



DigitalRightsFoundation
"KNOW YOUR RIGHTS"

**Civil Society Submission to the Human Rights Committee's
Review of Pakistan in the 142nd Session [14 October 2024 – 8
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By Digital Rights Foundation, Pakistan.



About DRF

Digital Rights Foundation (DRF), established in 2012, is a non-profit organization based in Pakistan working on issues of digital access, online free expression, digital privacy, freedom of association through technologies, digital safety, and technology-based gender-based violence. The organization working on issues of privacy, surveillance, free speech, and political participation for twelve years, is submitting to the UN Human Rights Committee (the Committee) in advance of its review of compliance by Pakistan with the International Covenant on Civil and Political Rights (ICCPR).

Executive Summary

Digital Rights Foundation's (DRF) submission can be categorized into two areas: freedom of expression, and right to privacy. This submission not only aims to improve understanding of the key challenges faced by citizens in online spaces, but to also develop recommendations and suggestions for the Committee to highlight during its review of Pakistan regarding issues on freedom of expression, online safety, and the right to privacy.

The research in the submission has been conducted against the backdrop of the overall climate of censorship and surveillance in Pakistan, along with the analysis of recently passed legislation(s) that has raised serious concerns about the government's actions, of which the cumulative impact is narrowing public opinions and democracy in the country, and threatening other laws protecting the right to free speech, expression, and privacy. While risks to the right to privacy and freedom of expression are fairly well documented in the submission, there is scant focus on an analytical examination of the impact of these risks on practitioners including, human rights defenders, digital rights advocates, journalists, and social media activists in online spaces in Pakistan.

This submission is based on findings drawn from data collected by DRF through advocacy at all levels of governance - provincial, federal, and international. The submission aims not only to examine the existing legal frameworks but also to provide a comprehensive overview of Pakistan's regulatory and social landscape concerning freedom of expression and the right to privacy.

Introduction: Curbed Freedom of Expression and Internet Restrictions

Freedom of expression, both online and offline, is instrumental for a functioning democracy, as it allows for the exchange of diverse ideas, fosters transparency, and holds the powerful accountable. As a fundamental freedom, freedom of expression not only includes the freedom to speak and express opinions online but also ensures access to the internet and online platforms is equitable for all citizens without any blockades, restrictions, or throttling and the right to information for all.

Internet freedom in Pakistan has remained restricted during the current submission to the human rights committee, as the Pakistani government is increasingly proposing imposed digital controls amid escalating tensions between Pakistan Tehreek-e-Insaf Chairman Imran Khan and the military establishment. Authorities in the last year have regularly been enforcing internet shutdowns along with blocking online platforms, with arrests carried out with harsh sentences to suppress dissenting online speech. These measures have been implemented despite the change in governments and during the Pakistan Tehreek-e-Insaf (PTI)-led government, under the succeeding Pakistan Democratic Movement (PDM) coalition and now the current PML N government. Online activists, dissidents, and journalists often face harassment from supporters of both political parties, including instances of physical assault and enforced disappearances.

The Freedom of the Net Report 2023 indicates that Pakistan experienced 8 out of the 9 key internet controls that censor and control the digital sphere including but not limited to internet connectivity restrictions, blocks on social media platforms, blocks on websites, and forced removal of content. Pakistan has consistently received a lower score on net freedoms and has been categorized as not free in terms of freedom on the internet for a considerable number of years.¹ The breakdown in internet freedoms ranks Pakistan at 5 out of 25 for obstacles to access, 13 out of 35 for limits on content, and 8 out of 40 for violations of user rights.² A major share of the blame for Pakistan being ‘not free’ goes towards the kind of legislation that has been enacted

¹ <https://freedomhouse.org/country/pakistan/freedom-net/2023>

² <https://freedomhouse.org/country/pakistan/freedom-net/2023>



in recent years. This concerning trend is also witnessed in 2023 and 2024 in a state's move towards controlling content on the internet by criminalizing speech through legislation and most recently by passing laws that assert control over the content on social media platforms.

