

**CHALLENGES FACED BY  
WOMEN HUMAN  
RIGHTS DEFENDERS  
IN PAKISTAN**



**A national level qualitative**  
**research**

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**ASMAA KHAN**

Program Officer/Researcher

**MAHAM AZHAR**

Legal Review/Researcher

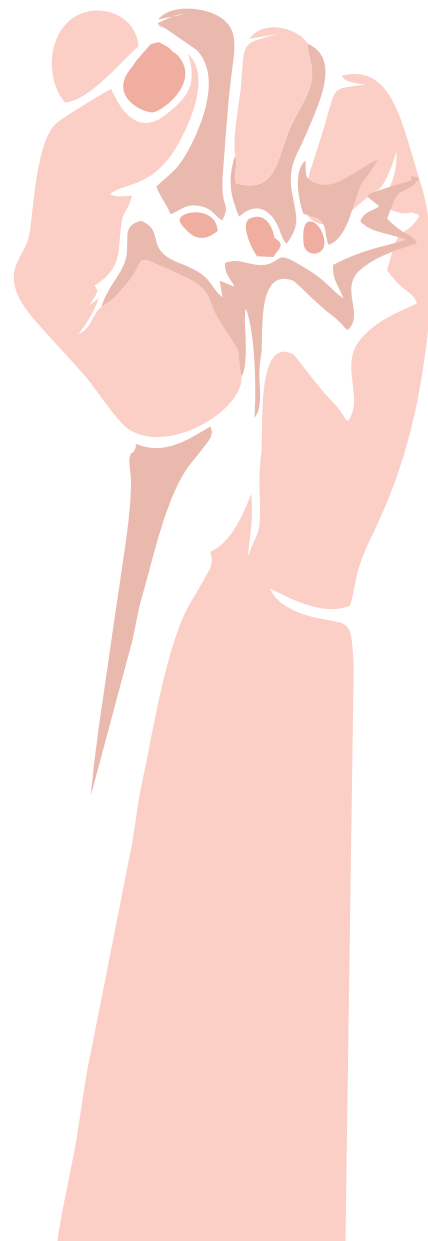
**Research Associates**

Yusra Altaf

M. Amjad Ali

Sana Khan

Saad Naeem



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## Executive Summary

Those who defend others also need to be defended. They shine a light on the plight of poor vulnerable and oppressed sections of the society by bringing public and state's attention to the issues facing these people which states may not otherwise examine. Without these rights defenders, the poor, vulnerable and oppressed can never prosper hence diminishing their role through weak protection policies and mechanisms may increase the risk of violations of their rights and the rights of the oppressed as well. According to Special Rapporteur on the situation of Human Rights Defenders (HRDs), "anyone, regardless of the gender identity, who individually or with others, acts to promote or protect women rights, is recognized as Women Human Rights Defender (WHRD).

The Special Rapporteur raised his concerns on persistent violations of the rights of these HRDs/WHRDs along with inadequate attention to HRDs' protection and significant non-compliance with the Universal Declaration on Human Rights Defenders all across the world. (World report on the situation of human rights defenders 2018). Pakistan has a history of persistent human rights violations despite the provision of several fundamental rights given in the constitution. The report also highlights the fact that Pakistan lacks specific protection mechanisms for HRDs and the situation of the rights of these HRDs/WHRDs has gotten worse over the past two decades and Pakistan lacks specific protection mechanism for HRDs. Besides this, there was little to no attention.

paid to the in-depth study of challenges faced by HRDs/WHRDs in Pakistan, thus this research is filling an important gap in the evidence

### The purpose of the research study

To explore three-dimensional challenges faced by WHRDs and to generate concrete strategies for the protection of WHRDs, this research has the following 3 objectives:

- 1 Explore types of challenges faced by WHRDs and generate qualitative evidence
- 2 Examine the online hate speech pattern against WHRDs
- 3 Identify laws that prove to be hurdles for WHRDs

Being action research, this study is a step towards the overall efforts to increase the protection of HRDs/WHRDs in Pakistan. It will contribute towards the formulation and implementation of protection laws for HRDs/WHRDs in the long run. National Commission of Human Rights (NCHR) and Human Rights Defenders Network (HRDN) have already formulated "Guidelines for protection of HRDs", in this regard. The findings of this research will facilitate participants of the research launch to formulate strategies for the protection of WHRDs. These strategies will be adapted by

NCHR for catalyzing the formulation of a new law or proposing an amendment in the current law.

### Methodology of the Study

It is an in-depth qualitative study that focused primarily on three areas, as identified in the research objectives. A separate data collection and analysis methodology was utilized for each area;

### All-inclusive challenges of WHRDs

- ❖ Primary data: 45 Key Informant Interviews (KIIs) 03 Focus Group Discussions (FGDs) and 02 Case Studies were conducted
- ❖ Secondary data: Desk review of existing literature, using the scoping-study method was employed.

### Tracking Hate Speech Pattern on Social Media against WHRDs

An online desk review was conducted for 30 days. Being commonly used mediums, Facebook and Twitter were primarily focused to track hate speech against WHRDs. Context- specific and representative tweets, posts and comments were gathered and then classified into specific trends of hate speech.

### Legal Review

The purpose of this review was to identify laws that prove to be hurdles for WHRDs.

- ❖ Primary sources: Interviews of Advocates and Legal Aid Providers, Etc.
- ❖ Secondary sources: Desk review of the existing laws and cases on the topic

### Key Findings

Respondents of the study included WHRDs from diverse professions, regardless of their gender and age i.e. Individual Activists, Lawyers, Journalists, Members of Civil Society and Social Media Activists.

#### 1. All-Inclusive

Overall challenges faced by WHRDs were studied and following specific patterns are identified through in-depth analysis;

#### 1.1 Major Challenges

- a) Being a WHRD in Pakistan is dangerous rather than difficult. Resistance from common people, power groups and state and non-state actors is rampant.
- b) Female WHRDs more at risk of serious violations, i.e. harassment, rape & murder threats, and physical & mental harm, while male WHRDs usually face verbal abuse.
- c) Negative connotations attached to WHRDs' work, such as the western agenda, anti-culture & religion is the main hurdle.
- d) Patriarchal culture is the basis of all resistance; it is used as a tool to retain power.

## 1.2 Response Mechanism Gaps

- a) Response is the prerogative of the privileged. Powerful / WHRDs with more followers and resources get a response faster. Most avoid going to Law Enforcement Agencies (LEAs) due to lengthy procedures.
- b) Gender insensitivity and gender biases among LEAs and slow response mechanism impede female WHRDs from seeking justice. Many complained of harassment.
- c) Lack of proper implementation of Laws; lack of sufficient and direct legal provisions for HRDs/WHRDs, insufficient resources and lack of willingness are among many factors behind the plight of HRDs/WHRDs.

## 1.3 Social Media and WHRDs

- a) Online activism increases their outreach to the masses but it also increases the volume and frequency of abuse and threats that they receive.
- b) Online threats have a higher chance of being translated into offline assaults, it is now easy to get traced and followed.
- c) Due to slow and ineffective cyber protection mechanisms and increased number of complaints, the vulnerability of WHRDs has also increased.

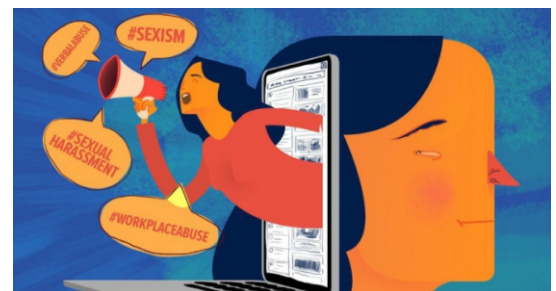
## 1.4 Case Study of Mrs. Khurshid Bano

Khurshid Bano is the founder of “DA HAWA LUR”; she is also a founding member of “KP Working Women Union”. In 2011, when she was working for “Legal Aid Centre ASHA” in Peshawar, Pakistan, she took up the case of a nurse who was harassed by a well-known doctor of the city. While struggling for justice on behalf of the victim, harassers chased her daughters and family members. She had to stop her daughters for three months from going to school and eventually had to change their schools. Later, she was attacked by unknown gunmen while travelling in her car.

