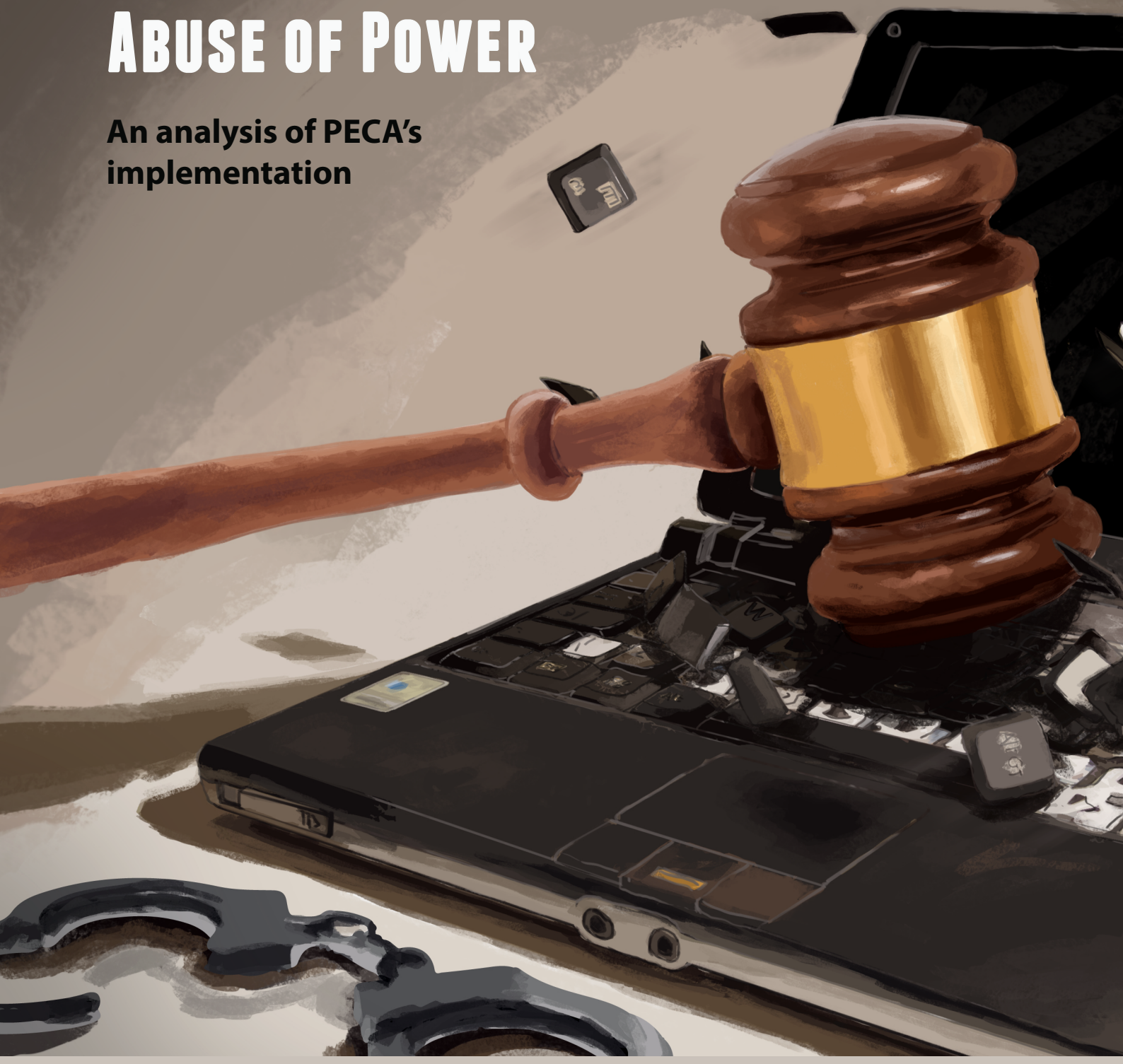
Bottlenecks, Incompetence and Abuse of Power

An analysis of PECA's implementation



MediaMatters forDemocracy
Policy Research & Advocacy Initiative

چارہ گر
LEGAL AID FOR DIGITAL EXPRESSION

Bottlenecks, Incompetence and Abuse of Power

An analysis of PECA's implementation

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Foreword

Back in 2014, when the serious advocacy for amendments in Prevention of Electronic Crimes Bill (now Act) started, digital rights advocates were told something again and again – there is nothing in the law that isn't already regulated and/or included in other legal instruments like Pakistan Penal Code, PPC and Anti Terrorism Laws.

