out a protest rally in Sukkur. As they made their way towards the local press club, they were met with a heavy contingent of police who conducted a severe baton charge against them. On 20 February, when residents of Orangi Town in Karachi staged protests against increasing robberies and police inaction, law enforcers resorted to aerial firing and thrashed them with batons, injuring five of them. A bizarre example of police brutality came to light on 15 March. At the conclusion of the three-day-long *urs* of Pir Rakhsh Shah in Jhal Magsi, police asked the attending pilgrims to vacate the shrine due to security reasons. A number of pilgrims hailing from far-flung towns decided to stay overnight due to non-availability of transport. After issuing a few warnings, police carried out a vicious baton charge to clear the area. A female pilgrim was killed, while six others were injured.

On 1 April, members of the Shia community in Parachinar staged a demonstration to protest against a recent militant attack on an *imambargah*. Levies personnel resorted to opening direct fire, killing one person and injuring seven others. On the same day, in Karachi, Jamaat-e-Islami held protests against loadshedding. Police intervened, citing a ban imposed under Section 144, and resorted to aerial firing and teargas shelling. On 2 April, dozens of people began an impromptu protest at Friendship Gate on the Pak-Afghan border near Chaman. At one point, protesters began pelting stones at FC personnel, who opened fire in retaliation. Two people received bullet wounds, one of whom later died, while five FC personnel were injured. In the same month, supporters of the social movement 'Fixit' and dozens of PTI activists gathered outside the Karachi Press Club to agitate for police reforms. When they decided to march up to the front of CM House, police intervened with a combination of baton charging, teargas shelling, aerial firing and water cannons.

On 6 April, an anti-encroachment drive was launched in Mohammadi Colony in Karachi. Area residents came out in droves, staged a protest and began throwing stones at police officials. Law enforcers retaliated by first baton charging the protesters and then firing warning shots into the air. At least 11 people were injured after police baton charged protesting farmers at wheat procurement

centres in Narowal, Shakargarh and Badomalhi. A similar incident occurred in Sahiwal in the same month. On 25 April, a peaceful demonstration by PTI workers in Muzaffarabad was broken up by baton charging policemen, who cited a ban under Section 144 as their defence. This led people to call the government out for its hypocrisy, since Pakistan Muslim League-Nawaz (PML-N) workers had been allowed to hold a rally in the exact same place to celebrate the initial Supreme Court verdict in the Panama Papers case.

On 14 May, hundreds of activists of the Pak Sarzameen Party (PSP) gathered together at Shahrah-e-Faisal and attempted to march towards Red Zone. As they neared the area, police fired teargas shells and baton charged the demonstrators. Two weeks later, members of the PKI held a massive demonstration at D Chowk in Islamabad. Although police had cordoned off the area using sea containers, protesters still managed to find alternate routes. Police resorted to heavy teargas shelling and baton charged the protesters. Dozens of people, including policemen, were injured in the process. On 30 May, a large number of area locals in Malakand gathered outside PESCO's office and set it on fire. Malakand Levies opened direct fire on the protesters, killing two PTI activists and injuring 14 others.

In June, after the Young Doctors Association (YDA) called for a strike, a group of doctors gathered together and attempted to forcibly close the wards and outpatients' departments at Hayatabad Medical Complex. Police arrived at the scene and baton charged the protesting medics. On 27 July, the district administration in Sukkur began an anti-encroachment drive to clear embankments of canals from illegally constructed buildings. When area locals staged a demonstration to oppose the operation, police baton charged them in order to disperse them. In the same month, police in Shangla baton charged a group of demonstrators for blocking a main road in order to protest against construction delays in their locality.

On 21 August, hundreds of lawyers gathered in and outside the Lahore High Court in order to record their protest against contempt of court proceedings being taken up against an office-bear of the Lahore High Court Bar Association's Multan chapter. When lawyers attempted to storm the courtroom of the Chief Justice, anti-riot police used teargas and water cannons to force them out of court premises. Similarly, when members of the Islamia Students Organisation (ISO) held a rally outside the US consulate in Karachi, a heavy contingent of police baton charged the demonstrators, aside from firing teargas shells and using water cannons. These tactics came into play once more when members of the YDA attempted to march on the Chief Minister's Secretariat in Lahore. Upon nearing their destination, they realised the area had been cordoned off with barbed wires. When the protesters attempted to remove the barricades, police sprayed them away with water cannons.

In September, scores of schoolteachers and dismissed policemen ended up staging separate demonstrations near Karachi Press Club. As they attempted to march on CM House, police deployed batons and water cannons against them. Days earlier, another group of protesting teachers had met the same fate and in November, the entire ordeal repeated itself all over again. On

25 December, protesting teachers marched on CM House once more. Police employed water cannons, teargas shells and conducted baton charges. Several people were injured.

In November, after Tehreek-e-Labbaik Pakistan (TLP) members staged a two-week-long sit-in at Faizabad Interchange, police carried out a botched operation to clear the area. Thousands of policemen used teargas shells, rubber bullets, batons and water cannons, and yet, were still unable to disperse the protesters. At least six people were killed, while hundreds were injured. The operation only ended up further fuelling the fire, as more and more protests erupted all over the country.

Arrest or detention of actual, suspected or potential demonstrators

At the beginning of the year, over 150 people were arrested in Lahore after a group of religious parties attempted to hold a demonstration in favour of blasphemy laws on the death anniversary of slain former Punjab governor, Salmaan Taseer. On 1 April, several activists of JI were taken into custody in Karachi for organising a protest against loadshedding in violation of Section 144. The very next day, at least 11 protesters belonging to the social movement 'Fixit' were briefly detained for attempting to march upon CM House.

In May, at least 180 members of the PKI were arrested for staging a protest in Islamabad. In the same month, several PSP leaders also found themselves behind bars for violating a ban on public gatherings under Section 144. On 14 June, Peshawar police arrested 40 protesting medics after they attempted to forcibly shutdown hospital wards, and in August, five medics were taken into custody in Lahore for attempting to remove barricades outside the Chief Minister's Secretariat. A couple of weeks later, police in Dera Ghazi Khan arrested up to 20 protesting students for blocking a highway for several hours.

In September, days after he led a protest rally against heavy fines being imposed on traders, the district administration in Charsadda issued detention order under Section 3 of the MPO for Iftikhar Hussain, an office-bearer of the Traders Alliance. On 19 September, police in Karachi arrested 40 protesting teachers and dismissed policemen after they attempted to breach the Red Zone. Similarly, in December, at least 25 teachers were once again detained in Karachi for attempting to march on CM House, while almost 70 to 80 protesting sugarcane farmers were arrested for attempting to stage a protest outside Bilawal House.

Registration of criminal or terrorism charges against participants

On 3 February, police in Bahawalpur registered an FIR against 43 lawyers under Section 16 of the MPO after they staged a reportedly violent protest in response to their illegally constructed chambers getting demolished. In April, police in Karachi registered a case under the ATA against 200 to 250 unidentified people after they staged a protest against an anti-encroachment drive in

Mohammadi Colony. On 22 April, police in Sahiwal registered an FIR against 40 protesting farmers under Sections 149 (every member of unlawful assembly guilty of offence committed in prosecution of common object), 382 (theft after preparation made for causing death or hurt), and 506 (punishment for criminal intimidation) of the PPC. On 2 November, police in Sukkur registered an FIR under the ATA against 120 people for occupying the Indus Highway in protest against an anti-encroachment operation being conducted by the government.

Bans on assemblies

On 12 July, the district administration imposed Section 144 across Islamabad for a period of two months, citing that 'certain segments of society are planning to take out processions and are likely to threaten public peace and tranquillity'. In November, ahead of the TLP's planned march to Islamabad, the capital administration sent numerous notices to the parties, informing them that Section 144 had been imposed in the city, banning all public gatherings of five or more people.

Attempts to obstruct assemblies

In October, when members of the PKI attempted to enter Lahore in order to protest against the withdrawal of agricultural subsidies, they found that virtually every route of their entry had been cordoned off with sea containers or heavy contingents of police.

Suspension of cellular services, Internet and broadcast services

On 25 November, as LEAs began conducting an operation against the TLP's protest at Faizabad, the Pakistan Electronic Media Regulatory Authority (PEMRA) issued a notification banning channels from showcasing live coverage of the operation. A few hours later, all television channels were pulled off air, while social media websites (including Facebook, YouTube, Twitter and Instagram) were immediately blocked. Internet services at various parts of the country were suspended¹¹⁹.

¹¹⁹ HRCF Annual Report, State of Human Rights in 2017, Page 110

Freedom of assembly in 2018

A collection of approximately 78 different protests, assemblies, rallies and demonstrations were surveyed for the year 2018, out of which at least 29 were indicative of undue and disproportionate restrictions being placed on the right to freedom of peaceful assembly. These constraints included: (a) excessive use of force against participants; (b) arrest or detention of actual, suspected or potential demonstrators; (c) registration of criminal or terrorism charges against participants; (d) attempts to block assemblies; (e) bans on assemblies; (f) strictures on freedom of movement; (g) acts by unidentifiable or non-state actors; and (h) media blackouts.

Excessive use of force against participants

In early January, fiery protests erupted in Kasur. A mob attempted to storm the office of the district commissioner, while the police, in an attempt to control the protesters, opened direct fire upon them, injuring five people – two of whom later succumbed to their injuries. While the use of force was certainly required in order to contain the rioting mob, the use of live bullets was excessive, negligent and counterproductive. Similarly, when a group of farmers and political activists protesting for fairer sugarcane prices attempted to move their demonstration towards the Sindh Chief Minister's House in Karachi, police baton-charged the demonstrators and used water cannons against them. The same pattern repeated itself when scores of teachers protesting against non-regularisation of service and non-payment of salaries attempted to march towards Bilawal House, the official residence of PPP co-chairpersons, Asif Ali Zardari and Bilawal Bhutto.

On 16 February, when dozens of milk retailers and dairy farmers blocked a section of the National Highway in protest against low price of milk, police baton-charged them and fired teargas canisters into their midst. Police in Lahore did not even spare a group of visually impaired protesters from their batons, injuring several in the process. On 18 April, when tons of people protesting the rape and murder of a 7-year-old girl blocked a section of a public highway, police baton-charged the protesters and fired warning shots into the air. Around 12 people were injured, including three who received bullet wounds – one of whom later passed away.

On 12 April, after members of the TLP staged sit-ins at various critical roads and highways across Punjab, police attempted to clear the areas using batons and teargas shells. On 13 April, when residents of a locality in Nawabshah protested against anti-encroachment operation, LEAs once again resorted to firing teargas canisters and charging at the demonstrators with batons – injuring several of them, including a pregnant woman. Similarly, when dengue workers and vaccinators staged an eight-day-long sit-in at Cooper Road in Lahore, police used teargas shells, batons and water cannons to prevent them from shifting their protest to the front of the Punjab Assembly. In May, when a new piece of legislation triggered mass protests in Gilgit-Baltistan, police fired teargas canisters into the crowds, injuring several demonstrators.

In August, when residents of Hamzoni village of Datta Khel blocked a main road in protest against arrests conducted in their area after a remote-controlled blast, security forces opened direct fire on the demonstrators, killing one person and injuring 10 others. This was such a plain abuse of authority that in the aftermath of the event, the Major General in-charge of the troops felt the need to visit the injured in hospital and even announced a compensation package for all affectees. On 12 August, when a group of people in Shangla began a protest and demanded that an FIR be registered against the driver of the local assistant commissioner for theft, police once again resorted to baton-charge, creating a scuffle in which at least eight people, including three policemen, were injured.

Another rather egregious example cropped up in early October, when police were called in to deal with a protest camp organised by the Muttahida Tulba Mahaz, a student body, against a recent fee hike at a university in Peshawar. Police baton-charged the protesters with such ruthlessness that five students had to be hospitalised. In November, when the family and relatives of a mentally ill man shot dead by Dolphin Squad in Lahore staged a demonstration, police baton-charged the aggrieved protesters and even snatched the body of the deceased from them.

Two occurrences in December further cemented the impression that excessive force was the go-to approach for most LEAs. When Thar Sujag Forum, a local traders association based in Mithi, staged a demonstration against what they said was a 'selective' anti-encroachment drive, even personnel from the anti-encroachment cell resorted to using batons. Several people were injured. Similarly, in Karachi, workers belonging to the Port Qasim Authority had staged a 75-day-long sit-in outside the Karachi Press Club in order to protest against non-payment of salaries. Upon hearing that the Prime Minister was in the city, the peaceful demonstrators attempted to move the location of their protest to the Governor's House, but the police retorted not only by baton-charging them, but also by using water cannons and firing teargas shells.