## 2 Hate Speech Patterns

A review of more than 100,000 context-specific comments around contemporary women’s issues in Pakistan was analyzed to track volume and specific patterns of hate speech.

- a) Approximately 15% of the comments were based on hate speech, including verbal abuse and threats. Activists’ religion was questioned and strict action was demanded against feminists/WHRDs.



- b) 51% out of the total 15% hate speech, contained religious narratives, in most cases religion was interpreted with gender bias and without an authentic source.
- c) Those who utilized cultural practices and had misogynistic views; accounted for 49%. The majority of backlash came from men and boys.

### 2.2 Case Study of Ms. Huda Bhurghri

Huda is a 26 years old social media activist. She uploaded a video raising her voice over Mrs. Khan's misogynistic interview. She, however, faced such an immense backlash and threats on Facebook that her mother went into trauma by seeing the level of risk she was at after uploading her video. Seeing her mother in depression she stopped online activism for a while.

### 3. Legal Review

Despite the fact that Pakistan has ratified multiple International Conventions, there is little reflection in the local law and protection mechanisms. The purpose of this review is to identify laws that prove to be hurdles for WHRDs.

#### 3.1 Freedom of Assembly

- a) Constitution of Pakistan and UDHR provide fundamental rights to peacefully assemble.

- b) The Code of Criminal Procedure (CrPC) - section 144 gives police unlimited powers. Moreover, section 141 of the Pakistan Penal Code (Act XLV of 1860) states the law for "unlawful assembly."
- c) It is very easy to term any assembly as an "unlawful assembly" making ground for using undue force.

#### 3.2 Freedom of Expression

- a) Constitution of Pakistan and UDHR provide fundamental rights to expression.
- b) Pakistan Telecommunications Act is the basis for online censorship. The problem lies with lack of proper warning and inquiry mechanism.
- c) Defamation Ordinance 2002 and Prevention of Electronic Crimes Act, 2016 are misused by accusers.
- d) The NCHR Act 2012 empowers the commission and provides it with a mechanism and procedure for taking up complaints and investigations on matters related to the safety of HRDs.
- e) Due to the unavailability of legal provisions for HRDs, NCHR guidelines are not sufficient as they are not legally binding on the judiciary. It needs additional backing in the form of a Law.

### 3.3 Recent Developments

Members of the Khyber Pakhtunkhwa Provincial Assembly; Ms. Asia Saleh Khattak and Dr. Asia Asad, have moved to pass legislation to protect the legitimate rights and fundamental freedoms of HRDs.

## 4. Recommendations

### 4.1 Bridging the gap between WHRDs and common masses

- a) Grant special recognition to women and WHRDs in the curriculum and training of kids, adults and professionals in order to eliminate the notion that women are inferior to men.
- b) Organize massive public awareness campaigns to recognize the efforts of WHRDs in order to eliminate negative connotations attached to them and to promote a positive image of WHRDs.

### 4.2 To Legally Protect WHRDs

- a) Develop and implement laws and protection mechanisms for WHRDs to address the severe vulnerabilities.
- b) Taking input of WHRDs in shaping the fresh protection mechanisms would be an added advantage.
- c) More female representation in the Police System.
- d) Implementation of Sexual Harassment Laws at protection mechanism offices.

e) Police and other LEAs should be sensitized to ensure urgent action for WHRDs when they want to seek protection.

f) Gender sensitization sessions should be organized for LEA officials and government should make it a mandatory part of LEAs basic training.

### 4.3 To make cyberspace safer for WHRDs.

- a) Federal Investigation Agency's (FIA's) cybercrime wing should be enhanced in terms of resources and man power to efficiently deal with huge influx of complaints calling for immediate action.
- b) Awareness campaigns should be implemented online to aware people on specific laws and protection mechanisms in place for cyber threats, abuse, and harassment, especially the laws on hate speech.

## Introduction

### The Context

Pakistan has long been accused of persistent human rights violations. Despite the provision of several fundamental rights in the constitution which include: freedom of speech, freedom of religion, freedom of the press, freedom of assembly and association, the actual practice of these rights has always been a matter of debate. Most importantly, violations of the rights of women, children, and religious minorities have been rampant throughout the history.

In a country that has been facing worst human rights crisis since its inception, the environment for those who protect and promote these fundamental rights has also never been conducive. Despite signing/ratification of several international instruments for protection of human rights, nothing significant has been done domestically to ensure what has been promised internationally instead these HRDs have always been subject to threats, abuses, harassment and in some cases death by both state and non-state actors.<sup>1</sup> (UNOHCHR)

Among HRDs, those who specifically work to promote women's rights are known as WHRDs. These are the people who actively play a part in demanding not only to end

violations of women rights, such as: honor killing, rape and sexual assault, sexual harassment, acid attacks, kidnapping,

**According to the UNOHCHR, anyone who individually or with others, acts to promote or protect human rights is recognized as Human Rights Defender (HRD).**

domestic violence, dowry murder, forced marriages, custodial abuse, and torture, but also equality for women. They may belong to any profession and still be recognized as WHRDs.

**According to Special Rapporteur on the situation against human rights defenders, anyone, regardless of the gender identity, who individually or with others, acts to promote or protect women rights, is recognized as Women Human Rights Defender (WHRD).**

**(Sekaggya, 2010)**

<sup>1</sup><https://www.ohchr.org/en/issues/srhrdefenders/pages/defender.aspx>

Unfortunately, in Pakistan, these WHRDs have also been subject to various types of risk as any other HRD and over the years, Pakistan's government institutions have been severely criticized for their weak protection policies for HRDs or WHRDs.

Several incidents have illustrated that activists/defenders receive little to no protection, often leading to unfortunate

walks of life who were holding up placards and chanting slogans supporting women and campaigning against oppression, seclusion, and hold of patriarchy in both the public and private spheres.

However, what seemed a peaceful march for equality turned into a national fear when images and slogans from the demonstration went viral on social media.

**Article 20(1) of The Universal Declaration of Human Rights (UDHR), enforced by the UN in 1998, makes it essential to protect and provide security to human rights' defenders including those that are advocating women's rights.**

(Adami, 2018)

**According to Article 16 of The Constitution of the Islamic Republic of Pakistan, "Every citizen shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order."**

(Pakistan)

events such as murders and others of less magnitude, but significant harm such as cyberbullying and other hate crimes. (Amnesty, 2017)

However, the backlash towards HRDs/WHRDs took a whole new turn, when, while exercising their right to Freedom of Assembly given by the constitution, thousands of women rallied in major cities of the country to mark the International Women's Day, on 8<sup>th</sup> March 2019, under the banner of Aurat (Woman) March. The march included people, mostly women, from all

From smear campaigns and open death/rape threats to First Investigation Report (FIRs) and resolutions by lawmakers, there is hardly anything left that has not been used to suppress these WHRDs.<sup>2</sup> Interestingly, this behavior was not limited to participants only but anyone who advocated the cause and was in support of the movement.

<sup>2</sup><https://digitalrightsmonitor.pk/understanding-hatred-against-aurat-march-in-pakistan/>

Moreover, a significant rise in violence and hate speech against this group has also been recorded in the aftermath of the event.<sup>3</sup>

### Objectives of the Study

In the wake of these old and new trends of violations against WHRDs, this study aims to:

1. Explore types of challenges faced by WHRDs and generate qualitative evidence.
2. Identify laws that prove to be a hurdle for WHRDs.
3. Examine the online hate speech pattern against WHRDs

### Methodology Used

Keeping in view the research objectives, a separate methodology for each area was employed to explore specific challenges and generate separate recommendations for each area.

### Methodology for all-inclusive challenges faced by WHRDs

### Primary Data Collection

A qualitative research methodology was adopted to gather in-depth information on all-inclusive challenges faced by WHRDs and to generate evidence on underlying reasons for those challenges. This study included both primary and secondary data collection and analysis.