Internet Shutdowns and Control over Platforms:

Surfshark, a VPN provider, conducted a six-month analysis for the first half of 2024 using the Internet Shutdown Tracker, which indicated that the Pakistani government imposed five distinct restrictions. During this time, access to Twitter, Facebook, Instagram, and YouTube was limited, and there were temporary disruptions to cellular networks nationwide lasting several days.³

On 9th May Netblocks⁴, Cloudflare⁵, and OONI measurements⁶ showed disruptions of X, Facebook, and Youtube by multiple internet service providers along with a total shutdown of mobile internet shutdown in the country. The internet remained restricted for four days during these riots with users frustrated and complaining of the economic loss they're facing amidst this shutdown.⁷ Following the May 9th riots, internet shutdowns and platform disruptions in the country were prevalent till the time of the elections. On December 17, 2023, users in Lahore, Karachi, and Islamabad faced difficulties accessing social media after 8 p.m., coinciding with a major PTI virtual event at 9 p.m.⁸ Similar disruptions occurred on January 7, 2024, ahead of a PTI fundraiser, with PTCL services shut down in some areas and other networks slowing or blocking platforms.⁹ On January 20, 2024, internet access was again restricted nationwide before a PTI public meeting, with widespread social media suspensions reported by day's end.¹⁰ Internet disruptions and restricted access to online platforms continued until polling day, with users reporting mobile internet shutdowns and throttling. These issues further prevented voters from

³ <https://surfshark.com/research/chart/internet-shutdowns-first-half-2024>

⁴ <https://netblocks.org/reports/internet-disrupted-in-pakistan-amid-arrest-of-former-pm-imran-khan-JA6RmrAQ>

⁵ <https://blog.cloudflare.com/cloudflares-view-of-internet-disruptions-in-pakistan/>

⁶ <https://explorer.ooni.org/fa/findings/300902917301>

⁷ <https://restofworld.org/2023/pakistan-internet-outage-tech-workers/>

⁸ <https://www.dawn.com/news/1798656>

⁹ <https://www.pakistantoday.com.pk/2024/01/07/users-face-nationwide-disruption-of-social-media-platforms-ahead-of-ptis-fundraiser/>

¹⁰ <https://www.dawn.com/news/1807328>



accessing their polling stations. Authorities did not provide reasons for the disruptions, despite earlier assurances that internet access would remain unrestricted on polling day.¹¹

Post-elections in Pakistan, starting February 17th, access to platform X has been restricted, with the platform only available through VPNs. This restriction not only limits information access for users but also curtails free speech, particularly affecting those questioning the integrity of the elections. Although state authorities initially remained silent about the ban when the platform was first blocked, the Interior Ministry cited national security concerns and disinformation as the reasons for blocking access to the platform in April.¹² Ongoing disruptions, including throttling internet speeds, blanket shutdowns, and restrictions on freedom of expression, pose a direct threat to fundamental freedoms in Pakistan. Such measures undermine citizens' rights to speech and assembly, violating constitutional guarantees in Pakistan under Articles 19, 16, 17, and 19A. These actions also compromise the state's responsibilities to protect freedoms related to trade, business, and profession, as well as the right to education.

Right to Privacy

Article 14 (1) of the Constitution of Pakistan 1973 promises individuals the right to privacy subject to law. With the evolving concept of online privacy, this right has been interpreted to extend to digital communications as well.¹³ The landmark case of Muhammad Rahmat Ullah vs. the State¹⁴ exemplifies this extension, where the Lahore High Court ruled that extracting information from a personal phone without judicial authorization infringes upon the constitutional right to privacy.

Despite legal protections, the right to privacy remains vulnerable, especially in digital spaces amid the Pakistani state's ongoing attempts to exercise more control over the internet. For instance, Pakistan has failed to adopt a human-rights complaint data protection law despite years

¹¹https://tribune.com.pk/story/2494322/govt-refuses-to-disclose-reasons-for-election-day-mobile-internet-shutdown#google_vignette

¹²<https://www.reuters.com/world/asia-pacific/pakistan-blocked-social-media-platform-x-over-national-security-ministry-says-2024-04-17/>

¹³2024 PerLJ 1

¹⁴2024 PerLJ 1



of lobbying by digital rights groups. Though multiple drafts have been released by the Ministry of Information Technology and Telecommunications (MOITT) since 2018, the draft bills do not have provisions for a strong data protection commission and require stringent data localization which raises concerns about data security as well as economic hit to Pakistan's nascent digital economy.¹⁵ In a report shared by Asia Internet Coalition, it was noted that data localisation requirements in Pakistan proposed under the 2023 Data Protection Draft bill could cost 16.5 billion USD to Pakistan's GDP and 3.2 million job losses.¹⁶

Increased Surveillance:

One of the biggest threats to privacy is pervasive surveillance. Illegal surveillance not only poses a threat to privacy but has a chilling effect on freedom of expression, forcing the victims into self-censorship.

