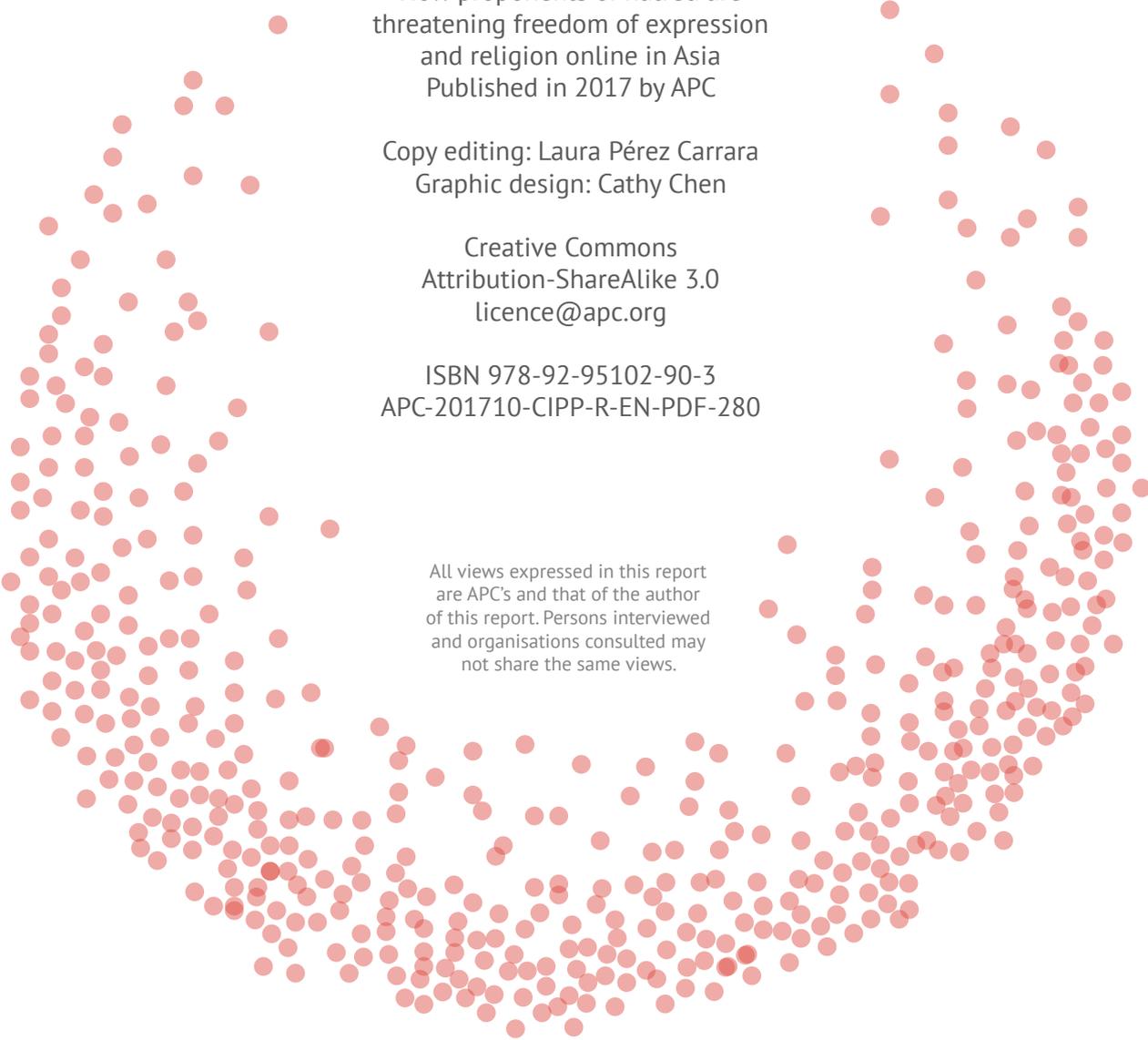


“LET THE MOB DO THE JOB”:  
HOW PROPONENTS OF HATRED ARE  
THREATENING FREEDOM OF EXPRESSION  
AND RELIGION ONLINE IN ASIA

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“Let the mob do the job”:  
How proponents of hatred are  
threatening freedom of expression  
and religion online in Asia  
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not share the same views.

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## EXECUTIVE SUMMARY

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*“When someone makes an accusation the neighbours do the rest.”<sup>1</sup>*

*“I think the purpose is to create hatred of the group and let the mob do the talking.”<sup>2</sup>*

*“It all started with a malicious Facebook post. Photographs of venerated figures – two Hindu kings of medieval India, and a recently departed demagogue of a Hindu right-wing political party, were morphed to show them in an apparently ‘derogatory’ manner, and widely circulated over social media. As if on cue, the moment they went viral, hundreds of supporters of far right Hindu organisations took to the streets, baying for the offenders’ blood.”<sup>3</sup>*

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The quotes above describe situations in Pakistan, Malaysia and India and are telling of an alarming trend, not just in Asia but around the world. Violence is committed in the name of protecting religions or faiths, often by vigilante groups who are enabled by problematic laws and political elites with vested interests. The internet has become a tool for mobilising hatred and inciting mob violence because of the ease in which messages can be manipulated and shared instantly and widely. Blasphemy or insult to religion have been used as justification for violent attacks on individuals who express views that do not conform to prevailing norms and beliefs. The impact ranges from the exclusion of certain segments of the population from public spheres or debates to legal threats and, worse still, life threatening violence.

1. Angbeen Mirza, a lawyer, referring to blasphemy laws in Pakistan, where she says the justice system does not offer the necessary protections and instead leaves the accused at the mercy of the public. Aziz, S. (2017, 16 August). Pakistan court seeks to amend blasphemy law. *Al Jazeera*. [www.aljazeera.com/indepth/features/2017/08/pakistan-court-seeks-amend-blasphemy-law-170814120428595.html](http://www.aljazeera.com/indepth/features/2017/08/pakistan-court-seeks-amend-blasphemy-law-170814120428595.html)
2. Lyana Khairuddin, academic and member of Sisters in Islam, describing the way in which the organisation's critics have mounted a coordinated attack following a decree issued by the religious authority against the organisation.
3. Datta, S. (2014, 26 June). India: Communal violence in the times of social media. *Al Jazeera*. [www.aljazeera.com/indepth/opinion/2014/06/india-communal-violence-times--201462512464228270.html](http://www.aljazeera.com/indepth/opinion/2014/06/india-communal-violence-times--201462512464228270.html)

This report looks at freedom of expression and religion practices online in Bangladesh, India, Malaysia and Pakistan. Why freedom of expression and religion online and not hate speech online? Much of the studies on hate speech use legal analyses and focus on the speaker. While this is important to any understanding of incitement to hatred and violence, it does not always capture the sociopolitical and historical developments that could explain why we are witnessing serious consequences of speech that does not necessarily meet the threshold or definition of hate speech, or the lack of interventions to prevent hate speech. As such, this report expands the scope to suggest a multi-layered analysis that considers political, economic and social structures, the impact of inequalities in societies and individual agency.

Religion and expression are at the heart of much of these developments, as rights to be protected and as tools for discrimination and suppression, as well as their politicisation in public affairs. International human rights standards provide the overarching framework for the subject, against which national legislations are discussed. A major concern is how the latter have created “enabling environments” for violence to be perpetuated with impunity in the name of religion. These are also explained by political histories, among which the idea of the post-colonial nation remains a source of fractures and conflicts. They are part of the stories of Qandeel Baloch and Mashal Khan in Pakistan, of Xulhaz Mannan and Dr. Avijit Roy in Bangladesh and of the victims of the communal riots in India, killed for challenging established norms by expressing their diversity.

The research reveals a number of trends that point to well-organised targeted attacks, not spontaneous, committed in the name of defending religion in these countries. They also include the use of manipulated online images and messages to mobilise protests (both online and offline). In certain cases, internet users are trolled when they challenge the establishment, resulting in subsequent cyberbullying or profiling as potential targets of attacks. The remedies available for those who are threatened are limited. These can include reporting online abuse to service providers, although that does not stop other users from continuing with the abuse; using counter narratives against trolls and online abuse, but these only affect the dominant voices; or resorting to UN mechanisms to bring international attention

to the issue. The responses from states have been disproportionate – blanket bans on internet access to prevent the escalation of violence, which restrict the enjoyment of other rights, and the use of laws against those who are accused of insulting religion.

Addressing the challenges faced in the exercise of freedom of expression and religion online in these countries will not be easy. Much of the work will hinge on the transformation of the political, social and economic structures that currently put certain segments of society at a disadvantage. In the meantime, steps can be taken by governments, political leaders and civil society to denounce the perpetrators of violence and to remove anti-blasphemy statutes. It is high time that governments that condone intolerance were called out and pressured to implement recommendations from UN mechanisms (such as the Universal Periodic Review, the Human Rights Committee, the Special Rapporteurs) and the Rabat Plan of Action to effectively combat incitement to discrimination and hatred. Other stakeholders such as the private sector, civil society, lawyers and judges, national human rights institutions (NHRIs), the media, the judiciary and law enforcement agencies should also play their part to defend the rights to freedom of expression and religion online.

## STRUCTURE OF THE REPORT

The report is organised into six sections. Section 1 provides the context for the report based on the alarming levels of violence taking place in Asia. Section 2 presents contemporary discussions on the rights to freedom of expression and religion online. This section draws on international human rights norms as the overarching framework and discusses academic and expert work focused on the issues of hate speech, intolerance and offence-taking. Section 3 looks at the challenges to freedom of expression and religion online in Bangladesh, India, Malaysia and Pakistan. Section 4 then describes some of the trends and issues related to freedom of expression and religion online in these four countries, while Section 5 shares the responses taken by the various stakeholders and the remedies available to them. Section 6 proposes recommendations for the various stakeholders.

SECTION 1:  
INTRODUCTION  
- CONTEXT OF  
THE REPORT

Global trends reveal that sanctioning certain speech that promotes hatred while at the same time suppressing legitimate expression and criticism create an environment in which violence and harassment are justified on the grounds of defending either religions or morals. We are also witnessing how social media and other online platforms are becoming tools for promoting hatred, with devastating consequences. The growing numbers of people online in Asia<sup>4</sup> necessitate a study on how online spaces, most of which are owned by global corporations, can both serve to promote individual and community rights and at the same time be seen as facilitating human rights violations. This research aims to problematise expression online, discrimination against individuals, communities, critics and others on the grounds of religion and the use of political, legal and extra-judicial tools by the state to suppress free speech with impunity. It will address the use and spread of hate speech, primarily in relation to its links to religious interests and identities as well as political interests. This report builds on existing work and international guidance on the issue of freedom of expression and freedom of religion or belief, with a focus on how these are exercised online, or affected by online mobilisation and responses. It focuses on four countries in Asia – Bangladesh, India, Malaysia and Pakistan – in the context of international standards on human rights and national legal frameworks, while taking cognisance of the historical, political, economic and social contexts in these countries. The report aims to articulate the trends and links between the different bodies of rights and how the intersections and the denial of those rights impact on democracy and social justice. In addition, the research offers various stakeholders recommendations for improving the state of freedom of expression and religion online in the countries studied.

## “WAGING WAR ON BLOGGERS”

In early January 2017, four bloggers and an activist went missing from various cities in Pakistan,

raising concerns within civil society that they had been detained by the military. (This was later confirmed by at least two bloggers who told the media that they were interrogated by the intelligence services.) The missing bloggers were widely known for their work and online presence as vocal critics of religious extremism and the abuse of power by the authorities.<sup>5</sup> About three weeks later they reappeared under mysterious circumstances,<sup>6</sup> but some immediately left the country, as they came under attack in a concerted campaign, largely fuelled by the intelligence services and radical elements in society and amplified by the media, that accused them of being “blasphemers”. Under the law, derogatory acts against the Prophet Muhammad are punishable by imprisonment or death in Pakistan. In a separate yet related incident, a 23-year-old university student was killed by a mob on 13 April 2017 for allegedly insulting Islam on his social media account. Mashal Khan, who was a journalism student at the Abdul Wali Khan University in Mardan, was attacked based on rumours circulated by the university’s student body that accused him of blasphemy. Responding to the spate of attacks, the Pakistan Telecommunication Authority issued a call to citizens via short messaging service (SMS) to report online blasphemy, while legislators proposed amendments to make false accusations of blasphemy a criminal offence.<sup>7</sup>

The targeting of individuals for so-called blasphemy is not confined to Pakistan. In Bangladesh, the use of communication tools to express opinions – especially when such opinions refer to the institutions set up by the state to regulate religion – has become grounds for the persecution of bloggers, academics and activists on charges of spreading “anti-Islam ideas”. Since 2013, writers, bloggers, publishers and activists, many of whom identify themselves as secular or atheists, have been killed or seriously injured in attacks believed to have been committed by Islamic extremists. One of the most prominent cases is the killing of the blogger Dr. Avijit Roy, a well-known atheist and champion of liberal secularism. According to the non-governmental organisation Front Line Defenders, 14 bloggers

4. At least half the world’s internet users are in Asia. For details, see: Internet World Stats (2017). Internet usage in Asia. Miniwatts Marketing Group. [www.internetworldstats.com/stats3.htm](http://www.internetworldstats.com/stats3.htm).
5. Rumi, R. (2017, 20 January). Bring Pakistan’s Missing Bloggers Home. *New York Times*. [www.nytimes.com/2017/01/20/opinion/bring-pakistan-missing-bloggers-home.html](http://www.nytimes.com/2017/01/20/opinion/bring-pakistan-missing-bloggers-home.html)
6. Geo News. (2017, 29 January). Another missing blogger Asim Saeed returns home. [www.geo.tv/latest/129144-Another-missing-blogger-Asim-Saeed-returns-home](http://www.geo.tv/latest/129144-Another-missing-blogger-Asim-Saeed-returns-home)
7. Ahmed, R. U. (2017, 11 May). PTA launches SMS crackdown against blasphemy. *The Nation*. [nation.com.pk/featured/11-May-2017/pta-launches-sms-crackdown-against-blasphemy](http://nation.com.pk/featured/11-May-2017/pta-launches-sms-crackdown-against-blasphemy); Khan, I. A. (2017, 21 June). Senators call for amending blasphemy law. *Dawn*. [www.dawn.com/news/1327674](http://www.dawn.com/news/1327674)

were killed between 2013 and 2016, and many others have been forced into exile due to the threats they received. This has also led to an increase in self-censorship and a breakdown in civil society work in the country.<sup>8</sup> Although this report does not focus on the Maldives, the pattern there is a familiar one. On 23 April 2017, 29-year-old Yameen Rasheed, a popular activist and blogger, was brutally killed after reporting that he had received death threats. He was not the first person to be killed for his views denouncing Islamic radicalism and state corruption and he is not likely to be the last. Fellow netizens and activists have received similar threats on their social media accounts and they fear that the violent responses, which include calling for their death, together with the absence of government condemnation of such attacks, will lead to more killings.<sup>9</sup> As the UN Special Rapporteur on freedom of religion or belief stated in 2015: “blasphemy provisions may encourage non-State actors to threaten and commit acts of violence against people expressing critical views.”<sup>10</sup>

In Malaysia, state religious authorities have targeted a feminist Muslim women’s rights group – Sisters in Islam (SIS) – as a deviant organisation through a *fatwa*,<sup>11</sup> which called for any “liberal and plural” publications or content to be banned and seized. Internet regulators have also actively blocked online content and initiated investigations against individuals who were accused of spreading anti-Islam content through social media.

India, the world’s largest democracy, is constitutionally defined as a secular state, while the other countries in this study have a state religion (Pakistan), combine both secular ideals and a state religion (Bangladesh), or are ambiguous (Malaysia). But, despite its secularity, India has also been

witnessing how a political elite that claims to represent the majority uses religion as a tool to victimise people of other religions, classes and genders. In the 2013 communal riots in Muzaffarnagar, 60 people from the Muslim community died and thousands of others were displaced after doctored images and rumours that Hindus were being lynched by a Muslim mob spread over social media.<sup>12</sup> The state then responded by shutting down access to the internet, an action it has taken 73 times since 2012 in the name of preventing conflicts spurred by rumours spread online.<sup>13</sup>

## GLOBALISED INTOLERANCE

Incidents like these and many others compel us to reflect on and rethink the references to hate speech that have received media and political attention. There are no universal frameworks or laws for tackling hate speech, although international human rights laws provide guidance on prevention of or interventions against the advocacy of hatred typically on the grounds of nationality, race, religion, ethnicity, class or caste that constitutes incitement to discrimination, hostility or violence (based on Article 20 of the International Covenant on Civil and Political Rights, which will be discussed further in the next section). What we are witnessing today is the determination to suppress speech in the name of protecting religion and a rise in the use of blasphemy laws. A 2014 report by the Pew Research Centre found that anti-blasphemy laws and policies exist in 51 countries,<sup>14</sup> with some countries more active in enforcing them than others. All four countries in this study have some form of law or policy that criminalises defamation of religion.

8. Front Line Defenders. (2016). *Victim Blaming – Bangladesh*. [frontlinedefenders.atavist.com/bangladesh-report](http://frontlinedefenders.atavist.com/bangladesh-report)

9. Maldives Independent. (2017, 10 May). ‘Next is you’: More death threats follow blogger’s murder. [maldivesindependent.com/feature-comment/next-is-you-more-death-threats-follow-bloggers-murder-130468](http://maldivesindependent.com/feature-comment/next-is-you-more-death-threats-follow-bloggers-murder-130468)

10. Bielfeldt, H. & Human Rights Council. (2015). *Report of the Special Rapporteur on freedom of religion or belief and the right to freedom of opinion and expression*, A/HRC/31/18, para. 60. [documents-dds-ny.un.org/doc/UNDOC/GEN/G15/291/11/pdf/G1529111.pdf?OpenElement](http://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/291/11/pdf/G1529111.pdf?OpenElement)

11. A *fatwa* is a non-binding legal opinion or interpretation given by a qualified religious scholar or leader in the Islamic faith. The standards regarding who can issue these religious edicts vary from country to country.