Arrest or detention of actual, suspected or potential demonstrators

On 22 April, the Pashtun Tahaffuz Movement (PTM) held a massive rally at Mochi Gate, Lahore, which was attended by over 8,000 people. A day earlier however, the Punjab police began conducting raids and arrested several workers of the PTM, members of the Awami Workers Party (AWP) and various Pashtun students from Punjab University. Police confirmed the arrests, but refused to provide any reason for the detention. On 23 March, the FATA Political Alliance held a rally in which it announced full support for the demands being raised by the PTM. The very next day, Arif Wazir, the head of the Alliance's South Waziristan chapter was picked up by a group of security personnel from his home and shifted to the office of the political agent of the area.

In the run-up to the PML-N's rally to celebrate Nawaz Sharif's arrival, police in Punjab detained at least 141 people were detained under Section 3 of the MPO, while 237 people were arrested under the Elections Act, 2017. In late November, following the three-day nationwide protests organised

by TLP and other religious groups in Islamabad, Lahore, Karachi and other cities, police launched a massive crackdown operation against TLP workers and supporters. TLP chief, Khadim Hussain Rizvi, and Tehreek-e-Labbaik Ya Rashool Allah (TLYRA) head, Asif Ashraf Jalali were both arrested. In addition, 1,135 protesters were detained for 30 days under Section 3 of the MPO, 1960.

Registration of criminal or terrorism charges against participants

In many of the surveyed protests, participants were charged with offences under criminal and anti-terrorism legislation. The most easily identifiable victim of this practice appeared to be the PTM, which appeared into national prominence after staging a peaceful 10-day-long sit-in in Islamabad. In early March, members of the PTM held protest rallies in Zhob and Killa Saifullah in Balochistan, where they raised concerns regarding enforced disappearances, extrajudicial killings and the racial profiling of Pashtun citizens at the hands of security forces. Days after, police in Killa Saifullah registered an FIR against multiple PTM leaders under Sections 153 (provoking with intent to cause riot) and 153A (promoting enmity between different groups) of the PPC.

On 19 February, people from various walks of life gathered together to protest against what they called 'unnecessary checking' at security checkpoints in Swat. They demanded that the checkpoints be removed, as they were causing severe inconvenience to the residents of the area. Although the protest remained entirely peaceful, a day later, an FIR was registered against six protesters under Section 7 of the ATA and Sections 124A (sedition), 186 (obstructing a public servant), 341 (wrongful restraint), 189 (threat of injury to public servant), 147 (punishment for rioting) and 149 (every member of unlawful assembly guilty of offence committed in prosecution of common object) of the PPC. On 8 August, opposition parties, under the banner of 'Pakistan Alliance for Free and Fair Elections' held a protest demonstration outside the office of the Election Commission of Pakistan (ECP) in order to record their concerns regarding alleged rigging in the general elections. Two days later, police registered a case against some political activists for 'shouting slogans against the Chief Justice of Pakistan' during the protest. Then, on 16 September, when residents of various villages in Abbottabad took to the streets to demand fair compensation for their land and properties, which had been compulsorily acquired by the government for the China-Pakistan Economic Corridor, the police arrested multiple landowners in the aftermath of the protest.

According to reports, after PML-N's 'welcoming rally' on 13 July had peacefully dispersed, Punjab police registered cases against 198 party workers under Sections 188, 290 and 291 of the PPC. Similarly, ahead of the PTM's planned rally in Karachi in early May, police registered cases against 150 PTM supporters under Sections 124A (sedition), 125 (waging war against the state), 500 (punishment for defamation), 505 (statements conducing to public mischief), 149 (every member of an unlawful assembly is guilty of offence committed in prosecution of common object), 148 (rioting, armed with deadly weapon) of the PPC and under Section 7 of the ATA 1997.

Attempts to block assemblies

In a number of surveyed protests, clear-cut attempts to curtail freedom of movement were observed, usually in a desperate bid to ensure that people could not effectively gather or assemble together. In early January, scores of sugarcane farmers took out a 'Kisan Insaf Rally' to protest against the refusal of sugar mills to pay the officially fixed price of cane crops to growers. The rally, which started from Hyderabad and ended up at Karachi, had to overcome multiple obstacles and barricades specifically put up to thwart its progress, including parked sea containers and oil tankers on numerous key routes. When it neared Nooriabad on the National Highway, it was halted by a contingent of police officials who refused to let it pass any further. While it ultimately ended up entering Karachi and joining PTI workers in a sit-in staged in their solidarity, it was plainly apparent that the government in-charge at the time left no stone unturned in attempting to block the rally's access to Karachi – steps that were manifestly illegal.

Similarly, in July, PML-N workers and supporters staged a massive 'welcoming' rally in Lahore in anticipation of the arrival of former PM Nawaz Sharif and his daughter Maryam Nawaz from London to face their prison sentences. Thousands of people, led by PML-N leadership, took out a rally and finished on Allama Iqbal Road after eight hours. As a pre-emptive measure, the government deployed 10,000 security officials, blocked multiple roads with containers, set up traffic diversion plans and sealed up Allama Iqbal International Airport to ensure that the rally could not come anywhere near it. This negatively impacted the ability of PML-N party workers to assemble in support of their leaders.

Bans on assemblies

Ahead of the arrival of the deposed PML-N leader, Nawaz Sharif, the provincial government in Punjab imposed a province-wide ban of all public gatherings. Similarly, following the protests by TLP in November, Section 144 was imposed across Punjab, Sindh, KP and Balochistan, banning pillion riding and any gathering of more than four people. On 31 October, the district administration in Bajaur Agency imposed Section 144 for a period of one month in light of what was described as deteriorating security.

Strictures on freedom of movement

On 10 December, the Balochistan government banned PTM chief, Manzoor Pashteen, from entering into the province for a period of 90 days. The orders were issued under Section 5(1)(a) to (c) of the MPO. A few days prior, the Sindh government had passed a similar notification, which was quickly withdrawn. Earlier in April, it was reported that Manzoor Pashteen had been banned from entering Gomal University, his alma mater. Similarly, in May, the University of Science and Technology in Bannu issued directives, banning Pashteen's entry into the varsity. In addition, it expressed alarm

over his popularity and prohibited students and staff from wearing the traditional Mazari cap often donned by the PTM chief.

Acts by unidentifiable or non-state actors

The right to freedom of peaceful assembly remained threatened by a variety of unidentified or non-state actors. On 14 July, two separate blasts targeted political gatherings. In Mastung, an election gathering of the Balochistan Awami Party (BAP) was subjected to a powerful suicide bombing, while in Bannu, a remote-controlled explosive strapped to a motorcycle went off just as a JUI-F leader entered his car after addressing an election rally. Earlier, on 10 July, a corner meeting of the Awami National Party (ANP) was targeted by a suicide blast, killing 22 people and injuring countless others.

Media blackouts

The complete blackout of all PTM rallies and demonstrations on electronic media was suggestive of the possibility that unidentifiable actors, most likely from within the state machinery, had imposed an unspoken and unannounced ban on media coverage of PTM's activities. In addition, several other notable events indicated that a powerful section of the state attempted to ensure that PTM did not gain traction. At least two universities cancelled talks related to Pashtun rights, allegedly after receiving intimidating phone calls from 'security officials'.

Freedom of assembly in 2019

A collection of approximately 88 different protests, assemblies, rallies and demonstrations were surveyed for the year 2019, out of which at least 35 were indicative of undue and disproportionate restrictions being placed on the right to freedom of peaceful assembly. These constraints included: (a) excessive use of force against participants; (b) arrest or detention of actual, suspected or potential demonstrators; (c) registration of criminal or terrorism charges against participants; (d) bans on assemblies; (e) attempts to obstruct assemblies; and (f) strictures on freedom of movement.

Excessive use of force against participants

On 16 January, a large number of employees of the Sehwan Development Authority staged a protest demonstration against non-payment of salaries by blocking a toll plaza at Jamshoro, suspending traffic on both sides. Police baton charged the protesters, injuring 20 people in the process. At the end of the month, students of the University of Azad Jammu and Kashmir (UAJK) held a protest on the main road in front of their varsity's campus, blocking the thoroughfare entirely. Police intervened and after briefly attempting to negotiate, began firing teargas shells at the students, who, in turn, began pelting rocks back. At this, police baton charged the protesting students, injuring several of them.

On 1 February, TLP activists staged protests at various locations in Karachi in order to protest against the Supreme Court's decision to uphold the acquittal of Aasia Bibi. Law enforcers conducted baton charges and fired teargas shells to break up various sit-ins and rallies. Days later, a large number of political workers and civil society activists, including Professor Arman Loni, a Pashtun poet and PTM leader, staged a peaceful protest in Zhob, Balochistan, in response to a recent militant attack. At some point during the demonstration, Arman Loni was killed, although the exact circumstances of his death continue to remain a mystery. PTM activists and Loni's sister claim that he died after police baton charged their protest and a baton struck his head. Law enforcers, on the other hand, denied this account and claimed that he died of natural causes – presumably a heart attack.

On 21 March, PPP workers staged a demonstration outside the National Accountability Bureau's (NAB) office in Islamabad in order to show solidarity with their party leaders, who were being investigated by the anti-graft body. At one point, a clash erupted and police baton charged the demonstrators, injuring 10 political workers. On 28 March, thousands of teachers gathered outside the Karachi Press Club and attempted to march towards CM House. Police lobbed teargas shells, fired water cannons and baton charged the protesters in a bid to disperse them. Around 150 people, including eight female teachers, were injured in the police action.

Another distressing incident cropped up on 12 April. A group of visually impaired persons staged a protest on main Murree Road in Rawalpindi against non-payment of salaries for a period of six

months. They blocked the road for traffic, prompting police to come and forcibly remove them from the area. While speaking to media, the protesters complained that police had baton charged them and misbehaved with them. In Karachi, protesting nurses were also baton charged after they attempted to shift their protest near CM House.

On 26 May, a reported 'clash' occurred between PTM activists and security forces in Datta Khel, North Waziristan. 14 people, including one soldier, were killed and over 25 others were grievously wounded. Accounts of the incident remain fundamentally contradictory to this day. According to security forces (and according to a report issued by the deputy commissioner of the area), PTM activists, led by parliamentarians Ali Wazir and Mohsin Dawar, attempted to forcefully cross Kharqamar checkpost but were stopped by security forces since an operation was apparently being conducted on the other side. At this, PTM activists allegedly opened fire on on-duty personnel, who retaliated - resulting in numerous casualties. On the other hand, PTM activists claimed that they had only been attempting to cross the checkpost in order to join a protest organised by area locals, when security forces began gunning them down from behind. Later, the KP government announced a compensation package for the victims - Rs 1 million for the families of the deceased and Rs 0.5 million for all injured parties. The incident represented a shocking milestone for the country, matched only by the indiscriminate attack on PAT protesters by Punjab police in 2014.

On 10 June, members of the Kohli community living in Fazal Chopan village staged a sit-in, decrying the atrocities committed by the influential Chopan family, who, incidentally, also happened to be the owners of that particular village. According to protesters, a contingent of Umerkot police arrived at the scene and attempted to disperse them, upon which the demonstrators pelted stones at a police van, breaking its windshield. In response, police thrashed them with batons, injuring two people, including an elderly woman, who received a blow to her head and fainted at the spot. In July, members of the Sindh Nurses Alliance, who had been demonstrating outside the Karachi Press Club for up to 15 days, decided to shift the site of their protest to CM House. As they approached PIDC, police carried out a baton charge and used water cannons against them. Days later, members of the social movement 'Fixit' staged a protest by throwing garbage outside the office of a provincial minister. When PPP activists showed up at the area, scuffles ensued. Police also reached the scene and began baton charging the protesters.

In August, when the family members and relatives of a 4-year-old boy murder victim blocked a section of the Indus Highway, police baton charged the protesters, fired teargas shells at them and resorted to aerial firing in a bid to make them disperse. On 26 August, when a protest against an anti-encroachment drive in Karachi turned violent, police conducted teargas shelling and baton charged the protesters. In September, scores of doctors belonging to the YDA staged a three-day-long protest against the Regional and District Health Authorities Act, 2019, describing it as 'privatisation of government hospitals'. Doctors gathered at Lady Reading Hospital were subjected to baton charges and teargas shelling. At least 10 protesters received injuries.

On 16 September, around 450 headmasters and headmistresses staged a demonstration outside Karachi Press Club and later marched to CM House. The police warned the demonstrators not to approach any further, but they did not pay any heed. Ultimately, police resorted to using water cannons, teargas shells and batons in an effort to make them disperse. At least five people were injured – with one person receiving a critical head injury. On 31 October, when scores of students from SBBU blocked a main thoroughfare, a heavy contingent of law enforcers evacuated the area using teargas shells and baton charges. In the same month, scores of Basic Education Community Schools (BECS) teachers staged an unsuccessful march to Parliament House, as police sprayed them with water cannons and managed to keep them at bay.