The government authorities in Pakistan have for long been interested in enhancing their surveillance capabilities as part of their counter-terror and national security measures. In this regard, the state has adopted several laws to enable lawful surveillance in addition to acquiring new surveillance tools. For instance, section 54(1) of the '*Pakistan Telecommunication (Re-organization) Act, 1996*' empowers the Federal Government to authorize any person to "intercept calls and messages or to trace calls through any telecommunication system" in the interest of national security. Furthermore, the '*2013 Fair Trial Act, 2013*' allows security agencies to seek a judicial warrant to monitor private communications of terror suspects. Similarly, the *Social Media Rules 2021* mandate social media companies to provide decrypted information to the FIA. Lastly, internet users have been asked to register their VPNs time and again under the *2010 Monitoring and Reconciliation of Telephony Traffic Regulations (MRITT)*. In 2024, there is a renewed push by government authorities to urge everyone to register their VPNs after their usage doubled since February 2024 amid slow internet speeds and a government

¹⁵https://digitalrightsfoundation.pk/wp-content/uploads/2024/09/Final-Submission-to-MoITT-by-DRF_Pakistans-Personal-Data-Protection-Bill.pdf

¹⁶ <https://tribune.com.pk/story/2484833/aic-exposes-flaws-in-digitalisation-laws>



ban on X.¹⁷ ¹⁸ One senior government official even hinted at blocking unregistered VPNs without specifying any timelines.¹⁹

In addition to legal instruments, there have been many occasions where surveillance tools have been blatantly misused against political stakeholders even in violation of expansive powers provided in local laws. This was manifested recently in 2023 after several audio recordings of PTI leaders were publicly leaked via anonymous Twitter/X accounts amid PTI's tussle with the establishment.²⁰ Even sitting judges of Islamabad High Court have recently complained about being subjected to unlawful surveillance while highlighting interference of intelligence agencies in judicial affairs.²¹

While not much information is officially available about the state's surveillance infrastructure, sporadic revelations from multiple sources provide a glimpse of the state's obsession with cyber intrusion tools. According to the recently launched web-based online community-driven resource **Surveillance Watch**, which has been tracking the global clientele of surveillance companies' clientele across the globe, surveillance capabilities from at least 16 surveillance companies are being used in Pakistan. Furthermore, during court proceedings in a case pertaining to illegal surveillance of former PM Imran Khan's wife in July 2024, it came to light that PTA had directed telecom companies to "finance, import and install" a mass surveillance system called Lawful Interception Management Systems (LIMS). This system allowed relevant authorities to access private messages, video/audio content, call records, and web browsing histories of up to four million mobile users without any legal or judicial oversight.²² Interestingly, the government quickly moved to give legal cover to the mass surveillance under LIMS through a directive that formally allowed Pakistan's premier intelligence agency ISI to intercept and trace calls "in the

¹⁷ Registration of VPN before 30 June 2020," Pakistan Telecommunication Authority, June 10, 2020, <https://www.pta.gov.pk/en/media-center/single-media/-100620>.

¹⁸ <https://arynews.tv/pakistan-launches-portal-for-ip-whitelisting-vpn-registration/>

¹⁹ <https://arynews.tv/pta-hints-at-blocking-unregistered-vpns-in-pakistan/>

²⁰ <https://www.dawn.com/news/1749331>

²¹ <https://www.dawn.com/news/1824028>

²²

<https://www.geo.tv/latest/552002-pta-ordered-telecoms-to-implement-mass-surveillance-system-court-documents-reveal>



interest of national security”.²³ In addition to that, Pakistan has also been testing a national firewall system that would, in theory, enable them to proactively monitor internet traffic and block any content/website that is against “national security”. Government authorities have defended the move as a cyber security measure but have shied away from giving specific details about it.²⁴

Privacy advocates fear that the latest developments highlighted above will only embolden state authorities to carry on with their unchecked surveillance with impunity without any incentive to be transparent about these measures.