12. Arun, C. & Nayak, N. (2016). Preliminary findings on online hate speech and the law in India. *Research Publication*, No. 2016-19. Berkman Klein Center for Internet & Society at Harvard University.

13. As of 19 April 2017. For more details see: Software Freedom Law Centre. Internet Shutdown Trends in India. [sflc.in/internet-shutdown-trends-in-india/](http://sflc.in/internet-shutdown-trends-in-india/)

14. The breakdown of the countries according to the regions is: 18 out of 20 countries in the Middle East and North Africa; 12 out of 50 in Asia Pacific; 4 out of 48 in Sub-Saharan Africa; 7 out of 45 in Europe and 10 out of 35 in the Americas. For more details, see: Theodorou, A. E. (2016, 29 July). Which countries still outlaw apostasy and blasphemy? Pew Research Centre. [www.pewresearch.org/fact-tank/2016/07/29/which-countries-still-outlaw-apostasy-and-blasphemy/](http://www.pewresearch.org/fact-tank/2016/07/29/which-countries-still-outlaw-apostasy-and-blasphemy/)

The spread of hate online, including the vicious targeting of individuals for allegedly committing blasphemy, results in online and physical harassment. This has become a serious problem across Asia, where incidents of hatred against individuals and groups because of their religious identities and beliefs have cost many people their lives and instilled widespread fear. For the authorities, this has been an excuse to censor content, arrest individuals or impose network shutdowns in the name of maintaining public order, harmony and security. Apart from state interventions, non-state actors, as part of either a particular religious or faith group or a community, have perpetrated violence against other individuals. Such attacks are committed with impunity, thus raising fears of implicit support from political establishments in the respective societies. In a 2016 report by Bytes for All and FORUM-Asia entitled *Desecrating Expression: An Account of Freedom of Expression and Religion in Asia*, among the key trends observed in the region was the growing use of blasphemy and anti-hate speech laws to shut down legitimate expression on issues related to religion or for religious reasons. The report found that the consequences ranged from online and offline intimidation and harassment to physical threats, exile and death.<sup>15</sup>

In January 2017 UN Special Rapporteur on freedom of religion or belief Ahmad Shaheed reported to the Human Rights Council his concerns regarding the continued targeted harassment, intimidation and discrimination against religious groups by government actors and non-state actors that are prevalent in many countries. He noted the levels of impunity in the attacks, as well as the challenges faced, where concepts such as tolerance, diversity and pluralism have become sources of contention and are scapegoated by populist movements and violence in the name of religion.<sup>16</sup>

Internationally, various UN special procedures mandate holders on human rights, as well as the Human Rights Committee through its General comment No. 34,<sup>17</sup> have issued interpretations and reports based on the rights to freedom of expression and freedom of religion, while at the same time raising concerns over the continued persecution of minorities and the impunity with which perpetrators, often with state support, promote hatred and commit aggression. They are in consensus that blasphemy laws do not meet international norms on the rights to freedom of expression and religious freedom.<sup>18</sup> The challenge presented to us today is how to maintain the threshold on speech that constitutes incitement to hatred while taking into account the growing spread of intolerance over online spaces.

15. The report looked at trends in Malaysia, Vietnam, Myanmar, Maldives, Indonesia, Sri Lanka, Bangladesh, India and Pakistan. For details, see Khandhadai, G. (2016). *Desecrating Expression: An Account of Freedom of Expression and Religion in Asia*. Bytes for All and FORUM-ASIA.
16. Shaheed, A. & Human Rights Council. (2017, 17 January). *Report of the Special Rapporteur on freedom of religion and belief*. A/HRC/34/50. documents-dds-ny.un.org/doc/UNDOC/GEN/G17/008/79/PDF/G1700879.pdf?OpenElement
17. Human Rights Committee (2011, 12 September). *General comment No. 34. Article 19: Freedoms of opinion and expression*. CCPR/C/GC/34. documents-dds-ny.un.org/doc/UNDOC/GEN/G11/453/31/pdf/G1145331.pdf?OpenElement
18. Association for Progressive Communications. (2017). *Freedom of expression and religion online in Asia. Joint written statement submitted by Association for Progressive Communications (APC), non-governmental organizations in general consultative status to the Human Rights Council*. www.apc.org/en/pubs/joint-written-statement-submitted-apc-34th-session

## ABOUT THE REPORT

The report is part of a project of the Association for Progressive Communications (APC) entitled “Networking for freedom online and offline: protecting freedom of information, expression and association on the internet in India, Malaysia and Pakistan,” also known as India, Malaysia, Pakistan Advocacy for Change through Technology (APC-IMPACT). The countries selected for the research were determined primarily based on the work done by APC and its partners on promoting and defending freedom of expression online. The partners are located in India (Digital Empowerment Foundation), Malaysia (EMPOWER) and Pakistan (Bytes for All). The theme was chosen due to the increasing threats witnessed in these countries over expression related to religion and politics. The experiences in Bangladesh with the killings of bloggers presented an urgent need to focus on that country as well. The report is timely given the reviews of Bangladesh and Pakistan by the Human Rights Committee in March and June 2017, respectively, which highlighted issues related to freedom of expression and religion.

The key objectives of this report are:

- To identify challenges to freedom of expression online in the context of religion, linking them to broader challenges to democracy, human rights and social justice.
- To identify trends regarding freedom of expression and religion (FoER) online and areas for further study in APC-IMPACT countries and in Asia more broadly.
- To make recommendations for improving protections for FoER online in the countries studied.

The report was prepared based on literature and desk reviews. A meeting of experts in the field was conducted on 20 and 21 February 2017 in Bangkok to gather input and feedback on the subject, establish the line of inquiry and make recommendations to the different stakeholders. Other sources of information included, in particular, cases and incident reports, as well as media articles and reports from civil society groups. The incidents described were selected to explain certain trends and are by no means intended to be an exhaustive list of developments in the four countries.

This report drew important insights and context from other research projects undertaken in the region. They include the following:

- *Desecrating Expression: An Account of Freedom of Expression and Religion in Asia* authored by Gayatri Khandhadai, published by Bytes for All and FORUM-Asia (2016).
- *Debating faith in cyberspace: Offline consequences of online religious expression in Pakistan*, authored by Asad Baig and Sadaf Khan, published by Bytes for All (2015).
- *Preliminary Findings on Online Hate Speech and the Law in India*, authored by Chinmayi Arun and Nakul Nayak, published by the Berkman Klein Center for Internet & Society at Harvard University (2016).
- *Victim Blaming – Bangladesh*, by Front Line Defenders (2016).<sup>19</sup>

19. The reports can be accessed online at: [content.bytesforall.pk/sites/default/files/Final\\_FoER\\_Report.pdf](http://content.bytesforall.pk/sites/default/files/Final_FoER_Report.pdf) ; [content.bytesforall.pk/node/180](http://content.bytesforall.pk/node/180) ; <https://cyber.harvard.edu/publications/2016/HateSpeechIndia> ; <https://frontlinedefenders.atavist.com/bangladesh-report>

SECTION 2:  
UNDERSTANDING  
THE RIGHTS TO  
FREEDOM OF  
EXPRESSION AND  
FREEDOM OF  
RELIGION ONLINE

*Is a critique of the institutions that regulate the practices of religion tantamount to hate speech? Who decides what is blasphemous? What is hate speech? Are religious sensitivities a valid basis for restricting expression? Are there adequate hate speech laws in these countries? What if someone likes a Facebook post, can that be deemed as promoting hate speech? Is social media facilitating the spread of hatred?*

These are among the questions we are confronted with so often these days as states are quick to crack down on individuals who challenge mainstream views, and in a worst case scenario such individuals are at risk of mob attacks. It is difficult to define hate speech although general principles and norms that address the advocacy of hatred and incitement can be drawn from legislation or human rights law. The larger body of work available looks at the complexities of the limitations to freedom of expression in the context of hate speech and incitement to hatred. Theoretical understanding ranges from those who propound the marketplace of ideas – in which hate speech is justified because opponents or those affected have the opportunity to counter such ideas – to a more nuanced approach to the issue of tolerance in society – in which hate speech is an indication of a prevailing intolerance that needs to be addressed. The tendency in these traditions is for the government to have no role in regulating speech, although some propose a limited role given the inequalities in power that determine who can speak, who has access to the media and who holds the power to decide what constitutes hate speech and incitement. Also important in this discussion are the political-economic and gender perspectives of expression and oppression. By asking questions about political and economic structures and constraints, we may be able to deepen our understanding of incidents of advocacy of hatred, their aims and the actors involved.<sup>20</sup>

The report is careful not to gloss over the term hate speech, as it can be easily used to mask censorship and legal threats to legitimate expression. This section will introduce the international norms on freedom of expression and religion online, with references to hate speech, and present other research that explores these concepts. One thing is certain: identifying speech and expression that can harm individuals and communities is not an easy task and it has multiple layers of agendas, meanings and legal liabilities. The chain of events and impact triggered by the screening of the *Innocence of Muslims* is an apt example of how we will need to unpack the issue of hate speech and incitement to violence as well as the specific junctures that require specific actions.

20. Andrew Sellars provides a good overview of the different schools of thought on hate speech as well as a proposal for the characteristics that could help us define hate speech, particularly in the context of online speech. See Sellars, A. (2016). *Defining Hate Speech*. Berkman Klein Center Research Publication No. 2016-2

### ***Innocence of Muslims* and offence-taking**

In July 2012, the trailer of a feature-length movie was released by Nakoula Basely Nakoula (who also used the name Sam Bacile) under the title *Desert Warrior*. The trailer portrays Islam as a violent religion and paints the Prophet Muhammad in an unflattering light. A Christian preacher, Terry Jones, who publicly made anti-Islam statements, used the anniversary of the 9/11 attacks to draw attention to the video. It was then picked up by Morris Sadek, another anti-Islam individual, who dubbed it into Arabic and shared it with colleagues in Egypt. When a local television personality presented it as evidence that the US was anti-Islam, massive protests erupted at the US embassies in Cairo and other cities.<sup>21</sup> A large number of protestors clashed with police and security officers at various locations. Google defended the free speech standards of YouTube, which it owns, but unilaterally restricted access to the page in a number of countries, while blocking the video in eight countries. The governments of Afghanistan, Bangladesh and Pakistan blocked the entire platform.<sup>22</sup> The incident also led to renewed calls by some states to legitimise anti-blasphemy laws as a global norm. Was it the trailer itself that sparked the protests, or was it the timing of its wider dissemination to promote a narrative of the war on Islam that was responsible for the reactions? It is important to highlight the violent protests that happened among those who took offence at the content and in countries where Muslims formed the majority of the population and power bases. Observers raise important questions as to what constituted hate speech in the chain of events, who the sources were and who should take responsibility for the actions that followed.<sup>23</sup>

This section is divided into two subsections: the first presents the international human rights norms on freedom of expression and religion online as a framework for these issues; and the second will propose an approach based on academic and expert work focused on the issues of hate speech, intolerance and offence-taking to help unpack some of the expressions of hatred and the responses by stakeholders.

21. Ralph, T. (2012, 12 September). Terry Jones, 'Sam Bacile': The men behind the movie? *PRI*. [www.pri.org/stories/2012-09-12/terry-jones-sam-bacile-men-behind-movie-video-update](http://www.pri.org/stories/2012-09-12/terry-jones-sam-bacile-men-behind-movie-video-update)
22. *The Express Tribune*. (2012, 17 September). Anti-Islam film: Pakistan joins Afghanistan, Bangladesh in banning YouTube. [tribune.com.pk/story/437959/anti-islam-film-interior-religious-it-ministries-recommend-ban-on-youtube/](http://tribune.com.pk/story/437959/anti-islam-film-interior-religious-it-ministries-recommend-ban-on-youtube/)
23. Sellars, A. (2016). *Op. cit.*; George, C. (2016). *Hate Spin: The Manufacture of Religious Offense and Its Threat to Democracy*. The MIT Press.

## INTERNATIONAL NORMS

International human rights standards provide the overarching framework in which the different bodies of rights for all persons are to be understood, promoted and defended. Relevant to this research are the rights related to freedom of religion, beliefs, thought and conscience for individuals and communities, as well as freedom of opinion and expression, which is the cornerstone that underpins the exercise of various other human rights and civil liberties.

The main principle in discussing freedom of religion or belief and freedom of expression is that the rights holders are human beings and not institutions or groups.<sup>24</sup> There are internal dimensions and external manifestations of these rights which overlap and should be “seen as a continuum” when exercised.<sup>25</sup> The unconditional protection of the internal dimension of the rights – conscience, opinions, thought, beliefs – is necessary so that people can enjoy the external “expression” of their rights, such as access to the media, public speech, the organising of religious teachings, access to places of worship or taking part in other observances. Rights associated with the external manifestations (freedom of expression and freedom of religion or belief) can be restricted – for example, the location for building places of worship or schools – but only within narrow and limited boundaries of restrictions.

### *Freedom of thought, conscience and religion*

Article 18 of the Universal Declaration of Human Rights (UDHR)<sup>26</sup> states: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

### *Freedom of opinion and expression*

Meanwhile, Article 19 of the UDHR states: “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.”

The practice of these rights is further codified in the International Covenant on Civil and Political Rights (ICCPR),<sup>27</sup> which includes guidance on permissible limitations to these rights. Both Articles 18 and 19 emphasise that limitations must be prescribed by law and only as is necessary to protect public safety, order, health or morals and respect the rights of others. In the case of freedom of expression, the right to defend one’s reputation is also accepted as a legitimate restriction.<sup>28</sup> In 1993, the then Human Rights Committee provided an authoritative interpretation of Article 18 in its General comment No. 22, which includes further guidance. Most significantly, it states that the protection of Article 18 extends to theistic, non-theistic and atheistic beliefs, as well as the rights not to profess any religion or belief.

24. Bielfeldt, H. & Human Rights Council. (2015). Op. cit.

25. Ibid., para. 22.

26. For the full text of the UDHR, see: [www.un.org/en/universal-declaration-human-rights/](http://www.un.org/en/universal-declaration-human-rights/)

27. For the full text of the ICCPR, see: [www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx)

28. Article 18 of the ICCPR states:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion, which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions

Article 19 of the ICCPR states:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

These rights are therefore equal to those of traditional and institutional forms of practices and expression.<sup>29</sup>

Article 19(3) of the ICCPR has been used to develop a three-part test for outlining reasonable restrictions on speech that is seen as an ideal framework for legislations or regulations concerning restrictions on and criminalisation of speech. To pass this test, any limitation on the right to freedom of expression must meet the following criteria:

- It must be provided by law, which must be clear and accessible to everyone.
- It must pursue one of the specific purposes set out in Article 19(3) of the ICCPR.
- It must be both necessary and the least restrictive means required to achieve its purported aim.<sup>30</sup>

Article 20 of the ICCPR introduces additional restrictions, namely:

- Any propaganda for war shall be prohibited by law.
- Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

The UDHR and ICCPR form part of important subsequent standards set by various UN mechanisms to address hate speech, which seek to end or prevent racism, discrimination and intolerance based on identities and beliefs. For example, in 1981, the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief was adopted. This Declaration details the spectrum of rights that relate to and are covered under the scope of religious freedoms. A key principle is that the right to freedom of religion or belief cannot be practised

in isolation and its practice remains intrinsically linked to other fundamental rights, including the right to freedom of expression and opinion and freedom of association, among other rights. This link was emphasised by the UN Special Rapporteur on freedom of religion or belief in his report to the Human Rights Council in 2015:

..The close interrelatedness of freedom of religion or belief and freedom of opinion and expression is not confined to mere parallelisms in normative formulations within the Covenant; the interrelatedness is also a practical one, as the two rights mutually reinforce each other in facilitating free and democratic societies.<sup>31</sup>

In 2011, the Human Rights Council adopted resolution 16/18 entitled “Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against persons based on religion or belief,”<sup>32</sup> as a compromise with proponents of anti-blasphemy laws.<sup>33</sup> Following this resolution, a series of consultations and workshops were held, which culminated in 2013 with the Rabat Plan of Action.<sup>34</sup> This plan recommends adopting national anti-discrimination legislation that includes preventive and punitive action to effectively combat incitement to hatred. It also states that expression labelled as hate speech can be restricted under Articles 18 and 19 of the ICCPR, and recognises that states are also required to prohibit expression that amounts to incitement to discrimination, hostility or violence.

The former Special Rapporteur on freedom of opinion and expression, Frank La Rue, noted in his 2012 report that it is important not to conflate inflammatory, hateful or offensive speech and incitement because freedom of expression covers those that are offensive, disturbing and shocking.<sup>35</sup> Any restrictions must meet the criteria

29. As cited in Khandhadai, G. (2016). Op. cit., p. 19.

30. Human Rights Committee. (2011). Op. cit.

31. Human Rights Council. (2015). Op. cit., para. 30.

32. Human Rights Council. (2011, 12 April). *Resolution on combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief.* A/HRC/RES/16/18. documents-dds-ny.un.org/doc/RESOLUTION/GEN/G11/127/27/pdf/G1112727.pdf?OpenElement

33. The Organisation of Islamic Cooperation (OIC) has been the most vocal in pushing for global endorsement to criminalise the insult of religion. After a brief silence, the issue was once again on the OIC's agenda in 2012 and has since gained many more supporters from non-Muslim majority countries. See Brooks, C. (2012, 27 September). *Calls For Blasphemy Ban Resurface At UN.* *Radio Free Europe/Radio Liberty.* www.rferl.org/a/un-hears-calls-for-blasphemy-ban/24721995.html

34. The Rabat Plan of Action was adopted in Rabat, Morocco by experts on 5 October 2012. See the report here: www.un.org/en/prevent-genocide/adviser/pdf/Rabat\_draft\_outcome.pdf

35. La Rue, F. & United Nations General Assembly (2012, 7 September). *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.* A/67/357. documents-dds-ny.un.org/doc/UNDOC/GEN/N12/501/25/pdf/N1250125.pdf?OpenElement

of the internationally accepted three-part test, which establishes that they must be legitimate, codified in law and narrowly defined, as well as necessary and the least restrictive means. Former Special Rapporteurs Asma Jahangir and Doudou Diène have noted the importance of distinguishing between (a) forms of expression that should constitute an offence under international law, (b) forms of expression that are not criminally punishable but may justify a civil suit, and (c) forms of expression that do not give rise to criminal or civil sanctions but still raise concerns in terms of tolerance, civility and respect for the religions and beliefs of others.<sup>36</sup> This is a necessary distinction not only to help determine the forms of legal or judicial interventions, but also to formulate civic and political strategies as well.