Primary data was collected using three different qualitative tools:

1. KIIs
2. FGDs
3. Case Study Interview.

To gain in-depth knowledge about the challenges faced by WHRDs, purposive sampling technique was used. 60-70 key informants, based on their first-hand knowledge on the topic, were approached and in total 45 KIIs were conducted. A questionnaire based on unstructured questions was used for KIIs.

Along with KIIs, 03 FGDs were conducted and each FGD involved 6-7 people. A facilitation guide comprising of unstructured and semi-structured questions were designed for FGDs.

### Secondary Data Collection

To gather in-depth secondary knowledge on the topic, scoping-study method was employed which enabled the study to explore the topic beyond the boundaries of the research question to map the key concepts, main sources and types of evidence already available on the topic.

Secondary data sources included both research and non-research material available on the topic i.e. books, journal articles, published researches, newspapers, and fact-finding reports.

<sup>3</sup> [https://digitalrightsfoundation.pk/aurat\\_march\\_backlash\\_and\\_the\\_continuum\\_of\\_misogyny\\_from\\_the\\_street\\_to\\_facebook\\_pages/https://hamarainternet.org/spike-in-online-harassment-against-women-post-aurat-march/](https://digitalrightsfoundation.pk/aurat_march_backlash_and_the_continuum_of_misogyny_from_the_street_to_facebook_pages/https://hamarainternet.org/spike-in-online-harassment-against-women-post-aurat-march/)

### Tracking Hate Speech Pattern

To combine and analyze the pattern of hate speech faced by WHRDs on social media, an online desk review was also conducted for a period of 30 days. Several hot posts were selected from different pages/profiles of Facebook and Twitter which were particularly addressing women's rights to track and analyze the responses against the post.

An approach based on two steps was employed to track and analyze the online hate speech pattern against WHRDs. First, context-specific and representative tweets, posts and comments were gathered. Second, after collecting relevant data, the text was classified to ensure any specific trends of hate speech in the selected data.

### Legal Review

The purpose of this review is to identify laws that prove to be hurdles for WHRDs. This review draws from primary and secondary sources of information. The primary sources are from interviews conducted with the informed participants from the legal field; Advocates and Legal Aid Providers. Etc. The secondary sources of information are gathered from a desk review of the existing laws.



### Data Analysis

To identify patterns in each of the study's themes/objectives, thematic analysis was employed with the latent approach in particular. Being quite flexible and not tied to any particular theoretical perspective, the thematic approach helped analysis move beyond what has been said in the collected data. It paved the way for underlying ideas and assumptions to come on the surface.



### Case Studies

For a careful and complete investigation of challenges faced by WHRDs, 02 Case Studies were conducted in total. The case study participants were selected through purposive sampling. Case study interview guide was primarily based on semi-structured questions.



## Literature Review

### Violations of Fundamental Human Rights and Women Rights

The Universal Declaration of Human Rights (UDHR) and its two subsequent documents, International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic Social and Cultural Rights (ICESCR) had laid all the fundamental human rights applicable to everyone regardless of the gender. However, women's rights are far from equality and have been subject to frequent violations since time immemorial. Violations occur daily by ordinary people and organized groups on various grounds. (The Advocates of Human Rights)

### Gender Inequality, Global and Domestic Context

At the global level where significant improvements have been noticed in terms of gender parity, there are numbers of important areas in which gender equality is far from improvement, for instance; global gender parity in terms of political participation is still at 77.1%, in terms of economic participation and opportunity is at 41.9%. Out of 149 countries, there are only 17 countries where women are serving as heads of states and only 18% ministries and 24% parliamentarians globally are women. (Forum, Global Gender Gap Index, 2018)

While according to Global Inequality Index, Pakistan has only 20% women representation in the legislature, 24% in the labor market and only 27% of adult women have been able to receive secondary level education. It has been ranked at 133 out of

160 countries in terms of gender inequality. (UNDP, Human Development Indices and Indicators: 2018 Statistical Update, 2018)

Similarly, according to Global Gender Gap Index 2019, Pakistan has been ranked 146<sup>th</sup> in terms of economic participation, 145<sup>th</sup> in term of health and survival, 97<sup>th</sup> in terms of political participation and overall 148<sup>th</sup> out of 149<sup>th</sup> in terms of gender parity (Forum, Global Gender Gap Index, 2018). Moreover, Gender based violence has been rampant throughout history and there has been little attention paid to curb this menace and that is primarily due to lack of understanding of gender based violence. (Foundation, 2011) Also, violence against women costs Pakistan's economy millions of dollars annually. (Social Policy and Development Centre (SPDC), 2019)

Violence against women takes many forms and prevails primarily due to patriarchal culture and it is the lack of education, access to police stations, and feudal mindset, etc. which is the root cause of this patriarchal culture. (SDPI) also, a country that came into being in the name of Islam has always witnessed mobilizing the religion against the oppressed especially women. (Bhattacharya, 2014)

### Why Gender Equity

Violations of women's rights prevail in almost every part of the world however; its scale differs from country to country. A study conducted by Miles contends that it is not merely a matter of violation of rights, rather

it acts as a catalyst of why many parts of the world could not achieve in terms of economic and societal development. (Miles, 2007) According to one discussion paper collectively produced by UN WOMEN and UNDP, gender equality is integral to achieving a wide range of Sustainable Development Goals (SDGs) by helping economies grow at a much faster pace and eventually reducing poverty. (UN Women, 2018) Another report by UNDP suggests that gender inequality is the basis for social and economic stratification and that the wellbeing of society goes well beyond equality in educational and health rights to agency, empowerment and subjective wellbeing. (UNDP, 2013)

### Who are HRDs/WHRDs

However, violations of human rights do not go unseen and unheard by all, and there are always groups of people advocating, supporting, or aiming to reform a certain situation- these people are known as HRDs. While HRDs include the people who advocate and address issues of violations of human rights, WHRDs advocate women's rights, in any capacity. (Sekaggya, Report of the Special Rapporteur on the situation of Human Rights Defenders, 2010)

WHRDs can belong to any profession. They can be individual activists, human rights lawyers, journalists, members of political parties, or members of any civil society organizations who are fervently fighting for Women's Rights. (Saeed, 2018) (Colombia, 2011)

### Challenges of HRDs/WHRDs: Global and Domestic Situation

According to UN special rapporteur on the status of HRDs/WHRDs are subject to many violations of their human rights in most parts of the world and the situation gets worse in countries where no formal protection mechanism or policies are in place. They often face more violations when they challenge cultural norms and traditions of a particular society that are in some way causing violations of human rights. These issues mostly include sexual rights, sexual health rights and issues related to gender identities. Apart from regular hate crimes and threats, female WHRDs are also at risk for gender based violence, otherwise known as threats specific to women i.e. rape, verbal/physical abuse and defamation, etc. (Forst, 2019) (Patel, 2016) (Safer, 2019) (Coalition, 2015)

In the case of Pakistan, a baseline survey was conducted by the Democratic Commission for Human Development, on challenges and risk assessment of WHRDs in Pakistan. According to the study, 48% of the organizations, working on women's rights, received threats at some point and it has also established that it has always been difficult to work for human rights in Pakistan. (Development, 2016) Despite the significant number of facts, this study doesn't include the in-depth analysis as to what type of hurdles, or challenges these WHRDs face and what are the actual factors behind these challenges.