These ongoing internet disruptions in Pakistan raise serious concerns about the violation of fundamental rights, particularly the right to access information and freedom of expression, which are enshrined in Pakistan’s Constitution. Citizens rely on the Internet for education, work, communication, and accessing critical services, making it an essential utility. Individuals across Pakistan have filed petitions in the high courts of Lahore, Islamabad, and Peshawar, challenging the ongoing internet disruptions that have significantly impacted daily life. In response, the courts directed the PTA and federal law officers to submit reports explaining the cause of these disruptions. The PTA and relevant authorities attributed the issues to faults in submarine cables, which are crucial for maintaining internet connectivity, and assured the courts that the situation would be resolved by August 28 as repairs were underway.²⁵ However, on August 28, the PTA announced on Wednesday that the issue stemmed from a malfunction in a submarine cable. They estimate that repairs for the affected SMW-4 submarine cable will not be completed until early October.²⁶

The inability of the authorities to ensure consistent internet access, despite multiple court petitions and inquiries, reflects a disregard for these rights. The PTA's justification of submarine

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<https://www.dawn.com/news/1844810/govt-formally-authorises-isi-to-trace-intercept-calls-and-messages-in-interest-of-national-security>

²⁴ <https://www.arabnews.pk/node/2540666/pakistan>

²⁵ <https://www.dawn.com/news/1853744>

²⁶ <https://tribune.com.pk/story/2491762/internet-disruptions-expected-to-persist-until-october-pta>



cables as the cause of the disruption, and the Ministry of Interior and Law's assurances of resolution by the end of August, do little to mitigate the impact on people's daily lives. Prolonged internet outages not only hinder economic activities but also curtail citizens' ability to participate in democratic processes, raising questions about the state's commitment to upholding fundamental rights in the digital age.

Regulatory Mechanisms and Legislative Developments to Curb Free Speech:

In 2023 and 2024, state authorities introduced regulatory measures that further curtailed online freedoms, significantly restricting freedom of expression for internet users in the country. Several legislative developments during this period aimed to increase control over user access to content and limit speech on online platforms.

E-Safety Bill

In July 2023, the E-Safety Bill was introduced by the Ministry of Information Technology and Telecommunication (the draft of which, however, was removed from the Ministry's website in August 2023, when the Bill was sent to the Ministry of Law for vetting). Digital rights groups have expressed concerns regarding the bill and how it further seeks to tighten control over digital spaces and freedom of expression. The language of safety has been weaponized in this Bill to create a convoluted system of regulation that violates all aspects of freedom of expression and the digital economy. The Bill received the Federal Cabinet's approval, however, the current status of the Bill remains questionable given the National Assembly of Pakistan was dissolved on 9 August 2023²⁷ and there have been no updates from the newly elected government regarding its position on the Bill. Overall, the Bill represented a deliberate effort to tighten the control over digital spaces and freedom of expression. The Bill intends to combat crimes such as online harassment, cyberbullying, and blackmailing by establishing a new regulating body known as 'The E-Safety Authority.' This Authority would be responsible for registering and monitoring websites, online channels, YouTube channels, and current media house websites.

²⁷ <https://www.dawn.com/news/1768266>



There has also been debate around the engagement of platforms with state authorities, particularly in regard to compliance by big tech platforms on removal of content and restricting content in the country. A report by TikTok stated that the platform removed 11,707,020 videos uploaded on its platform from Pakistan for violating its community guidelines in the first quarter of 2023.²⁸ Additionally, the E-Safety bill in its current state seeks to repeal Section 37 of the Prevention of Electronic Crimes Act 2016 (PECA), thereby establishing an even more expansive regime of censorship (s. 62). Additionally, Section 28 of the Bill permits the regulation of a wide array of content, including, aspersions against the judiciary or armed forces of Pakistan, defamatory as defined in the law for the time being in force; known to be false, against the Islamic values, ideology of Pakistan, incites or condones dislodgement of democratic setup against the command of the Constitution of Pakistan, call to arms against the Federation of Pakistan or anything against the integrity, security, and defence of Pakistan, and any obscene or pornographic material. These categories exceed the limitations set by Article 19 of the Constitution of Pakistan 1973 and international human rights standards. The Bill appears to be a reaction to the government's failure to implement the 'Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules 2021,' seeking instead to impose broad and discretionary internet censorship through new measures. Furthermore, under this bill, 'Social Network Platforms,' including web TV channels, YouTube channels, OTT services like Netflix and Amazon Prime, and social networking sites such as Twitter (now "X"), Facebook, and Instagram, are required to register with the eSafety Authority under Section 4(f), which imposes a prior restraint on speech, reminiscent of the withdrawn Pakistan Media Development Authority Ordinance of 2021, which could stifle digital content creation and economic opportunities.