The government continued to discredit civil society concerns and created an impression that the red flags, being identified by the activists, were simply a product of their own flawed approaches – we were called fear mongers, hyperbolic, lobbyists and protectors of commercial interests, agents and at worst told that the government did not know whether we were bonafide organizations. In essence, the government had many labels for people like us and not much to offer to offset the concerns we had.

We did succeed in getting some amendments through. The government did accept some criticism. But, the law that was passed in 2016 was still flawed and regressive in essence.

Media Matters for Democracy (MMfD) has published multiple reports highlighting our concerns with the law and offering recommendations for improvement. In our first comprehensive review of PECA 2016, we take a look at the procedural issues that have defined the implementation of the law.

We hope that this report will help digital rights advocates by providing evidence based information about the gaps and flaws of the implementation process.

Sadaf Khan
Co Founder / Director
Media Matters for Democracy
October 2018

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Chapter 1

Executive Summary

This study presents a brief overview of the implementation of Prevention of Electronic Crime Act, 2016 (PECA). The study is based on two case studies; first, an overview of procedural and other issues with FIA's performance and second, a thematic overview of the use of PECA to crackdown on political activists and journalists. The case studies demonstrate various systematic failures in the implementation process, mainly;

i. **Lack of resources –** Lack of resources provided to Federal Investigative Agency (FIA), including human resource, financial resources and technical resources (forensic lab), is the first and foremost challenge that is negatively affecting the implementation of the law.

ii. **Abuse of power / arbitrary implementation of law –** The agency is taking a regressive attitude towards sections linked to expression and information. Crackdowns against journalists, bloggers and political workers / activists who are vocal online have been documented. Oftentimes these crackdowns have included disregard of legal procedure. This abuse of power and arbitrary selection of people against whom the law is operationalized has created a distrust of the law and affected its effective implementation.

iii. **Confusion in jurisdiction –** In various documented cases, the accused were charged under multiple laws, including relevant sections of the Pakistan Penal Code (PPC), anti terrorism laws and PECA. This creates a confusion about the relevant court of law making trails more complex and challenging.

iv. **Issues of capacity –** The law engages with a relatively newer branch of criminal procedures, one in which the legal fraternity and the judiciary does not have much experience. To offset the challenges arising from the lack of comprehension / understanding of digital crimes and evidence, the judiciary was to be trained in the same manner. However, there has been a lack of capacity building exercise that has had an impact on effective implementation of the law.

To improve the implementation of the law, the following recommendations have been made;

1. The government should ensure the provision of better resources to the FIA.

2. The government should ensure transparency in implementation methods and procedures, especially with regards to censorship of online content.

3. The government should expedite setting up of independent forensic laboratory.

4. The government should draft amendments to ensure subjective sections are further clarified.

5. FIA should submit periodic reports on the status of implementation of the law to the parliament.

6. FIA should conduct internal review with reference to allegations of arbitrary application of the law and professional misconduct.

7. FIA should ensure sensitivity trainings of FIA officials especially with regards to cases of harassment of women.

8. The judicial academies should ensure and expedite training of courts and judges designated under PECA.

9. Civil society should work to improve and build capacity of legal fraternity to understand the cybercrime framework and develop knowledge of international best practices in the jurisdiction.

Chapter 2

Introduction to the report and to legal procedure

Much has been said and written about PECA and its human rights implications even before it was passed. Activists, politicians and journalists alike have raised concerns particularly about its connection to freedom of expression and access to information. Another concern, that was raised through out the one and half year that activists engaged with the government for amendments in the draft bill, was the potential for subjective interpretation and arbitrary application and thus abuse of power. The expansion of the criminal legislation into an arena that is not traditionally seen as 'cybercrime' was also seen with concern – for those advocating for amendments, it was obvious that this law would not only have serious implications on online journalistic and political expression, but would also stretch law enforcement agencies in a different direction.

The purpose of this report is two fold – first, to see how FIA is dealing with investigations and second to see how the judicial process linked to cases under PECA has progressed. For the same, the study looks through the lens of two case studies;