At the beginning of November, scores of farmers belonging to PKI staged a demonstration outside the Punjab Assembly, demanding fairer crop prices. After initial negotiations failed, police baton charged the protesters and arrested dozens of them. A few days later, PKI farmers gathered in large numbers at Thokar Niaz Beg, where police conducted a severe baton charge and sprayed them with water cannons. A farmer was critically injured and shifted to a hospital, where he later expired. In December, protesting teachers staged a multi-day sit-in outside the Karachi Press Club. Upon receiving no attention, they staged a march towards Sindh Assembly, breaching the Red Zone. Police charged at them with batons and fired teargas shells at them. On 12 December, residents of several illegally constructed houses staged a protest demonstration against an anti-encroachment drive being conducted by the district administration in Sukkur. Police baton charged the protesters and fired teargas shells at them, injuring 45 people as a result.

Arrest or detention of actual, suspected or potential demonstrators

On 16 January, police arrested nine protesting employees of Sehwan Development Authority after they blocked a toll plaza near Jamshoro. At the tail end of the month, a group of religious parties, headed by TLP, issued a nationwide call for staging yet another protest on Faizabad Interchange in light of the Supreme Court's decision to uphold the acquittal of Aasia Bibi in a blasphemy case. Once the announcement had been made, Punjab police carried out a systematic crackdown of TLP workers and arrested 55 people from Rawalpindi, Attock, Jhelum and Chakwal. On 1 February, the Sindh Home Secretary issued detention orders under Section 3(1) of the MPO for detention of TLP workers on the grounds that they could 'create [an adverse] law and order situation and cause harassment amongst the general public'. At least 50 TLP activists were later arrested.

On 6 February, PTM organised a gathering of around 60 people outside the National Press Club in order to protest over the death of Arman Loni. Police cordoned off the area and arrested 18 of the protesters, including Gulalai Ismail, a women's rights activists, who was released after 30 hours. In the same month, police in Multan registered a case against 21 PTM activists under various provisions. Although most of the nominees managed to acquire pre-arrest bail, two brothers could not do so and consequently, were arrested after police conducted a raid on their residence. Also in February, Lahore-based academic, Ammar Ali Jan was arrested from his residence for 'leading a

group of 100 to 150 people of the Pashtun Ittehad Movement' that had gathered at Liberty Chowk on the call of PTM chief, Manzoor Pashteen.

On 21 March, 80 workers of the PPP were detained in Islamabad for staging a protest outside NAB's office and clashing with police. Days later, around 200 protesting teachers were arrested in Karachi after they attempted to march on CM House. In May, at least 36 relatives of missing persons were arrested for staging a multiple-day-long sit-in outside the residence of President Arif Alvi in Karachi's Pakistan Employees Cooperative Housing Society (PECHS) area, while 21 protesting nurses were arrested in Karachi after they attempted to move their sit-in to CM House. In the immediate aftermath of the Kharqamar incident in May, several PTM activists, including two parliamentarians, Mohsin Dawar and Ali Wazir, were arrested and detained for several months. They were later released on bail by the Peshawar High Court. On 10 June, police briefly detained five members of the Kohli community for staging a protest in Umerkot. On 28 July, 48 people were arrested and later released in Karachi after scuffles ensued at a protest arranged by social movement 'Fixit', while several protesting nurses were detained for trying to march up to CM House.

In September, 15 protesting doctors of the YDA were arrested after police broke up their sit-in at Lady Reading Hospital. On 16 September, 19 protesting headmasters were also arrested for attempting to march on CM House. In early October, at least 200 protesting BECS teachers were arrested in Islamabad for attempting to march towards Parliament House, and earlier that month, 17 students of SBBU were arrested for blocking a thoroughfare in Nawabshah. Ahead of JUI-F's much-hyped 'Azadi March', ICT police launched a crackdown on party workers involved in 'promoting the sit-in', booking dozens of people from Shams Colony and Industrial Area under Section 188 of the PPC. At least 200 protesting farmers belonging to PKI were arrested in Lahore after staging a demonstration at Thokar Niaz Beg. On 6 November, 47 protesting college professors were arrested after they staged a sit-in near CM House in Karachi, while on 12 December, at least 40 people were taken into custody for staging a demonstration against an anti-encroachment drive in Sukkur.

Registration of criminal or terrorism charges against participants

On 16 January, police registered a case against nine nominated and 41 unidentified people for rioting and damaging private property after they blocked a toll plaza in protest against non-payment of salaries. In February, after a group of PTM activists staged a protest demonstration at a central junction in Multan, police registered an FIR against 21 protesters. The complaint was filed under Sections 123A (condemnation of the creation of Pakistan), 124A (sedition), 153 (provocation with intent to cause riot), 290 (punishment for public nuisance otherwise not provided) and 291 (continuance of nuisance after injunction to discontinue) of the PPC, Section 16 of the MPO and the Punjab Sound Systems (Regulation) Act 2015.

Family and relatives of Farishta, a 10-year-old rape and murder victim, staged a protest demonstration at Taramari Chowk in order to demand police action against the culprits. Numerous protests were also held in solidarity with the victim, and women's rights activist, Gulalai Ismail, addressed one of them. Two days later, police registered an FIR against her under Sections 153A (promoting enmity between different groups), 124A (sedition) and 500 (punishment for defamation) of the PPC.

In May, an FIR was lodged against five nominated and 250-350 unidentified persons for protesting outside the personal residence of President Arif Alvi in Karachi. The complaint was filed under Sections 121 (waging or attempting to wage war), 121A (conspiracy), 120B (punishment of criminal conspiracy), 147 (punishment for rioting), 148 (rioting armed with deadly weapon), 341 (punishment for wrongful restraint), 427 (mischief) and 503 (criminal intimidation) of the PPC.

In June, police in Mandi Bahauddin registered an FIR against 55 PPP workers after they staged a demonstration in order to protest against the arrest of PPP co-chairperson Asif Ali Zardari. The complaint was filed under Section 16 of the MPO and Section 341 (punishment for wrongful restraint) of the PPC. On 28 July, Karachi police registered an FIR against protesting members of social movement Fixit. The complaint was filed under Sections 147 (punishment for rioting), 148 (rioting armed with deadly weapon), 149 (every member of unlawful assembly guilty of offence committed in prosecution of common object), 337A(i) (punishment of *shajjah-e-khafifah*), 353 (assault or criminal force to deter public servant), and 427 (mischief) of the PPC.

In August, 20 protesting teachers were arrested for attempting to march to CM House in Karachi, while nine teachers, aside from a PTI parliamentarian, were arrested after they attempted to cross into the Red Zone area. In October, police in Islamabad registered FIRs against hundreds of BECS teachers under Section 188 (disobedience to order promulgated by public servant) of the PPC. In November, as JUI-F ended its Azadi March and announced a call for nationwide protests, protests sprang up in various part of the country. Police in Hub, Sindh, registered a case against 250 baton-wielding protesters after they blocked a highway linking Karachi to Quetta and caused multiple traffic collisions. The FIR was registered under Section 147 (punishment for rioting), 148 (rioting armed with deadly weapon), 149 (every member of unlawful assembly guilty of offence committed in prosecution of common object), 341 (punishment for wrongful restraint) and 427 (mischief) of the PPC.

In early December, police in Lahore registered an FIR against the organisers of Student Solidarity March. Several were named, while 250 - 350 were unidentified. The FIR was filed under Sections 290 (punishment for public nuisance), 291 (continuance of nuisance after injunction), 124A (sedition) of the PPC, Section 16 of the MPO and the Punjab Sounds System (Regulation) Act of 2015. On December 11th, police in Lahore filed an FIR against 250 lawyers after they ransacked PIC. The complaint was filed under various provisions of the PPC and the ATA. At least 30 teachers were arrested after they attempted to march on the Sindh Assembly and breached the Red Zone.

Lastly, on 12 December, police registered an FIR under the ATA against dozens of people protesting against an anti-encroachment drive in Sukkur.

Bans on assemblies

On 28 May, days ahead of the provincial elections, the district administration of South Waziristan imposed Section 144, banning all assemblies of five or more people. In June, Section 144 was imposed across North Waziristan for a period of one month due to 'security threats'. The district administration of Hangu also imposed Section 144 across the district in anticipation of Muharram, and on 18 October, the Sindh government issued a notification imposing Section 144 across the entire province for a few days, banning all public gatherings of five or more people.

Attempts to obstruct assemblies

In July, PML-N leader, Maryam Nawaz, was travelling with a convoy of supporters to Faisalabad in order to address a political gathering. Upon entering the city, it was reported that parts of the convoy were forcibly stopped from progressing further, thus cutting off the convoy. In addition, parts of the city had reportedly been sealed off using sea containers and other barricades. According to PML-N workers, police also raided the houses of various party leaders and flooded the grounds earmarked for the rally with water.

Strictures on freedom of movement

Shortly after the death of Arman Loni in early February, the Balochistan government issued a notification under Section 5(1)(a) and (c) of the Balochistan Maintenance of Public Order Ordinance, 1960, imposing a ban on PTM parliamentarians, Mohsin Dawar and Ali Wazir, from entering the province for a period of 90 days. According to the text of the notification, the order was issued on the grounds that the government had "reasons to believe that circumstances exist that demand extraordinary vigilance and extensive security" to prevent any "untoward incident". On 3 April, the Balochistan government extended its earlier ban on Manzoor Pashteen's entry into the province for another period of 90 days. The notification stated that he was involved in "hate speech" and making "incendiary statements against the state and its institutions".

Freedom of assembly in 2020

A collection of approximately 91 different protests, assemblies, rallies and demonstrations were surveyed for the year 2020, out of which at least 37 were indicative of undue and disproportionate restrictions being placed on the right to freedom of peaceful assembly. These constraints included: (a) excessive use of force against participants; (b) arrest or detention of actual, suspected or potential demonstrators; (c) registration of criminal or terrorism charges against participants; (d) bans on assemblies; (e) strictures on freedom of movement; (f) attempts to obstruct assemblies; (g) Internet shutdowns; and (h) denial of no objection certificates (NOCs).

Excessive use of force against participants

On 13 February, students and employees of Bolan Medical College (BMC) and members of the APCA gathered together on Zarghoon Road and attempted to stage a sit-in in front of the Balochistan Assembly. Police personnel, who were already deployed in and around the area, baton charged the protesters in an effort to disperse them from the area. In Peshawar, teachers of Islamia College University set up a protest camp on the varsity's premises. One day, police officials came and fenced the camp on the pretext of making security arrangements for visiting government functionaries. The very next day, when teachers attempted to open the camp, police baton charged the protesters and reportedly used abusive language against them.

On 21 March, a few days after a lockdown had been imposed in the country, cattle traders in Ahmadabad, Karak district, decided that they would still hold their bazaar. When police arrived and ordered them to halt their activities and evacuate the area, they protested. At this, police baton charged the traders and fired warning shots into the air. One trader was injured. A similar story was reported by shopkeepers in Parachinar, who claimed that when they attempted to open their shops during the lockdown, police used abusive language, baton charged them and resorted to aerial firing. On 6 April, a group of paramedical staff and members of the Young Doctors Association gathered outside Civil Hospital and staged a march to the chief minister's secretariat. They were protesting against a lack of personal protective equipment (PPEs) in provincial hospitals, despite the increasingly intensifying fight against the coronavirus pandemic. Police deployed at the area baton charged protesters, following which, the YDA decided to announce a general strike.

On 28 May, several Shia organisations attempted to take out processions in Jacobabad. They were stopped by heavy contingents of police, who lobbed teargas shells at them. After a video surfaced on social media showing a KP police officer abusing a man and stripping him naked, a large number of protesters gathered outside of Tehkal Police Station – where the incident took place – and began shouting slogans and pelting stones at the building. Police baton charged the protesters and fired teargas canisters at them. In Peshawar, area locals assembled at GT Road and blocked a section of it in order to protest against prolonged loadshedding. Police reached the site, thrashed protesters with batons and fired teargas shells at them. The subsequent day, the same protesters

staged a demonstration outside of the Peshawar Press Club and attacked a police van in the area. When police arrived, it once again resorted to using teargas shells in an effort to disperse them.

On 18 June, a large number of fruit vendors staged a protest in Karachi against an anti-encroachment drive being conducted by officials of Clifton Cantonment Board. Police officials, who were assisting CBC officers, detained several protesters and in the ensuing scuffles, one man, Kabir Hussain, was reportedly hit in the chest by a police baton and died. People picked up his body, gathered outside Frere Police Station and demanded that remedial action be taken. On the other hand, police denied ever using batons on the protesters and claimed that the man must have suffered a heart attack.