### Protection of HRDs/WHRDs in Global and Domestic Overview

The first-ever World Report on the Situation of HRDs concludes that despite growing

recognition of the significance of protection of HRDs, HRDs/WHRDs continue to face violations of their human rights. These violations include threats, physical and psychological abuse, killings, state-backed surveillance, legislation to criminalize human rights-related work, attacks on their right to freedom of assembly and association. It also highlights the fact that the Declaration on Human Rights Defenders (DHRD) continues to be incompletely incorporated in domestic laws in almost all countries. (International, 2017) (Forst, WORLD REPORT, 2018)

Pakistan has a high number of HRD killings which includes lawyers & NGO workers. A large number of these are women such as Sahib Khatoon who was shot dead by her husband because of his disapproval of her work with women's rights NGO. Malala Yousufzai, who was shot for her campaign for the girl's right to education, and Parveen Rehman who was killed after advocating work in the slums of Karachi. Several women health workers were also killed during polio campaigns and other drives, not to mention the countless cases that have been overlooked, forgotten, or not reported. (Hadi, 2017)

Over the years, Pakistan's law enforcement agencies have been severely criticized for being unable to protect human rights activists from harm and the country is criticized for not valuing the efforts that these activists put into promoting and protecting human rights. While activists working on cultural inequality, religious freedom, corruption and the right to freely vote are ostracized and face hardship, it has

been duly noted that WHRDs are in equal if not more danger. (Hussain, 2018) (HRCP, 2015)

UDHR enforced by the United Nations (UN) in 1998 makes it essential to protect and provide security to human rights' defenders- including those who are advocating women's rights. The declaration is not enforceable by law and is thus often disregarded. (Adami, 2018). Therefore, in an economically deprived country such as Pakistan, protecting human rights activists may not be the main priority and has not been given due attention.

Despite provisions of all the fundamental rights in its constitution, violations of these rights have been rampant throughout the history of Pakistan.

In the past few years, Pakistan has also made significant changes in the law to favor women and protect their rights. These only cover common women and there is no provision for urgent protection of activists/WHRDs. The Criminal Law Act (Amendment) 2010, regarding sexual harassment, Protection Against Harassment of Women at the Workplace Act, 2010, Prevention of Anti-Women Practices (Criminal Law Amendment) Act 2011, and the Acid Control and Acid Crime Prevention Act, 2010 are some examples of laws set to tackle the oppression that women may face in different aspects of life. Although commendable actions, the implementation of punishments for people breaking these laws is still not satisfactory or does not serve as a detriment to these crimes. (Watch, 2018) Moreover, gender-biased attitudes in

LEAs and slow judicial processes often make female victims reluctant to seek justice in case of violence against them. (refworld, 2016)

For HRDs/WHRDs, however, Pakistan does not have any specific laws and despite its many international commitments, it is still far from introducing any specific measures to protect the group. (Forst, WORLD REPORT, 2018)

Some studies while highlighting the need for protection of HRDs/WHRDs also stressed the need for careful consideration of the risks and needs of the group, for instance, Alice M. Nah, Karen Bennett, Danna Ingleton, and James Savage contend in their collective study that to strengthen the protection mechanisms for HRDs/WHRDs, there is a huge need of research in many areas pertaining to HRDs including WHRDs. These areas include: definition of HRDs, risk perception of HRDs, gender and diversity, the use of legal and administrative mechanisms for repression, Strategies, and tactics for protection for human rights and technological and digital security of HRDs. (Nah, 2013)

Another study highlights the need to take state power into account while assessing risk perceptions of HRDs/WHRDs. According to this study, it is important to explore how different forms of state's power i.e. state's resource power, process power, symbolic power, and system power, influences the financial, psychological, physical, and social performance risks of HRDs. (Hulst, 2014)

## Digital Environment for HRDs/WHRDs

Similarly, with the growing technological advancement and the growing presence of people in the online sphere, the issue of cyber rights has come into the limelight for a while now. This narrative realized into reality when landmark resolution was passed by UN Human Rights Council (UNHCR) on 22 July 2012 (Nations, 2012) and again in 2016 when again a resolution was passed calling on states to ensure the safety of their citizens online. (Nations, Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development, 2016)

Access to internet services has made access to information and communication, with those who might be out of reach otherwise, easy. Where it has brought a lot of positive features, it has also made vulnerable those who are quite vocal on it. It has increased the rate of harassment, abuse, threats, and violence over the past decade. With increasing vulnerability in online space, it has also introduced the dire need for protection online. (Udoh-Oshin, 2017)

## Gender and Social Media

Over the years, the presence of common masses over social media has grown at a rapid pace, opening up debates around its significance and harm. Where it has given voice to all the marginalized groups especially women, it has also turned out to be an organized source of bullying,

harassment, threats, and attacks. Patriarchy, which is the main source of the oppressive state of women in the offline world, has also taken over the online world eventually turning into a huge challenge for online activism as well as for online activists (Rajeesh Kumar TV, 2018) (Jurasz, 2019) (Siapera)

### Social Media and Activism

With many great features, online activism has also undeniably brought a revolution in the fight for rights of the common. It has made easy to mobilize masses for a common cause. With tools like online petitions, large-scale campaign websites and verbal protests. It has also made easy to seek justice which otherwise was comparatively difficult to achieve. (Yang, 2009)

However, with increasing access to the general masses, online activism has made activists more vulnerable to the backlash, threats, abuses, and harassment. They face increasing challenges for their safety and security. Moreover, they are continuously being subject to state surveillance, directly i.e through restrictive legislation or indirectly through continuous monitoring by secret institutions. It has also increased vulnerability to non-state actors who through different online campaigns try to harm or influence masses in general and activists in particular. (Uldam, 2018) (Jackson, 2018)

In Pakistan, social media acts as effective tool for bringing attention of the masses to the causes of concern, for disseminating information for protests and other social

demonstrations/protest, stimulates discussion on social causes and connects politicians to their constituencies but with all these pros, there are serious risks posed by it, for instance, it causes political divisions, human rights violations, it also gives an easy platform to extremist mind and with weak regulation, it often gives space to unethical content sharing, (Kugelman, 2012) However, this study lacks the in-depth study of challenges faced by online activists.

The above literature shows a significant amount of evidence on issues and challenges around HRDs/WHRDs however, no specific, concrete and in-depth evidence has been found regarding the challenges of WHRDs in Pakistan. Hence, this study is primarily focused on bringing clarity in the evidence regarding challenges of WHRDs in Pakistan specifically by exploring their challenges in three different aspects i.e. general challenges, legal challenges, and challenges they face online.

## Findings of The Study

Respondents of the study included WHRDs from diverse professions regardless of their gender and age i.e. **Individual Activists, Lawyers, Journalists, Members of Civil Society, Social Media Activists**, and so on. The analysis is based on the careful and in-depth consideration of the KIIs, FGDs and Case studies. This section primarily aimed at exploring the multi-faceted challenges faced by WHRDs regarding their work and protection in both online and offline spaces.

“Challenges to many human rights defenders (HRDs) - both women and men include death threats, physical attacks, arrests, enforced disappearances, job terminations, censorship, forced exile, and so on.”

Tahira Abdullah.

### 1. All Inclusive Challenges

#### A. Dangerous rather than difficult

Working on women’s rights has never been easy for WHRDs in any part of the world but the degree of hassle varies from place to place. When asked about how it is to be a WHRD in Pakistan, our respondents unanimously expressed that being WHRD is a dangerous, often deadly job because of being often at risk of physical and emotional abuse, online and offline harassment, death and rape threats, state surveillance and because of no efficient protection mechanism in place, many times they have to

stop their work for a while, prefer to stay away from the field and reduce their online activism to cope with the threats and harassment.

#### B. Female WHRDs more at risk

As Pakistan continues to remain one of the most challenging places for those who defend human rights or women’s rights, in particular, the intensity of oppression, human rights violations, misogynistic attacks, physical and psychological harassments get doubled when it comes to female WHRDs. The majority of respondents expressed that it is much more difficult for a woman to be a WHRD in Pakistan as all the above-mentioned risks are generally faced by female WHRDs. They are more at risk of being perceived as anti-culture, anti-religion, anti-traditional family norms and promoters of vulgarity and these perceptions put them more at risk of harassment, death, and rape threats, defamation, etc. Participants also responded that male WHRDs are also at risk of verbal abuse, humiliation, abduction and other serious crimes; however, their frequency is less than that of female WHRDs.