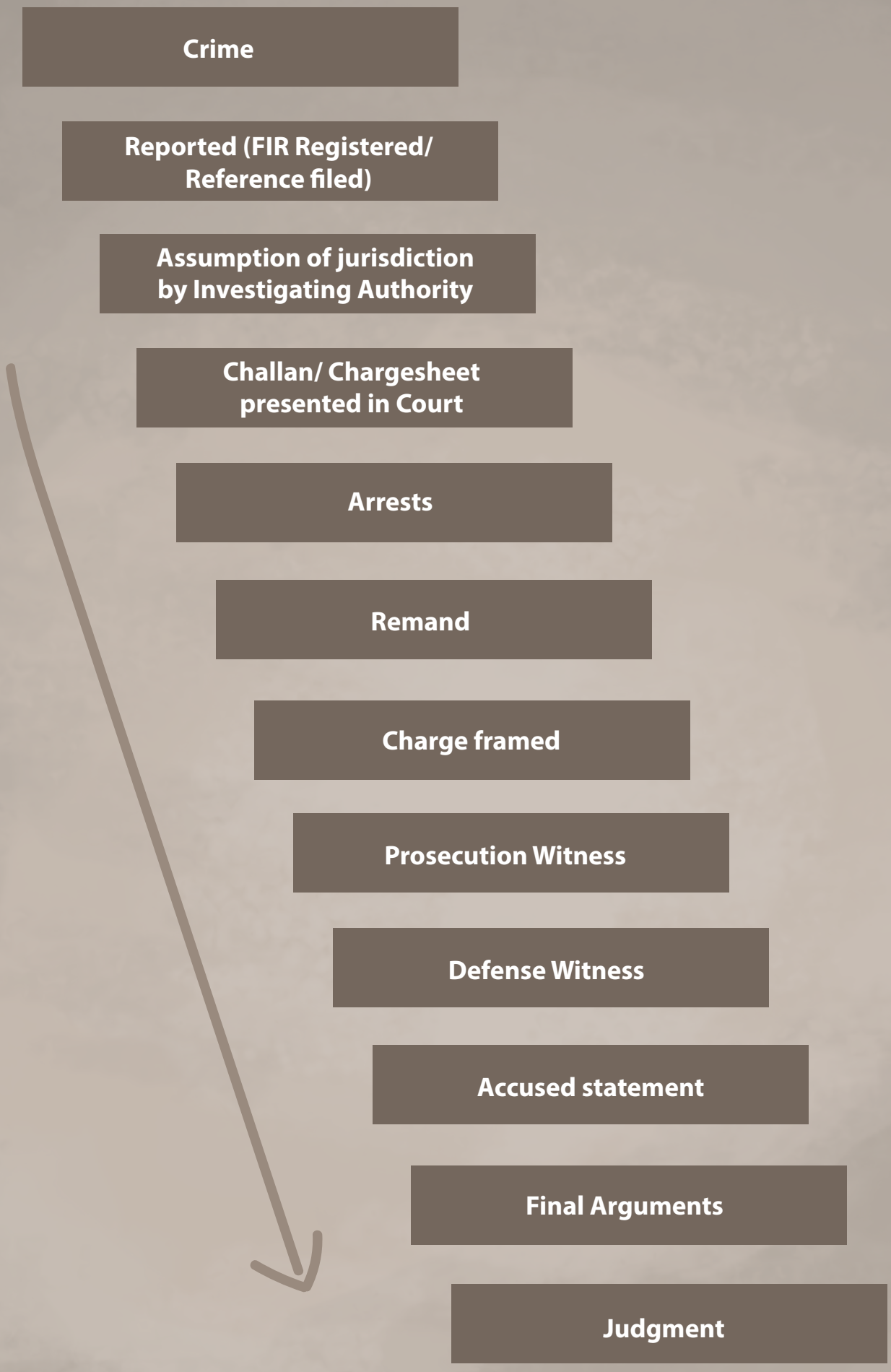
i An overview of procedural and other issues with FIA's performance

ii The case of FIA's crackdown against political and journalistic voices online

To understand how the investigation and the judicial process are linked, it is worthwhile to start with a procedural understanding of the legal justice system.

The investigative and judicial process
The process of acquiring justice starts with the reporting of a crime.

The crime is reported and an FIR is registered. In some cases, depending on the law and the designated law enforcement agency, sometimes the FIR is related with the filing of a reference. The second step is the assumption of jurisdiction by the investigative authority (Police, FIA, NAB, etc) and the appointment of the Investigation Officer. After this, the investigation report, commonly known as 'charge sheet' or "challan", is sent to the Magistrate. The accused will then be presented to the Magistrate who may order the remand as necessary. The next stage is the framing of a charge against the accused after the Court has reviewed all the grounds for the proceedings. This is followed by the trial itself. Prosecution Witnesses will be presented for testimonies, followed by the defense witness. The accused will then be allowed to record a statement. The trial is concluded by the final arguments by both parties and the securing of the judgment by the relevant Court.