Additionally, the Bill's vague and overly broad language, such as undefined terms like "online harm" (Section 4(1)(c)), "abhorrent violent conduct" (Section 4(o)), and "public interest" (Section 53), raises concerns about potential abuses of power, leading to self-censorship and a chilling effect on free expression. Further to this, the authority granted to access personal data under Section 15 with limited safeguards poses serious privacy concerns, exacerbating fears of

²⁸<https://tribune.com.pk/story/2427236/-tiktok-deleted-117m-pakistani-videos#:~:text=TikTok%20%E2%80%93%20a%20popular%20online%20video,the%20-first%20quarter%20of%202023.>



increased surveillance and data misuse. The Bill also needlessly created additional authorities and complaint mechanisms such as the eSafety Authority, eSafety Tribunal (s. 44), and the eSafety Complaints Commission (s. 42) without any safeguards for their independence and impartiality. The Bill's severe penalties, including imprisonment and fines under Section 6 for those operating social network platforms who violate its provisions, only heighten these concerns. Overall, the Bill failed to incorporate clear criteria, robust oversight mechanisms, and adhere to international human rights standards.

Moreover, In August 2024, the Establishment of Telecommunication Appellate Tribunal Bill 2024, was introduced to amend the Pakistan Telecommunication (Re-organization) Act, 1996, and the Prevention of Electronic Crimes Act, 2016 (PECA). The Bill proposes that a person aggrieved by any decision or order of the Pakistan Telecommunication Authority (PTA) will prefer an appeal to the Pakistan Telecommunication Appellate Tribunal instead of high courts. This change raises concerns as it makes the Tribunal, created by the Federal Government, the first forum for appeals against decisions by the PTA, effectively barring legal challenges in higher courts. This shift is not just procedural but rather a deliberate attempt to constrain judicial scrutiny and restrict access to independent review. This move could suppress individuals from speaking out against government actions, knowing their cases would be handled by a government-controlled, non-independent body, increasing the risk of biased decisions and reducing the likelihood of impartial review. By centralizing power within a government-appointed body, the Bill further threatens the fundamental concept of the separation of powers, thereby potentially chilling free expression and discouraging challenges to government actions.

Pakistan Electronic Media Regulatory Authority (“PEMRA”) Ordinance 2002

In August 2023, amendments were also introduced in the Pakistan Electronic Media Regulatory Authority (“PEMRA”) Ordinance 2002 through the passage of the PEMRA Amendment which further curtailed the freedom of speech in the country. The Bill was passed by the National Assembly, however, was immediately withdrawn following widespread criticism from



journalists, and civil society organizations representing media workers.²⁹ Within just two days of the said withdrawal, the government swiftly reintroduced it, leading to its passage as the PEMRA Amendment Act 2023. The Amendment Act introduced new and problematic terminology under the pretext of combating disinformation, with the definition of ‘disinformation’ under section 2(ha) being particularly broad and ambiguous. This Ordinance has already been misused by authorities to suppress critical content by the government or other actors, leading to censorship under the guise of protecting reputations. There are numerous instances where PEMRA has exercised its power arbitrarily to censor TV channels. In 2022, a ban was imposed on the speech of a political figure, alleging that his statements were baseless, spread hate speech, and incited provocation against state institutions and officials.³⁰ The Amendment Act only exacerbated the situation by granting the PEMRA Authority more extensive powers under S.20(j) to take down content deemed harassing or politically motivated, along with provisions for hefty fines for severe violations under section 29A which led to self-censorship among media outlets, undermining the media’s role in holding those in power accountable. The definition of severe violations, which included breaches of Article 19 of the Constitution, potentially allowing penalties on content critical of government policies or officials, creating a chilling effect on free expression. Overall the Amendment Act introduced new tools of censorship under the guise of combating disinformation, significantly infringing on freedom of expression and falling short of the necessity and proportionality required by international human rights standards. In the recent Judgment “Imran Khan vs PEMRA”³¹ the Lahore high court held that “*Pakistan Electronic Media Regulatory Authority (PEMRA) being a regulator through its actions or inaction cannot deny to the people and the political parties the basic fundamental rights guaranteed to them by the Constitution i.e. freedom of speech (Article 19); freedom of assembly (Article 16); and, right to information (Article 19A)*”. This arbitrary censorship by PEMRA clearly infringes on freedom of expression by suppressing, dissenting voices and limiting the public’s access to diverse viewpoints, essential for a functioning democracy.