**Women are not taken seriously enough. When a woman starts talking people think she has some other interests, she is doing it for other reasons e.g. publicity, fame, money. WHRD will be raped; woman’s character maligning happens. When two men are seen with a woman, the woman is immediately declared immoral.**

Sheema Kirmani

### C. Social stigmatization impedes endeavors of WHRDs

Negative connotations like western agenda, anti-Islam agenda, promoters of vulgarity, anti-cultural agenda and NGO's agenda, attached to WHRDs lead to the social stigmatization which adversely affects the endeavors of WHRDs. The significant majority of respondents expressed the social stigmatization as their biggest challenge as according to them it negatively impacts the general public's perceptions and level of engagement with women's rights issues eventually impacting their efforts. Stigmatization also impacts WHRD's risk perception and they might not choose to go and work where they see themselves as vulnerable to various risks because of their already tarnished reputation.



**You know how they can allow us to be shareholders in decision making, financial resource management, and political participation; if they do so they will have to share their power which they would never want to share**

**Qurrat Mirza.**

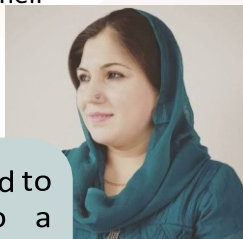
### 1.2 Response Mechanism Gaps

#### A. The response is the prerogative of the privileged

A significant number of respondents expressed that the effectiveness of their interaction with the LEAs primarily depends on the background they are coming from. Apart from what action will be taken after the complaint registration, to get their complaint registered itself requires them to belong to a privileged background. Complaints backed by massive mass media/social media campaigns, protests or

The negative connotations attached to us and our work lead us to a vulnerable situation where we, sometimes feel threatened to interact with communities because of their negative perceptions about our work and hence it impacts our performance.

**Shad Begum**



### D. Matter of power and patriarchy more than a threat to culture or religion

True equality can be achieved when due share within homes to the sphere where decisions are taken is given to everyone regardless of their gender. However, it was studied that the problem primarily lies within the unwillingness to share the due share. Culture and religion are often misused as tools for silencing those who ask for their due share.

**If culture starts liberating from somewhere, critics start mobilizing religion. I won't be heard just because, I am a woman. They wanted us to talk about the correct feminism. Culture starts mobilizing against us or religion starts mobilizing against us or the laws are made to mobilize against us.**

**Huda Bhurgri**



**If I go the police station, they will entertain me because there is an organization behind me, I have 25000 followers over social media, people know me and they know they have to register my complain and entertain me, But if someone other than me is there, the response would be altogether different.**

**Huda Bhurgari**

sit-ins are easier to get entertained compared to those who go individually and do not hail from a strong background.

### **B. Gender insensitivity and gender biases in LEAs and slow response mechanisms prevent female WHRDs from Seeking Justice**

The results of the study show, that it is much more difficult for female WHRDs to interact with LEAs in case of any emergency. A significant majority of female WHRDs expressed the concern that it becomes a matter of humiliation for them when they think of seeking protection from any of the LEAs. Police behavior, police station culture and discrimination which women face at police stations for reporting or seeking any remedy becomes an impeding factor.

In 2011 or 2012, I took a girl to a police station and I told the policeman that I am from this organization and the case is serious but he was busy smoking his cigarette and replied that we deal with such cases daily and it is nothing serious. He also added that if police started entertaining these harassment cases then they won't be able to do any other work. Many females are asked not to complain and keep the matters at home.

**Khursheed Bano.**

### **C. Lack of proper implementation of Laws**

According to a unanimous response by the respondents, the problem is more with the implementation of laws. Many expressed that there are laws that are considered as a good step toward ensuring the safety of women in general and WHRDs to some extent, but the problem is with the weak implementation mechanisms and absence of check and balance over the implementation of policies and those who implement these policies.



"There are already several laws enacted to promote human rights, especially for women, girls, transgender persons and persons living with disabilities (PWDs), but their in-effective implementation - while strong law to protect the constitutional rights of minorities remain missing. Thus, the federal and provincial governments and the state institutions need to take concrete steps to ensure the rule of law and adherence to the constitution, fundamental human rights, and the international human rights conventions that Pakistan has ratified"

**Tahira Abdullah.**

### 1.3 Case Study of Khurshid Bano

Belonging to a family that has always been against the voice of women, Khurshid Bano started her struggle for women rights and gender based violence at a very young age when she was only 10 years old. She continued her struggle informally on a small scale for many years until she materialized her informal struggle for women's rights by establishing an organization with the name "DA HAWA LUR" which mainly works on the women's and trans genders' right; in 2010. In 2015, she formed "KP Working Women Union" whose work was to represent women's voice. Throughout her struggle, she worked for acid survivors, domestic workers, sexual harassment, etc.

In 2011, when she was working for Legal Aid Centre ASHA in Peshawar, Pakistan. She took up the case of a nurse who was harassed by a well-known doctor of the city. While struggling for justice on behalf of a victim, she faced threats to the extent that the harassers chased her daughters and family member that she had to stop her daughters for three months from going to school and eventually had to change their schools. While she was traveling in her car, she was attacked by open firing. Following the car incident, she received a phone call threatening her with rape threats in case she did not withdraw her efforts for the victim. However, nothing could deter her and she continued her struggle for women's rights with even more fervor.



### 1.4 Social Media and WHRDS

#### A. Online harassment and threats inevitable

A significant majority of the respondents expressed that they have been harassed, threatened and abused online because of their activism for women's rights. According to them, online activism increases their outreach to the masses but it also increases the volume and frequency of backlash that they receive which in turn caused them serious anxieties and there are rare cases where anyone who works on women's rights has not received any backlash online.



## B. Online risks can be translated into offline assaults

A significant number of respondents expressed that with increased visibility and weak protection mechanisms, it has become an undeniable matter that those who harass, abuse or threaten them online may follow them offline and harass or abuse them. They expressed that because of their huge following it is difficult for them to catch a person who is involved in trying to harm them and since no effective protection mechanism exists, this situation has made them more vulnerable to threats, abuse, and online harassment.



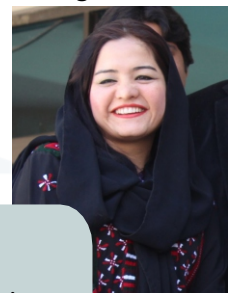
I was in Germany, due to this social media, I don't know how but these patriarchal mindsets found my identity and at that time I didn't reveal my personal profile. I got depressed about my sister who was in Pakistan at that time. They threatened me with the intention of harming my sister.

Mariam Goraya.

## C. Increased vulnerability and ultraslow protection mechanisms

Increased vulnerability and ultraslow cyber protection mechanisms have made many WHRDs to restrict their presence on cyberspace. Many respondents, expressed that they reduced their online presence because of various incidents of online threats and harassment. A significant number of respondents also expressed that they tried to seek protection from Federal Investigation Agency (FIA) in case of emergency but they failed to get the immediate response and in some cases, few of them didn't get any response even after months.

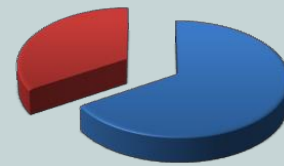
Many respondents also expressed that backlash after Aurat March was unprecedented and those who were severely harassed were left in absolute danger because of the extremely slow response mechanism of FIA cybercrime wing.



Last year I received immense backlash from a certain political party's workers in reaction to the whole propaganda against me. I went to the FIA but they never took any action on my application and I remained in threats for a long time.

Jalila Haider

## Connection between online and offline threats



■ Participants expressed concern

## 2. Hate Speech Pattern

This section primarily aimed to explore any specific trends in the online hate speech against WHRDs. Over the period of one month, the study analyzed over 100,000 context-specific comments or responses on various posts on social media that were primarily addressing women issues. During the analysis, data was classified in to specific trends within hate speech to explore the nature of hatred WHRDs face online.

Some of the hot topics, revolving around women issue, targeted to track backlash on Facebook and Twitter included:

- ❖ WHRDs response to famous Mrs. Khan who also expressed derogatory remarks against women in one of her interviews on television.
- ❖ WHRDs response to famous Pakistani writer Khalil ur Rehman Qamar interview which involved extremely misogynistic comments against women.
- ❖ WHRDs response to public shaming of famous Pakistani Singer Rabi Peerzada.
- ❖ WHRDs posts in defense of Malala.
- ❖ Posts in favor of Aurat March 2018, 2019.