Crime
Reported (FIR Registered/ Reference filed)
Assumption of jurisdiction by Investigating Authority
Challan/ Chargesheet presented in Court
Arrests
Remand
Charge framed
Prosecution Witness
Defense Witness
Accused statement
Final Arguments
Judgment

Chapter 3

FIA under the spotlight

There is only one body authorized to deal with cybercrime cases and that is the Federal Investigation Authority (FIA). In this case-study, we present reported conduct of the Authority with regards to the cyber-crime and digital expression in general.

Procedural Issues[1]

In an interview reported by the Digital Rights Monitor (DRM)[2] in December 2017, the cybercrime wing of FIA has received 12,339 complaints since the PECA came into force. As per FIA's record, around 26% complaints have been filed by women. Out of the total 12,339, 1626 have been converted into inquiries and there were 232 cases under investigation before the cybercrime wing as of December 2017.

Latest figures as of October 2018 show that the agency has so far conducted 2,295 inquiries, registered 255 cases and made 209 arrests in 2018. These figures are at an all-time highest since the PECA 2016 was enforced.

Through a number of cases observed across the country, it was observed that the FIA officials have struggled with lack of resources, mainly with regards to prosecutors and investigators. For instance, lack of official conveyance leaves agency personnel with no option but to use private transport. This will hinder their ability to carry out investigations effectively.

During a series of interviews conducted with cyber-crime lawyers, it was noted that the FIA prosecutors were failing to appear before the Courts and persistently requesting for delays. Moreover, lawyers complained that the FIA officials needed gender-sensitivity training to deal with the large number of female complainants.

As of October 2017, there were only two cybercrime prosecutors in Sindh, and only a handful of investigators. In a consultation meeting with stakeholders arranges by the Punjab Commission on the Status of Women (PCSW) in August 2018, FIA officials reported that since January 2018 up till August 2018, approximately 4,000 complaints related to cybercrime have been registered and

01 Media Matters for Democracy team reached out to FIA headquarters multiple times for information on FIA's own challenges with the law's implementation. However, despite multiple attempts and outreach to numerous officials, an interview was not granted. The information in this report, thus borrows from previous interviews MMfD team has conducted and other media reports.

02 Federal Investigation Agency struggles with the implementation of Prevention of Electronic Crimes Act due to the lack of resources
http://digitalrightsmonitor.pk/federal-investigation-agency-struggles-with-the-implementation-of-prevention-of-electronic-crimes-act-due-to-the-lack-of-resources/

total 10 officials are working on them[3]. This means that each person was dealing with 40 cases at one time. This severe shortage has impacted the overall implementation of the PECA.

In June, FIA Cybercrimes Director retired Captin Mohammad Shoaib had told a Senate standing committee that the agency only has 10 experts, out of the total 144 officials, to investigate cybercrimes in the country. During the meeting, it was highlighted that these officials did not receive the relevant training from international trainees in order to enable them to cope with the complexities of cyber-crime cases. This problem was also stressed upon by lawyers and civil society members who have claimed that the FIA is unable to deal with the intricate details of such cases. In addition to this, the committee also discussed the problem of lack of women recruited in the FIA's cyber-crime wings. Captain Shoaib expressed concern over the need for more females as 25% of the complaints were women oriented[4].

It was also noted in a number of cases that the delay in proceedings was at many times caused by FIA's failure to produce case property. FIA officials have claimed that the forensic lab dealing with the digital evidence is overburdened and due to a heavy influx of cybercrime cases, it is unable to produce forensic test results in a timely manner. The digital forensics experts are not competent enough and lack the proper expertise to analyze the digital evidence.

There have been complains that the forensic experts were unable to unlock basic gadgets like cell phones and iPads. In an interview with a national news agency, FIA's Karachi cybercrime unit head Abdul Salam highlighted the need for a state-of-the-art equipment and software for the smooth running of the forensic labs. He said the lab required a mobile forensic toolkit, latest encase software, FTK data access, SATA hard disks, and mobile tracking technology[5].

Through a notification in October 2018, it was announced that 15 new cyber-crime reporting centers will be established. The decision was made in light of the heavy burden of cases on the FIA. The notification also demarcates the jurisdictions of Cybercrime Reporting Centers across the country, where complaints pertaining to the PECA 2016, can be registered[6].

Finally, the agency also failed to comply with the legal requirement of reporting bi annually to the parliament, submitting the first report after a delay of almost a year.