Other UN resolutions establish the right to freedom of opinion and expression in the context of the other rights, including internet rights. In his report to the Human Rights Council in 2011 as the Special Rapporteur on freedom of opinion and expression, Frank La Rue noted the unprecedented impact of the internet and expressed concern at measures taken by governments to restrict access to information online.<sup>37</sup> UN Human Rights Council resolutions 20/8,<sup>38</sup> 26/13<sup>39</sup> and 32/13<sup>40</sup> focus on the promotion, protection and enjoyment of human rights and the internet. For example, resolution 32/13 adopted in July 2016 stresses “the importance of combating advocacy of hatred that constitutes incitement to discrimination or violence on the Internet, including by promoting tolerance and dialogue.” In its General comment No. 34 the Human Rights Committee stated that any restrictions on the operations

of websites, blogs or any other internet-based or other dissemination systems must be content-specific and cannot be made solely on the basis that it is critical of the government.<sup>41</sup> In his report to the Human Rights Council in 2016, the UN Special Rapporteur on freedom of expression and opinion, David Kaye, recommended that states should not pressure the private sector to take actions that would disproportionately interfere with freedom of expression, and that states and the private sector should be more transparent and inclusive in their policy and norm setting.<sup>42</sup>

Research has also shown that gender and religious identities are often used as elements to produce hate speech against individuals and groups. Thus, in addition to understanding the premise of reasonable restrictions on free speech, it is also important to understand how the rights of target groups, particularly religious minorities and other vulnerable groups, are contained within the international human rights framework. Guidance provided by the Committee on the Elimination of Racial Discrimination reiterates the importance of applying these intersectionalities and the interpretation of rights to dissemination across all media, including the internet and social networking sites.<sup>43</sup>

Apart from standard setting by the UN, civil society groups have developed a set of principles designed to promote equality, pluralism and diversity to enable public participation and give voice to all in a democratic society. The Camden Principles on Freedom of Expression and Equality<sup>44</sup> address the following issues: the need for legal protection

36. Jahangir, A. & Diène, D. (2006, 20 September). *Implementation of General Assembly Resolution 60/251 of 15 March 2006 entitled “Human Rights Council,” Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, further to Human Rights Council decision 1/107 on incitement to racial and religious hatred and the promotion of tolerance.* A/HRC/2/3. documents-dds-ny.un.org/doc/UNDOC/GEN/G06/139/90/PDF/G0613990.pdf?OpenElement
37. La Rue, F. & Human Rights Council. (2011, 16 May). *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue.* A/HRC/17/27. documents-dds-ny.un.org/doc/UNDOC/GEN/G11/131/54/pdf/G1113154.pdf?OpenElement
38. Human Rights Council. (2012, 16 July). *Res. 20/8 on The promotion, protection and enjoyment of human rights on the Internet.* A/HRC/RES/20/8. documents-dds-ny.un.org/doc/UNDOC/GEN/G12/134/91/PDF/G1213491.pdf?OpenElement
39. Human Rights Council. (2014, 14 July). *Res. 26/13 on The promotion, protection and enjoyment of human rights on the Internet.* A/HRC/RES/26/13. documents-dds-ny.un.org/doc/UNDOC/GEN/G14/082/83/pdf/G1408283.pdf?OpenElement
40. Human Rights Council. (2016, 18 July). *Res. 32/13 on The promotion, protection and enjoyment of human rights on the Internet.* A/HRC/RES/32/13. documents-dds-ny.un.org/doc/UNDOC/GEN/G16/156/90/pdf/G1615690.pdf?OpenElement
41. Human Rights Committee (2011). *Op. cit.*, para. 43.
42. Kaye, D. & Human Rights Council. (2016, 11 May). *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on freedom of expression and the private sector in the digital age.* A/HRC/32/38. documents-dds-ny.un.org/doc/UNDOC/GEN/G16/095/12/PDF/G1609512.pdf?OpenElement
43. UN Committee on the Elimination of Racial Discrimination (2013, 26 September). *General recommendation No. 35 on Combating racist hate speech.* CERD/C/GC/35. documents-dds-ny.un.org/doc/UNDOC/GEN/G13/471/38/pdf/G1347138.pdf?OpenElement
44. ARTICLE 19 (2009). *The Camden Principles on Freedom of Expression and Equality.* www.article19.org/data/files/pdfs/standards/the-camden-principles-on-freedom-of-expression-and-equality.pdf

for equality and freedom of expression; the right to be heard and the right to speak; the promotion of intercultural understanding; and freedom of expression and harmful speech. On incitement to hatred, the document recommends the adoption of legislation that is narrow and explicit and it calls on states to refrain from prohibiting criticism directed at or about particular ideas, beliefs, ideologies, religions or religious institutions, unless clearly defined as hate speech.

## HATE SPEECH, INTOLERANCE AND OFFENCE-TAKING

Hate speech serves as an important backdrop to this study but it is not the only frame of analysis. This research adopts a broader understanding of the increase in intolerance in the name of religion that has led to devastating attacks against individuals and communities. This section shares some of the definitions of hate speech and its variations and discusses scholarly work on the links between expression and politics, as well as online behaviour.

The UN International Committee on the Elimination of Racial Discrimination defines hate speech as “a form of other-directed speech which rejects the core human rights principles of human dignity and equality and seeks to degrade the standing of individuals and groups in the estimation of society.”<sup>45</sup>

While not binding for non-members, the European Court of Human Rights offers a rigorous reference for standard setting. In a definition adopted by the Council of Europe, it considers hate speech as “all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.”<sup>46</sup>

Another important contribution has involved raising red flags on speech that could signal

future acts of mass violence. Professor Susan Benesch coined the term “dangerous speech” as a subset of hate speech and identified the rise of inflammatory public speech as a precursor or prerequisite for violence. The Dangerous Speech Project,<sup>47</sup> initiated in 2010, proposed a set of guidelines and variables that could be used as an early warning or indicator of potential mass violence. The variables are not meant to function as a checklist, but could point towards potentially dangerous results if all the characteristics are maximised.

Others use the term “extreme speech” to define an approach that underscores the need for ethnographic studies that are not only rooted in the rights discourse but take into account technology, online agency and political cultures. These produce a variety of speech that can be harmless in some situations but have a serious political impact in others.<sup>48</sup>

The understanding of hate needs to be *historically situated*, especially if the online dimension is to be considered, as it is important to acknowledge the longstanding issues of exclusion and inequality in public speech.<sup>49</sup> For example, Shepherd et al. note: “The process underlying online hate point toward a set of complex issues at the centre of any normative discussion of regulation and intervention, including the boundaries of free speech, asymmetries between more powerful and more marginalized actors, the meanings and im-

45. UN Committee on the Elimination of Racial Discrimination. (2013). Op. cit., para. 10.

46. Recommendation No. R(97)20 of the Council of Europe’s Committee of Ministers to member states on “Hate Speech,” 30 October 1997, quoted in ARTICLE 19. (2015). *Hate Speech’ Explained: A Toolkit*. London.

47. For more details, see the Dangerous Speech Project website: [dangerousspeech.org/the-dangerous-speech-project-preventing-mass-violence](http://dangerousspeech.org/the-dangerous-speech-project-preventing-mass-violence). The variables are: a “powerful” speaker with a high degree of influence; a receptive audience with grievances and fear that the speaker can cultivate; a speech act that is clearly understood as a call to violence; a social or historical context that is conducive to violence; and influential means of dissemination.

48. Pohjonen, M. & Udupa, S. (2017). Extreme Speech Online: An Anthropological Critique of Hate Speech Debates. *International Journal of Communication*, 11, pp. 1173-1191.

49. Shepherd, T. et al. (2015). Histories of Hating. *Social Media + Society*, July-December, pp. 1-10.

plications of visibility, and the dynamics between online and offline hate.<sup>50</sup> In this regard, the affordances provided by online platforms need to be queried against the backdrop of existing unequal *power relations* in societies that determine who has access, who is able to speak and who draws the line on the different forms of speech. It is in this context that we need to be critical of proposals of counter narratives or of using speech to address hate speech, particularly online, as this assumes that everyone can participate in such spaces with equal power. On the contrary, individuals of different classes, genders and political and religious backgrounds have different experiences online and may choose different strategies to overcome intimidation, harassment and discrimination online.

The academic Cherian George speaks of the phenomenon of “hate spin” and offense-taking cases, where groups of people who identify with one religion and are members of the majority have reacted with aggression over symbols or criticisms of that religion. Hate spin is defined as “manufactured vilification or indignation, used as a political strategy that exploits group identities to mobilize supporters and coerce opponents. Many agents of hate deftly deploy both offense-giving and offence-taking, often in parallel.”<sup>51</sup> He offers a useful approach by situating the study in contentious politics and brings in the dimension of political context to the growth in attacks against individuals and communities who are positioned on opposing sides or on the margins of mainstream politics. Central to this idea is the role of *agents* or lieutenants who he describes as engaged in dog whistling, to convey meanings too elusive for the law to deal with, but heard loud and clear by the intended audience. “The most extreme language is usually confined to radical groups in the fringes of the network, as well as nameless individuals trolling the Internet,” he finds.<sup>52</sup> A similar reference was made by the former UN Special Rapporteur on freedom of religion and belief, Heiner Bielefeldt, when he

described the role of entrepreneurs of hatred, who are the political middlemen or agents who have access to state resources and opportunities to mobilise people for a *manufactured response*.<sup>53</sup> In the context of digital communications, former Special Rapporteur on freedom of opinion and expression Frank La Rue noted the ease with which anyone can anonymously post comments online and raised concerns about “misguided” government responses.<sup>54</sup>

Those studying online communication and behaviour suggest that posters of content imagine the audiences with which they are communicating, some are known and targeted, but they are mostly unknown. It is difficult to control information flows when using social networking sites (SNSs), hence, content can be picked up by unintended audiences, while the interpretation of messages is influenced by multiple frames of reference. Experts argue that a better understanding of these dynamics can help improve the design and affordances of SNSs and provide training and education related to online reputation so that there are more potential benefits and less negative repercussions.<sup>55</sup> Others studying abuse by hate mongers on the internet say that the various actors, including internet service providers, have a moral and social responsibility to minimise the hatred that is used to “undermine our well-being as autonomous beings living in free societies.”<sup>56</sup>

50. Ibid., pp. 1-2.

51. George, C. (2016). Op. cit., p. 4.

52. Ibid., p.11.

53. Bielefeldt, H. & Human Rights Council. (2015). Op. cit.

54. La Rue, F. & United Nations General Assembly. (2012). Op cit.

55. Litt, E., & Hargittai, E. (2016). The Imagined Audience on Social Network Sites. *Social Media + Society*, January-March, pp. 1-12; Marwick, A. E. & boyd, d. (2011). I tweet honestly, I tweet passionately: Twitter users, context collapse, and the imagined audience. *New Media & Society*, 13, pp. 114-133.

56. Cohen-Almagor, R. (2011). Fighting Hate and Bigotry on the Internet. *Policy & Internet*, 3(3), Article 6, p. 2.

## ■ SUMMARY OF KEY POINTS

### Rights are mutually reinforcing

UN special procedures mandate holders argue that freedom of religion is best served by adequate access to freedom of expression – which allows for the availability of information and the exchange of ideas – instead of restrictions to expression.<sup>57</sup> They are mutually reinforcing and should not be seen as contradictory.

### Appropriate and proportionate responses

There is also a need to distinguish the various forms of speech and the appropriate interventions, whether through civic actions, civil courts or more punitive responses. The responses from the state tend to be disproportionate, with the effect of repressing those already marginalised or made vulnerable.

### Contextualising online hate

There is a need to historically situate the expressions of hatred and to recognise the power relations in society that influence the map of internet users and how they communicate. While on the one hand the internet has disrupted some of these power relations, on the other it has also made it easier to spread hatred online and reproduce some of the existing social and political inequalities online. The phenomenon of offence-taking is shaping much of the justifications for violence and aggression online and offline, with agents of hatred who seize political opportunities and are able to mobilise crowds.

57. Bielfeldt, H. & Human Rights Council. (2015). Op. cit.

SECTION 3:  
CHALLENGES  
TO FREEDOM  
OF EXPRESSION  
AND RELIGION

A detailed examination of the laws that impact freedom of religion and expression can be found in the Asia and Pacific regional study prepared by the Office of the High Commissioner for Human Rights.<sup>58</sup> The study was conducted to provide input for the formulation of the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.<sup>59</sup> In addition, a regional report prepared jointly by the Asian Forum for Human Rights and Development (FORUM-Asia) and Bytes for All and published in 2016 analyses the laws and policies in nine countries – including Bangladesh, India, Malaysia and Pakistan – and how these impact freedom of expression and religion.<sup>60</sup> The report notes that online and offline violations of the freedom of expression (as well as the rights to peaceful assembly and association) committed in the name of protecting the sanctity of religion are on the rise, threatening the very foundations of diversity across the region. The main challenge is posed by the use of blasphemy and other insult laws to restrict debates on public interest issues, which has resulted in an environment where attacks on those grounds are justified or can be perpetrated with impunity. This chapter presents three dimensions that factor in analysing the relations between the different rights, and the country contexts within which these contestations take place: the *national legal frameworks*, the *historical and political developments* and *threats to online users*.

**WHILE THEY CONTAIN PROVISIONS TO PROHIBIT THE SPREADING OF HATRED AND INCITEMENT TO HATRED, THESE ARE USED SELECTIVELY, AND AS NOTED BY THE UN SPECIAL RAPPORTEURS IN THEIR REPORTS, TO SERVE NARROW INTERESTS**

## LEGAL ENVIRONMENTS – MEANS OF PROTECTION OR MEANS FOR PROMOTING IMPUNITY?

The first source of legal understanding are national constitutions, which are documents of aspiration of the peoples, and in the case of the four countries studied, a statement of nationhood, as they were adopted when they gained independence from the British colonisers. Two fundamental civil liberties that the report is interested in are the rights to freedom of religion and freedom of expression. This does not mean that the other rights are unimportant. In fact, in the practice of customs and religion, the rights to education, one's language and other cultural practices affect and are affected by these two rights.

58. Muntarbhorn, V. (2011). *Study on the prohibition of incitement to national, racial or religious hatred: Lessons from the Asia Pacific Region. Report prepared for the series of expert workshops organised by the Office of the High Commissioner for Human Rights for the Asia and Pacific region, held in Bangkok, on 6-7 July 2011.* www.ohchr.org/Documents/Issues/Expression/ICCPR/Bangkok/StudyBangkok\_en.pdf

59. The study was part of a series of stakeholder workshops that was organised across the different regions in 2011 and 2012 involving the Special Rapporteurs on freedom of expression and opinion, freedom of religion and belief, and racism, racial discrimination, xenophobia and related intolerance.

60. Khandhadai, G. (2016). Op. cit.

The constitutions<sup>61</sup> in at least three of the four countries studied explain how and why the intensity of religion-based attacks against minorities has been severe. Only India's Constitution explicitly recognises the secular nature of the state, while Bangladesh,<sup>62</sup> Malaysia and Pakistan have an official state religion (Islam). All constitutions recognise freedom of religion and belief for all, but some contain inherent contradictions. For example, in 1974, through a series of amendments to the Constitution, Pakistan declared the Ahmedi sects non-Muslims,<sup>63</sup> and in 1984 military dictator General Zia ul-Haq, who came into power through a coup, introduced several amendments to the Penal Code under Martial Law Ordinance XX. This has had the effect of restricting the rights of the Ahmedi (defined as those from the Qadiani or Lahori groups) in exercising their religious practices and their freedom of expression, and, worse still, it has resulted in their being targeted with violence.<sup>64</sup> Bangladesh, which was formed as a secular state in 1972, subsequently changed its Constitution in 1988, adopting Islam as the state religion, while still allowing, on paper, other religions to be practised.<sup>65</sup> Malaysia and India continue to grapple with their historically established secular states as there has been growing pressure to introduce or expand religious values and laws. The Malaysian Constitution is ambiguous on whether it is a secular or theocratic state. While politicians and historians have aggressively advocated for a declaration of Malaysia as an Islamic state since the 2000s, no constitutional amendment has been made.<sup>66</sup>

As for the rights to freedom of expression and opinion, the respective constitutions guarantee freedom of expression and in the case of Bangladesh, freedom of thought and conscience. How-

ever, these are subject to restrictions imposed by laws in the interest of public order, national security, morality and friendly relations with other nations. Restrictions are also permitted on the grounds of contempt of the courts and defamation. These are contained in Article 19(2) of the Indian Constitution, Clause 39(2) in the case of Bangladesh and Article 10 sub-clauses 2 and 4 in Malaysia. Article 19 of the Pakistani Constitution further adds "glory of Islam" as a caveat, while in Malaysia, the protection of the status, sovereignty and integrity of the royalty, the bumiputera<sup>67</sup> community, citizenship and the national language, as well as freedom to speak other languages, were added to the Constitution in 1969 after a politically motivated riot, popularly framed as communal clashes.