### Hate Speech




More than 100,000 comments were analyzed and out of which only 15% were based on hate speech. These comments, categorized as hate speech, primarily reflected the misogynistic culture and established that religion is mostly mobilized as a tool to justify misogyny.


### B. Religion-oriented hatred


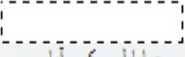
51% of the hate comments contained religious narratives. These comments were explicitly reflecting the fact that those who defend women's rights in any way are perceived as anti-religion.




### TRENDS in Hate Speech





 In kuttiiyon ki is azadi wali awaz ko abhi se dabana chaheye aisa na ho k dair ho jaye.mujey to ye musalman hi nahi lagthi ,shaid ye qadyani ho

Like · Reply · 36w  5

   
میں اللہ کی قسم کھا کے کہتا ہوں کہ اس عورت مارچ یہ ہونے والی ہے شرمی اور بیخبری دیکھ کے میں اگلے ہی دن اپنی پانچ سال کی بیٹی کے لیے پہلی دفعہ عیباً لے کے آیا۔  
الحمد للہ  
اس عورت مارچ نے آنکھیں کھول دیں ہیں کہ ابھی سے اپنی بیٹیوں کی فکر کرنی چاہئے نہیں تو وہ بھی ان جیسی بیخبر ہوسکتی ہیں۔

Like · Reply · 36w · Edited    293

 I agree with this lady. In my opinion females should have to compromise i think after marriage all the females should obey the order of husbands because it is also an islamic order and being a muslim lady according to the islamic teachings "Agar ALLAH ke siwa kisee ko sajdey ka hukm hota tu husband ko he hota " it really means alot and after this quote any argument regarding this conversation is meaningless.

Like · Reply · 12w  1


 مرشد نے مجھے کہا تھا کہ اگر ساری دنیا کے مرد ایک وبائی مرض کی بناء پر مر جائیں اور دنیا میں صرف عورتیں رہ جائیں تب بھی قیامتسٹ انقلاب برپا نہیں ہوسکتا۔  
کیا تمہیں لگتا ہے کہ درست کہا تھا ؟  
Inzemam Sk Sami Ghulam Qadir



Like · Reply · 3w  1


### C. Misogyny-oriented hatred

Around 49% of the comments were reflecting the presence of misogynistic culture within the cyberspace.



 Ye ortn tu khud half man's jsy behave krrihi hain then ksy jan paain gi k orat k ju huqooq ye mang rhi hn wo mery rab nai nhi diye tu ye society q dy gi #behayaortn 🤔🤔🤔 #oaratmarch=#nanganach 🙄🙄🙄

Like · Reply · 36w   5

 lekin agr humne ajj isy na blame kiya to kal ko phr koi larki video bnaye gi mery khayal se isy itna zalel karna chahiye k baki sab ko hidayat ho jaye k esi videos nahi bnani

Like · Reply · See translation · 1w

## 2.1 Case of Huda Bhurghri

Born in a feudal family of Sindh, 26 years old Huda Bhurgri is currently based in Islamabad. She is commonly known as a social media activist but she is also a member of Women Democratic Fund and mainly works for women 's political rights.

Since the day she started raising her voice online on women issues, she has been receiving a lot of backlash, threats and online harassment from the conservative faction of society. On one morning, Mrs. Khan, who runs a famous marriage bureau, appeared on a morning show where she expressed quite derogatory and discriminatory remarks about women.

On these comments, many feminists were offended and one of them was Huda Bhugari. Replying to these comments, Huda Bhugari uploaded a video raising her concern on what Mrs. Khan said about women during her interview. She, however, faced such an immense backlash and threats on Facebook that her mother went into trauma by seeing the level of risk she was at after uploading her video. Seeing her mother in depression

she put down the video for a while. Later, she uploaded the video again ignoring the backlash and decided to stand up for women's rights and continued her struggle from right there.



## 3. Legal Review

### A. Overview

The purpose of this review is to identify laws that prove to be hurdles for WHRDs. This review draws from primary and secondary sources of information. The primary sources are interviews conducted with informed participants from the legal field; Advocates and Legal Aid Providers. etc. The secondary sources of information are gathered from the desk review of the existing laws.

The analysis will shed light on whether the implementation of identified laws and provisions identified are creating an environment which enables WRDs to freely seek their fundamental rights of assembly and expression:

The recommendations and conclusions are intended to investigate the reasons for how there can be better legal protection of WHRDs. The stance of the National Commission on Human Rights and other government bodies, including law enforcement agencies in Pakistan is also examined and explored.

### B. International Law on WHRDs

States have an obligation to prevent human rights violations and to take action when

there are violations against the physical and psychological integrity of WHRDs. The United Nations Declaration on the rights and protection of Human Rights Defenders states;

*“States shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.”<sup>4</sup>*

Moreover, Pakistan is a signatory and has ratified the following International Conventions that protect Human Rights:

- International Covenant on Civil and Political Rights (ICCPR)
- ❖ International Convention on the Elimination of all forms of Racial discrimination (ICERD)
- ❖ International Covenant on Economic, Social, and Cultural Rights (ICESCR)
- ❖ Freedom of Association and Protection of the Right to Organize Convention

<sup>4</sup> [UN General Assembly. United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. \(A/RES/53/144\) 1999. Article 12. We](#)

❖ Convention on the Elimination of All  
Forms of Discrimination against Women  
(CEDAW)

❖ Convention on the Rights of the Child  
(CRC)

However, Pakistan has yet to ratify, the  
Optional Protocol to ICCPR (ICCPR-OP1)  
Optional Protocol to the Convention on the  
Elimination of Discrimination Against  
Women, International Convention on the  
Protection of the Rights of All Migrant  
Workers and Members of their Families  
(ICRMW) and the, Convention on the Rights  
of Persons with Disabilities (CRPD).

### C. Domestic Law on WHRDs

The Fundamental Rights and Freedoms are  
granted by the Constitution of Pakistan and  
other various treaties and Conventions by  
International law. The Constitution of  
Pakistan is equally applicable to all of its  
citizens; men and women, without any  
gender discrimination until a particular law is  
gender-specific. However, as of yet, no  
specific legal provisions exist that deal with  
redressal grievances of a WHRD in particular.

For this review, we will focus our analysis on:

3.1 Freedom of Assembly

3.2 Freedom of Expression

3.3 Policy Guidelines of NCHR on Protection  
of Human Rights Defenders

### 3.1 Freedom of Assembly

#### A. Constitution of Pakistan, Article 16

*"Every citizen shall have the right to assemble  
peacefully, and without arms, subject to any  
reasonable restrictions imposed by law in the  
interest of public order."*

#### B. Universal Declaration of Human Rights Article 20(1)

*"Everyone has the right to freedom of  
peaceful assembly and association."*

#### C. Human Rights Council, Preamble, Resolution 15/21

*"...that the rights to freedom of  
peaceful assembly [and of association] are  
essential components of democracy,  
providing individuals with invaluable  
opportunities to, inter alia, express their  
political opinions, engage in literary and  
artistic pursuits and other cultural, economic  
and social activities, engage in religious  
observances or other beliefs, form and join  
trade unions and cooperatives, and elect  
leaders to represent their interests and hold  
them accountable."*

Exercising this freedom, the Lady Health  
Workers staged a five-day sit-in demanding  
payment of arrears, in March 2018, blocking  
Lahore's famous Mall Road until the Lahore  
High Court (LHC) directed the Punjab  
government to fulfill their demands and end  
the sit-in. However, before their demands  
were met they were, unfortunately,  
manhandled by the Punjab Police.<sup>5</sup>

<sup>5</sup> <https://www.pakistantoday.com.pk/2018/03/30/lhc-directs-provincial-govt-to-end-lhws-sit-in-outside-punjab-assembly/>

#### D. The Code of Criminal Procedure (CrPC)

The limitations to Freedom of Assembly come under section 144 of CrPC the Code of Criminal Procedure, 1898 (Act V of 1898):

*“Power to issue order absolute at once in urgent cases of nuisance or apprehended danger”.*

The governing law of Pakistan’s Criminal Justice system is enshrined in the Pakistan Penal Code (Act XLV of 1860). The Code of Criminal Procedure (CrPC) determines the procedure to be followed during litigation of the Penal Code. Section 144 is extremely broad; it imposes a restriction that can last up to 2 months. Moreover, it empowers authorities to restrict any action that the state might think of being in a nuisance. Violation of Section 144 is punishable under Section 188 of the Pakistan Penal Code. The punishment may range from one month to six months depending on the extent of damage the violation of Section 144 has caused, in addition to Rs. 200 as fine.