03 4,000 cybercrime complaints registered in seven months
https://www.thenews.com.pk/print/349903-4-000-cybercrime-complaints-registered-in-seven-months
04 FIA's cybercrime wing 'in dire straits' | The Express Tribune
https://tribune.com.pk/story/1739675/1-fias-cybercrime-wing-dire-straits/
05 65% of cybercrime cases in Karachi relate to Facebook | The Express Tribune
https://tribune.com.pk/story/1690292/1-eradicating-cybercrime-karachi/
06 Govt declares jurisdictions of cybercrime reporting centers across country
https://www.pakistantoday.com.pk/2018/10/02/govt-declares-jurisdictions-of-cybercrime-reporting-centres-across-country/

Chapter 4

The cost of free speech online

This case study is a thematic one, concerning the freedom of political expression and free speech online. With the introduction of the PECA, the authorities now have wide powers that have the potential to be severely misused. Section 37 of the PECA, for instance, contains a list of restrictions allowing the PTA to block, remove and censor online content, giving the Pakistan Telecommunication Authority (PTA) full discretionary powers to restrict access to "any" information if it considers it necessary to do so in the interest of integrity of Islam, morality, contempt of court etc.

INSTANCES OF ABUSE

Blocking of Awami National Party Website

An example of PTA's arbitrary powers for content removal can be seen from a recent incident where a left wing political party's website was blocked by the PTA just a few weeks before the 2018 general elections. The party filed an application with the Election Commission of Pakistan (ECP) along with a complaint to the PTA, requesting the website to be unblocked[7]. No explanation was given by the PTA for the shutdown, leaving party members in a state of confusion, who claim that their website does not contain any anti-state content. However, some party members speculated that the shutdown might have been due to their promotion of domestic and secular values, as a number of websites reflecting similar values were being blocked as well[8]. When the appeal was filed, the website was unblocked without any explanation whatsoever about the reasons for it being blocked in the first place. Different service providers restored the website on different dates. As it was peak electoral campaign period, the party also hosted its content through a spate domain during this time. While it was relatively easy to get this website restored, the case demonstrates the totally arbitrary use of authority to block content and the complete lack of transparency surrounding the practice.

Targeting of activists and political workers

Ever since PECA has come to force, political activists have been a fresh target for the authorities, who vowed to take strict action activists involved in "maligning Pakistan". There is no operational definition or framework that defines what 'maligning Pakistan' online actually pertains. In the past two years, a large number of journalists, online activists, bloggers and vloggers were seen to be falsely accused under PECA for posting anti-state or

07 Media Matters for Democracy provided legal support to the affected party, the Awami Workers Party, to pursue this appeal.

08 AWP appeals to ECP to help unblock its official website https://dailytimes.com.pk/249521/awp-appeals-to-ecp-to-help-unblock-its-official-website/

anti-establishment content. This resulted in unlawful arrests, abductions, arbitrary detentions in undisclosed locations, and unlawful interrogation involving torture and humiliation.

The first case to be registered against an activist, as a part of FIA's anti-army crackdown, was that of Adnan Afzal Qureshi, who was arrested[9] and charged under Sections 20 and 24 of the PECA, and Sections 419 and 500 of the Pakistan Penal Code for maligning the military. Doctor Faisal Ranjha, a known supporter of Pakistan Muslim League Nawaz, incidentally the very party that enacted PECA2016, was also arrested under similar charges[10], along with some members of the political party[11]. Another PML-N supporter, Umair Talat, alias Aadi was asked to show up at the agency headquarters in Islamabad from Gujranwala.

The targeting of political activists engaging online was not restricted to any particular party. A news report, published in May 2017, quotes the now Federal Minister Fawad Chauhdhary, then spokesperson of Pakistan Tehreek Insaaf (PTI), saying that "At least 23 PTI supporters have been detained and threatened with action under the Prevention of Electronic Crime Act"[12].

In January 2017, a number of social media activists were abducted. One of them being Asim Saeed, an IT manager based in Singapore visiting his family in Pakistan, who was picked up from outside his house by men is plain clothes. He was then unlawfully detained in an unknown location and tortured for three weeks. He was asked to write the story of his life, including all personal details such as education, family life, etc. This was followed by and interrogation about his political beliefs and was accused of running a Facebook page that posted content critical of the Pakistani military. During this time he repeatedly demanded to be presented to Court for the crime he had allegedly committed, but to no avail. He was released along with other activists after being sworn to not criticize the intelligence agencies again[13].