These limitations are expressed through various laws that criminalise the expression of ideas and opinions that challenge the official or dominant political powers and religions, even if they do not explicitly refer to blasphemy. They also do not meet international human rights standards, as concluded by the various human rights mechanisms. While they contain provisions to prohibit the spreading of hatred and incitement to hatred, these are used selectively, and as noted by the UN Special Rapporteurs in their reports, to serve narrow interests.<sup>68</sup>

The penal codes<sup>69</sup> of the four countries provide the main and closest references to hate speech, although these are articulated as offences related to incitement, discrimination, insult and sedition. Similarities are noted in the criminal laws of the four countries, which are generally based on the British common law system, although their legal systems vary. The bulk of the references can be

61. For the full text of the Constitution of Bangladesh, see [bdlaws.minlaw.gov.bd/pdf\\_part.php?id=367](http://bdlaws.minlaw.gov.bd/pdf_part.php?id=367); for the full text of the Constitution of India, see: [lawmin.nic.in/olwing/coi/coi-english/coi-indexenglish.htm](http://lawmin.nic.in/olwing/coi/coi-english/coi-indexenglish.htm); for the full text of the Constitution of Malaysia, see [www.agc.gov.my/agcportal/uploads/files/Publications/FC/Federal%20Consti%20\(BI%20text\).pdf](http://www.agc.gov.my/agcportal/uploads/files/Publications/FC/Federal%20Consti%20(BI%20text).pdf);
62. In its 1972 constitution, Bangladesh was declared a secular state but subsequent amendments introduced Islam as the state religion. The word secular was reinstated in 2011, while retaining the provision on the state religion.
63. Baig, A. & Khan, S. (October 2015). *Debating faith in cyberspace: Offline consequences of online religious expression in Pakistan*. Bytes for All.
64. Hanif, M. (2010, 16 June). Why Pakistan's Ahmadi community is officially detested. *BBC News*. [news.bbc.co.uk/2/hi/8744092.stm](http://news.bbc.co.uk/2/hi/8744092.stm); Human Rights Watch. (2010, 1 June). Pakistan: Massacre of Minority Ahmadis. [www.hrw.org/news/2010/06/01/pakistan-massacre-minority-ahmadis](http://www.hrw.org/news/2010/06/01/pakistan-massacre-minority-ahmadis)
65. In 2011, secularism was reinstated in the constitution, while Islam was retained as the state religion. For an analysis of how changes in the constitution have affected the influence of religion on politics and the rights of other religious minorities in Bangladesh, see Bhuiyan, J. H. (2017). Secularism in the Constitution of Bangladesh. *The Journal of Legal Pluralism and Unofficial Law*, 49(2).
66. Mohamed Adil, M. A. (2015). The Federal Constitution: Is Malaysia a Secular State? *Islam and Civilisational Renewal*, 6(1). [www.icrjournal.org/icr/index.php/icr/article/view/471/435](http://www.icrjournal.org/icr/index.php/icr/article/view/471/435)
67. The term *bumiputera*, translated as "the sons of the soil", refers to the ethnic Malays and the over 35 indigenous tribes across the country, who have special status.
68. Bielfeldt, H. & Human Rights Council (2015). Op. cit.; Shaheed, A. & Human Rights Council (2017). Op. cit.
69. In India, the legal system is a combination of common law, civil law and customary law, while the legal systems of Bangladesh, Malaysia and Pakistan are a combination of common law and the *Syariah* law (for Muslims).

found in all the laws under Chapter 15, “Offences Relating to Religion.” Section 295 in all the penal codes deals with punishment for the destruction of places of worship or objects held sacred, when done with the intent of insulting the religion of any class.

In Bangladesh, Sections 295A and 298 of the Penal Code<sup>70</sup> provide for punitive measures for making derogatory comments against someone’s religious beliefs. The law specifies that a person is criminally liable if he or she has a deliberate and malicious intent of offending the religious feelings of any class of the citizens in the country.

In India,<sup>71</sup> Sections 153a, 153b and 505 regulate hate speech, while Section 295A penalises those who insult religion or religious freedoms, and Section 298 makes it an offence to utter words that may wound religious feelings. Most of the provisions on hate speech have been subject to constitutional challenges over the years, but the courts have straddled international norms on freedom of expression and the constitutional principles in a somewhat delicate balance.<sup>72</sup> In a recent report in which it was asked to provide interpretations and a definition of hate speech, the Law Commission of India recommended an expanded definition that includes hate speech on the grounds of sex, gender identity and sexual orientation.<sup>73</sup> The Law Commission recommended inserting two new provisions in the Penal Code (Sections 153C and 505A) on prohibiting incitement to hatred and on causing fear, alarm or provocation of violence in certain areas. There is no guarantee, however, that the recommendations will be implemented.

In Malaysia,<sup>74</sup> Sections 298 and 298(A) refer to offences against religion and stipulate penalties for hurting religious sentiments and causing hatred.

In Pakistan,<sup>75</sup> through a series of amendments, the Penal Code has defined a number of offences against religion: Section 295(A) penalises acts committed with the aim of causing religious outrage, while Sections 295(B) and 295(C) criminalise defiling the Quran or insulting the Prophet, with the latter carrying a sentence of life imprisonment or death.<sup>76</sup> Section 298(A) penalises insults to any wife or relative of the Prophet, while Sections 298(B) and 298(C) target Ahmedis and other Muslim minority groups for posing as Muslims and propagating their faith.<sup>77</sup>

Several of the provisions prohibit the dissemination of materials deemed indecent or in violation of the law, as prescribed under Section 292 of the Indian Penal Code, while Section 505(2) of the Pakistani Penal Code prohibits the publication of content or materials that can incite disharmony or enmity. In addition, Section 95 of India’s Criminal Procedure Code gives the state powers to seize and prohibit publications.

Other norms that have been used or are applied in this sense are sedition and criminal defamation laws, as well as content regulation provisions contained in printing press, publication and telegraph laws. Through a 2015 amendment, the Malaysian Sedition Act 1948 – a law mainly used to target opposition politicians and critics – now includes religion and threats to parliamentary democracy under the purview of sedition.<sup>78</sup>

Amendments to the laws in these countries have increased the availability of legal tools, such as blasphemy and online laws, that the political establishments can use against political dissent, to persecute bloggers commenting on religion and to keep online activity among activists and human rights defenders under surveillance.

70. Bangladesh Penal Code (Act No. XLV of 1860). [bdlaws.minlaw.gov.bd/print\\_sections\\_all.php?id=11](http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=11)

71. Indian Penal Code (Act No. 45 of 1860). [indiankanon.org/doc/1569253/](http://indiankanon.org/doc/1569253/)

72. Arun, C. & Nayak, N. (2016). Op. cit., p. 7.

73. Law Commission of India (March 2017). *Hate Speech – Report No. 267*. New Delhi. The report was based on an observation by the Supreme Court in the case of *Pravasi Bhalai Sangathan v. Union of India & Ors.*, AIR 2014 SC 1591, that there was a need to further examine the issue of hate speech and, if necessary, revise its definition. The case in question refers to a public interest litigation filed by a non-governmental organisation to prevent leaders from making hate speeches during elections. For the Supreme Court judgement, see: [indiankanon.org/doc/194770087/](http://indiankanon.org/doc/194770087/).

74. Malaysian Penal Code (Act 574). [www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Penal%20Code%20%5BAct%20574%5D2.pdf](http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Penal%20Code%20%5BAct%20574%5D2.pdf)

75. Pakistan Penal Code (Act XLV of 1860). [www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html](http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html)

76. Baig, A. & Khan, S. (2015). Op. cit., p. 21.

77. Khandhadai, G. (2016). Op. cit., p. 49.

78. The law considers any criticism of the state, royalty and courts as sedition, and until the amendment, criticisms of the governments, which has been removed. Yin, S. L. (2015). *The Sedition (Amendment) Bill 2016: Context and Implications*. Institut Rakyat. [www.institutrakyat.org/wp-content/uploads/2015/04/IR-Sedition-Amendment-Report-2015.pdf](http://www.institutrakyat.org/wp-content/uploads/2015/04/IR-Sedition-Amendment-Report-2015.pdf)

## INTERNET-RELATED LAWS

The growing use of social media and other online communication platforms has drawn the attention of the governments, which have taken a similar approach to respond to threats of incitement online. Section 57 of Bangladesh's Information Communication and Technology Act<sup>79</sup> penalises the deliberate publication or transmission online of any material that hurts or is likely to hurt religious sentiment among Muslims. There are plans to repeal this law and replace it with a cybercrime law, following criticisms of its use to jail journalists, bloggers and online activists.<sup>80</sup> Before it was struck down by the Supreme Court in 2015, India's 2008 Information Technology Act,<sup>81</sup> namely its Section 66A, dealt with the dissemination of offensive messages that could cause enmity and hatred over communication services. In Malaysia, Section 211 of the Communications and Multimedia Act (CMA)<sup>82</sup> prohibits offensive content, while Section 233 criminalises the "improper" use of network facilities or services to publish content deemed to be obscene, indecent, false, menacing or offensive. Pakistan's Prevention of Electronic Crimes Act,<sup>83</sup> which came into force in 2016, is also being used in the context of blasphemy cases.<sup>84</sup> Accusations of blasphemy in the country have led to arrests and attacks by individuals acting with impunity. On 6 March 2017, Islamabad High Court Justice Shaukat Aziz Siddiqui equated blasphemers – those who defamed Islam – with terrorists. "Anything and everything can be sacrificed for the honor of Allah's Messenger (Peace Be Upon Him). I will shut down the entire social media, if I have to," he warned, adding, "I hereby declare anyone blasphemes against the Holy Prophet (Peace Be Upon Him) a terrorist."<sup>85</sup>

The authorities, with the backing of this court, are proposing stringent measures, including making social media companies remove from the web

any content they consider blasphemous. Responding to the court, Facebook removed 85% of the online content deemed blasphemous. It was also reported that the Pakistan Telecommunication Authority had set up a team of 25 members to monitor online content and had taken action against 40 pages, presumably on social media.<sup>86</sup> Activists say that the court's position derails ongoing attempts by a parliamentary body and the National Commission for Human Rights (NCHR) to introduce procedural changes in the blasphemy laws, specifically regarding who can file cases and the issue of repentance. This could potentially encourage mob justice against the alleged "blasphemers", said Haroon Baloch of Bytes for All.

So far, these laws have been used in favour of those with access to power and in a position of authority, and the few court cases related to incitement and violence are either delayed in the justice system or take too long to resolve. In Malaysia, the government plans to amend the CMA to register political blogs and websites, increase penalties for offences related to content deemed "undesirable" and expand regulatory powers to be able to take down content and websites.<sup>87</sup>

## GOVERNMENTS AND THEIR INTERNATIONAL COMMITMENTS

Contradictions surface when it comes to the obligation states have to provide protections in terms of fundamental human rights, in particular for targets of violence and hate speech. In responding to recommendations made at their respective Universal Periodic Review (UPR) by the Human Rights Council, Pakistan and Bangladesh have tended to accept those related to improving protections and freedom of expression, tolerance and freedom of religion and beliefs, with the exception of any changes to blasphemy laws. Yet,

79. (Bangladesh) Information Communication and Technology Act (Act No. 39 of the year 2006). [www.icnl.org/research/library/files/Bangladesh/comm2006.pdf](http://www.icnl.org/research/library/files/Bangladesh/comm2006.pdf)

80. Samad, S. (2017, 29 May). ICT Act to be scrapped in six months. *The Asian Age*. [www.dailyasianage.com/news/64197/ict-act-to-be-scrapped-in-six-months](http://www.dailyasianage.com/news/64197/ict-act-to-be-scrapped-in-six-months)

81. (India) Information Technology Act, 2000. [www.itlaw.in/](http://www.itlaw.in/)

82. (Malaysia) Communications and Multimedia Act 1998. <https://www.mcmc.gov.my/sectors/broadcasting/communications-and-multimedia-act-1998>

83. (Pakistan) Prevention of Electronics Crimes Act, 2016. [www.lawsopakistan.com/wp-content/uploads/2016/07/prevention-of-electronic-crimes-act-2016.pdf](http://www.lawsopakistan.com/wp-content/uploads/2016/07/prevention-of-electronic-crimes-act-2016.pdf)

84. Dawn. (23 March 2017). "Suspects in blasphemy case put on ECL". [www.dawn.com/news/1322278](http://www.dawn.com/news/1322278)

85. The Nation. (2017, 7 March). 'Blasphemers are terrorists' – IHC judge demands online shutdown of 'sacrilegious pages'. [nation.com.pk/national/07-Mar-2017/blasphemers-are-terrorists-ihc-judge-demands-online-shutdown-of-sacrilegious-pages](http://nation.com.pk/national/07-Mar-2017/blasphemers-are-terrorists-ihc-judge-demands-online-shutdown-of-sacrilegious-pages)

86. Jami, A. (2017, 27 March). Facebook removed 85% of blasphemous material on Pakistan's request, high court told. *Dawn*. [www.dawn.com/news/1323131](http://www.dawn.com/news/1323131)

87. Net Merdeka. (2016, 15 May). Keep the internet free: Parliament should not pass amendments to CMA. Press Statement. [www.netmerdeka.org/2016/05/15/keep-the-internet-free-parliament-should-not-pass-problematic-amendments-to-cma/](http://www.netmerdeka.org/2016/05/15/keep-the-internet-free-parliament-should-not-pass-problematic-amendments-to-cma/)

the reality on the ground is far from encouraging. The states are silent when it comes to violence perpetrated against individuals and communities, often after baseless accusations of insulting Islam or expressing beliefs deemed to be un-Islamic are made against them and are used as justification for the aggression.

As signatories to the ICCPR, Bangladesh and Pakistan were reviewed by the Human Rights Committee in 2017. Bangladesh received recommendations to especially protect “secular bloggers,” journalists and other human rights defenders<sup>88</sup> and the Committee called for the repeal of blasphemy laws in both countries, including due punishment for those who incite or engage in violence against others based on allegations and false accusations of blasphemy.<sup>89</sup> The killing of the student Mashal Khan in Pakistan was specifically mentioned in the Committee’s observations as a case of violence against individuals accused of blasphemy.<sup>90</sup>

Despite the lack of government response to the recommendations made by UN bodies, civil society groups have continued to use such mechanisms to draw international attention to human rights violations at home. For the third UPR cycle in 2017, digital rights organisations from Pakistan and India made submissions on a host of issues, including freedom of expression online.<sup>91</sup>

88. Human Rights Committee (2017a). *Concluding observations on the initial report of Bangladesh*. CCPR/C/BGD/CO/1. [documents-dds-ny.un.org/doc/UNDOC/GEN/G17/101/82/pdf/G1710182.pdf?OpenElement](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/101/82/pdf/G1710182.pdf?OpenElement)

89. Human Rights Committee (2017b). *Concluding observations on the initial report of Pakistan*. CCPR/C/PAK/1 (Advance Unedited Version). [tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CC](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CC)

90. *Ibid.*, para. 33

91. For Pakistan, ARTICLE 19, the International Freedom of Expression Exchange and Bytes for All made a joint submission, focusing on the constitutional, legal and institutional frameworks; safety of journalists, media workers and human rights defenders; broadcast and film regulation; and freedom of expression online. See submission here: [www.article19.org/data/files/medialibrary/38704/Pakistan-Joint-Submission-A19-IFEX-PPF.pdf](http://www.article19.org/data/files/medialibrary/38704/Pakistan-Joint-Submission-A19-IFEX-PPF.pdf) For India, see: Digital Empowerment Foundation, Internet Democracy Project, Point of View, Nazdeek and Association for Progressive Communications. (2016, 22 September). *Coalition Submission to the Universal Periodic Review for India – Internet rights, Freedom of Expression (FOE) Online and Freedom of Association and Assembly (FoAA) Online in India*. [internetdemocracy.in/wp-content/uploads/2016/10/Coalition-Submission-UPR-India-Internet-Rights-by-DEF-IDP-PoV-Nazdeek-and-APC.pdf](https://internetdemocracy.in/wp-content/uploads/2016/10/Coalition-Submission-UPR-India-Internet-Rights-by-DEF-IDP-PoV-Nazdeek-and-APC.pdf)

| COUNTRY INDICATORS   | BANGLADESH  | INDIA  | MALAYSIA   | PAKISTAN  |
|--|---|--|--|---|
| Size   | 147,610 sq. km  | 3,287,000 sq. km   | 330,803 sq. km   | 881,913 sq. km  |
| Population (2017 estimates)  | 163.18 million  | 1.326 billion  | 31.5 million   | 197.3 million   |
| Political system   | Unitary parliamentary republic  | Federal parliamentary constitutional republic  | Federal parliamentary constitutional monarchy  | Federal parliamentary constitutional monarchy   |
| Religions  | 86.6% Islam (state religion); 12.1% Hinduism; 1.3% Buddhism, Christianity & others<br><br>Ethnic groups: 98% Bengali; 2% others | 79.8% Hinduism; 14.2% Islam; 2.3% Christianity; 1.7% Sikhism; 0.7% Buddhism; 0.4% Jainism; 0.9% others | 61.3% Sunni Islam (religion of the Federation); 19.8% Buddhism; 9.2% Christianity; 6.2% Hinduism; 3.4% others<br><br>Ethnic groups: 50.1% Malay; 22.6% Chinese; 11.8% indigenous; 6.7% Indian; 8.8% others | 96.4% Islam (state religion); 3.6% others<br><br>Ethnic groups: 44.68% Punjabi; 15.42% Pashtun; 14.1% Sindhi; 8.38% Saraikis; 7.57% Muhajir; 3.57% Baloch; 6.28% others |
| Internet users (percentage of individuals of population) <sup>92</sup> | 18.3%   | 29%  | 78%  | 15%   |
| Freedom on the Net <sup>93</sup>                                       | Partly free   | Partly free  | Partly free  | Partly free   |
| Ratification of related UN instruments <sup>94</sup>                   | ICCPR; CEDAW, with reservations; ICERD  | ICCPR, but not the Optional Protocols; CEDAW, with reservations; ICERD                                 | CEDAW, with reservations   | ICCPR, but not the Optional Protocols; CEDAW, with reservations; ICERD  |

92. Based on statistics for 2016 from the International Telecommunication Union (ITU). [www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx](http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx)

93. Freedom on the Net is an annual global ranking of the state of freedom on the internet published by the US-based organisation Freedom House. It assesses three indicators: obstacles to access, limits on content and violations of user rights. The assessment is for the year 2016. See the global report here: [freedomhouse.org/report/freedom-net/freedom-net-2016](http://freedomhouse.org/report/freedom-net/freedom-net-2016)

94. Universal Declaration of Human Rights (UDHR), 1948; International Covenant on Civil and Political Rights (ICCPR), 1976; Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), 1981; International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), 1969. Reservations recorded for CEDAW in Bangladesh and Malaysia relate to the practice of Islamic Syariah laws. Source: [indicators.ohchr.org](http://indicators.ohchr.org)

Religion is becoming more and more politicised in everyday governance and life. For example, religion shapes numerous policies, ranging from national security and anti-terrorism<sup>95</sup> to the economy, from education<sup>96</sup> to issues like personal food choices,<sup>97</sup> the halal status of fast food<sup>98</sup> and even paint brushes.<sup>99</sup> As such, in today's political discourse, religion is not only about how a majority group is dominating spaces to exclude other religious groups or beliefs. It is also framed in opposition to those considered to hold moderate or liberal views within the dominant religion and those who hold secular ideas or are atheists. Discrimination and intolerance can be found within religious communities, especially when layered with gender and sexual identities.