#### E. Pakistan Penal Code (Act XLV of 1860)

Another crucial limitation to Freedom of Assembly is also contained in Pakistan’s Penal Code. The Penal Code is a mixture of Islamic and English Law. Crimes and Punishments are dealt with Pakistan Penal Code and other laws. It is the substantive law in Pakistan; creating offenses and prescribing their punishments respectively. Moreover, formal written permission from the Head of District

Police or Assistant or Deputy Superintendent of Police is required in advance of any assembly. This requirement leaves little room for spontaneous assemblies.

Furthermore, there are times when the government is also forced to impose section 141 of the Penal Code, which states the law for unlawful Assembly:

*“An assembly of five or more persons is designated an "unlawful assembly" if the common object of the persons composing that assembly is:-*

**First:** *To overawe by criminal force, or show of criminal force, the Federal or any Provincial Government or Legislature, or any public servant in the exercise of the lawful power of such public servant; or*

**Second:** *To resist the execution of any law, or of any legal process, or*

**Third:** *To commit any mischief or criminal trespass, or other offence; or*

**Fourth:** *By means of criminal force, or show of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or*

**Fifth:** *By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.”*

Justification for limiting freedom of assembly is generally imposed in situations where the protection of public safety and public order is necessary.

One of the recommendations in the 2017 NCHR annual report was for law enforcement agencies to be given specialized training in crowd management to deal with demonstrations, rallies and protests, particularly the avoidance of disproportionate force.<sup>6</sup>

There is a dire need for reform within the criminal justice system. Colombia, for example, recently enacted specific provisions in its Penal Code to recognize that attacks and other violations against human rights defenders are often perpetrated because of their work.

### 3.2 Freedom of Expression

#### A. Constitution of Pakistan, Article 19

*“Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, [or commission of] or incitement to an offence.”*

#### B. Article 19 –A

*“Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law.”*

In 2010, the parliament, under a democratically elected system, passed the 18<sup>th</sup> Amendment to the constitution, bringing in the Right to Information with Article 19.

#### C. Universal Declaration of Human Rights, Article 19

*“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.”*

#### D. Mandate of the Special Rapporteur UN Human Rights Council

*“...promote the exercise of the right to freedom of opinion and expression, including, as a matter of high priority, against journalists or other professionals in the field of information.”*

The Sindh Transparency and Right to Information Act was passed by the Provincial Assembly of Sindh on 13 March 2017 and assented to by the Governor of Sindh on 8 April 2017. The Khyber Pakhtunkhwa (KP) Right to Information Act had been passed in 2013.

#### E. Defamation Law

Defamation is classified as a criminal offense in Pakistan, often subject to harsh penalties under Pakistan’s Penal Code. Cases of Defamation come under the jurisdiction of

<sup>6</sup> <http://hrcp-web.org/hrcpweb/wp-content/uploads/2019/04/State-of-Human-Rights-in-2018-English-1.pdf> Page 157

the District Court as per section 13 of the *Defamation Ordinance, 2002*. The law for criminal defamation is contained in section 499 of the Penal Code. Punishments for criminal defamation are stated from section 500 to 510, respectively. Section 500 of the Penal Code<sup>7</sup>; in particular states:

Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.”<sup>8</sup>

#### F. Prevention of Electronic Crimes Act of 2016

The Prevention of Electronic Crimes Act, 2016<sup>9</sup> has been regarded as a serious attempt to curb internet freedom. When it was being developed, the bill met heavy resistance from civil society groups that campaigned vigorously against the regressive provisions being incorporated in the bill. Not only the civil society was kept out of the consultative process and its recommendations side-lined, but the PECA also earned criticism by the United Nations Special Rapporteur on freedom of opinion and expression for its content, including vagueness of its provisions.

Moreover, section 34 of the broadly framed Prevention of Electronic Crimes Act 2016 gives the government powers to block access to information in the interest of the

*“Glory of Islam or the integrity, security or defense of Pakistan -public order, decency or morality”*<sup>10</sup>

Furthermore, section 34 allows complainants to file petitions with the PTA to block any content in question. PTA can act unilaterally against such content, without acquiring a court order. Online defamation is subject to the Prevention of Electronic Crimes Act of 2016.<sup>11</sup>

As section 18(1) states:

*“Whoever intentionally and publicly exhibits or displays or transmits any information through any information system, which he knows to be false, and intimidates or harms the reputation or privacy of a natural person, shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to one million rupees or with both.”*<sup>12</sup>

This threatens the work of journalists, bloggers, citizen journalists, whistle-blowers, researchers, academics, and NGOs seeking to carry out analysis and highlight public issues for accountability. Such as, section 10 of the Act; as it poses the risk of linking political expression and online campaigns with threat to public order. As observed by Digital Rights Foundation, the Pakistan Telecommunications Authority has been granted “unlimited powers”.<sup>13</sup>

In April, 2018, the Chief Justice took suo moto notice of police action against protesting local and foreign journalists, and

<sup>7</sup> [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/PAK/INT\\_CCPR\\_CSS\\_PAK\\_27665\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/PAK/INT_CCPR_CSS_PAK_27665_E.pdf) <sup>8</sup> <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>

<sup>9</sup> [http://www.na.gov.pk/uploads/documents/1470910659\\_707.pdf](http://www.na.gov.pk/uploads/documents/1470910659_707.pdf) <sup>10</sup> *ibid* <sup>11</sup> <https://www.dawn.com/news/1506467>

<sup>12</sup> [http://www.na.gov.pk/uploads/documents/1470910659\\_707.pdf](http://www.na.gov.pk/uploads/documents/1470910659_707.pdf) <sup>13</sup> <https://dailymirror.com.pk/64033/critics-highlight-issues-in-cyber-crime-bill-passed-by-na/>

members of various associations who wanted to present a charter of demands to Parliament. The protestors were marching to mark the International Press Freedom Day. According to the police, they attempted to break the police cordon preventing them from reaching Parliament. The Chief Justice held that the journalists' protest was peaceful, and that it was inappropriate to use force against women and peaceful protesters. telecommunications systems entirely.

### G. Online Censorship

The Pakistan Telecommunications Act 1996 is the basis for much online censorship of political and social content, often in the name of protecting national security. This includes generic blocking and filtering. The Act also provides extensive surveillance powers and the power to shut down

### 3.3 Policy Guidelines of NCHR on Protection Human Rights Defenders

As of yet, there are no specific legal provisions that are dealing with grievances of WHRDs in particular; what there exists are the guidelines of the NCHR, to be read along with, the NCHR Act 2012, which empowers the commission and provides it with a mechanism and procedure for taking up complaints and investigations, through use of investigation agencies of the federal and

provincial governments, into violations of Human Rights by state or non-state actors upon a complaint.