A similar case to be observed here is that of Hayat Preghal of the Pashtun Tahafuz Movement (PTM) who was arrested in 2017 for being critical of the government policies and the armed forces, including saying "defamatory, humiliating and insulting remarks/comments against the state institutions of

09 Tahir, Z. (2017). Activist held in first case about 'maligning forces' on social media https://www.dawn.com/news/1336440

10 FIA arrests suspect for uploading provocative material on social media. (2017) https://www.thenews.com.pk/latest/205613-FIA-arrests-suspect-for-uploading-provocative-material-on-social-media

11 Rehman, D. (2017). 200 social media activists face FIA action over anti-Army posts https://en.dailypakistan.com.pk/headline/200-social-media-activists-face-fia-action-over-anti-army-posts/

12 Misuse of Cyber Crime Law: Outcry as FIA scales up crackdown https://nation.com.pk/23-May-2017/outcry-as-fia-scales-up-crackdown

13 Social media crackdown stifles dissent in Pakistan https://www.aljazeera.com/news/2017/11/social-media-crackdown-stifles-dissent-pakistan-

Pakistan"[14] as per the FIR. Even though he was granted post-arrest bail in September 2018 by the Islamabad High Court, all his online activities are being monitored after the release.

Lastly, a recent case is that of a vlogger known as "Chacha Shakoor" who was, in September 2018, charged under Prevention of Electronic Crimes Act 2016 sections 10(a), 20 and 24 along with PPCs 109, 419, 500 and 501. The vlogger had, in a video online, accused a sitting High Court judge of partiality in favor of a certain political party. According to the FIR, he was accused of speaking "nasty, filthy, unethical, derogatory language/remarks against judges of superior judiciary as well as other dignitaries of the country without any lawful and reasonable justification which amounted to creating a sense of fear, panic and insecurity in the government, general public and society".

The accused has claimed the efficiency and transparency of the process, saying that the FIA was very selective continues to register fake FIRs on people without political influence.

An FIA official quoted in a report cited above said that "forensic experts of the Cybercrime Wing are sifting through the Facebook, WhatsApp, Twitter and blogs to ascertain the fact and any one would be charged after finding solid evidence against him," the official said. The fact that the officer mentioned monitoring of WhatsApp, a messaging service, in the same vein as Twitter and Facebook, which are public social networks, shows the lack of respect for data privacy and the invasive approach that is being taken for the implementation of this law.

Ironically, concerns about the abuse of this law have come from each of the three largest parliamentary parties, the PML-N, the PTI and the Pakistan Peoples Party (PPP).

Crackdown on journalists

In June 2017, Zafar Achakzai, a young Baloch journalist working for Daily Qudrat in the city of Quetta, was arrested by the FIA under the PECA. It was believed that Achakzai was arrested for comments he had posted on Facebook criticizing state agencies and the arrest of Majeed Khan Achakzai, a member of the provincial assembly, for killing a traffic police constable in a hit and run car accident. Zafar narrated his story to an international newspaper[15], claiming that before the case was registered against him, he was blindfolded, abducted and held without charge for interrogation at some unknown place. He was not informed of the charge for which he was illegally detained for, but was told by the unidentified men that he had been critical of the Pakistan military.

There have been recorded incidents of the FIA attempting to harass journalists

14 Healing the wounds - Daily Times https://dailytimes.com.pk/303583/healing-the-wounds/

15 Social media crackdown stifles dissent in Pakistan https://www.aljazeera.com/news/2017/11/social-media-crackdown-stifles-dissent-pakistan-

by using the threat of the law, without framing an actual charge. In one of the instances, journalist Taha Siddiqui was summoned by FIA for his online activity and asked to appear before their counter terrorism wing[16]. The journalist claims that the FIA officials used coercive language and tried to intimidate him. Rather than responding to the summons, the journalist chose to file a petition with the Islamabad High Court, focusing on the irregularity of the process.

The Islamabad High Court issued a notice asking FIA to '"act strictly in accordance with law and the petitioner shall not be harassed.' The agency then issued a formal notice to the journalist asking him to appear before the counter terrorism wing[17]. It was during the course of the proceedings in Islamabad High Court that the FIA notified the journalist and the court that the 'has been transferred from their counter-terrorism wing to the cyber crime wing'[18] , implying that the inquiry that started as a counter terrorism inquiry would now be carried out as a cybercrime inquiry.

There have been scattered reports of other journalists facing intimidating attitude and threats from FIA officials but we have not been able to obtain a record of formal charges being filed.