Some argue that the global narrative of anti-terrorism has left its footprints in these societies, especially where Islam is concerned, but others say religious nationalism should be viewed in the context of the independence projects. In India, the history of sectarian conflicts should be seen as part of the narrative of nationhood. Human rights activist Harsh Mander says the current problem faced by the country is not a battle between Hindus and Muslims, but one of majority versus minority or moderate voices, with the complicity of the state. "The growing climate of intolerance and fear coincides with the construction of 'second class citizens'. In that climate, the internet has become a space to advance hatred," he adds, in reference to the trends that have emerged since the 2002 communal violence in Gujarat, where 790

Muslims and 254 Hindus were killed, 223 others were reported missing and more than 2,500 were injured. The riots were sparked by a fire on a train that killed 59 Hindu pilgrims, which the state government under then Chief Minister Narendra Modi blamed on a Muslim mob.<sup>100</sup> Human rights lawyer Suhel Tirmizi says that hatred has become part of the political strategy, and is particularly reflected by the current government party, Bharatiya Janata Party (BJP), which has promoted Hindu nationalism (Hindutva).<sup>101</sup> Despite the protections afforded by the law, the political climate has seen an increase in communal riots in relation to national, local or by-elections across the country.

The use of blasphemy laws or charges is often less about religion than the exercise or demonstration of power, although the lines are blurred as states also draw their legitimacy from religious authorities. Pakistan's blasphemy law was passed during the government of military leader and dictator Zia-ul-Haq, in the 1980s.<sup>102</sup> This led to the increase in convictions of and extra-judicial actions against individuals accused of blasphemy. Between 1986 and 2006 more than 800 people were charged in 375 cases of blasphemy, and in 2000 alone, 52 cases were recorded, showing how the law has been used to settle scores.<sup>103</sup> Between that year and 2010, the number of cases increased by 400, making it one of the most lethal tools of censorship and violence.<sup>104</sup> In a context of accusations of blasphemy made against bloggers, columnist and human rights activist Gul Bukhari referred to the current situation in Pa-

95. Zahid, F. (2016). *Counter Terrorism Policy Measures: A Critical Analysis of Pakistan's National Action Plan*. The MacKenzie Institute. [mackenzieinstitute.com/counter-terrorism-policy-measures-a-critical-analysis-of-pakistans-national-action-plan/](http://mackenzieinstitute.com/counter-terrorism-policy-measures-a-critical-analysis-of-pakistans-national-action-plan/)
96. Ahmed, K. A. (2017, 3 February). Bangladesh's Creeping Islamism. *The New York Times*. [www.nytimes.com/2017/02/03/opinion/bangladeshs-creeping-islamism.html](http://www.nytimes.com/2017/02/03/opinion/bangladeshs-creeping-islamism.html)
97. Human Rights Watch. (2017, 27 April). India: 'Cow Protection' Spurs Vigilante Violence. [www.hrw.org/news/2017/04/27/india-cow-protection-spurs-vigilante-violence](http://www.hrw.org/news/2017/04/27/india-cow-protection-spurs-vigilante-violence)
98. CBS News. (2016, 18 October). Malaysian authorities to Auntie Anne's: Pretzel Dog is confusing. [www.cbsnews.com/news/malaysian-authorities-to-auntie-annes-pretzel-dog-is-confusing/](http://www.cbsnews.com/news/malaysian-authorities-to-auntie-annes-pretzel-dog-is-confusing/)
99. The Star. (2017, 8 February). More paint brushes suspected to have pig bristles seized. [www.thestar.com.my/news/nation/2017/02/08/more-paint-brushes-suspected-to-have-pig-bristles-seized/](http://www.thestar.com.my/news/nation/2017/02/08/more-paint-brushes-suspected-to-have-pig-bristles-seized/)
100. BBC. (2005, 11 May). Gujarat riot death toll revealed. [news.bbc.co.uk/2/hi/south\\_asia/4536199.stm](http://news.bbc.co.uk/2/hi/south_asia/4536199.stm)
101. The BJP is part of the Sangh Parivar, which is Hindi for "a family of organisations", and it includes political parties, farmers' organisations, student groups, educational institutions and native rights groups. It is mainly supported and driven by the Hindu chauvinist volunteer group called Rashtriya Swayamsevak Sangh (RSS), which was set up in 1925. On the one hand, the RSS does community and missionary work, but it has also been at the forefront of extreme intolerance, mainly against religious minorities and has carried out forced conversions into Hinduism (George, C. (2016). Op. cit.).
102. Tariq, H. (2017, 18 January). Why Pakistan's blasphemy law will come back to haunt it. *DailyO*. [www.dailyo.in/politics/pakistan-blasphemy-law-balochistan-salman-haider-islam-prophet-muhammad/story/1/15162.html](http://www.dailyo.in/politics/pakistan-blasphemy-law-balochistan-salman-haider-islam-prophet-muhammad/story/1/15162.html)
103. Muntarhorn, V. (2011). Op. cit., p. 30.
104. Dad, N. (2014, 26 November). Mob Rule, Vigilante Behaviour and Blasphemy in Pakistan's Digital Age. *TechPresident.com* [techpresident.com/news/25359/blasphemy-digital-age](http://techpresident.com/news/25359/blasphemy-digital-age)

kistan as “hatrism”, a term that has been used to describe the conflation of narratives related to patriotism. “Last year a TV anchor attacked the bloggers who write in the Urdu language and accused them of blasphemy. Put all these together and create a narrative – being anti-Islam and anti-army is seen as being anti-religion and unpatriotic,” she explained.

In Malaysia, academic Zaharom Nain says the history of hate speech can be traced to the negotiations for power during and after the colonisation period, and that it has intensified since the 1960s in reaction to communal clashes following a defeat of the ruling political parties in the 1969 general elections.<sup>105</sup> Subsequent political, social and economic policies pushed to the fore ethnic and religious identities in a bid by the government to maintain its voter base of rural Malay and bumiputera voters, something the ruling political party, Barisan Nasional (National Front), has succeeded in doing for over 50 years. As such, criticisms against the Malay party in the ruling coalition, and recently, the Islamic opposition party, are equated with insults to Islam as a religion and, by extension, with threats to national security. For example, public officials working with the Islamic authorities or academic institutions promote the idea that people who uphold liberalism and pluralism or are lesbian, gay, bisexual or transgender (LGBT) or support LGBT rights should be grouped together with extremists, and they describe them as having the potential to be radicalised.<sup>106</sup> They are presented as enemies of the country.

Threats to freedom of expression and religion in Bangladesh need to be seen against the backdrop of the growing influence of Islam in national politics. Political leaders, especially within the Bangladesh Nationalist Party, have been courting the support of the powerful Islamic movements to regain their electoral influence. The Jamaat-e-Islami, founded during British colonial rule, has

emerged as a strong force in defining political Islam in the country and has joined the coalition led by the BNP in the 2001 general elections. This was the first time a religion-based party was thrust into the mainstream, and it has since been able to shape much of the public debate to attack critics of a religious state.<sup>107</sup> It was banned in 2013 by the High Court, soon after a war crimes tribunal sentenced some of its top leaders for crimes committed during the liberation war in 1971. Another group, called the Hefajat-e-Islam, formed by Islamic hardliners, led a movement in April 2013 calling for an anti-blasphemy law, which among other measures would establish the death sentence for any bloggers accused of blaspheming the Prophet Muhammad and would ban the intermingling of men and women. It was rejected by the Awami League government, led by Sheikh Hasina, who is seen by radicals as un-Islamic, but who liberals and progressives view as slowly warming up to the Hefajat,<sup>108</sup> a group that shares with Jamaat the ideal of creating an Islamic state.

Sexual and religious minorities are among the first to be singled out, vilified and targeted by those with access to power. Threats against women, and increasingly against gender minorities, sexual minorities and LGBT people, continue despite national commitments to end discrimination and violence against women.<sup>109</sup> A 2014 United Nations-backed study showed that women politicians in South Asia faced serious hostility and aggression in their struggle to be heard,<sup>110</sup> and, together with women journalists and bloggers, many face online harassment and abuses as well.<sup>111</sup> A 2013 survey conducted by the Association for Progressive Communications on sexual activism, morality and the internet revealed that while most people acknowledged the benefits of the internet, women and sexual dissidents said they were exposed to continuous risks and threats.<sup>112</sup>

105. Presentation at the Public Forum “On the Offensive: The Global Assault on Religious Intolerance” organised by the University of Nottingham Malaysia School of Modern Languages and Cultures. UNMC (KLTC) Chulan Tower. 14 March 2017.

106. Azhar, A. (2016, 26 January). Jakim: Liberals, pluralists have potential to be radicalized. *Malaysiakini.com*. [www.malaysiakini.com/news/328255](http://www.malaysiakini.com/news/328255)

107. Hashmi, A. S. (December 2009). Religious Parties and Militant Groups in Bangladeshi Politics: A Case Study. *Spotlight on Regional Affairs*. Institute of Regional Studies, Islamabad.

108. Mukharji, S. (2017, 25 April). Is Sheikh Hasina warming up to religious extremists in Bangladesh? *DailyO*. [www.dailyo.in/politics/sheikh-hasina-bangladesh-hefazat-e-islam-statue-protest/story/1/16842.html](http://www.dailyo.in/politics/sheikh-hasina-bangladesh-hefazat-e-islam-statue-protest/story/1/16842.html)

109. Sheila, R. (2017, 9 January). In South Asia, Violence Against Women is On the Rise. *Fair Observer*. [www.fairobserver.com/region/central\\_south\\_asia/south-asia-violence-again](http://www.fairobserver.com/region/central_south_asia/south-asia-violence-again)

110. Bhalla, N. (2015, 1 May). Women politicians in South Asia face violence, threats, abuse – report. *Reuters*. [www.in.reuters.com/article/women-politicians-abuse-report-idINKBN0DG21D20140430](http://www.in.reuters.com/article/women-politicians-abuse-report-idINKBN0DG21D20140430)

111. International Federation of Journalists. (2017). *Press Freedom Report 2016*, pp. 47-51. [samsn.ifj.org/wp-content/uploads/2017/03/Online-HarassmentfromSAPFR.pdf](http://samsn.ifj.org/wp-content/uploads/2017/03/Online-HarassmentfromSAPFR.pdf)

112. Association for Progressive Communications. (2013, 15 July). *Survey on Sexual Activism, Morality and the Internet*. [www.genderit.org/articles/survey-sexual](http://www.genderit.org/articles/survey-sexual)

## THREATS TO ONLINE USERS

Social media users have been growing rapidly across Southeast Asia and South Asia, although internet penetration rates are lower in the latter region, when compared to the global average of 46%.<sup>113</sup> Of the four countries, the exception is Malaysia, where internet penetration is over 70%.<sup>114</sup> Accurate data for social media use is difficult to find, making comparisons challenging, but a snapshot of trends shows how prevalent such platforms are in these societies. In terms of the different platforms, which include social networking sites and messaging apps, Facebook grew the most and is popular in the Asia-Pacific region, followed by WhatsApp, which is also owned by Facebook. India alone has more than 70 million Facebook users, representing 28% of its population, and in Pakistan there are about 12 million users (6% of the population).<sup>115</sup> In Bangladesh, 80% of its internet users are on Facebook, according to statistics released by the authorities in May 2015.<sup>116</sup> Twitter has its largest base in the Asia-Pacific region, exceeding 32% at the end of 2014, and India had 18 million users at the end of that year.<sup>117</sup>

In Bangladesh and Malaysia, the popularity of online platforms coincided with the lack of spaces in mainstream media for opposing views, whether from individuals or political parties. Starting with blogs in the early 2000s and alternative news media online, and then social networking sites, discussions on politics, religion and justice increased and presented a challenge to those in power. This seems to be a common trajectory, with it first being used by those with little or no access to mainstream media and becoming a platform for alternative and diverse views. It is then taken over by those with political and corporate power who have the resources to expand the base, but who, unlike the earlier users, represent very different ideologies. In Bangladesh, according to human rights activist Sayeed Ahmad, these spaces were dominated by liberals and secular youths until 2009, but after that year the ruling party started to make use of social media for its political outreach efforts. Today, the voices online that are pro-state and pro-Islam are pushing out those who try to discuss secular politics, science and rationalism in an environment where religion is dominating discourses and policies more and more. The first wave of attacks began in 2011 and peaked in 2014. According to human rights activists, there is now fear in admitting that one is secular, as this is immediately equated with being an atheist, which has a dangerous connotation in Bangladesh.<sup>118</sup> In Malaysia, the human rights organisation SUARAM reports that an average of three people are charged every week under the Communications and Multimedia Act (CMA), usually for posts on social media.<sup>119</sup>

113. [wearesocial.com/uk/special-reports/digital-in-2016](http://wearesocial.com/uk/special-reports/digital-in-2016)

114. [www.techinasia.com/talk/digital-snapshot-internet-social-media-2017](http://www.techinasia.com/talk/digital-snapshot-internet-social-media-2017)

115. [gadgets.ndtv.com/apps/news/whatsapp-in-over-109-countries-with-70-million-users-in-india-study-841858](http://gadgets.ndtv.com/apps/news/whatsapp-in-over-109-countries-with-70-million-users-in-india-study-841858)

116. Daily Star. (2015, 17 May). 80pc Bangladesh internet users on Facebook. [www.thedailystar.net/country/80pc-bangladesh-internet-users-facebook-83080](http://www.thedailystar.net/country/80pc-bangladesh-internet-users-facebook-83080)

117. Hong, K. (2014, 27 May). Research projects that Twitter will hit nearly 400m users in 2018, with over 40% in Asia-Pacific. *The Next Web*. [thenextweb.com/twitter/2014/05/27/research-projects-twitter-will-hit-nearly-400m-users-2018-40-asia-pacific/#.tnw\\_XD3QBIn7](http://thenextweb.com/twitter/2014/05/27/research-projects-twitter-will-hit-nearly-400m-users-2018-40-asia-pacific/#.tnw_XD3QBIn7)

118. Front Line Defenders. (2016). Op. cit.

119. Kaur, M. (2017, 24 March). Activist: 3 charged every week under Communications Act. *Free Malaysia Today*. [www.freemalaysiatoday.com/category/nation/2017/03/24/activist-3-charged-every-week-under-communications-act/](http://www.freemalaysiatoday.com/category/nation/2017/03/24/activist-3-charged-every-week-under-communications-act/)

**THIS SEEMS TO BE A COMMON TRAJECTORY, WITH IT FIRST BEING USED BY THOSE WITH LITTLE OR NO ACCESS TO MAINSTREAM MEDIA AND BECOMING A PLATFORM FOR ALTERNATIVE AND DIVERSE VIEWS. IT IS THEN TAKEN OVER BY THOSE WITH POLITICAL AND CORPORATE POWER WHO HAVE THE RESOURCES TO EXPAND THE BASE, BUT WHO, UNLIKE THE EARLIER USERS, REPRESENT VERY DIFFERENT IDEOLOGIES**

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The focus on online spaces also gains urgency as the companies that own these platforms are coming under scrutiny from civil society for arbitrary and non-transparent decision-making when it comes to addressing user complaints. Often, companies will say their operations adhere to national laws, even when these are problematic. Reports suggest that platforms like Facebook seem to succumb to pressure from right-wing groups or followers of populist leaders and movements, while ignoring complaints of bullying, harassment and intimidation from individuals. Governments have also stepped up their demands for these companies to comply with requests to take down content or act preemptively to remove content and accounts that the authorities define as hate speech or accuse of inciting hatred. The authorities in Bangladesh, India and Pakistan have resorted to shutting down internet and mobile services, at times with bans restricted to certain areas, but at other times with nationwide bans, purportedly to prevent violent clashes and protests. In his June 2017 report to the Human Rights Council, UN Special Rapporteur on freedom of opinion and expression David Kaye noted that shutdowns invariably fail to meet the standard of necessity and are generally disproportionate to the threats.<sup>120</sup> Numerous civil society reports point to the high costs of shutdowns for businesses, as well as their impact in terms of interruptions to daily and essential services.<sup>121</sup>

120. Kaye, D. & Human Rights Council. (2017, 30 March). *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in the digital age.* A/HRC/35/22. [documents-dds-ny.un.org/doc/UNDOC/GEN/G17/077/46/pdf/G1707746.pdf?OpenElement](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/077/46/pdf/G1707746.pdf?OpenElement)

121. For Pakistan, see: Institute for Human Rights and Business. (September 2015). *Security v Access: The Impact of Mobile Network Shutdowns Case Study: Telenor Pakistan* (IHRB: Case Study Number 3) [content.bytesforall.pk/sites/default/files/2015-09-Telenor-Pakistan-Case-Study.pdf](https://content.bytesforall.pk/sites/default/files/2015-09-Telenor-Pakistan-Case-Study.pdf); Digital Rights Foundation. (2017, 31 January). *Internet on the Periphery.* [digitalrightsfoundation.pk/internet-on-the-periphery/](https://digitalrightsfoundation.pk/internet-on-the-periphery/). For India, the Software Freedom Law Centre manages an online tracker for shutdowns. It is accessible at: [sflc.in/internet-shutdown-tracker-india-2013-2016/](https://sflc.in/internet-shutdown-tracker-india-2013-2016/). For an account of the situation in Bangladesh, see: Rahman, Z. (2016, 4 August). *Bangladesh Shuts Down the Internet, Then Orders Blocking of 35 News Websites.* *Global Voices Advoc.* [globalvoices.org/2016/08/05/bangladesh-shuts-down-the-internet-then-orders-blocking-of-35-news-websites/](https://globalvoices.org/2016/08/05/bangladesh-shuts-down-the-internet-then-orders-blocking-of-35-news-websites/)

## ■ SUMMARY OF KEY POINTS

### Legal environment

The legal environment on freedom of expression and religion is a mixed bag of colonial legacies and new laws, in particular laws designed to address internet use and which clearly intend to criminalise speech. While there are laws in place to prevent incitement to hatred, other laws on blasphemy have been revitalised and used arbitrarily. Those who ought to have access to justice and protection have few effective remedies available.