In July, traders in various cities in Punjab decide to oppose the lockdown and announced that they would keep their shops open. In Sargodha and Faisalabad, many protesters claimed that police arrived in their area and baton charged them without providing any warning. Some traders even stated that they had not even opened their shops, but had simply gathered together to peacefully stage a demonstration against the government's decision to impose a lockdown. At the tail end of the month, a large number of people gathered together and staged a sit-in at Friendship Gate near Chaman. FC personnel deployed at the area asked them to move away, but they refused to do so. At this, the law enforcers told the crowd that the gate would not be opened till they shifted their protest elsewhere. Meanwhile, a large number of Afghan nationals, including women and children, also gathered at the area. When the gate did not open for a considerable period of time, the protesters began getting unruly and allegedly attacked public property, prompting FC personnel to fire bullets into the air. While law enforcers denied opening direct fire on the crowd, three people died and 20 others were grievously wounded, six of whom needed immediate hospitalisation.

In Peshawar, residents of several villages staged a sit-in on the city's busy Ring Road in order to protest against prolonged power outages in their areas. The blockade caused massive traffic jams, promoting police to carry out a baton charge upon their arrival. In August, scores of PML-N workers gathered outside the NAB headquarters in Lahore in order to show solidarity with their party leader, Maryam Nawaz, who was arriving there in connection to an investigation into a land acquisition scandal. Police baton charged the protesters and fires teargas shells at them, while the party workers reportedly pelted them with stones.

In September, when area locals protested against an operation conducted by the district administration for retrieval of state land, police resorted to teargas shelling and firing warning shots into the air. On 8 October, on the eve of Arbaeen, members of the Shia community in Jacobabad took out numerous processions, many of which were intercepted by police, causing minor scuffles to ensue. One person died, and while protesters claimed that he was injured by police action using batons, law enforcers maintained that the man had died of a heart attack. On 30 October, thousands of people took out protest rallies all over the country in protest against the French government's decision to display blasphemous images depicting the Prophet Muhammad (PBUH). In Islamabad,

all roads to the Diplomatic Enclave had been cordoned off using sea containers and barbed wires. When people began climbing on top of the blockades, police retaliated with a barrage of teargas shelling.

In November, as TLP leaders and activists began arriving in Islamabad and Rawalpindi for their anti-France demonstrations, clashes erupted between stick-wielding protesters and law enforcers. Police employed teargas shells, water cannons and conducted severe baton charges. Scores of people, including many policemen, were injured, with some needed hospitalisation. Once again, however, the TLP managed to thwart the state and ended up staging yet another sit-in at Faizabad Interchange. On 5 November, farmers associated with the PKI assembled at Thokar Niaz Beg, Lahore, and blocked the area off. Police arrived at the scene, conducted baton charges and attempted to disperse the crowds using water cannons. Later, smaller groups of farmers managed to evade blockades and ended up staging a sit-in outside the Punjab Assembly. After negotiations failed, police baton charged the protesters and arrested scores of them. One of the farmers injured in the shelling later expired at a local hospital. On 20 December, hundreds of teachers took out a protest rally and marched on the residence of PM Imran Khan in Banigala. A heavy contingent of police officials intercepted them and managed to keep them at bay through intense teargas shelling.

Arrest or detention of actual, suspected or potential demonstrators

In February, dozens of students of Bolan University of Medical and Health Sciences (BUMHS) were arrested for staging a demonstration near GPO Chowk in Quetta, while nine students of Gomal University were arrested in Dera Ismail Khan after they participated in a protest campaign to pressurise the varsity into reducing its fees. In the same month, at least 33 PTM activists were arrested in Karachi for making 'anti-state speeches' at a corner meeting, and a 100 protesting students and clerks were taken into custody in Quetta after they attempted to stage a sit-in in front of the Balochistan Assembly.

On 6 April, dozens of doctors and paramedics were arrested in Quetta for protesting against a lack of PPEs in provincial hospitals. In May, 20 members of the Shia community were arrested in Jacobabad for attempting to take out a procession without prior permission from the relevant authority. In June, five protesters were picked up by Peshawar police for blocking a section of the GT Road, while in July, at least 120 teachers and owners of private schools were taken into custody after they staged a protest on The Mall in Lahore. In August, close to 50 PML-N activists were arrested after they clashed with police outside NAB's headquarters in Lahore.

As soon as the TLP announced its intention to stage demonstrations in Islamabad and Rawalpindi in November, the capital administration issued detention orders for its workers and leaders under Section 3 of the MPO for a period of 15 days. Approximately 150 workers of the TLP were arrested. After protesters began pouring in, clashes ensued in various places and close to 300 TLP activists were taken into custody. On 5 November, at least 200 PKI activists were arrested in Lahore for

staging a demonstration at Thokar Niaz Beg and closing the area for traffic. After the Pakistan Democratic Movement (PDM) announced its intention to stage a gathering at Qasim Bagh in Multan, the Punjab government initiated a massive crackdown on the parties involved. PPP leader, Ali Qasim Gilani, along with several other senior members, was arrested and sent to Multan jail. In mid-December, PTM parliamentarian, Ali Wazir, was arrested from Peshawar on charges of hate speech and criminal conspiracy after he addressed a rally in Karachi on 6 December. He was arrested on the request of Sindh police, which sent a special team to KP to take him into custody to bring him back. He was brought before an Anti-Terrorism Court and remained in prison till date.

Registration of criminal or terrorism charges against participants

In January, after the PTM held a political gathering in Dera Ismail Khan, police registered a case against PTM chief, Manzoor Pashteen, and several other people, under Sections 506 (punishment for criminal intimidation), 153A (promoting enmity between different groups), 120B (punishment for criminal conspiracy), 124A (sedition) and 123A (condemnation of the creation of the state) of the PPC. According to the FIR report, Pashteen had stated in a speech that “the 1973 Constitution violated basic human rights”. In Islamabad, an FIR was registered against 28 PTM workers, including parliamentarian Mohsin Dawar, after they held a demonstration outside the National Press Club in order to protest against the arrest and detention of Manzoor Pashteen. The FIR was registered under Sections 188 (disobedience to order duly promulgated by public servant), 353 (assault or criminal force to deter public servant), 147 (punishment for rioting), 149 (every member of unlawful assembly guilty of offence committed in prosecution of common object), 505(1)(a), 505(1)(b) (statements conducing to public mischief), 124A (sedition), 341 (punishment for wrongful restraint) and 186 (obstructing public servant) of the PPC.

On 28 January, a number of sugarcane farmers were booked by police in Tando Ghulam Haider for protesting outside the premises of a sugar mill. In February, Islamabad police registered an FIR against the family and relatives of a murdered, after they placed his body on a main road and blocked the area for traffic. The complaint was filed on account of ‘misbehaving’ with police officials when they requested that the area be cleared. In August, scores of residents in Karachi staged a massive demonstration outside the office of the Clifton Cantonment Board in order to protest against the post-rain situation, which had caused widespread waterlogging and prolonged power outages. Once the protesters had dispersed, police lodged an FIR against them under Sections 148 (rioting armed with deadly), 147 (punishment for rioting), 353 (assault or criminal force to deter public servant), 506 (punishment for criminal intimidation) and 34 (acts done by several persons) of the PPC.

After the PDM successfully managed to hold its rally in Peshawar, the KP government registered criminal complaints against numerous PDM leaders and workers. In November, police in Punjab registered two FIRs against 80 identified and 800 unidentified people under Section 132 (abetment of mutiny), 156 (liability of agent or owner for whose benefit riot is committed), 379 (punishment for

theft), 506 (punishment for criminal intimidation), 148 (rioting armed with deadly weapon) and 149 (every member of unlawful assembly guilty of offence committed in prosecution of common object) of the PPC and Section 17 of the Punjab Infectious Disease (Prevention and Control) Ordinance 2020. The move came after the PDM staged its rally in Qasim Bagh, Multan.

Bans on assemblies

In March, the Punjab government imposed Section 144 for a period of three weeks, closing all educational institutes, parks, zoos, and picnics points and directing all markets and bazaars to be closed by 10 PM. On 22 March, a similar order was issued by the ICT administration, and by 31 March, Section 144 had been imposed in all eight districts of the Hazara Division. In April, the Sindh government issued a notification, banning all religious gatherings, including Yaum-e-Ali processions. On 18 June, the Punjab Home Department imposed Section 44 across the entire province and directed that all entry and exit out of Covid-19 'hotspots' would be controlled. In August, the district administration imposed Section 144 in Mardan, banning pillion riding and unregistered motorbikes during the upcoming polio vaccination campaign, whereas in October, it was imposed throughout Islamabad for a period of two months.

Strictures on freedom of movement

On 25 October, a day before the PDM staged its third power show of the year in Quetta (despite appeals from the provincial government to postpone the event), PTM leader and parliamentarian, Mohsin Dawar, was stopped at Quetta Airport and taken into custody by security officials, who informed him that his entry into Quetta had been banned by the district administration. Similarly, in November, families of 'missing persons' started off on a 'long march' from Karachi to Islamabad. They passed through several cities in Sindh, but on 30 December, dozens of police vans in Ghotki stopped the rally from crossing into Punjab. The marchers staged a sit-in, blocking the National Highway, but were baton charged by police. Dozens of protesters, including women, were arrested. Ahead of Muharram, the district administration of Rawalpindi issued orders banning the entry of 37 religious clerics for a period of 60 days.

Attempts to obstruct assemblies

In October, as thousands of government employees from various parts of the country began staging sit-ins and demonstrations against price hikes and 'anti-employee' policies, the capital administration sealed off the entire Red Zone in Islamabad by placing containers on four of its entry points. Heavy contingents of police and Rangers officials were deployed inside and outside the barricades.

Internet shutdowns

When TLP staged yet another massive protest demonstration in Islamabad and Rawalpindi in November, cell phone services remained suspended throughout the country for a period of three consecutive days. Even otherwise, Internet connectivity remained poor or non-existence in certain districts of Balochistan and KP, while in GB and Azad Kashmir, it continued to be managed by army-owned 'Special Communication Organisations', which is believed to create hurdles for private cellular operators¹²⁰. In June, students from GB and AK even launched an online protest calling for provision of better-quality Internet, and in particular, 3G and 4G services¹²¹.

Denial or delay of NOCs

PDM was denied an NOC to hold a political gathering in Peshawar, ostensibly in light of rapidly rising coronavirus cases. However, this did not stop the 11-party alliance from successfully staging its planned rally. Similarly, weeks ahead of Aurat March, the organisers of the protest in Islamabad applied for an NOC from the deputy commissioner. However, it was delayed till the last day, evidently due to pressure from right-wing groups¹²².

¹²⁰ HRCF Annual Report, State of Human Rights in 2020, Page 14

¹²¹ HRCF Annual Report, State of Human Rights in 2020, Page 163

¹²² HRCF Annual Report, State of Human Rights in 2020, Page 139

Chapter 4: Assessment of curbs on accounts of differentiating factors

For the purpose of this assessment, a collection of 858 different assemblies was surveyed, out of which at least 392 were suggestive of unnecessary, illegitimate or disproportionate restrictions being imposed on the freedom of peaceful assembly. The assemblies that formed the subject of this survey varied in their form – some were static, such as demonstrations, conventions, sit-ins and protest camps, while others were moving, such as marches, rallies and processions. Similarly, the participants involved in these assemblies were also representative of a wide cross-section of society, including farmers, teachers, clerks, doctors, paramedics, lawyers, political workers, journalists, members of civil society and ordinary residents.

Assessment of the use of force

By far the most consistent restriction noted throughout was an excessive use of force against participants of an assembly. From 2010 to 2020, approximately 112 people were killed, while close to 2,127 people suffered serious injuries as a result of intervention by LEAs. Typically, force was applied either in an attempt to control the conduct or movement of an assembly, or as an effort to make demonstrators disperse from a particular area. The most common method of policing was through conducting baton charges, followed by teargas shelling, use of water cannons, rubber bullets, aerial firing and lastly, firing with live ammunition. At times, the excessive use of force resulted in fatal consequences, and where protesting citizens were spared death, they still ended up suffering grievous, life-threatening injuries.

No.	Year	Casualties	Injuries
1	2010	27	98
2	2011	7	279
3	2012	15	283
4	2013	0	42
5	2014	17	684
6	2015	5	93
7	2016	5	97
8	2017	11	172
9	2018	5	57
10	2019	15	262
11	2020	5	60

Year 2010 stood out as the deadliest by far, with 27 casualties being reported. In most of these cases, the fatalities were a direct consequence of LEAs opening direct fire on protesters. In one instance, police in KP fired upon a crowd of demonstrators, killing 10 people, while in another, security

forces gunned down four Adivasi fishers protesting against Malir Cantonment Board. Seven people, including a teenage boy, were killed in 2011 on five different occasions. Similarly, in 2012, 15 people were killed and almost 200 injured after violent protests erupted in Karachi against the release of a sacrilegious foreign film. 2014 bore witness to the Model Town massacre, when Punjab police opened fire on unarmed protesters, killing 14 people and wounding 80 others. In the same year, three people were killed and at least 400 injured in Islamabad after PTI and PAT's joint protest to demand Nawaz Sharif's ouster turned awry. In 2016, two protesting employees of PIA were killed after sustaining bullet wounds at a sit-in, although police officials and Rangers personnel involved in the operation denied using live bullets. 11 casualties were reported in 2017 and 5 in 2018. In 2019, security forces 'clashed' with PTM activists at Kharqamar checkpoint in North Waziristan, killing at least 13 workers and injuring dozens of others. Although no judicial investigation was conducted in the matter, a report by the deputy commissioner of the area pinned the blame squarely on PTM workers. However, immediately after, the KP government announced hefty compensation packages for all affectees, and only a few months later, all PTM activists detained in connection with the incident were released on bail by the Peshawar High Court. Five people were killed in 2020 in three different incidents - three of whom died as a result of FC personnel opening fire on demonstrators gathered at Friendship Gate at the Pak-Afghan border near Chaman. In a number of cases, the use of force was not merely deadly but also extremely counterproductive, as it only ended up fuelling wider and more violent protests, causing people to come out in droves, block highways and roads and set fire to governmental buildings.