²⁹ <https://www.dawn.com/news/1768882>

³⁰ <https://www.aljazeera.com/news/2023/3/6/pakistan-bans-airing-of-imran-khan-speeches-suspends-ary-channel>

³¹ 2024 CLC 584



Punjab Defamation Act (2024)

In May 2024, the Punjab Defamation Act was passed which presents significant threats to freedom of expression for journalists and the general public in Pakistan. The Act's emphasis on prosecuting defamation, particularly targeting "public officials," is an example of its authoritarian nature, potentially enabling the suppression of criticism directed at individuals associated with the government or other official institutions. This shift towards protecting public officials - an area previously not covered by the country's defamation laws - reflects an effort by the government to centralize control, as seen in the Act's explicit focus on safeguarding the reputations of those in positions of power and authority. This focus directly contradicts the principles of free expression and democratic accountability, as evidenced by provisions like Section 11(3), which permits holders of Constitutional Offices to file claims through an authorized officer, and Section 10(4), which requires such claims to be heard by a specially nominated Single Bench of the Lahore High Court, creating a dual justice system that offers preferential treatment to high-ranking officials over ordinary citizens and violates the principles of equality before the law. Furthermore, Section 17 of the Act is particularly problematic as it allows claimants to initiate actions "without proof of actual damage," making defamation a tool for intimidation and repression. The Act also imposes disproportionately high penalties under Section 2(k), starting from a minimum of Rs. 3,000,000, turning defamation into a weapon for silencing dissent. The ease with which defamation claims can be initiated, coupled with exorbitant fines, poses a direct threat to free expression. Additionally, Section 12 prohibits the reporting of Tribunal proceedings during hearings, further obscuring government intent and preventing public scrutiny, while Section 13 undermines the right to a fair trial under Article 10-A of the Constitution of Pakistan by requiring defendants to obtain leave to defend, potentially resulting in preliminary decrees based solely on procedural grounds. The definitions in Sections 2(m) and 2(o) also broaden the scope of the Act to include social media users, heightening the risk of prosecution against ordinary citizens and stifling online freedom of expression. The punitive measures prescribed are extreme, including the potential blocking of entire social media accounts under Section 21(2) for those found guilty of defamation, rather than merely targeting specific defamatory content. While the Act suggests provisions for legal



representation for women and minorities under Section 14, experience with existing frameworks, such as the Prevention of Electronic Crimes Act 2016 (PECA), indicates that these communities are often disproportionately affected by laws intended to "protect" them. The need and rationale behind this new legislation are also questionable, especially given the existence of other legal frameworks like the Pakistan Electronic Media Regulatory Authority Ordinance 2002 (PEMRA), PECA, and the Defamation Ordinance 2002. The introduction of this Act raises concerns about its future implementation and risks creating additional jurisdictional conflicts in defamation cases. Overall, the Punjab Defamation Act 2024 poses serious threats to freedom of expression for both journalists and the public in Pakistan, not only stifling open dialogue but also undermining democratic values and the right to information.

The restriction of freedom of speech in the country is not only evident through the above laws but also through the repeated internet shutdowns in 2023 and 2024, which significantly disrupted the nation. These shutdowns not only stifled the right to expression and information but also impacted businesses and education within the country. This combination of legal restrictions and digital blackouts has created an environment where the fundamental right to free expression is increasingly under threat, with far-reaching consequences for society as a whole.

Media Freedoms and Restrictions on Journalists:

In 2021, the Protection of Journalists and Media Professionals Act was enacted to safeguard the right to freedom of expression, as guaranteed in Article 19 of the Constitution of Pakistan and the ICCPR, ensuring that those working in media can exercise their rights without fear of censorship or harassment. This act aimed to shield journalists and media professionals from abuse, violence, and exploitation across all mediums and mandated the establishment of a Committee to investigate, prosecute, and penalize threats, coercion, and acts of violence against journalists. However, since its passage, no such Committee has been established. According to the Freedom Network's 2023 report³², despite this groundbreaking legislation, Pakistan has continued to witness a troubling increase in crimes against journalists. The report highlights that the government's failure to implement the mandated safety commission has rendered the federal