### Histories and context

As the countries continue to grapple with the issues of nationhood and globalisation, the conflation of religion-related expression, narrow political interests and nationalism have placed individuals at risk, especially those who identify themselves as anti-government, are critical of the political institutions, hold secular or atheist views or belong to gender or religious minorities.

### Internet users

Given the fast growing numbers of internet users in Asia, there is also a need to focus on the role played by private actors that provide the infrastructure, access and platforms, in particular, how they respond to the spread of hatred and intolerance over their services, understand local contexts and negotiate the restrictions placed by national laws and governments.

# SECTION 4: “LET THE MOB DO THE JOB”: TRENDS AND ISSUES

This section will describe the trends or phenomena related to freedom of expression and religion online in Bangladesh, India, Malaysia and Pakistan, with the aim of presenting common themes and particular experiences where digital platforms feature significantly in political tensions or conflicts. At times, establishment leaders or those claiming to speak on behalf of religious identities use broadcast media or social media, such as Facebook, WhatsApp and Twitter, to send out messages promoting hatred or to target individuals known to be critical of them. These platforms let them reach out to people they may not know but who have similar religious or political leanings and will endorse and act on the narratives offered.

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## SETTING THE SCENE FOR ATTACKS

The role of the state cannot be separated from incidents of violence against liberals, atheists, feminists and other religious and sexual minorities in which the “defence of religion” has become the stated reason. In most cases, it is possible to trace the chronology of events and messaging that led to the acts of aggression and to establish that there is an imagined audience – whether thought of in the abstract or targeted – and that the actions were committed with impunity or with the tacit approval of the state. This is shown by the participation in the attacks of members of political parties in power, or activists linked to them, who are rarely brought to trial. According to Saroop Ijaz, a human rights lawyer in Pakistan, the state today does not directly promote acts of violence, but it creates an “enabling environment” where others can act with impunity against free speech, particularly in the case of blasphemy:

The campaign starts by first laying the groundwork calling blasphemers to be killed for example, and then go on the next day to specifically name people who they believe have engaged in blasphemy, allowing them to disassociate from their previous stand which can be hate speech. This is insidious because it is very difficult to make direct links.

The speeches or suggestions for actions are made by influential religious leaders or media personalities. Months before the four bloggers disappeared in Pakistan in January 2017, a television

anchor, Orya Maqbool Jan, targeted selected individuals, including a popular woman blogger and a teacher, accusing them of committing blasphemy. In one incident, Orya had called on his viewers to record their teachers in class and manipulated the content of one of the recordings to falsely expose the teacher for denigrating Islam. Orya then revealed the details of the individuals and also made the connection with what was happening in Bangladesh – where atheists and liberal bloggers were being targeted violently. When the four bloggers went missing, television hosts like Orya and Aamir Liaquat Hussain of Bol TV began attacking them viciously and, in Liaquat’s case, extended the vitriol to activists, journalists and politicians who turned up at protests in support of the four individuals. Liaquat was sanctioned by the Pakistan Electronic Media Regulatory Authority (PEMRA) for engaging in hate speech and threatening the life of activist and lawyer Jibran Nasir,<sup>122</sup> but that did not deter him or his station from continuing with the broadcasts. The media, whether mainstream or social media networks, normalise hatred through the selection and framing of stories and news, and these affect the spaces available for challenging ideas.<sup>123</sup>

The killing of Qandeel Baloch, whose real name was Fouzia Azeem, is an example of how mainstream media, together with social media networks, complicate the issue of expression and religion.<sup>124</sup> In July 2016, Azeem, who was a well-known social media celebrity from Punjab,

122. Ali, K. & Asghar, M. (2017, 27 January). Bol television defies Pemra ban on Aamir Liaquat’s show. *Dawn*. [www.dawn.com/news/1311017](http://www.dawn.com/news/1311017)

123. George, C. (2016). *Op. cit.*

124. Samiuddin, S. (2016, 7 August). Did the media kill Qandeel Baloch? *Dawn*. [www.dawn.com/news/127599](http://www.dawn.com/news/127599)

Pakistan, was killed by her brother after videos of her posing and interacting with a Muslim cleric, Mufti Abdul Qavi, went viral. As the model Qandeel Azeem made provocative videos that mixed social commentary with wit and humour and posted them on social media to gain visibility. While these attracted many and mixed reactions, none were as impactful as the meeting with Mufti Abdul Qavi, which took place a month before she was killed. The cleric was chastised by the religious community and by politicians and eventually lost his membership in the Ruet-e-Hilal Committee, under the Ministry of Religious Affairs.<sup>125</sup> At the heart of the issue was the public challenging and discrediting of a religious leader by a woman. Soon after, the issue was highlighted by the broadcast media, which exposed her identity, and, by extension, details of her family. Media reports quoting the police said that upon investigation it was found that the cleric had communicated with Azeem's brother several times before he murdered her. The cleric regularly appeared on television and is on record saying that the killing was a lesson to women who mocked religious leaders. This was not just a case of honour killing, which is prevalent in Pakistan, but clearly one with political overtones, as the trigger was the video of Qandeel with a religious leader – the Mufti Abdul Qavi.

**THE MEDIA, WHETHER MAINSTREAM OR SOCIAL MEDIA NETWORKS, NORMALISE HATRED THROUGH THE SELECTION AND FRAMING OF STORIES AND NEWS, AND THESE AFFECT THE SPACES AVAILABLE FOR CHALLENGING IDEAS**

In Malaysia, a move by sections of civil society to discuss Syariah laws was cautioned because it was deemed blasphemous (an offence under Section 3 of the Sedition Act). When a civil society movement known as the G25 (representing a group of 25 former career diplomats and civil servants) expressed their opposition to the issue, its spokesperson, Noor Farida Ariffin, who made comments online about the need to abolish

penalties for khalwat (close proximity), received both death and rape threats over social media. The police investigated Noor Farida for her statements, instead of investigating those making the threats. The National Civics Bureau, an agency that is known for brainwashing civil servants and students, noted on its website that the group and members of the “indie” scene were promoting liberalism and pluralism, which were dangerous for Malaysia.<sup>126</sup> Another organisation that is vocal and has been systematically targeted is Sisters in Islam (SIS), which has challenged the hegemony of the state in defining the parameters of Islam and its administration in the country. Behind this targeting are, among others, conservative Muslim non-governmental organisations, such as Malaysian Muslim Solidarity (Ikatan Muslimin Malaysia, ISMA) and Pertubuhan Pribumi Perkasa, which have strong links to the establishment. These NGOs use online spaces to expose personal details of SIS members and share memes that twist the remarks made by the women, as a way of discrediting their positions and views. Academic and SIS member Lyana Khairuddin says that, in the case of Malaysia, women are the first to be singled out and targeted when they speak out against the establishment:

We (SIS members) found out online that there was a fatwa on us calling us deviants, liberal, plural. Fatwas are considered legal and it contained the call to seize our assets or deregister us. They are treating SIS as an individual. We filed a judicial review, but this was pushed to the Syariah court since it comes under the fatwa. Because of this case, there is stigmatising against SIS and its personalities; there are memes against the individuals. If we are outspoken, then automatically we are labelled as deviants, lesbians etc. There is attack on our privacy, posters online that put out the members' ID numbers, addresses. I think the purpose is to create hatred of the group and let the mob do the talking. And because JAKIM, which is under the Prime Minister's Office, is in cahoots with the opposition party to uphold Syariah and hudud, it allows for space for mob justice.

125. Zaman, Q. (2016, 22 June). PTI suspends Mufti Qawi's party membership over Qandeel Baloch controversy. *The Express Tribune*. [tribune.com.pk/story/1128306/pti-suspends-mufti-abdul-qawis-party-membership-qandeel-baloch-controversy/](http://tribune.com.pk/story/1128306/pti-suspends-mufti-abdul-qawis-party-membership-qandeel-baloch-controversy/)

126. The Malaysian Insider. (2015, 16 June). Civics bureau blames G25 for pluralism, liberalism push. *Yahoo News*. [www.yahoo.com/news/civics-bureau-blames-g25-pluralism-035039264.html](http://www.yahoo.com/news/civics-bureau-blames-g25-pluralism-035039264.html)

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## MARCHING ON MORPHED MESSAGES

The manipulation of information in the form of words, pictures and videos that are shared online and the media have become tools used deliberately to frame or intimidate individuals and groups of people, subjecting them to legal actions or mob violence. In 2013, over 60 people died and thousands were displaced during the Muzaffarnagar communal riots in Uttar Pradesh, the largest state in India. One of the triggers for that incident was the uploading and dissemination of a video of two men, said to be Hindus, attacked by a Muslim mob. It was later established that the video was from Pakistan and that a legislator of the nationalist BJP (now ruling the state where the incident occurred and the federal government), was responsible for spreading it.<sup>127</sup> The spate of communal riots, especially in the state of Uttar Pradesh, has been attributed to the polarisation of voters in the lead up to the 2014 general elections.<sup>128</sup>

Individuals are also often targeted as a result of morphed images that are attributed to their social media accounts, which then become triggers for attacks that take on a religious tone. In May 2014, right-wing Hindu groups vandalised more than 200 buses in the city of Pune and killed 24-year-old Mohsin Shaikh, an IT professional, amidst tensions in the city that were reported to have been fuelled after morphed images denigrating a Hindu king and the Shiv Sena founder, Bal Thackeray, were circulated over Facebook and messaging apps.<sup>129</sup>

**SOCIAL MEDIA WAS BEING USED THROUGH HACKS AND FALSE ACCOUNTS, USING THE NAMES OF ACTUAL INDIVIDUALS (INCLUDING ILLITERATE PERSONS) TO FOMENT VIOLENCE AGAINST MINORITIES.**

In October 2016, Rasraj Dash, a fisherman living in the eastern part of Bangladesh, was accused of posting an inflammatory image on his Facebook page. According to media reports, it was an image of the Hindu god Shiva at a holy site in Mecca. Rasraj Dash was charged under the country's Information and Communication Technology Act and sent to jail. Crowds of Muslims attacked Hindu homes and temples not only in his village, but also in other nearby areas.<sup>130</sup> The fear that was raised among Hindu communities was an opportunity for some to seize land and belongings. A minister was quoted in the media as saying that intelligence gathered on the incident revealed that the message was posted by someone in the capital, Dhaka, while a civil rights activist noted that social media was being used through hacks and false accounts, using the names of actual individuals (including illiterate persons)

to foment violence against minorities.<sup>131</sup>

This phenomenon is not new in Bangladesh. In September 2012, a Facebook post of an image allegedly insulting the Quran, attributed to a Buddhist youth, Uttam Barua, was said to be responsible for an attack in Cox Bazaar. This time, the targets were 12 Buddhist temples and 50 houses.<sup>132</sup> It was an unusual incident, as Buddhists, who make up only about 1% of the population in Bangladesh, had never experienced such threats before. Locals interviewed by the media said the riots were not a spontaneous reaction to the so-called insult; instead, tension had been building in this area and people had been brought to the

127. Datta, S. (2014). Op. cit.

128. Hindustan Times. (2013, 24 September). 107 killed in riots this year; 66 Muslims, 41 Hindus. [www.hindustantimes.com/delhi-news/107-killed-in-riots-this-year-66-muslims-41-hindus/story-uqHMNT093ZqMa0WAsWdlpl.html](http://www.hindustantimes.com/delhi-news/107-killed-in-riots-this-year-66-muslims-41-hindus/story-uqHMNT093ZqMa0WAsWdlpl.html)

129. Byatnal, A. (2014, 4 June). 14 right-wing activists held over techies' killing in Pune. *The Hindu*. [www.thehindu.com/news/national/other-states/14-rightwing-activists-held-over-techies-killing-in-pune/article6081812.ece?homepage=true&ref=relatedNews](http://www.thehindu.com/news/national/other-states/14-rightwing-activists-held-over-techies-killing-in-pune/article6081812.ece?homepage=true&ref=relatedNews)

130. Manik, J. A. & Barry, E. (2016, 2 November). Hindu Temples and Homes in Bangladesh Are Attacked by Muslim Crowds. *The New York Times*. [www.nytimes.com/2016/11/03/world/asia/hindu-muslim-bangladesh.html?\\_r=0](http://www.nytimes.com/2016/11/03/world/asia/hindu-muslim-bangladesh.html?_r=0)

131. The New York Times. (16 November 2016). Attacks on Hindus in Bangladesh. [www.nytimes.com/2016/11/16/opinion/attacks-on-hindus-in-bangladesh.html?\\_r=0](http://www.nytimes.com/2016/11/16/opinion/attacks-on-hindus-in-bangladesh.html?_r=0)

132. Ethirajan, A. (2013, 1 February). Bangladesh Buddhists pick up pieces after mob rampage. *BBC News*. [www.bbc.com/news/world-asia-21161354](http://www.bbc.com/news/world-asia-21161354)

village by trucks and vans. Furthermore, two individuals – Omar Faruk, who ran a local store, and his friend Abdul Muktadir – were found to have doctored the image and combined it with a screenshot lifted from Uttam’s Facebook page, tagging him and distributing it to other known Muslims. Abdul Muktadir is an ex-member of the Chhatra Shibir, the student wing of the now banned Jamaat-e-Islami.<sup>133</sup> Four years on, there have not been any prosecutions due to the reluctance of witnesses to come forward. According to locals, the attacks involved many members or supporters of the main political parties, including the Awami League, which is the government party, and the opposition Bangladesh Nationalist Party, which is closely linked to the Jamaat.<sup>134</sup>

## ORGANISED, NOT SPONTANEOUS

The attacks against bloggers in Pakistan and Bangladesh are examples of organised campaigns to silence anyone who criticises government, military and religious leaders for their abuse of power, tolerance of radicalism in politics and discrimination of minorities in the country. In 2013, a group calling itself Defenders of Islam published a hit list of 84 people in Bangladesh said to be “enemies of Islam” and circulated it anonymously to several newspapers, calling for the government to take action to punish them.<sup>135</sup> Two years later, in 2015, a new and global list was issued by a militant group, Ansarullah Bangla Team, which

**ACCORDING TO THE NGO FRONT LINE DEFENDERS, 14 BLOGGERS WERE KILLED IN BANGLADESH BETWEEN 2013 AND 2016, AND MANY OTHERS WERE FORCED INTO EXILE AS A RESULT OF THREATS THEY RECEIVED.**

threatened to kill bloggers, activists and writers if they refused to meet its demands. Media reports said the targets included individuals based in

Europe and North America.<sup>136</sup> One of the most prominent cases occurred on 26 February 2016 with the killing of blogger Dr. Avijit Roy, a well-known champion of liberal secularism and an atheist, who had founded the blog mukto-mona.com (translated as “free thinking”). In Roy’s case, the group Ansar al Islam claimed responsibility and posted a series of messages on its Twitter account, Ansar Bangla 7, which read: “The target was an American citizen.. 2 in 1. #America recently martyred 2 of our brothers in #Khurasan & #Shaam. #Revenge+#Punishment.”<sup>137</sup> According to the NGO Front Line Defenders, 14 bloggers were killed in Bangladesh between 2013 and 2016, and many others were forced into exile as a result of threats they received. Another impact has been an increase in self-censorship and a breakdown in civil society work in the country.<sup>138</sup>

In India, there is a movement called “Love Jihad”, which reportedly started in northern Kerala in the 2000s and involves both Hindu and Christian groups that claim that there is a concerted effort by Muslim men to convert women from their religions into Islam.<sup>139</sup> The movement spread to other areas and was used by supporters of the BJP ahead of the 2014 elections in Gujarat, Uttar

133. Gayen, K. (2012). A Known Compromise, A Known Darkness: ‘Ramu-nisation’ of Bangladesh. *Forum*, 6(11) archive.thedailystar.net/forum/2012/November/known.htm

134. Aziz, A. (2016, 9 November). Four years on, Ramu victims yet to get justice. *Dhaka Tribune*. www.dhakatribune.com/bangladesh/2016/11/09/four-years-ramu-victims-yet-get-justice/

135. Front Line Defenders. (2016). Op. cit.

136. Burke, J. (2015, 23 September). Militant group publishes global hitlist of bloggers, activists and writers. *The Guardian*. www.theguardian.com/world/2015/sep/23/militant-group-publishes-hit-list-of-bloggers-activists-and-writers

137. Reporters Without Borders. (2015, 27 February). Call for effective protection after another blogger hacked to death. [rsf.org/en/news/call-effective-protection-after-another-blogger-hacked-death](http://rsf.org/en/news/call-effective-protection-after-another-blogger-hacked-death)