Even when attempting to disperse participants through less-lethal weapons, the actions of LEAs were characterised by unpredictability. Little thought was spared as to whether the application of force was necessary in a particular context and extreme corporal methods - like baton charges and teargas shelling - were employed more as a knee-jerk reaction and less as a well-thought or pre-planned strategy. No discernible effort was made to ensure that the use of force was proportionate to the danger posed by a particular group of people, leading to some merciless examples of police brutality. In 2014, 2015 and 2018, police conducted baton charges even against visually impaired protesters and people with disabilities, injuring many of them in the process. Similarly, before coming to a decision on whether or not to disperse an assembly, LEAs followed no set standard operations procedures (SOPs) or detectable guidelines. As a result, dispersal appeared to be haphazard. At times, people were allowed to block highways for days before LEAs moved into action, while at other times, they intervened to break up sit-ins within a couple of hours.

It is pertinent to highlight here that in numerous instances, circumstances certainly justified *some* use of force, for instance, where participants of an assembly had become violent and either began attacking LEAs or started damaging public and private property. However, even in these cases, there was no method to the madness with which LEAs operated, leading to the impression that they simply lacked any specialised training on dealing with protesters, be they peaceful or not.

Another very serious concern was a complete and utter lack of accountability of LEAs. While there were a handful of cases where police officials were summarily (and temporarily) suspended or dismissed, in the vast majority, there was simply no attempt on part of state authorities to initiate investigations or disciplinary proceedings against officials responsible for excessive use of force. This helped foster a culture of near-absolute impunity, jeopardising the freedom of peaceful assembly.

Assessment of the use of powers of arrest and detention

In order to effectively police assemblies, LEAs must naturally have the authority to arrest and detain persons suspected of having committed a criminal offence. However, if employed in an arbitrary or capricious manner, the same power can effectively cripple the right to freedom of peaceful assembly and create a ‘chilling effect’ on its exercise, usually by dissuading and discouraging potential demonstrators from participating in assemblies for fear of reprisals. The survey indicated that LEAs made abundant use of their powers of arrest and detention. From 2010 to 2020, a total of approximately 9,360 people were arrested in relation to their participation at an assembly.

No.	Year	Arrest and detention
1	2010	735
2	2011	621
3	2012	61
4	2013	71
5	2014	2903
6	2015	500
7	2016	426
8	2017	631
9	2018	1282
10	2019	1089
11	2020	1041

At times, these arrests were conducted after assemblies had turned violent, thereby giving some credence to the possibility that they were based on reasonable or well-grounded suspicion that the subjects of the arrest may have committed a criminal offence. At other times, however, the arrests appeared utterly fanciful, unnecessary and even irrational. This proclivity was most amply demonstrated when LEAs conducted ‘mass arrests’, detaining scores or in some cases, even hundreds, of protesters at a single time. For instance, in 2020 alone, mass arrests were carried out on

at least five occasions. The numbers of people arrested in each instance ranged from a staggering 150 to a befuddling 300. This pattern was persistently noted throughout each year under review, and needless to say, it threatened not only the right to peaceful assembly, but also amounted to an arbitrary deprivation of liberty.

A particularly problematic trend, which warrants special mention, was the use of ‘preventive detention’ against organisers or potential participants of an assembly. For instance, in 2014, just ahead of the PTI and PAT’s respective ‘long march’ to Islamabad, a record 2,520 activists and workers of the two parties were preventively detained. Similarly, in 2016, a day before tenants of Okara Military Farms were scheduled to hold a convention to mark the ‘International Day of Peasants’ and Farmers’ Struggles’, the district administration of the city issued 30-day-long detention orders for an office-bearer of the AMP – the key organisation behind the gathering. In 2018, an estimated 1,135 TLP activists were detained for an entire month under the MPO, while just before the PML-N’s planned rally to celebrate the ‘homecoming’ of Nawaz Sharif, police in Punjab detained at least 141 people under the MPO and arrested 327 others under the Election Act, 2017. In a similar vein, in 2019 and 2020, around 200 TLP activists were detained under Section 3 of the MPO right after their party called for protests to be launched. It must be noted that preventive detention, especially for long durations, amounts to a flagrant violation of the basic principle that people must only be punished for the commission of an offence and not on mere suspicion. Moreover, it acts as a significant detriment against people’s freedom to congregate without fear or retaliatory action.

Assessment of the registration of criminal and terrorism charges

In countless cases, assemblies were immediately followed by the registration of criminal and even terrorism charges against participants. From 2010 to 2020, charges were filed against an estimated 18,281 people. In some instances, they came at the heels of protests that had clearly become violent, disorderly and destructive, making it imperative that some action be initiated against the culprits responsible. In various other instances, however, charges were filed against wholly peaceful demonstrators and smacked of ulterior motives and even clear *mala fide* on part of state authorities.

No.	Year	Criminal charges
1	2010	1639
2	2011	5692
3	2012	614
4	2013	0
5	2014	119
6	2015	3089
7	2016	4322
8	2017	403

9	2018	374
10	2019	1055
11	2020	974

Most of the complaints filed against participants of an assembly fell under Sections 147 (punishment for rioting), 148 (rioting armed with deadly weapon) and 149 (every member of unlawful assembly guilty of offence committed in prosecution of common object) of the PPC, aside from a handful of other provisions. In recent years, however, there has been a marked increase in the use of Sections 123A (condemnation of the creation of Pakistan) and 124A (sedition). By way of example, from 2010 to 2017, only a single case under 123A and 124A was noted to have been registered in the survey – that too against 35 activists of JSQM, a Sindhi nationalist and separatist group. In the past three years, however, at least eight cases were registered under these provisions, and incidentally, nearly all of them were filed against PTM workers and supporters.

An exceptionally dangerous practice was the tendency on the part of the LEAs to register cases against hundreds, and at times, thousands of ‘unidentified people’. In 2011, the police registered at least nine criminal complaints against groups of over 500 people – in one case, an FIR was registered against 2,000 people. Similarly, in 2012, the Lahore police filed charges against 600 PTI workers and activists for flouting a ban against demonstrating on The Mall. In 2015, police in Karachi registered an FIR against nearly 2,000 MQM supporters for holding a peaceful demonstration. In 2016, a case was registered against a record 4,000 tenants of Okara Military Farms after they participated in a protest to demand the release of an office-bearer of the AMP. Such FIRs later end up facilitating ‘mass arrests’ and provide police officials with an excellent justification to round up and implicate innocent, random and unconnected people to a particular case. This is even more likely to be the case where state authorities are under governmental or public pressure to act fast.

Assessment of total prohibitions on assemblies

State authorities made ample use of their powers under Section 144 of the CrPC to impose blanket bans on assemblies of five or more people. In some cases, the duration of the orders was limited to a few days, but in others, they lasted for a month or more. In the majority of cases, the orders failed to provide detailed reasons for their enforcement and made only passing reference to generic statements such as ‘prevailing security situation’ or ‘deteriorating law and order’. In certain cases, orders under Section 144 were issued just ahead of planned and announced protests, leading to the impression that they were being used specifically to clamp down on assemblies that were deemed unfavourable to the government of the day. Furthermore, in almost every year surveyed, Section 144 was imposed during the holy month of Muharram, mostly to prohibit processions and rallies

that had not sought prior permission from the district administration and in certain cases, to ban the entry of certain religious figures.

Section 144 was also used to create permanent 'no-go areas' for ordinary citizens. In Islamabad, Lahore, Karachi, Peshawar and Quetta, orders issued under Section 144 were employed to demarcate certain areas as 'Red Zones', where people were not allowed to congregate under any circumstances. While these zones were usually restricted to the immediate areas surrounding important governmental buildings and landmarks, their effect was two-fold: firstly, they created entire spaces where assemblies were barred altogether, and secondly, they authorised LEAs to arrest and prosecute people who attempted to defy the ban under Section 188 of the PPC. In a large number of assemblies, participants would congregate in a certain area (for instance, in front a press club) and demonstrate for multiple hours and even days at a time. Then, upon realising that their protest was not catching any attention, they would intentionally attempt to breach Red Zones in an effort to bring their assemblies within the sight, sound and reach of government functionaries. At this point, LEAs would often resort to brutal force in order to disperse them, leading to clashes, scuffles, injuries and at times, fatalities. The fact that protesters would often repeat this process until they garnered reactions from state authorities and the press only highlighted their desperation and anguish.

Assessment of discrimination

The right to freedom of peaceful assembly should be available to all citizens irrespective of sex, race, religion, caste, creed, socio-economic status or any other such factor. While the principle of non-discrimination was generally adhered to, there were three exceptions to the general rule: (a) residents of ex-FATA, (b) members of the Shia community and (c) Ahmadi citizens.

Until the passage of the 25th Amendment to the Constitution in May of 2018, residents of ex-FATA were governed largely through the FCR, a colonial-era legal instrument. Since the FCR neither prohibited nor sanctioned the right to freedom of peaceful assembly, during this entire period, it existed in a limbo of sorts, available as a privilege perhaps, but never as a right. Post-2018, the tribal districts have merged into KP and in theory, enjoy the exact same fundamental rights as any other citizen of the country.

Members of the Shia community remained entitled to the full protection of Article 16 and indeed, openly exercised it each year, particularly during the holy month of Muharram, when indoor spaces held *majalis* and streets and thoroughfares flooded with processions. By and large, the state fulfilled its duty to respect and facilitate the Shia community's right to peaceful assembly. However, given the history of sectarian violence in the country, state authorities strictly regulated assemblies, leading, in occasional cases, to certain curbs being imposed. For one, each year around Muharram, Section 144 was imposed in various parts of the country, banning assemblies of five or more –

except processions and *majalis* which had sought prior permission. In certain cases, the requirement for prior authorisation ended up causing difficulties for processions that had not applied for licences or had not notified state authorities of their intention to congregate. For instance, in 2015, the MPO was used against 50 members of the Shia community for attempting to take out a Muharram procession without express permission. Moreover, in some cases, district administrations passed orders to ban the entry of certain religious scholars (including Shia clerics) within their territorial limits.

As far as Ahmadi citizens are concerned, their right to freedom of peaceful assembly remained neutralised as a result of the operation of Sections 298B and 298C of the PPC and the decision of the Supreme Court in *Zaheeruddin and others v. State and others*¹²³. It is therefore unsurprising that from 2010 till 2020, not a single public assembly of Ahmadi citizens was reported.

Assessment of restrictions on account of ‘subject matter’ or ‘content’ of assemblies

In various instances, assemblies appeared to have been targeted by state authorities solely due to the controversial nature of their content or message. This was particularly true for gatherings that echoed sub-nationalist or separatist sentiments, those that targeted the judiciary and those that discussed seemingly ‘off-limit’ subjects, such as enforced disappearances. For example, in 2015, 35 activists of the JSQM, a Sindhi nationalist party, were arrested for making ‘anti-state’ speeches in a political gathering in Malti, while two other activists were detained under similar circumstances in Mirpurkhas. Similarly, in 2016, when a group of different sub-nationalist parties took out a peaceful protest rally in Badin against what they claimed were ‘anti-Sindh plans and projects’, police officials not only used force to disperse them, but later ended up filing charges against 45 nominated and 150 unidentified people under the PPC and the ATA.

A comparable attitude surfaced with regards to demonstrations directed against the senior judiciary or against enforced disappearances. In 2010, Lahore police registered cases against 200 PPP workers and activists for organising a protest in which an effigy of the Chief Justice was set on fire and slogans were raised against the judiciary. Similarly, in 2018, after opposition parties held a demonstration against alleged rigging outside the office of the ECP in Islamabad, police registered cases against a number of political activists for allegedly ‘shouting slogans against the Chief Justice’. In May 2019, relatives of ‘missing persons’ held a multiple-day-long sit-in outside the Karachi residence of President Arif Alvi. Although the protesters were entirely peaceful people, at least 35 of them were arrested and simultaneously, an FIR was filed against 250-350 unidentified people under, among others, Sections 121 (waging war), 120B (punishment for criminal conspiracy) and 148 (rioting with deadly weapon).