16 Journalist to face FIA counterterrorism wing. (2017). Retrieved from https://www.dawn.com/news/1335457

17 Shahzad, R. (2017). FIA serves notice to journalist despite IHC orders against alleged harassment | The Express Tribune. Retrieved from https://tribune.com.pk/story/1419634/fia-serves-notice-journalist-despite-ihc-orders-alleged-harassment/

18 Journalist Harassed: Case transferred to cyber-crime wing The Express Tribune. (2017). Retrieved from https://tribune.com.pk/story/1451057/journalist-harassed-case-transferred-cyber-crime-wing/

Chapter 5

Systematic Flaws – An Analysis

As per a statement given by the Federal Investigative Agency (FIA) to the senate, the agency has only 10 experts to investigate cybercrime. The lack of human and financial resources, the overall systematic challenges for effective law enforcement and the regressive attitude combined with subjective definitions within the law, have created an environment where the implementation of the law is not only challenging but often marred with abuse of power. This section presents and analysis of the systematic flaws that the case studies and have demonstrated.

INVESTIGATIVE PROCESS

1. Regressive attitude

In a series of interviews conducted cybercrime lawyers, concerns were raised as to the attitude and approach of the FIA officials and prosecutors to the cybercrime cases and their victims. As observed through a number of interviews with cyber-crime lawyers, the FIA prosecutors are uncooperative and insensitive with the complainants and their private counsels. They fail to prepare the complainant and the key witnesses in their cases for testimonies, causing persistent delays through absence in the court, and demonstrate indifference towards the progress of the case. One digital rights activist pointed out that FIA was used to dealing with white-collar crimes and found it hard to adapt to the new law that involves them dealing with ordinary citizens.

In addition, the general political environment, which paints political dissenters as anti state, allows for arbitrary action under the law. The cases related to journalistic and political expression all seemed to be focused on dissenting voices. This normalizes the abuse of the law, as the prevailing narrative constructs the crackdown against dissenting voices as a patriotic / nationalist action.

2. Selective Prosecution and Persecution

The PECA allows government to take down any material deemed to be "in the interest of the glory of Islam or the integrity, security or defense of Pakistan … or public order, decency or morality", without providing any reasons or explanation, which is a blatant violation of Article 19 of the constitution along with a number of international treaties and obligations which confer the right of freedom of expression on the society.

Many free speech activists opposed these provisions when the law was being tabled and now, two years after its enactment, the PECA seems to be targeting all those who express disagreement with either the state or the establishment. As we have observed through cases documented in Chapter 4, FIA was involved in a massive crackdown against those who were critical of the state policies or the army, accusing them of spreading anti-state/army propaganda. We also

noted that most of the persons detained were journalists and activists.

Regular irregularities in the procedure of arrest and confiscation of evidence is another cause for concern. The arrests by FIA, the notices sent without proper explanation, evidence or formal framing of charges, demonstrate procedural irregularities. These issues in the procedure make the whole process appear to be an exercise in intimidation rather than law enforcement. The detention procedure in which the detainee is not even informed of the charges or the location where he is being kept, and the torture inflicted during detention are all grave violation of the law and constitutional rights.

THE JUDICIAL PROCESS

1. Issues of Jurisdiction

Another key problem in cybercrime cases is the confusion regarding charges. Authorities, be it FIA or police, are unable to determine the appropriate charges for a crime. This results in one complaint having provisions of both PECA and PPC, and in many cases of political expression, there have been provisions of the Anti-terrorism laws, which creates ambiguity regarding the jurisdiction of the Court. Although this issue has been raised by lawyers for the Court to decide upon, there is still no clarity as to how the issue regarding jurisdiction will be resolved.

It is important to point out that during the advocacy for PECB reform before the law was passed, various activists did point out the repetitions and conflicts with other laws and foresaw this issue affecting the implementation of the law. However, the ministry of IT and involved legislators dismissed this concern as a non-issue.

2. Designation of Special Courts

Under Section 44 of the PECA, judges were required to undergo distinctive training for these special courts on matters such as computer science, cyber forensics, electronic transactions and data protection, which has not taken place yet. As per reports, a brief seminar was conducted in Khyber Pakhtunkhwa, but nothing substantial and concrete has yet been designed or conducted in other jurisdictions.

Without proper training and thematic understanding, the judges are ill equipped to deal with the complex technicalities of cybercrime cases. Up until December 2017, only two such training had been conducted for the judges. Furthermore, since these special courts are not exclusively dedicated to cases under cybercrime laws, they are already overwhelmed with cases. Adding the duty of cybercrime cases exacerbated the pressure on the judiciary to decide this cases in a timely fashion. Failing to do this has result in many cases being dragged on for months and even years now, without any substantial progress.

Chapter 6

Recommendations

FOR THE GOVERNMENT

1. Ensure the provision of better resources to the FIA.
Without resources, even the most perfect law cannot be implemented effectively. As the law enforcement agency designated under PECA, FIA is responsible for the actual investigations of cases. The lack of effective investigations will simply relegate PECA as another law that is there on paper but has no real impact in process.