138. Front Line Defenders. (2016). Op. cit.

139. Radhakrishnan, M. G. (2012, 4 September). Over 2500 women converted to Islam in Kerala since 2006, says Oommen Chandy. *India Today*. [indiatoday.intoday.in/story/love-jihad-oommen-chandy-islam-kerala-muslim-marriage/1/215942.html](http://indiatoday.intoday.in/story/love-jihad-oommen-chandy-islam-kerala-muslim-marriage/1/215942.html)

Pradesh and Madhya Pradesh. Using Facebook and WhatsApp, these groups promote the “cause” by exposing the so-called acts of conversion. The moral policing of women and their bodies is at the heart of this campaign, which is central to a number of anti-Muslim political rhetorics.<sup>140</sup> The messaging on the internet reflects the challenges faced by women and the fact that the communication is online amplifies the discrimination or adds to other forms of abuses, for example, extending the “ownership” of a woman’s body to an unidentified number of online users who are sharing and liking posts on social media accounts. Some of these, with fans ranging from under a thousand to six thousand, include “IndiaAgainstLoveJihadOfficial”, “Opposelovejihad” and “SaveGirlsAgainstLoveJihad”.<sup>141</sup> In 2015 and 2016, messages purportedly from a Muslim group and offering cash rewards for Muslim men who married Hindu women were forwarded over WhatsApp, drawing responses from right-wing Hindu groups that could be described as online hate speech.<sup>142</sup> In some of these cases, couples have been attacked based on wrong assumptions of their religious identities and relationships, with video recordings of the violence uploaded and shared via the various platforms, possibly to serve as a warning to others.<sup>143</sup>

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## “HUGELY TROLLED FOR WHAT I WRITE”

Activists and journalists face the risk of being trolled for their work and writing, particularly when the subject involves politics and religion. Internet trolling, which refers to the act of sowing discord online by continuous posting of inflammatory and threatening content, has the effect of suppressing the voices of those who are seen to be challenging the dominant norms. In her book, Indian journalist Swati Chaturvedi documents the organised social media campaign by the BJP before and after the 2014 elections, which saw the party of Narendra Modi come into power. In addition to party workers, Modi’s campaign supporters volunteered or were recruited for the social media team. This team was run by the National Digital Operations Centre (NDOC), which led the Mission 272+<sup>144</sup> digital campaign for the 2014 elections (272+ refers to the cutoff mark in the Lower House to form the government). A former volunteer, Sadhavi Khosla told Chaturvedi

she initially joined the team because she supported the BJP’s plan to bring in development. The volunteers would be given a hit list of mainstream journalists to be targeted with abusive and threatening language. Khosla said that the hatred in the trolling eventually compelled her to leave: “It was a never-ending drip feed of hate and bigotry against minorities, the Gandhi family, the journalists on the hit list, liberals...anyone perceived as anti-Modi.”<sup>145</sup>

Activist Harsh Mander, who is often attacked by trolls for his writing, explains that under the current regime in India, any criticism against government policy is seen as anti-national and that discussions are hijacked by those he calls the proponents of hatred. The trolls interviewed by Chaturvedi admitted their resentment towards Muslims, which bordered on hatred, and accused anyone who was anti-Modi of being a Muslim

140. George, C. (2016). Op. cit., p. 96.

141. The pages can be accessed at: [www.facebook.com/IndiaAgainstLoveJihadOfficial/](http://www.facebook.com/IndiaAgainstLoveJihadOfficial/); [www.facebook.com/opposelovejihad/](http://www.facebook.com/opposelovejihad/); [www.facebook.com/Save-Girls-Against-Love-Jihad-239984136063275/](http://www.facebook.com/Save-Girls-Against-Love-Jihad-239984136063275/)

142. Hinduism Now. (2016, 8 July). Love Jihad: Open sell of Hindu girls by Muslim on WhatsApp goes viral in Gujarat. [globalpress.hinduism-now.org/crimes-against-hinduism/love-jihad-open-sell-of-hindu-girls-by-muslim-on-whatsapp-goes-viral-in-gujarat/](http://globalpress.hinduism-now.org/crimes-against-hinduism/love-jihad-open-sell-of-hindu-girls-by-muslim-on-whatsapp-goes-viral-in-gujarat/)

143. Rana, U. (2016, 24 November). Don’t dirty Hindu locality, say Bajrang Dal men as couple thrashed in viral video. *The Times of India*. [timesofindia.indiatimes.com/city/meerut/-Dont-dirty-Hindu-locality-say-Bajrang-Dal-men-as-couple-thrashed-in-viral-video/article-show/55588192.cms](http://timesofindia.indiatimes.com/city/meerut/-Dont-dirty-Hindu-locality-say-Bajrang-Dal-men-as-couple-thrashed-in-viral-video/article-show/55588192.cms)

144. Kumar, V. (2013, 25 December). All set to launch “Mission 272-plus”. *The Hindu*. [www.thehindu.com/news/national/bjp-all-set-to-launch-mission-272plus/article5497501.ece](http://www.thehindu.com/news/national/bjp-all-set-to-launch-mission-272plus/article5497501.ece)

145. Chaturvedi, S. (2016). *I Am a Troll: Inside the secret world of the BJP’s digital army*. Juggernaut, p. 62.

supporter, not a true Hindu and an agent of Pakistan, all of which was untrue but formed part of the trolls' scripts. But the fact that these narratives are created, supported and taken advantage of by those in power, and endorsed publicly by the Prime Minister Modi himself on Twitter, suggests the high level of political influence of trolling. Chaturvedi noted 26 Twitter account handles that were followed by Modi and which "routinely sexually harass, make death threats and abuse politicians from other parties and journalists, with special attention given to women, minorities and Dalits."<sup>146</sup>

In all these cases, some common themes emerge. For example, the role of the state is implied, but strongly supported by the presence and participation of political party members or activists at the local areas where incidents break out. These tend to be organised, rather than spontaneous, both online and offline. Most notable is the effect of morphed messages and images that are shared over social media and messaging apps, which are used to elicit reactions or to troll individuals.

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**BUT THE FACT THAT THESE NARRATIVES ARE  
CREATED, SUPPORTED AND TAKEN ADVANTAGE  
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PUBLICLY BY THE PRIME MINISTER MODI  
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LEVEL OF POLITICAL INFLUENCE OF TROLLING.**

146. Ibid., p.16.

## ■ IMPACT

A key impact of the incidents of trolling and mob attacks is the silencing of voices and the disenfranchisement online and offline, which affect the political participation and expression of individuals. At the extreme end, this is demonstrated by the violence displayed in the cases of Muzzafarnagar and the killings in Pakistan and Bangladesh. In Bangladesh, this has led civil society members to refrain from speaking out and carrying out their work. Several reports by civil society organisations have documented deliberate decisions by transgender individuals not to engage on the topics of gender, politics and religion online, especially after a prominent LGBT blogger, Xulhaz Mannan, was killed in April 2016.<sup>147</sup>

Due to threats, including sexualised ones against women, some people close their social media accounts or delete messages to reduce risks of legal charges, thus losing the history of communication or conversations.

Also lost is the ability to criticise dominant narratives safely, whether on religion, politics or history. The experience of activists or journalists is that the attacks suffered online quickly conflate criticism of the government or politicians with being unpatriotic and pro-Pakistan in India or pro-India in Pakistan, or being anti-religion, leaving little room for meaningful conversations. In Malaysia, these discussions can draw threats of arrest for being “seditious”. Long term impacts could include the rewriting of both histories of injustices and experiences of tolerance.

States have responded to social media linked mobilisation and dissemination of information by blocking access or network shutdowns, resulting in overall restrictions on access to information. In India, there have been 61 cases of internet shutdown since 2015, resulting in losses in terms of revenue and access to critical information, such as health and emergency services, as well as other communication activities.<sup>148</sup> These shutdowns, which are also known as “kill switch”, have been documented at least 50 times in Pakistan since 2012.<sup>149</sup>

Finally, the impunity enjoyed by attackers contributes towards an increased use of violence by state and non-state actors against any individuals or groups with different opinions and beliefs. This is further evidenced by the silence of the states or their refusal to condemn the abuse of laws or the use of violence against others. In other words, what we are witnessing is that action is taken against legitimate expression and speech while there is inaction against hate speech. The former and current UN Special Rapporteurs on freedom of religion or belief have observed that governments have showed a lack of consistency or have failed to act on incitement cases, leading to the persecution of minorities.<sup>150</sup>

147. Rezwani. (2016, 26 April). Xulhaz Mannan, an LGBT Activist in Bangladesh, Is the Latest Victim in a String of Brutal Killings. *Global Voices*. [globalvoices.org/2016/04/26/xulhaz-mannan-an-lgbt-activist-in-bangladesh-is-the-latest-victim-in-a-string-of-brutal-killings/](http://globalvoices.org/2016/04/26/xulhaz-mannan-an-lgbt-activist-in-bangladesh-is-the-latest-victim-in-a-string-of-brutal-killings/)

148. Digital Empowerment Foundation. (2017). Internet and social media shutdowns cannot be knee-jerk reactions. [defindia.org/internet-and-social-media-shutdowns-cannot-be-knee-jerk-reactions/](http://defindia.org/internet-and-social-media-shutdowns-cannot-be-knee-jerk-reactions/)

149. Bytes for All (2017). Kill Switch Timeline in Pakistan. [www.killswitch.pk/](http://www.killswitch.pk/)

150. See Biefeldt, H. & Human Rights Council (2015). Op. cit., para. 63; and Shaheed, A. & Human Rights Council (2017). Op. cit., para. 57.

# SECTION 5 RESPONSES AND REMEDIES

The experiences across the four countries show that while there are laws available to offer limited remedies, these are made less effective by lack of enforcement and selective prosecution. The lessons from the Gujarat massacre of 2002 and the subsequent attempt to seek justice has been that obtaining remedies is hampered by political interference, inaction or refusal from the authorities to investigate and by challenges within the judiciary itself. The Supreme Court, in directing the Law Commission to clearly define hate speech, said the lack of prosecution was due not to insufficient provisions in the laws, but to lack of enforcement.<sup>151</sup>

Activists who push the envelope in trying to bring perpetrators to court have had the tables turned against them with accusations and investigations of corruption or violation of laws that regulate non-governmental organisations in India. A stark example of this is the targeting of civil rights activist Teesta Setalvad, and her organisation, the Citizens for Justice and Peace, which has been fighting for justice for Gujarat massacre victims. Accusations of misappropriation of funds, tampering with witnesses and receiving foreign funds have been cited as attempts to deter her from pursuing the cases that implicate Prime Minister Modi.<sup>152</sup> The experiences of Sisters in Islam and other Malaysian non-governmental organisations are similar; if they speak out against the authorities, they are met with threats of deregistration or investigation into their sources of funding.

Allies of the government that spread hateful messages tend to be let off the hook or face minor criminal charges, while legitimate criticism of the establishment is deemed seditious or a threat to national security. The chief minister of the state of Uttar Pradesh, Yogi Adityanath, a firebrand Hindu ascetic and close ally of Modi, gets away with making inflammatory remarks against Muslims,<sup>153</sup> but is intolerant towards those criticising him.

In Malaysia, death threats against women activists and journalists who voice their criticism of stronger Syariah laws in the country are often not investigated by the police. In contrast, human rights lawyer Eric Paulsen was charged under the Sedition Act for a Twitter post in which he questioned the role of the federal Islamic development body, which was responsible for vetting Friday sermons in mosques that he claimed were promoting terrorism.<sup>154</sup> The post, which has since been deleted read: "Jakim is promoting extremism every Friday. Government needs to address that if serious about extremism in Malaysia." At the same time, pro-government groups and media that continuously put out messages that target minorities are not censured.

In Pakistan, the spiralling numbers of blasphemy cases filed in court, together with the extra-judicial attacks against alleged blasphemers, mean that few will have access to a fair trial. In fact, legal experts said accusations of

151. The Supreme Court noted this in its ruling in a public interest litigation filed by Pravasi Bhalai Sangathan on derecognising political parties that make provocative and hate speeches during election campaigns. Gyan Varma and Elizabeth Roche. (2014, 12 March). Existing laws sufficient to curb hate speech: Supreme Court. *Livemint*. [www.livemint.com/Politics/j65K3t2aglSofDMajWEBbi/SC-asks-Law-Commission-to-look-into-issue-of-hate-speeches.html](http://www.livemint.com/Politics/j65K3t2aglSofDMajWEBbi/SC-asks-Law-Commission-to-look-into-issue-of-hate-speeches.html)

152. Biswas, S. (2015, 2 September). Is Teesta Setalvad India's most hounded activist? *BBC*. [www.bbc.com/news/world-asia-india-34105194](http://www.bbc.com/news/world-asia-india-34105194)

153. Bhatia, I. (2017, 19 March). With 'anti-Muslim' Adityanath as UP CM, Muslims will stay 'insecure': UP clerics. *The Times of India*. [timesofindia.indiatimes.com/city/meerut/with-anti-muslim-adityanath-as-up-cm-muslims-will-stay-insecure-up-clerics/articleshow/57718354.cms](http://timesofindia.indiatimes.com/city/meerut/with-anti-muslim-adityanath-as-up-cm-muslims-will-stay-insecure-up-clerics/articleshow/57718354.cms)

154. Nazlina, M. (2015, 5 February). Lawyer Eric Paulsen charged with sedition. *The Star*. [www.thestar.com.my/news/nation/2015/02/05/eric-paulsen-charged/](http://www.thestar.com.my/news/nation/2015/02/05/eric-paulsen-charged/)

blasphemy rarely lead to a court hearing, as the opening statement in this report cautions.

The most damaging hate campaigns are conducted across a network or many networks.<sup>155</sup> As in the case of India with Modi, it is not necessarily the leaders who are making those statements, but the “lieutenants”, and they are then spread over various online platforms by supporters. Currently, the laws and courts are not designed to deal with distributed messaging.<sup>156</sup> There is also concern that when the state is somehow involved in the mobilisation or promotion of hatred and intolerance, the legal system will be hijacked to protect narrow interests. This is particularly obvious in specific cases – for example, the accusations of sedition or un-Islamic behaviour under Syariah laws in Malaysia. The solution lies not in broader laws, but on narrowly defined ones because of the ease with which criminal laws are being co-opted by those promoting hate for their benefit. The approach should be to go beyond reliance on laws to provide protection and justice to those who have been made victims. This was reiterated by the former Special Rapporteur on freedom of opinion and expression, Frank La Rue, in 2012:

The need to go beyond legal measures to combat hate speech is particularly acute in the light of the increasingly transnational nature of many hate speech incidents and the inability of domestic legal systems to provide adequate responses and suitable remedies. In this regard, the media and Governments have crucial roles to play in preventing the escalation of violence and discrimination.<sup>157</sup>

## RESTRICTED ACCESS, BLOCKING AND CONTENT TAKE DOWN

As mentioned earlier, the governments of Bangladesh, India and Pakistan have opted for restricting access for reasons of public order and national security. The network shutdowns or suspension of telecommunications and internet services

are cited, among others, as measures to prevent the escalation of violence, the dissemination of rumours and mobilisation by terror groups. While there are merits to the measures – for example, signalling the government’s intent to offer protection for those at risk – in most cases, their implementation has been arbitrarily decided, excessive (shutdowns can be for days and cover wide areas) and without adequate safeguards.

With online harassment, one of the options for users is to submit complaints to the platform operators. Journalist Swati Chaturvedi had experienced severe trolling on Twitter, and in addition to filing a police report, she was able to get Twitter to suspend the user for harassment and slander.<sup>158</sup> However, as she notes, the suspension of one account did not prevent others or new accounts from directing the attacks to her or other journalists.

Following the forced disappearance of the bloggers in Pakistan, the government requested that Facebook take down pages it claimed were blasphemous, and the company confirmed it had complied with 85% of the requests. The problem here lies in the authorities or individuals who are given the power to define what constitutes blasphemous content. The Pakistan Telecommunication Authority (PTA) sent out text messages to millions of mobile phone subscribers on 9 May 2017 warning them against sharing “blasphemous” content online, a move activists said would likely encourage lynchings or vigilante attacks.<sup>159</sup> Facebook has said it would “cooperate” with Pakistani officials to take down blasphemous content,<sup>160</sup> while Google launched a local version of YouTube after the ban on the video platform was lifted in 2016 and would make it possible to “block blasphemous and offensive content.”<sup>161</sup>

Both network shutdowns and content blocking are not the least restrictive measures available to the state to address threats, as has been reiterated by Special Rapporteur on freedom of opinion

155. George, C. (2016). Op. cit.

156. Azhar, A. (2017, 14 March). Drawing the line on hate speech. *Malaysiakini.com*. [www.malaysiakini.com/news/375739?utm\\_source=dlvr.it&utm\\_medium=twitter](http://www.malaysiakini.com/news/375739?utm_source=dlvr.it&utm_medium=twitter)

157. La Rue, F. & United Nations General Assembly (2012). Op. cit., p. 10.

158. Chaturvedi, S. (2016). Op. cit.

159. Samaa TV. (2017, 10 May). Millions of Pakistanis receive blasphemy warning texts. [www.samaa.tv/pakistan/2017/05/millions-of-pakistanis-receive-blasphemy-warning-texts/](http://www.samaa.tv/pakistan/2017/05/millions-of-pakistanis-receive-blasphemy-warning-texts/)

160. The Nation. (2017, 7 June). Facebook says will help Pakistan take down ‘online blasphemy’. [nation.com.pk/national/07-Jul-2017/pakistan-cannot-allow-misuse-of-social-media-to-hurt-religious-sentiments-nisar](http://nation.com.pk/national/07-Jul-2017/pakistan-cannot-allow-misuse-of-social-media-to-hurt-religious-sentiments-nisar)

161. Khan, M. (2016, 18 January). Pakistan: YouTube ban lifted after Google launches local version. *International Business Times*. [www.ibtimes.co.uk/pakistan-youtube-ban-lifted-after-google-launches-local-version-1538650](http://www.ibtimes.co.uk/pakistan-youtube-ban-lifted-after-google-launches-local-version-1538650)

and expression David Kaye.<sup>162</sup> Such actions also tend not to meet the other requirements under Article 19(3) of the ICCPR, namely that restrictions must only be applied as provided by law and if they are necessary.