¹²³ For a more detailed discussion on the exact position of the Ahmadi citizens and their right to freedom of assembly, please refer to pages 20-22 of this report.

The same issue cropped up in assemblies organised by the PTM, most of which not only raised thorny issues (such as extrajudicial killings and enforced disappearance) but also employed incendiary rhetoric against security forces and intelligence agencies. From 2018 to 2020, nearly every other protest or demonstration organised by PTM was used as a basis to harass and arrest its workers and sympathisers. For instance, a day before it held its first rally in Lahore, Punjab police conducted raids on hotels and universities and arrested several of its members, in addition to AWP activists and Pashtun students. Similarly, in February of 2019, when PTM organised a protest in Islamabad against the death of Arman Loni, law enforcers arrested 18 people – including Gulalai Ismail, a women’s rights activist, who was later released without charge after being locked up for almost 30 hours. Only a few days later, a case was registered in Multan against 21 PTM activists for raising ‘anti-state slogans’. Similarly, in 2020, some 33 supporters of the movement were arrested in Karachi, once again for making ‘anti-state’ speeches at a corner meeting. In sum, it appeared that state authorities left no stone unturned in policing PTM’s language.

Assessment of media access to assemblies

Generally, media outlets and journalists enjoyed unrestricted access to all manners of assemblies. In rare cases, however, it became apparent that the media had been specifically directed not to cover certain events. From October of 2013 till February of 2014, VBMP staged a ‘long march’ from Quetta to Islamabad in order to protest against state-sponsored enforced disappearances. The march received little to no coverage from mainstream electronic media in the country, even though it was widely covered in domestic print outlets and in international media.

From 2018 till 2020, the PTM staged numerous rallies, demonstrations, political gatherings and protests all over the country. It raised several issues, including but not limited to: racial profiling and marginalization of Pashtun citizens in ex-FATA, extra-judicial killings and enforced disappearances at the hands of security forces, and the continued presence of landmines in certain tribal districts. Shockingly, virtually none of their activities was covered by electronic media, leading to the impression that unidentifiable actors, most likely from within the state machinery, had imposed an unspoken and unannounced ban on media coverage of the PTM.

Assessment of threats from ‘unidentifiable’ actors

Time and again, unidentifiable actors directly or indirectly threatened assemblies. For instance, in 2014, relatives of missing persons, led by Amna Janjua, chairperson of DHR, staged a protest rally in Islamabad. After initially gathering at D Chowk, they began marching towards Parliament House, at which point they were stopped by police officials from progressing any further. Immediately thereafter, unidentified persons in plainclothes arrived at the scene and proceeded to repeatedly touch the participants with what was described as an ‘electric torch’. Many of the protesters claimed

of having received electric shocks, leading to the conclusion that the device in question was some form of an electroshock weapon.

In 2015, a seminar titled 'Unsilencing Balochistan', which was scheduled to take place at LUMS, was cancelled after a 'delegation' allegedly met with the university's administration and directed them to stop the event. Ultimately, the event had to be shifted to 'The Second Floor', an independent community space in Karachi. Almost immediately after the event took place, Sabeen Mehmud, the director of the space in question, was killed by unidentified gunmen. Similarly, in 2018, at least two universities cancelled talks related to Pashtun rights, allegedly after receiving intimidating phone calls from security officials.

Between 2011 to 2017, the then UN Special Rapporteur on the rights to freedom of peaceful assembly and association Maina Kiai expressed serious concern over the receipt of several urgent appeals and allegation letters. These included, among others: (a) the alleged killing of a human rights defender; (b) alleged accusations against human rights defenders of blasphemy; (c) alleged break-ins at human rights associations and acts of harassment and intimidation against its staff; (d) alleged killing of seven human rights defenders working for the civil society organisation Support with Working Solutions (SWWS); and (e) alleged killing of a woman human rights defender and her sister, as well as attacks and death threats against her family members.

Assessment of strictures on freedom of movement

At times, state authorities employed various laws and regulations to control the right to freedom of movement and thus, also ended up infringing the right to freedom of assembly. For instance, in November of 2011, the district administration of Abbottabad issued a notification under Section 144, banning the entry of 27 religious clerics of various sects into the area. The ban remained in place for one month. Similarly, in Islamabad, the entry of six religious figures was banned ahead of Muharram. In 2014, the Punjab government issued similar orders, banning the entry of 159 religious leaders into the Rawalpindi district. These included 62 clerics from the Deoband school of thought, 65 from the Shia community and 31 from the Bareilvi sect. The practice carried over to 2020, when the district administration of Rawalpindi issued a ban on the entry of 37 clerics for a period of 60 days. Ostensibly, these restrictions were imposed in order to avoid the possibility of sectarian violence and in this sense, they may qualify as reasonable restrictions, seeing as they were applied against all sects without discrimination. However, it ought to be noted that the ability to issue administrative orders banning the entry of persons into an area – especially without any judicial oversight – is an extremely slippery slope, as the same powers can then be employed in a politically motivated manner.

This was in fact the case in 2011 for example, when the government issued orders under Section 5 of the MPO, restricting Shahzain Bugti, leader of the JWP, and his brother, from leaving Quetta. The

orders were passed shortly after they had announced their intention to stage a 'long march' to Dera Bugti, their ancestral home, and thus, amounted to a grave infringement of their right to peaceful assembly. In recent years, particularly post-2018, the survey indicated a sudden and marked increase in the frequency with which governments exercised these powers. In December of 2018, the Balochistan Home Department banned PTM chief, Manzoor Pashteen, from entering into the province for a period of 90 days. The orders were issued under Section 5(1)(a) to (c) of the MPO. A few days prior, the Sindh government had passed a similar notification, but quickly withdrew on account of public pressure.

Shortly after the death of Arman Loni in early 2019, the Balochistan government issued a notification under Section 5(1)(a) and (c) of the MPO, imposing a ban on PTM parliamentarians, Mohsin Dawar and Ali Wazir from entering the province for a period of 90 days. According to the notification, the order was issued on the grounds that the government had "reasons to believe that circumstances exist that demand extraordinary vigilance and extensive security" to prevent any "untoward incident". In April that year, the Balochistan government extended the 2018 ban imposed on Manzoor Pashteen for another period of 90 days. Finally, in October of 2020, a day before the PDM staged its third power show of the year in Quetta, PTM leader and parliamentarian, Mohsin Dawar, was stopped at Quetta Airport and taken into custody by security officials, who informed him that his entry into Quetta had been banned by the district administration.

The PTM was not the only group that faced such restrictions in 2020. In November, families of 'missing persons' started off on a 'long march' from Karachi to Islamabad. They passed through several cities in Sindh, but on 30 December, dozens of police vans in Ghotki stopped the rally from crossing into Punjab. The marchers staged a sit-in, blocking the National Highway, but were baton charged by police. Dozens of protesters, including women, were arrested. Seeing as the protesters had been completely unarmed and peaceful, there existed no discernible reason as to why their movement should not have been restricted, leading once again to the impression that state agencies may have directed this curtailment on account of the 'controversial' nature of their message.

Assessment of strictures on freedom of association

In numerous instances, clamps on freedom of association served to indirectly inhibit the right to freedom of peaceful assembly. Throughout the years under review, formal student unions remained banned throughout the country¹²⁴. In February of 2016, after PIA employees called for a

¹²⁴ Student unions were first banned across the country in 1984 through a series of Martial Law Orders (1371, 227, 362 and 363) under the dictatorship of General Zia-ul-Haq. In 1989, these orders were repealed and student unions became functional once again. In 1993, the Supreme Court took up a petition, titled 'M Ismail Qureshi & others v. Sec Gen Islami Jamie Tuleba & others' (1993 SCMR 1781), and placed an 'interim ban' on political activities across campuses. Since then, student unions have remained de facto non-functional, ostensibly on account of this 'ban' - although the judgement

countrywide strike against the proposed privatisation of the national flag carrier, the government at the time activated the Essential Services (Maintenance) Act, 1952, which effectively barred them from participating in any union activity. Procedural policy enactments, such as the NGO Policy of 2013 issued by the Economic Affairs Division and the INGO Policy of 2015 issued by the Ministry of Interior were also used to severely restrict the registration, funding and functioning of civil society organizations. In February 2015, the Association of Global Humanists and Ethics, an NGO working on women and children's issues in Gilgit-Baltistan was forcibly closed by state authorities, allegedly on account of pressure from extremist groups. In November 2015, it was reported that nine INGOs had their applications for registration refused. This included Catholic Relief Services, World Vision International, iMMAP, Save the Children, International Alert, Norwegian Refugee Council, Danish Refugees Council and Dhaka Ahsania. Similarly, in only 2019, 42 NGOs were denied registration on account of objections received from the country's premier intelligence agency, the ISI.

Freedom of association also suffered threats as a result of blatant misuse of the OSA. In 2019, human rights defender Idrees Khattak went 'missing'. After an eight-month period of total silence, the Ministry of Defence informed the Commission of Inquiry on Enforced Disappearance that he was being tried under the OSA (read with the Pakistan Army Act, 1952) by a military court. The case against him related to an alleged meeting that occurred between him and a foreign national named Michael Semple. It is claimed that during this meeting, Khattak provided details of classified military movements over to Semple, who is similarly accused of being an MI6 agent. A group of independent experts appointed by the UN Human Rights Council have characterized the case as "emblematic of a series of documented enforced disappearances in Pakistan, where many human rights defenders are similarly silenced for their legitimate work of monitoring, documenting and advocating against a range of human rights violations and attacks against minorities".

Assessment of cellular and Internet connectivity

Cellular and Internet services provided citizens with a crucial platform for organising, planning and executing assemblies. While a lot of areas in the country enjoyed unrestricted and uninterrupted access to these services, there were notable and significant exceptions. Large parts of Balochistan, KP (particularly the tribal districts that comprised ex-FATA), Gilgit Baltistan and Azad Kashmir suffered either from a lack of Internet services altogether, or from connectivity issues, or from interruptions and shutdowns. Pakistan's position on the Inclusive Internet Index – founded in 2018

specifically stated that "arrangements shall be made as soon as possible and not later than a month to take steps for developing, restoring or re-organizing a healthy students discussion and other activity in any form suitable to the individual institutions which might be called by any description; regarding which arrangements for election shall also be made". As such, the status of the ban appears to rest on questionable foundations. As of March 2022, Sindh has revived student unions in the province.

- consistently declined throughout the years surveyed, from 67th place in 2018, to 77th in 2019, and finally to 89th in 2020.

According to the Pakistan Telecommunication Authority, only about 37 percent of people had access to broadband services in the country as of 2020. Internet connectivity remained poor and even non-existent in a number of districts in Balochistan and KP, at times due to lack of infrastructural development and at times due to termination of services on the pretext of 'security'. In light of the pandemic, the digital divide became more pronounced than ever, as educational institutions closed down and shifted to online education. On 23rd June, around 300 students staged a protest outside the Quetta Press Club, demanding better Internet services and a reduction in tuition fees as a result of the pandemic. Police arrested 80 of the protesters on the pretext that a Section 144 ban had been imposed against assemblies of five or more people in order to curb rising coronavirus cases. Similarly, students in GB and Azad Kashmir launched an online protest calling for provision of better-quality Internet and 3G and 4G services.

A very concerning trend was the increasing reliance of state authorities on 'shutdowns' of cellular or Internet services. From 2017 to 2020, each time the TLP staged a protest, the government ordered an immediate but temporary suspension of services in various parts of the country. This strategy was also adopted on an annual basis to shutdown networks on important occasions such as Pakistan Day, Defence Day, Ashura and Yaum-e-Ali.

Chapter 5: Pakistan's international obligations regarding the right to freedom of peaceful assembly

Pakistan operates as a dualist state, meaning that 'domestic law' and 'international law' are viewed as separate entities that overlap only when international law has been incorporated into the national legal framework through specific legislation passed by parliament. Certain international human rights conventions that Pakistan has ratified, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), explicitly call upon state parties to take legislative action to ensure the protection of the rights and freedoms provided in the Covenants. Thus, Pakistan is under a consistent and continuing obligation to ensure that its domestic laws and procedures are in consonance with these rights. This responsibility extends to "all branches of government (executive, legislative and judicial) and other public or governmental authorities, at whatever level – national, regional or local ..."¹²⁵.

Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) was adopted by the General Assembly of the United Nations in 1948. Since it is a 'declaration' rather than an international treaty, it is not binding per se, but, having been embraced by a global consensus of virtually all states, it may be said to constitute an essential part of customary international law. It contains thirty different inalienable rights and freedoms, spanning the full spectrum of civil, political, social, cultural and economic rights. Moreover, it is widely accepted as the foundation of modern international human rights law.