Under the guidelines, the NCHR as per its guideline No.13, undertakes to ensure prosecution against any act of harassment, intimidation and violence against HRDs. Therefore, the guidelines stress upon the protection of HRDs. On the subject of WHRDs the guidelines note;

*"[T]he Commission recognizes the special protection needs of Women Human Rights Defenders (WHRDs). The Commission shall take immediate action against any threats or aspersions attributed to any women HRDs. The Commission will co-operate with the National and Provincial Commissions on the Status of Women to develop specific protection guidelines for women HRDs."*

A process of accountability is mentioned in the NCHR Act of 2012; however, this is not enough. A single NCHR cannot be held accountable for all vast number of cases that involves endangerment to the HRDs. Moreover, NCHR policies are not as powerful as legislation itself as it is non-binding upon the judiciary, who face cases of HRDs every day. Moreover, inadequate or lack of laws may also affect the important work of lawyers

and who are also human rights defenders. It is a strong opinion, shared by many, that the government should take action and formulate law and that the NCHR needs additional backing. It is also the opinion, held by many that the police agencies require dire reform. Pakistan has affirmed in its election pledge to the Human Rights Council that it is

*“firmly resolved to uphold, promote and safeguard universal human rights and fundamental freedoms for all.”*

### A. Recent Developments

Quite recently, members of the provincial assembly Asia Saleh Khattak and Dr. Asia Asad, have moved to pass legislation to protect the legitimate rights and fundamental freedoms of HRDs. The bill is a move in the right direction as per the "KP Human Rights Policy, notified by the Law Human Rights and Parliamentary Department in 2018"

Asia Saleh Khattak states: "The bill is developed in consultation with civil society organizations, and is based on the model law for the Recognition and Protection of HRDs that articulates the United Nations Declaration on Human Rights Defenders."

Moreover, civil Society Activist Qamar Naseem has also said: *“HRDs work to improve societies and contribute to peace and democracy. Defenders are agents for positive change and development. They play a key role in protecting human rights violations and in advancing universal human rights”.*<sup>14</sup>

## B. Recommendations

### B1. Provisions of Pakistan Penal Code

#### Section 153A

Another law which usually governs the prohibition and the punishment is section 153A of the Pakistan Penal Code.

Both speech and writings which are loaded with capacity to disseminate enmity, hatred, ill-will among different groups and communities have been proscribed and made punishable for imprisonment of three years or fine or both. The purpose was to penalize fissiparous communal and separatist tendencies, and secure fraternity so as to assure the dignity of the individual, and unity of the nation"

<sup>14</sup> <https://www.theekhybertribune.com/2019/10/21/legislation-moved-in-khyber-pakhtunkhwa-assembly-for-recognition-and-protection-of-human-rights-defenders/>

## B2. Section 505(2)

Although Pakistan Penal Code has enough provisions to contain and control a hate speech, however, the limit of prohibition was broadened increasingly, inserting new provisions in form of Sections 295-C, 298-A, 298-B and 298-C.

Besides these laws, the Section 505(2) also criminalized a hate speech which promoted “disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities”, “on grounds of religion, race, place of both, residence, language, caste or community or any other ground whatsoever”.

It resembles to the Section 153-A of the Code as both require that promotion of enmity must be between two groups or classes, excluding an enmity within a same group. However, the distinction between the two sections is that the Section 505(2) not only requires making of statements only but to punish an accused, necessarily, the statement must be published as well.

## B3. Provisions of the Code of Criminal Procedure (CrPC)

There is criminal liability imposed by the Pakistan Penal Code as discussed above. However, procedural barriers under the Code of Criminal Procedure (CrPC) make it impossible to prosecute and punish an accused. The prohibition has been qualified, limiting scope of hate speech laws, under section 196 of the Code of Criminal Procedure, which requires that such a criminal case could only be initiated by a federal or a provincial government.

Instead, new recommendations like the Punjab Protection of Women against Violence Act 2016<sup>15</sup> for example can provide civil remedies such as protection orders, residence orders and monitory orders for WHRDs. The problem is not limited to absence of law alone, which one might argue is there, but persistence of human right abuses and threats to WHRDs rest with lack of implementation mechanisms and understanding thereof:

<sup>15</sup><https://www.af.org.pk/news/1486547583.pdf>

- ❖ Understanding the special vulnerabilities of WHRDs, a law should be formulated to legally increase their protection measures. It should consider the urgency of the need and the types of vulnerabilities that they face, especially gender sensitive.

There is an absence of adequate female representation in law enforcement agencies and the superior judiciary, which remain areas of concern hampering the development of judicial law and enforcement mechanisms through women perspectives.

- ❖ It is extremely important to re-examine the role of the police. Better training and gender sensitization must be ensured and corruption should be controlled.
- ❖ It is also important to keep regular monitoring and checks on judgments to eliminate anti- women societal bias.
- ❖ State machinery should consider the changing culture due to mainstream and social media. Increased awareness and literacy rate have made women and men aware of their rights, thus when their rights are not met, they organize protests. Instead of considering all protests as Anti

Islam or Anti-Pakistan their demands should be understood and cooperation should be ensured.

### C. Legal Review Conclusion

It requires a comprehensive and sustainable struggle to contain the problem, promoting principles of tolerance, peace, harmony and mutual respect of different opinions, trusting in human rights and democracy. Instead of adopting a more nuanced approach towards cybercrimes and providing laws that secure the interest of citizens and safeguard fundamental rights, the legislature has focused on providing a law that prioritizes national security.

It is important to note that since the 18th Constitutional amendment, with the removal of the concurrent list, there has risen a legislative gap, where, either the provinces lack coherence with their legislations, thereby creating substantial difference to otherwise common legal approach, or simply fail to match the legislative developments occurring in other provinces. One way to move past this is for the Federal Assembly to formulate model legislation, which though limited in applicability, would work as a guide, enabling the provinces to follow, strengthened with a convention for

provincial assemblies to adopt the same within a certain time frame, upon failure of which, the subjects of the provincial assemblies should have a right to petition for enactment and implementation of model legislation ipso facto to the provinces.

Moreover, each province has its own dynamics with which the problems, although similar at the core, differ due to diverse cultural heritage. Article 144 of the constitution can be invoked with consent of the provincial legislatures enabling the Federal Government to make model legislation for the provinces themselves. However, in areas of human rights concerns and importance the federal legislature retains legislative competence to enact legislation.



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## 4. Conclusion and Recommendations

### A. Conclusion

The study thus concludes at the fact that WHRDs in Pakistan are facing serious challenges in terms of their work and security. It established the fact that female WHRDs even facing triple jeopardy. Moreover, there are no concrete protection mechanisms in place and the laws that exist are often not implemented properly. Above analysis also sheds light on the fact that WHRDs, especially female WHRDs, are often reluctant to visit LEAs because of their insensitivity towards issues and gender-bias attitude. Last but not least, online environment for WHRDs is even more challenging with very inefficient and slow protection mechanism in place.

### 4.1 Bridging the gap between WHRDs and common masses

- ❖ Grant special recognition to the work of WHRDs in the academic and training curriculum to protect the rights of women and those who defend women's rights in the long run.
- ❖ Organize massive public awareness campaigns to recognize the efforts of WHRDs and to eliminate negative connotations attached to them and to promote a positive image of WHRDs.

### 4.2 To protect WHRDs

- ❖ Grant legal recognition to the issues of WHRDs by developing and implementing special laws and protection mechanisms for WHRDs.
- ❖ More female representation in the police system
- ❖ Taking input of WHRDs in shaping the fresh protection mechanisms would be an added advantage.
- ❖ Police and other LEAs should be sensitized to ensure urgent action for WHRDs when they want to seek protection.
- ❖ Gender sensitization sessions should be a mandatory part of LEAs basic training to ensure the elimination of gender biases in the attitudes of the official.

### 4.3 To make cyberspace safer for WHRDs

- ❖ FIA's cybercrime wing should be enhanced both in terms of financial and human resources to ensure its efficiency to deal with the huge influx of complaints calling for immediate action.
- ❖ Massive social media campaigns should be organized to aware people of laws and protection mechanisms protecting cyber threats, abuse, and harassment.

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## Interviewee Picture Gallery



## Interviewee Picture Gallery



# Interviewee Picture Gallery



**SPEAK** is a **youth** focused organization promoting **Human Rights, Gender Equality and HIV & AIDS prevention & awareness.** SPEAK is youth led and run by a **group of like-minded passionate individuals and volunteers** working to mobilize and advocate for the rights of **the marginalized communities.**

**Our Vision is “An inclusive and empowered society with citizens actively advancing human rights, gender equality and HIV prevention and response”**

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Office # 403, 4th Floor, Royal Suite Plaza, E-11/2 , Islamabad.