## COUNTER NARRATIVES

Counter speech and dialogues are among the recommendations for addressing intolerance and hatred,<sup>163</sup> but most examples of such initiatives are conducted by civil society groups and less so by states. Even then, they are rare because of the lack of resources and expertise to strategise around counter narratives, or due to the high levels of hostility between right-wing religious non-governmental organisations and human rights organisations. They are also premised on the existence of a level playing field for every individual and online user to express their views, but studies have shown that women experienced further silencing online, especially when it came to hate speech.<sup>164</sup> In online conversations, women who take a stand on religion and politics face sexualised attacks and link the comments to hate speech, and these are aimed at discrediting the speaker. “I have personally experienced this and it is meant to shut me up, frighten me and intimidate me. I turned it around and use a similar language to destigmatise sex for me as a woman. Only if I am stigmatised, will I be intimidated,” says activist Gul Bukhari. However, she acknowledges that not all women will opt for that strategy if the perceived risks are higher, and they may be forced to retreat from the spaces.

Often, when it comes to online battles, the power imbalances in society are also reproduced in terms of access to the technology and resources to produce content. For example, in Malaysia, Serene Lim of Empower says that the state Islamic bodies have the capacity to run advertisements, mobilise trolls and even create apps that in the long run shape public opinion. The Malaysian feminist group Sisters in Islam is at the forefront of efforts to challenge the politically motivated

imposition of additional Syariah laws in the country, and it has faced criticism for it. Its critics are boosted by followers or supporters who ensure that online campaign tools, such as memes, are spread over social media quickly to discredit SIS members. In Malaysia, as the mainstream media has been mainly owned by the ruling political parties or corporations close to the government, there is little space for opposing views.

## REPORTING ABUSES TO SOCIAL MEDIA COMPANIES

Social media companies have developed additional community standards or guidelines to address online abuse, hateful conduct and sharing of content that promotes aggression and violence. For example, Twitter’s policy on hateful conduct lists, among others, any “behavior that harasses individuals or groups of people” with violent threats, that incites fear about a protected group or that degrades someone.<sup>165</sup> In response to trolling, Twitter developed several options for those who face such harassment. These include a “report abuse” button for site users who receive abusive messages, which was introduced following a campaign by women who were targeted on the site, although misuse of this option has led to legitimate accounts being suspended.<sup>166</sup> In 2016 Twitter also introduced a mute feature that allows users to weed out words and phrases from their notifications. The social media site took steps in 2015 to ban hateful conduct that promotes violence or involves direct attacks on or threats to others on the basis of race, ethnicity and other attributes.<sup>167</sup>

Facebook’s Community Standards<sup>168</sup> on hate speech state that it will remove content that directly attacks people based on their “race, ethnicity, national origin, religious affiliation, sexual orientation, sex, gender or gender identity, or serious disabilities or diseases.” Like Twitter, it relies on the “community” to report such content, and on its moderators. Facebook announced in

162. Kaye, D. & Human Rights Council. (2017). Op. cit.

163. La Rue, F. & United Nations General Assembly. (2012). Op. cit., p. 18.

164. Sellars, A. (2016). Op. cit., p. 11.

165. See Twitter’s Hateful conduct policy: [support.twitter.com/articles/20175050#](https://support.twitter.com/articles/20175050#)

166. The Telegraph. (2013, 11 August). Twitter’s ‘report abuse button’ has already hurt some good guys. [www.telegraph.co.uk/women/womens-life/10233715/Twitter-trolls-The-report-abuse-button-has-already-hurt-some-good-guys.html](http://www.telegraph.co.uk/women/womens-life/10233715/Twitter-trolls-The-report-abuse-button-has-already-hurt-some-good-guys.html)

167. Tsukayama, H. (2016, 15 November). Twitter introduces a mute button for trolls as it struggles to fight online abuse. *The Washington Post*. [www.washingtonpost.com/news/the-switch/wp/2016/11/15/twitter-introduces-a-mute-button-for-trolls-as-it-struggles-to-fight-online-abuse/?utm\\_term=.3f25f670f621](https://www.washingtonpost.com/news/the-switch/wp/2016/11/15/twitter-introduces-a-mute-button-for-trolls-as-it-struggles-to-fight-online-abuse/?utm_term=.3f25f670f621)

168. See details at: [www.facebook.com/communitystandards/#bullying-and-harassment](https://www.facebook.com/communitystandards/#bullying-and-harassment)

May 2017 that it was hiring 3,000 more content moderators, bringing the number to 7,500, to review posts flagged by users for violating its community standards.<sup>169</sup>

But both Twitter and Facebook have been criticised for how the moderators respond to the reports or flagging of content that have led to the suspension of pages and accounts of activists, journalists and other human rights defenders. In Malaysia, artist Fahmi Reza had his Facebook account suspended for 24 hours in April 2017, after a caricature that mocked the opposition Islamic party, drew widespread complaints from party members and supporters.<sup>170</sup> As the opposition party is seen to be working with the ruling coalition to pass Syariah laws, it appears that any attack on the Islamic party or its leaders, either dead or alive, is seen as an affront on Islam.

## INTERNATIONAL MECHANISMS

Civil society groups have used the UN Human Rights Council sessions to raise these issues and pressure their own governments to commit to complying with international standards on human rights. One of the processes is the Universal Periodic Review, which is an opportunity to obtain a commitment from states to adopt and enforce human rights standards. For countries that have ratified the ICCPR, the Human Rights Committee Review provides another platform for civil society groups to draw attention to specific trends and cases through their reports or to have questions put to the respective representatives.

Other possible remedies are urgent appeals to the human rights body through the UN special procedures or the Office of the High Commissioner for Human Rights (OHCHR), especially when investigations or prosecutions at the national level are suspect in terms of the independence or fairness of trials. In the most recent incident involving the target killing of secular blogger Yameen Rasheed in Maldives, an urgent appeal was submitted to the OHCHR due to the lack of confidence in the police and the judiciary, although several suspects have since been named and brought to court. The OHCHR followed up with a call for prompt and thorough investigations,<sup>171</sup> while four UN Special Rapporteurs reminded the government of its responsibility to take active steps in law and practice to promote tolerance and the right to free speech.<sup>172</sup>

169. Heath, A. (2017, 3 May). Facebook will hire 3,000 more moderators to keep deaths and crimes from being streamed. *Business Insider*. [www.businessinsider.my/facebook-to-hire-3000-moderators-to-keep-suicides-from-being-streamed-2017-5/?r=US&IR=T](http://www.businessinsider.my/facebook-to-hire-3000-moderators-to-keep-suicides-from-being-streamed-2017-5/?r=US&IR=T)

170. Free Malaysia Today. (2017, 18 April). Activist 'applies' to be PAS member. [www.freemalaysiatoday.com/category/nation/2017/04/18/activist-fahmi-applies-to-be-pas-member/](http://www.freemalaysiatoday.com/category/nation/2017/04/18/activist-fahmi-applies-to-be-pas-member/). Fahmi shares the Facebook notification on his Twitter page: [twitter.com/kuasiswa/status/854603203291238400](https://twitter.com/kuasiswa/status/854603203291238400)

171. United Nations Office of the High Commissioner for Human Rights. (2017, 25 April). Press briefing on South Sudan and Maldives. [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21527&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21527&LangID=E)

172. The four Special Rapporteurs are: David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Michel Forst, Special Rapporteur on the situation of human rights defenders; Ahmed Shaheed, Special Rapporteur on freedom of religion or belief; and Agnes Callamard, Special Rapporteur on extrajudicial, summary or arbitrary executions. See: United Nations Office of the High Commissioner of Human Rights. (2017, 9 May). The Maldives must investigate murder of journalist Yameen Rasheed and hold those responsible to account – UN experts. [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21597&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21597&LangID=E)

# SECTION 6 RECOMMENDATIONS

The regional report on freedom of expression and religion in Asia – *Desecrating Expression: An Account of Freedom of Expression and Religion in Asia* (2016) – provides a comprehensive set of recommendations, aimed at a broad range of stakeholders, including governments, legislatures and political parties, the judiciary and the legal community, the media, civil society, the private sector, religious bodies, academia and educational institutions and international and regional mechanisms.<sup>173</sup> The current report highlights a few additional recommendations that would be useful for national and international level advocacies with respect to the online dimensions of the issue. This section also makes recommendations for future research.

One of the key points in this report is the importance of addressing the issue of the rights to expression and religion against the backdrop of the increased use of digital tools that have both allowed for greater communications and increased vulnerabilities. The UN Human Rights Council adopted a resolution in 2012 whereby it affirmed that “the same rights that people have offline must also be protected online” and encouraged special procedures to take these issues into account within their existing mandates.<sup>174</sup> The Rabat Plan of Action, for example, could be further strengthened as a monitoring mechanism by including specific indicators and recommendations for online freedoms, taking into account the need to use multiple lenses such as political and social histories, impact of the media in society, online behaviour and gender analysis.

A major milestone in these countries would be to eliminate laws on blasphemy and insult to religion. These laws have only served to increase the level of violence and they are often abused. They single out certain religions for special protection and encroach on the rights to religion and belief and the freedom of expression of others, especially religious minorities. They are also harmful because they deepen fractures and do little to promote wider understanding, tolerance and diversity in these societies. The right to expression, especially on public interest issues, must be protected, while at the same time ensuring protections to those who face discrimination or are targets of hatred. While laws provide a much needed framework for the states to fulfil their obligations, it is also important to recognise the limitation of laws in regulating hate speech.

In addition to implementing and enforcing state obligations towards the promotion and protection of human rights, governments, national human rights bodies, politicians, religious bodies and civil society must denounce the expression of hatred and incitement to hatred against any groups, especially those that have been placed in a vulnerable situation. When governments remain silent in the face of killings for alleged blasphemy or attacks against civil society members and activists, they send out a signal that such acts are justified.

173. Khandhadai, G. (2016). Op. cit., pp. 66-72.

174. Human Rights Council. (2012, 29 June). *The promotion, protection and enjoyment on the Internet*. A/HRC/20/L.13. documents-dds-ny.un.org/doc/UNDOC/LTD/G12/147/10/pdf/G1214710.pdf?OpenElement

## OTHER RECOMMENDATIONS:

### Governments

- Step up efforts to promote inclusive education, introduce human rights principles in the school curricula and monitor education facilities to prevent them from being used to promote hatred and intolerance.
- Promote and facilitate interfaith dialogues that encourage healthy debates, public participation and mutual respect.
- Support cross-cultural programmes and national as well as local initiatives on pluralism and diversity.

### Private sector

- One of the main challenges has been to get the media and social media companies to respond adequately to the threats faced by groups and individuals. In particular, the standards and norms of the platforms need to be revised so that they comply with international human rights standards and reflect realities on the ground across Asian countries. A more nuanced policy, and one that is based on human rights and feminist values, would be useful in informing responses in cases involving hate speech.
- The general ignorance of local languages and historical contexts among monitors in social media companies – a small number compared to the number of users and volume of content – means that their standards are not applied adequately or consistently as monitors lack the skill and knowledge to contextualise complaints.
- In addition to providing transparency reports on government requests to take down content or disclose user data, internet intermediaries should be more transparent on how they interpret and implement their own terms of service and community guidelines in these countries. They should also give access to information regarding agreements they make with governments to remove blasphemous content.

### Civil society

- Civil society groups should explore ways to promote constructive dialogues and to mainstream debates and critical voices. These can be done by working with likeminded groups and building alliances to raise public awareness against intolerance and hatred. At the same time, it is also important for traditional human rights organisations to forge alliances with religious bodies that promote moderate and progressive views, while reaching out to those in opposition to engage them in dialogue.
- Civil society groups should also map and collect data on incidents and monitor the progress of investigations and enforcement. These can be used to formulate campaigns that strategically target different stakeholders.
- Together with academics and institutions of higher education, civil society groups can conduct programmes on countering hate speech and promote free and safe spaces for debates and discussions.

### Lawyers and judges

- Judges and lawyers should be sensitised on the international standards and norms regarding the intersections of freedom of expression and religion.
- It would also be useful to track proceedings in relevant cases, where possible, for the purposes of monitoring accountability.

### Media

- Raise the standards of journalism programmes, in particular the selection of commentators, so as to promote healthy debates, instead of always pitting opposing sides against each other.
- Encourage the use of ethical and professional standards in the media to mitigate instances of hate speech

### National human rights bodies

- National human rights bodies should reiterate the international standards on freedom of expression and religion, including the need to emphasise the application of offline rights to online spaces and uses. For this purpose, there should be capacity building efforts to equip commissioners/officials with the relevant standards, skills and knowledge.
- Where possible, NHRIs could conduct thematic studies, in collaboration with civil society, research institutions and academia, on how different rights and freedoms are linked and affected.
- NHRIs should also be proactive in responding to the abuse of free speech to serve particular agendas and in promoting counter narratives through discussions and the media.

### Law enforcement agencies

- Law enforcement should be responsive and proactive towards complaints from individuals of harassment, trolling and threats of attacks and, where necessary, offer protection. This should also apply to lawyers representing victims or families of victims in cases related to freedom of expression and religion.
- Take online threats seriously as this is usually a necessary step so that anyone who has encountered such threats can seek legal remedies as well as access to interventions by national human rights institutions.
- It is imperative that enforcement agencies act in accordance with the limitations set by the laws and by international standards on permissible restrictions to freedom of expression and religion. This includes refraining from ordering the shutdown of the internet or blocking content and apps when they have to act to maintain public order.
- Refrain from victim blaming.

# CONCLUSION

The report has attempted to identify challenges to freedom of expression in the context of religion online, linking them to broader challenges to democracy, human rights and social justice in four countries – Bangladesh, India, Malaysia and Pakistan. Since the report was conceived, attacks against individuals on the grounds of religious expression have escalated, thus warranting continued and more in-depth monitoring of the situation on the ground. The commitment shown by UN human rights experts, whether on the protection of human rights defenders, freedom of expression, rights to privacy, freedom of assembly and association or freedom of religion and belief, among others, is an opportunity for civil society to step up international advocacy to reverse some of the devastating trends.

While laws on hate speech are not the only focus of the report, it is evident that legal frameworks do not provide adequate and necessary protection for those who need them, and that they fail to meet international human rights norms. In fact, the historical development of laws in a number of the countries studied point to an enabling environment for the abuse of laws to victimise innocent people on charges such as blasphemy or to conflate political expressions with insult to religion.

In all four countries, the cases show a trend of organised attacks with some level of endorsement or tacit approval from the state, given the levels of impunity that follow. In a number of cases where online platforms were used, content was manipulated in order to accuse one or several individuals of insulting a particular religion. This then became the excuse for violent reactions, which the governments in power have been slow to denounce or act upon. As such, we are witnessing what Cherian George has described as orchestrated indignation by the agents of hatred, some of whom troll social media platforms to silence voices of dissent. The worst form of disenfranchisement involves the killing of individuals; in Bangladesh and Pakistan, bloggers and social media users were targeted for expressing their secular views. The loss of information and histories, whether as a result of individuals erasing their digital footprints in an effort to protect themselves or through the rewriting of narratives by more dominant voices, will adversely impact those who see the internet as a liberating force. It is clear from the study that there is a need to situate these discussions in a historical con-

text, while delving deeper into the dynamics of networked lives to make relevant and effective interventions.

The responses to the impact of hatred online and offline have been disproportionate. Where individuals and communities from a minority or with moderate voices have been targeted, little protection is afforded. By contrast, views targeted at people or institutions in power have been met with legal sanctions or even physical threats to their lives. Laws are not seen as effective in most cases, especially because they are poorly implemented even when provisions affording protections are available. Responses from governments, together with private telecommunications operators and social media companies, have included network shutdowns and content take downs, often with little transparency or oversight. Civil society actors in the focus countries employ strategies such as dialogues and awareness campaigns as well as counter narratives to shift discussions towards tolerance and interfaith exchanges, but these are limited by lack of resources and opportunities to reach out to hostile groups. They also use international mechanisms to lodge complaints or report on violations in their countries.

Finally, the report proposes a set of recommendations for improving the protections for freedom of expression and religion online in the countries studied. The report reiterates the comprehensive recommendations contained in the 2016 report, *Desecrating Expression: An Account of Freedom of Expression and Religion in Asia*. It is imperative that UN human rights experts integrate the different rights within their scope of work. It is important for the different thematic Special Rapporteurs to address the issue of rights to expression and religion against the backdrop of the increased use of digital tools that have both allowed for greater communications and heightened vulnerabilities. A global concerted initiative to decriminalise blasphemy or insult to religion is needed, and greater protections for minorities and people who are made vulnerable due to their identities must be put in place. Governments and their key institutions must also be pressured to denounce the expression of hatred and incitement to hatred against any groups, especially those that have been placed in a vulnerable situation. Specific recommendations are also targeted at the private sector, civil society, lawyers and judges, the media, national human rights bodies and enforcement agencies.

AT TIMES, ESTABLISHMENT LEADERS OR THOSE CLAIMING TO SPEAK ON BEHALF OF RELIGIOUS IDENTITIES USE BROADCAST MEDIA OR SOCIAL MEDIA, SUCH AS FACEBOOK, WHATSAPP AND TWITTER, TO SEND OUT MESSAGES PROMOTING HATRED OR TO TARGET INDIVIDUALS KNOWN TO BE CRITICAL OF THEM. THESE PLATFORMS LET THEM REACH OUT TO PEOPLE THEY MAY NOT KNOW BUT WHO HAVE SIMILAR RELIGIOUS OR POLITICAL LEANINGS AND WILL ENDORSE AND ACT ON THE NARRATIVES OFFERED.

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