Article 20 of the UDHR states that "everyone has the right to freedom of peaceful assembly and association" and that "no one may be compelled to belong to an association". The rights to freedom of peaceful assembly and association are supplemented by Article 13, which states that "everyone has the right to freedom of movement and residence within the borders of each State", and Article 19, which states that "everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".

International Covenant on Civil and Political Rights

The ICCPR is a multilateral treaty that was adopted by the General Assembly of the United Nations in 1966. The covenant commits its signatory states to respect a number of civil and political liberties.

¹²⁵ UN Human Rights Committee (HRC), *General comment no. 31 [80], The nature of the general legal obligation imposed on States Parties to the Covenant*, 26 May 2004, CCPR/C/21/Rev.1/Add.13, Para 4

Article 21 of the ICCPR states that: “The right to peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection health or morals or the protection of the rights and freedoms of others”. It was signed by Pakistan in 2008, with considerable reservations over some key provisions, and was later ratified in 2010.

By ratifying the ICCPR, Pakistan has agreed “to respect and to ensure to all individuals within its territory ... the rights recognized” in the Covenant, “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”¹²⁶. In addition, it has undertaken to “adopt such legislative or other measures as may be necessary to give effect” to the rights enshrined in the ICCPR¹²⁷, along with providing citizens whose rights have been violated with an “effective remedy” under the law¹²⁸.

International Covenant on Economic, Social and Cultural Rights

A ‘sister covenant’ to the ICCPR, the ICESCR was also adopted by the General Assembly of the United Nations in 1966. Unlike the ICCPR however, it is devoted solely to economic, social and cultural rights. Article 8(1)(a) of the ICESCR declares that all signatory states undertake to ensure: “The right to everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organisation concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others”. This is further supplemented by “the right of trade unions to establish” or form or join “international” trade associations¹²⁹, the “right of trade unions to function freely”¹³⁰ and “the right to strike”¹³¹. Pakistan became a signatory to the treaty in 2004 and ratified it in 2008.

The ICESCR creates a responsibility upon “each State Party” to the Covenant to “take steps, individually and through international assistance and cooperation ... with a view to achieving progressively the full realization of the rights recognised” therein “by all appropriate means, including particularly, the adoption of legislative measures”¹³².

¹²⁶ ICCPR, Article 2(1)

¹²⁷ ICCPR, Article 2(2)

¹²⁸ ICCPR Article 2(3)(a)

¹²⁹ ICESCR, Article 8(1)(b)

¹³⁰ ICESCR, Article 8(1)(c)

¹³¹ ICESCR, Article 8(1)(d)

¹³² ICESCR, Article 2(1)

Obligation to bring domestic law to international standards

The UDHR, together with the ICCPR and the ICESCR, form the ‘International Bill of Human Rights’ and are considered the bedrock of international human rights law. By becoming a party to the treaties, Pakistan has undertaken an obligation to ensure that the rights enumerated therein will be protected, respected and fulfilled by the state apparatus. This obligation is simultaneously a negative and a positive duty.

The obligation to ‘respect’ a right means that a state must abstain from interfering with or restricting or curtailing the enjoyment and free exercise of the right in question. The duty to ‘protect’ a right means that a state must ensure that individual persons or groups of persons under its jurisdiction should not be subjected to a violation of the human right in question, either at the hands of state functionaries or by any non-state actors or third parties. Finally, the duty to ‘fulfil’ represents an obligation on part of the state to facilitate and assist the unencumbered enjoyment of any right.

It must also be noted that in its latest Universal Periodic Review cycle¹³³, Pakistan voluntarily committed to “continue to review national laws to ensure that they are in line with international human rights obligations”¹³⁴ and to “continue its efforts to improve the protection of human rights, especially by eliminating discrimination based on sex, race, caste and religion”¹³⁵. Furthermore, it also accepted the need to “adopt the necessary legislative or regulatory measures to combat all forms of discrimination, particularly against ethnic or religious minorities”¹³⁶ and to intensify “efforts aimed at efficiently safeguarding the freedom of expression”¹³⁷.

International standards and guiding principles on the right to freedom of peaceful assembly

Throughout the past several decades, international human rights bodies and agencies have generated considerable literature devoted to the protection of human rights. While these are not binding upon any state, they serve as useful points of reference and establish internationally recognised standards and best practices. In addition, they offer great utility in reconciling national legislation with global standards.

¹³³ The Universal Periodic Review (UPR) is a cyclical review process carried out under the auspices of the UN Human Rights Council, which involves an appraisal of the human rights records of all UN Member States. It is a state-centric and peer-oriented process, which allows Member States to submit national reports and receive (and impart) recommendations that facilitate in bringing their domestic legal machinery in line with international human rights law.

¹³⁴ Thematic list of recommendations, UPR of Pakistan (3rd Cycle – 28th Session), Recommendation No. 152.39

¹³⁵ Ibid, 152.81

¹³⁶ Ibid, 152.83

¹³⁷ Ibid. 152.170

From the guidelines and standards available, a few salient principles with respect to the right to freedom of peaceful assembly may be synthesised and extracted:

(A) The right to freedom of peaceful assembly only covers non-violent assemblies

The scope of freedom of peaceful assembly is limited to peaceful assemblies only. A “peaceful assembly” is said to stand in contradistinction to one characterised by widespread and serious violence¹³⁸. In this context, “violence” entails the use of physical force against others that is likely to result in injury or death, or serious damage to property. Thus, ‘violence’ must not be conflated with ‘disruption’ (such as pushing and shoving or disruption of vehicular or pedestrian traffic or daily activities)¹³⁹. Furthermore, isolated acts of violence by some participants should not be attributed to others or to the organisers of an assembly¹⁴⁰. Similarly, violence against participants of an assembly by state authorities, or by members of the general public, or by agent provocateurs, does not render an assembly non-peaceful¹⁴¹.

(B) Every person has an inalienable right to take part in peaceful assemblies

The right to freedom of peaceful assembly applies to every person residing within the territorial and jurisdictional limits of any state. States must not deal with assemblies in a discriminatory manner, for instance, on the basis of nationality, race, ethnicity, age, political opinion, religion, belief, minority status, disability, sexual orientation or gender identity¹⁴². This also applies to non-nationals, including stateless persons, refugees or migrants, as well as associations and unregistered groups¹⁴³.

(C) States must facilitate the exercise of the right of peaceful assembly to the maximum extent possible

All states are under a positive obligation to facilitate the exercise of the right of peaceful assembly. This duty should be reflected in the domestic legislative framework and relevant law enforcement

¹³⁸ UN Human Rights Committee (HRC), *General comment no. 37, Article 21: right of peaceful assembly*, 17 Sep 2020, CCPR/C/GC/37, Para 15

¹³⁹ *Ibid.*

¹⁴⁰ UN Human Rights Committee (HRC), *General comment no. 37, Article 21: right of peaceful assembly*, 17 Sep 2020, CCPR/C/GC/37, Para 17

¹⁴¹ UN Human Rights Committee (HRC), *General comment no. 37, Article 21: right of peaceful assembly*, 17 Sep 2020, CCPR/C/GC/37, Para 18

¹⁴² UN Human Rights Committee (HRC), *General comment no. 37, Article 21: right of peaceful assembly*, 17 Sep 2020, CCPR/C/GC/37, Para 28

¹⁴³ UNGA Human Rights Council, *Report of the Special Rapporteur on the rights of freedom of peaceful assembly and of association*, 21 May 2012, A/HRC/20/27, Para 13

regulations and practices¹⁴⁴. Facilitation implies that state authorities should allow assemblies to proceed as their organisers intend, at the time and location of their choosing and within 'sight and sound' of an intended audience. LEAs must be provided the requisite training necessary to protect and assist the exercise of the right. In addition, counter-demonstrations, simultaneous assemblies and non-notified and spontaneous assemblies must be protected and facilitated in the same manner as any other assembly¹⁴⁵.

(D) Any restrictions imposed on the right must be in accordance with international human rights standards

Freedom of peaceful assembly should be enjoyed without restriction to the greatest extent possible. Any restrictions imposed must be necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others and must be lawful, necessary and proportionate to the aim pursued¹⁴⁶. While determining the least intrusive instrument to achieve the desired result, authorities should consider various different measures and tactics, with prohibition being a matter of last resort. Blanket prohibitions should never be imposed on assemblies, as they are intrinsically disproportionate. Content-based restrictions should be avoided, unless they pose an imminent threat of violence or incite racial or religious hatred; and a certain degree of disruption to ordinary life, including of traffic, annoyance and even harm to commercial activities must be tolerated if the right is not to be deprived of its substance¹⁴⁷.

(E) Force must not be used unless as a measure of last resort, and where applied, it must accord with international standards

LEAs should not employ force in order to police or manage an assembly unless this is strictly unavoidable. The normative framework governing the use of force should be based on principles of legality, precaution, necessity, proportionality and accountability¹⁴⁸. Legality implies that any use of force must be authorised by domestic law, while the principle of precaution requires that state authorities take all necessary steps to avoid the use of force. This includes proper planning and preparation before an assembly, ensuring that LEAs are adequately trained in crowd control and management techniques and de-escalation methods¹⁴⁹. Necessity requires that force should only be

¹⁴⁴ OSCE/ODIHR, *Guidelines on Freedom of Peaceful Assembly (3rd Edition)*, Para 22

¹⁴⁵ See A/HRC/20/27, Para 89, 91, 92

¹⁴⁶ UNGA Human Rights Council, *Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies*, 4 Feb 2016, A/HRC/31/66, Para 29

¹⁴⁷ See A/HRC/31/66, Para 33, 34. Also see OSCE/ODIHR, *Guidelines on Freedom of Peaceful Assembly (3rd Edition)*, Para 30, 149 and 150

¹⁴⁸ See A/HRC/31/66, Para 50.

¹⁴⁹ See A/HRC/31/66, Para 51 to 56.

applied to the minimum extent necessary, with a view to minimize possible injury and preserve life, while proportionality dictates that the level of force applied must be commensurate to the threat or danger that triggers its use¹⁵⁰. While these are subjective and factual assessments, the use of firearms to disperse an assembly is unlawful and must be avoided at all costs. Finally, the principle of accountability requires that state authorities establish effective reporting and review procedures to address any incident where excessive use of force is demonstrated and that law enforcement personnel who exceed their mandate should be liable for civil and/or criminal prosecution^{151 152}.

(F) The right to freedom of peaceful assembly is interdependent with numerous other political and civil liberties

The right to freedom of peaceful assembly “complements and intersects with other civil and political rights”¹⁵³. Along with the right to freedom of association, it serves as a “vehicle for the exercise of many other civil, cultural, economic, political and social rights”¹⁵⁴. The full protection of the “right to peaceful assembly is possible only when the other, often overlapping, rights related to political freedom are also protected, notably freedom of expression, but also rights such as freedom of association and political participation. Protection of the right of peaceful assembly is in many cases also dependent on the realization of a broader range of rights, such as non-discrimination, movement, privacy, religion, freedom from cruel, inhuman or degrading treatment and from arbitrary detention, and the right to life”¹⁵⁵.

¹⁵⁰ See A/HRC/31/66, Para 57 to 62.

¹⁵¹ See A/HRC/31/66, Para 64 and 65.

¹⁵² See generally, OSCE/ODIHR, *Guidelines on Freedom of Peaceful Assembly (3rd Edition)*, Para 181 to 188

¹⁵³ OSCE/ODIHR, *Guidelines on Freedom of Peaceful Assembly (3rd Edition)*, Para 3

¹⁵⁴ UNGA Human Rights Council, ‘*Report of the Special Rapporteur on the rights of freedom of peaceful assembly and of association*’, 21 May 2012, A/HRC/20/27, Para 12

¹⁵⁵ UN Human Rights Committee (HRC), *General comment no. 37, Article 21: right of peaceful assembly*, 17 Sep 2020, CCPR/C/GC/37, Para 9

Chapter 6: Recommendations

Recommendations to the legislature

Amendments in the PPC

- Sections 123A, 123B and 124A of the PPC should to be abolished. Assemblies and their participants should be free to express their opinions as they see fit, and content-based restrictions should solely be limited to any expression that directly instigates violence or threat of violence.
- Section 141 ought to be replaced with a more appropriate offence that provides a narrower definition for what constitutes an unlawful assembly. Similarly, Sections 146 and 149, which impose collective responsibility on an entire assembly for acts of violence committed by any member or a group of members thereof, should be repealed.
- Section 153A ought to be repealed and replaced with a clearly defined provision that regulates all manners of hate speech and establishes a six-part threshold test to take into account the context of the speech, the identity and position of the speaker, the intent of the speaker, the content and form of the speech, the extent of the speech, and, the likelihood of the speech to produce ‘immediate actions’ against its targets.
- Section 153B should be abolished, since there is no cogent reason as to why there should be a specialised provision criminalising ‘students’ from taking part in political activities. Students should be treated like any cross-section of society and providing them special consideration in this context may indirectly inhibit their right to freedom of peaceful assembly.
- Section 294 of the PPC, which criminalises free expression on ambiguous parameters such as ‘obscenity’ should be repealed.
- Sections 298B and 298C of the PPC ought to be amended or repealed to ensure that no group is targeted and subjected to discrimination and persecution.
- Sections 499 and 500, which criminalise defamation ought to be repealed in full. Defamation ought to be treated as a civil liability, not a criminal one¹⁵⁶.