2. Ensure transparency
Under Section 52 of PECA, FIA, is bound to submit a report every six months to both houses of parliament "for consideration by the relevant Committee in Camera, in respect of its activities without disclosing identity information." However, since the enactment of the law, only one report has been submitted. In addition, there is no transparency around the censorship function given to the Pakistan Telecommunication Authority under the law. MMfD has filed multiple information requests to the PTA regarding lists and reasons for blocked web content and has not received any response. The lack of transparency around mechanisms through which the law is being implemented furthers the potential for abuse of power. Thus, the government should ensure transparency including public sharing / declaration of information pertaining to the implementation of the law.

3. Expedite setting up of independent forensic laboratory
The lack of resources to process digital forensic evidence is detrimental for effective investigations. The government should prioritize improving FIA's own skills and resources in processing digital forensics and set up the independent forensic laboratory mentioned in the law.

4. Draft amendments to ensure subjective sections are further clarified
The arbitrary blockage of websites by PTA and the crackdown against political dissidents by FIA, specially the way these have been carried out (without following the proper procedure and without any sort of transparency) demonstrate that the law is open to manipulation and exploitation by the implementing agencies. This concern was highlighted time and again by digital rights advocates as the bill was being drafted. Now, with evidence that the subjective sections are in fact leading to inefficiencies in implementation, the government should draft and table amendments to ensure that the language is not subjective, open to interpretation or exploitation.

FOR THE FEDERAL INVESTIGATIVE AGENCY

1. Submit periodic reports on the status of implementation of the law to the parliament

Fulfilling its legal duty to report regularly to the parliament would enable FIA to better document and demonstrate the challenges the agency itself is facing in implementation. The FIA should thus abide by the law and ensure regular submission of bi annual reports to the parliament, documenting cases, challenges, rate of success and other related information with the legislative.

2. Conduct internal review with reference to allegations of arbitrary application of the law and professional misconduct

Over the last two years, there have been various reports of FIA officials working outside the set procedures. Officers have been accused of misusing their power, initiating arrests without framing of charges, intimidation of journalists and other such actions. There is dire need for an internal review within FIA to ensure that such complaints are considered and dealt with.

3. Ensure sensitivity trainings of FIA officials especially with regards to cases of harassment of women

The agency has also faced accusations of adopting insensitive behavior towards women who approach the agency with complaints of harassment online or blackmail. Given the fact that it is the duty of the agency to help these women and the cultural constraints already make it extremely difficult for women to approach the agency, it is essential that officers are trained to behave sensitively towards women and demonstrate an empathetic attitude.

FOR THE JUDICIAL ACADEMIES

1. Training of designated judges

It is extremely important to conduct practical and thematic trainings for the judges and courts designated under PECA. Cybercrime is a specialized area and there are various technicalities involved in the gathering, processing and analysis of the digital evidence. Without a clear understanding of these, judges and judiciary would not be able to effectively engage with the law. PECA is a new law and the case law developed in these initial stages stands to have an impact on how the law actually operationalizes. Thus, it is important to ensure capacity building at this stage.

FOR THE CIVIL SOCIETY

1. Work on capacity building of legal fraternity

Cybercrime and its intersection with civil liberties (aka access to information and freedom of expression) is a relatively new area in Pakistan's criminal jurisdiction. It is important to develop the capacity of lawyers in understanding these issues from a rights based perspective. Civil society organizations, including lawyers associations, should work to develop resources that help lawyers understand the implications of the law on freedom of expression and help them take stock of global best practices in similar jurisdictions.

About Media Matters for Democracy

Media Matters for Democracy works to defend the freedom of expression, media, Internet, and communications in Pakistan. The main premise of our work is to push for a truly independent and inclusive media and cyberspace where the citizens in general, and journalists in specific, can exercise their fundamental rights and professional duties safely and without the fear of persecution or physical harm.

We undertake various initiatives including but not limited to training, policy research, advocacy, movement building and strategic litigation to further our organizational goals. We also work on acceptance and integration of digital media and journalism technologies and towards creating sustainable 'media-tech' initiatives in the country.

MMfD recognises diversity and inclusion as a core value of democracy and thus all our programs have a strong focus on fostering values and skills that enable and empower women, minority communities, and other marginalized groups.

Charagar is an upcoming initiative of Media Matters for Democracy, focused on provision of legal support to journalists to ensure that journalists, bloggers and media outlets have access to legal defence if they face criminal charges for their professional work.