¹⁵⁶ UN Human Rights Committee (HRC), ‘Concluding observations on the initial report of Pakistan’, 23 August 2017, CCPR/C/PAK/CO/1, Para 38

- Section 505, which criminalises various forms of expression through sub-sections (a) to (c), should be abolished. As with Section 153A, it ought to be replaced with a clearly defined provision that criminalises hate speech by taking into account contextual factors.

Amendments in the CrPC

- Chapter IX of the CrPC, which authorises the use of “force” to disperse assemblies under Sections 128, 129 and 130, should be amended to include clear instructions and established protocols on the exact manner in which force is to be applied, the circumstances which justify its application and the amount of force that ought to be used in a given situation.
- Section 144 of the CrPC should be repealed in full, as it grants excessively wide discretionary powers to the provincial governments and to the district administration of an area to impose wholesale bans on peaceful assemblies. Such powers constitute a wholly disproportionate restriction on the right to freedom of peaceful assembly and open up a dangerous avenue for politically motivated decisions to be imposed under the garb of necessity.

Amendments in other substantive and procedural laws

- Article 120 of the PO ought to be amended in order to structure the discretion available to public functionaries. In particular, reasonable time limits should be set for the grant or denial of a licence and in case of failure to respond, there should be a presumption that the assembly may proceed. Moreover, the ‘conditions’ imposed on assemblies under Article 120(3) must incorporate proportionality tests and ought to be based on publicly available criteria which accords with international human rights law and standards. Content-based conditions should be avoided and restrictions regarding time, place and venue must not be so onerous as to destroy the substance of the assembly.
- Section 16 of the PCAA and Section 14 of KPCAA, which prohibit assemblies without prior “permission” from the relevant deputy commissioner, should be abolished and replaced with provisions that require the organiser of an assembly to submit a ‘notice of intent’ rather than a ‘request for permission’. The notification process should identify a clear regulatory authority, ought to have established time periods in which the authority is mandated to provide a response, and where a response is not forthcoming, should explicitly allow for the assembly to proceed without restriction.
- Any laws that allow for ‘preventive detention’ should preferably be repealed. This includes Section 3 of the MPO, Section 11EEEE of the ATA, and Section 9 of the AACPR. If preventive detention is to be retained, its time limits should be restricted to more reasonable periods and

detainees must be provided with an immediate right to adequate legal representation and a right to remedy of appeal to safeguard against state excesses.

- Section 5 of the MPO, which grants state authorities expansive discretionary powers to control and restrict the movements of suspected persons, ought to be repealed. Similarly, Section 16 of the MPO, which criminalises expression that is likely to cause ‘fear or alarm’ to the public or is likely to further ‘any activity prejudicial to public safety or the maintenance of public order’ should also be abolished.
- Section 6 of the ATA should be reduced in scope with a view to ensure that its provisions cannot be applied to participants of an assembly, regardless of whether it is peaceful or not. Terrorism ought to be restricted to its conventional understanding and should not be used to cater to ordinary offences, which are more judiciously dealt with through the regular criminal laws¹⁵⁷.
- Section 4 of the Sounds Systems (Regulations) Acts of Punjab, Sindh and Balochistan, and Section 2(1) of the West Pakistan Regulation and Control of Loudspeakers and Sound Amplifiers Ordinance, 1965, should be amended. The words “sectarian or other utterances of controversial nature likely to lead to public disorder” should be replaced with a more appropriate litmus test that uses incitement to violence as its benchmark.
- The PTA ought to be amended with a view to ensure that state authorities should not be able to issue policy directives that allow for the temporary suspension of telecommunication networks. Uninterrupted cellular and Internet services must be treated as part and parcel of the right to freedom of peaceful assembly.
- PANAA should be ideally be repealed in full, and at the very least Section 2(a) of PANAA should be reconceptualised. The definition of ‘anti-national activity’ must not criminalise or proscribe persons or groups of persons that hold non-conventional or alternative views, including those who peacefully advocate for secession or curtailment of sovereignty of the state, or who propagate the idea that Pakistan consists of more than one nationality or any such expression.
- Anti-vagrancy laws should be repealed given their discriminatory and classist nature, their propensity to be used against marginalised and vulnerable communities and their potential to infringe on the right to freedom of peaceful assembly.

¹⁵⁷ UN Human Rights Committee (HRC), ‘Concluding observations on the initial report of Pakistan’, 23 August 2017, CCPR/C/PAK/CO/1Paras 21 and 22

- The OSA should be repealed immediately and replaced with an appropriate anti-espionage regime that is in accordance with international human rights standards. The PAA ought to be similarly amended to ensure that civilians are not subjected to trials by military courts under any circumstances¹⁵⁸.
- PECA ought to be reviewed and either substantially amended or replaced altogether with more appropriate legislation. Specifically, any offence against speech that may incite hatred or violence (such as Sections 10 and 11) must be precisely drafted and must take into account various other factors, including, the context of the speech, the identity and position of the speaker, the intent of the speaker, the content and form of the speech, the extent of the speech, and, the likelihood of the speech to produce 'immediate actions' against its targets. Section 20 of the Act, which criminalises defamation ought to be repealed, as should Section 37, since it provides the Pakistan Telecommunication Authority with unbridled powers to control access to online content without any judicial oversight whatsoever.
- Laws or procedural policy enactments relating to NGOs and INGOs must be brought in conformity with international principles. The INGO Policy of 2015 ought to be scrapped in favour of a transparent regulatory mechanism that facilitates rather than constrains the work of civil society organisations.¹⁵⁹

¹⁵⁸ Ibid, Para 24

¹⁵⁹ UN Human Rights Committee (HRC), 'Concluding observations on the initial report of Pakistan', 23 August 2017, CCPR/C/PAK/CO/1, Para 39 and 40

Recommendations to the executive

- The state should ensure that all laws, rules and regulations relating to the management of assemblies are drafted clearly and should be consistent, not only with one another, but also with international human rights law and standards. Where any ambiguity does arise, it should always be interpreted in favour of protecting the right to freedom of peaceful assembly.
- The state should provide support and oversight to any governmental authorities involved in the management of assemblies. This includes provision of adequate training to public functionaries and ensuring that their financial and human resource needs are fulfilled.
- Any procedural mechanisms for ‘advance notification’ of assemblies should operate on a rebuttable presumption in favour of assemblies. Notification procedures should not be allowed to operate as a *de facto* requirement of prior authorisation, as this is tantamount to a disproportionate restriction and extinguishes the integrity and substance of the right. The notification system should not be overly bureaucratic or opaque. It should be open, easily accessible, and with short but reasonable time periods in which state authorities are bound to respond. Furthermore, assemblies that are not expected to attract large numbers of participants should ideally be exempted from notification procedures altogether.¹⁶⁰
- Any restrictions imposed upon the time, duration and venue of an assembly must incorporate tests of legality, necessity and proportionality¹⁶¹. Restrictions should be communicated to the organisers of an assembly at the earliest opportunity and they should be provided a right of response and an administrative appeal¹⁶². However, exhaustion of such an administrative remedy should never be a pre-requisite for seeking judicial review.
- State authorities should refrain from blockading routes leading to an assembly without legitimate cause. Potential participants should have unrestricted access to reaching the site of an assembly. Where practicable, state authorities should liaison with the organisers of an assembly in advance to examine and assess their needs and requirements and should plan their policing procedures accordingly.

¹⁶⁰ UN Human Rights Committee (HRC), *General comment no. 37, Article 21: right of peaceful assembly*, 17 Sep 2020, CCPR/C/GC/37, Para 70 - 73

¹⁶¹ *Ibid*, Para 40

¹⁶² *Ibid*, Para 69

- Where counter-demonstrations are held, they should be adequately facilitated. State authorities should conduct a balancing exercise to ensure that both groups are treated at parity with one another and do not end up infringing on each other's right to freedom of peaceful assembly.¹⁶³
- State authorities should create comprehensive guidelines on the dispersal of assemblies. These should detail the exact circumstances in which dispersal is warranted, the steps that must be taken before dispersal orders are issued (such as de-escalation measures and prior warnings to evacuate an area within a reasonable time frame) and the relevant authorities that may legitimately issue such an order.
- Forcible dispersal of assemblies should always be a measure of last resort, to be employed only when there is an imminent threat of violence or where disruption is "serious and sustained"¹⁶⁴. Mere inconvenience or annoyance should not be used a pretext for dispersing assemblies, as temporary disruption of normal activities (including pedestrian or vehicular) is to be expected and must be tolerated.
- The role of journalists, human rights defenders and others involved in monitoring, recording and facilitating assemblies should be recognised. They must not face reprisals or any form of harassment and their equipment should not be confiscated or damaged¹⁶⁵. Media personnel should have unrestricted access to an assembly and its participants and 'media blackouts' of assemblies should not be tolerated.
- State authorities should recognise that cellular services and Internet-based technologies have become an inseparable part of the right to freedom of expression, association and assembly. As such, the state should consider itself under a consistent positive obligation to ensure that such technologies and networks are not disrupted¹⁶⁶. Furthermore, state authorities should be mindful of the deleterious effects of 'Internet inequality' and endeavour to bridge such gaps by providing Internet and cellular facilities to far-flung rural areas and geographical peripheries¹⁶⁷.

¹⁶³ Ibid, Para 26

¹⁶⁴ UN Human Rights Committee (HRC), *General comment no. 37, Article 21: right of peaceful assembly*, 17 Sep 2020, CCPR/C/GC/37, Para 85

¹⁶⁵ UN Human Rights Committee (HRC), *General comment no. 37, Article 21: right of peaceful assembly*, 17 Sep 2020, CCPR/C/GC/37, Para 30

¹⁶⁶ Ibid, Para 34

¹⁶⁷ A/HRC/41/41, Para 70

Recommendations to LEAs

- LEAs should be provided specialised training in facilitating assemblies. This should include a comprehensive understanding of the legal framework that governs assemblies and the importance of peaceful assemblies in a democratic context. Any training should incorporate techniques of crowd facilitation, control and management, and must equip LEAs with soft skills such as effective communication, negotiation and mediation in order to minimize conflict and avoid any escalation of violence.
- LEAs should refrain from employing intrusive pre-emptive or anticipatory measures. Participants of an assembly should not be stopped, searched or arrested unless there is an imminent danger or threat of violence. Where stop-and-search methods are employed, they must not violate the principle of non-discrimination and should accord to minimum human rights standards.¹⁶⁸
- LEAs should never resort to ‘mass arrests’ of participants of an assembly, since such tactics amount to an arbitrary or indiscriminate use of the power to arrest citizens¹⁶⁹. Collective responsibility for the actions of a few individuals should not be imposed upon any assembly.
- The state should ensure that LEAs are provided with adequate equipment for the policing of assemblies, including anti-riot gear and other protective equipment in order to safeguard their lives and to minimise the risk of LEAs resorting to use of force.¹⁷⁰ LEAs should be properly trained in the use of force and firearms and tested in accordance with basic proficiency standards. LEAs authorised to carry firearms should do so only upon completion of special training in their use.¹⁷¹ Equipment used by LEAs should also be subjected to tests to ensure their reliability and accuracy¹⁷².
- Whenever the use of force is unavoidable, it must conform to the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

¹⁶⁸ Ibid, Para 83

¹⁶⁹ Ibid, Para 82

¹⁷⁰ UN Human Rights Committee (HRC), *General comment no. 37, Article 21: right of peaceful assembly*, 17 Sep 2020, CCPR/C/GC/37, Para 81

¹⁷¹ United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principle 19

¹⁷² UN Human Rights Committee (HRC), *General comment no. 37, Article 21: right of peaceful assembly*, 17 Sep 2020, CCPR/C/GC/37, Para 81

- Automatic firearms and similar lethal weapons should never be used to police an assembly under any circumstances. Similarly, LEAs should be discouraged from resorting to aerial firing or warning shots due to the inherent risk that such tactics carry.¹⁷³
- The deployment of armed forces or paramilitary groups to police assemblies should be avoided at all costs and must be kept as a measure of last resort. Where they are requisitioned to contain crowds, they should be subservient to civilian authorities and the state must ensure that they have adequate knowledge of crowd control and management.¹⁷⁴

¹⁷³ UN Human Rights Committee (HRC), *General comment no. 37, Article 21: right of peaceful assembly*, 17 Sep 2020, CCPR/C/GC/37, Para 88

¹⁷⁴ *Ibid*, Para 80