³² <https://fnpk.org/wp-content/uploads/2023/10/PDF-FINAL-Impunity-Report-2023-4.pdf>



law effectively non-operational. Consequently, it has not provided any protection or recourse for journalists who have been killed, attacked, injured, threatened, or harassed in the two years since the law's enactment. In 2023, the amendment is made in the Act through which responsibility of enforcing the "Protection of Journalist and Media Professionals Act, 2021" from the Ministry of Human Rights to the Ministry of Information and Broadcasting with a directive to make necessary amendments in the Act for its implementation. While Pakistan has enacted notable legislation aimed at protecting journalists, specifically their freedom of expression, these protections remain largely ineffective. Journalists continue to face severe consequences for expressing dissenting opinions, including forced disappearances, killings, and abductions. The recent amendment fails to mitigate these ongoing challenges, leaving the fundamental issues unresolved. For instance, Section 20 of the PECA has been misused to stifle the freedom of expression of media practitioners. According to the TrialWatch report,³³ journalists like Asad Ali Toor and Absar Alam have been targeted under this section. Asad Ali Toor faced harassment and an FIR for tweeting about alleged corruption,³⁴ whilst Absar Alam was accused of sedition and defamation for raising questions about a high-ranking military official.³⁵ Although the cases were ultimately closed, they highlight the use of Section 20 of PECA to suppress free expression rather than protect individuals' rights as intended. The FIA's conduct in these cases, including issuing notices over WhatsApp and failing to provide sufficient details and evidence of the alleged offence, exemplifies the misuse of Section 20 against media practitioners. However, the Islamabad High Court ultimately struck down the expression "or harms the reputation" from Section 20 for being "unconstitutional, invalid beyond reasonable doubt"³⁶, but despite this ruling, Section 20 continues to be used as a tool to intimidate journalists, threatening press freedom across provinces, as cases citing this section persist in other regions of the country. Thus, in light of these ongoing challenges, it is evident that the Protection of Journalists and Media Professionals Act of 2021 has failed to safeguard and serve its intended purpose. Despite its promise to provide a legal framework for protecting media practitioners, the absence of an

³³ https://cfj.org/wp-content/uploads/2023/10/Pakistan_PECA-Report_September-2023.pdf

³⁴ https://cfj.org/wp-content/uploads/2023/10/Pakistan_PECA-Report_September-2023.pdf

³⁵ https://cfj.org/wp-content/uploads/2023/10/Pakistan_PECA-Report_September-2023.pdf

³⁶ Pakistan Federal Union of Journalists v. Federation of Pakistan, Writ Petition No. 666/2022, Order Sheet dated April 8, 2022, Islamabad High Court. Note that other than the expression "harms the reputation" the remaining elements of Section 20 continue in force.



operational safety commission, and the continued misuse of laws like Section 20 of PECA, reveal that journalists remain vulnerable to harassment, violence, and intimidation. The lack of effective enforcement, combined with government inaction, has rendered the Act largely symbolic, leaving the rights and freedoms of media practitioners unprotected.

Recommendations:

In addition to reiterating its recommendation we encourage the Human Rights Committee to ask the following questions during its review of Pakistan:

- 1) The government should ensure that any and all surveillance tools are utilized proportionately and within the legal framework as approved by the parliament. They should also take steps to be transparent about its capabilities, including procurement and the funds allocated for it.
- 2) Pakistan's parliament should hold an in-camera inquiry into the abuse of surveillance capabilities and seek clarification from government authorities on the steps they are taking to stop their misuse. They should also proactively seek civil society's input on conducting the human rights due diligence of these technologies, and incorporate said input in policy or legislative outputs.
- 3) UN authorities should urge Pakistan to get more involved in global conversations around the misuse of surveillance tools and sensitize them about international best practices and human rights approaches pertaining to lawful surveillance.



- 4) The government should not rush into imposing a blanket ban on unregistered VPNs, rather it should consult human rights groups and wider industry representatives to understand the economic and human rights impact of any ban on VPNs.
- 5) In light of constitutional protections and ICCPR commitments, the state must be questioned about the mass surveillance through the LIMS, impacting over 4 million citizens. The government must answer the question of the existence and operations of such surveillance, whether ongoing or previously conducted.
- 6) The state must be questioned for imposing a firewall and throttling internet access without any legal justification. Such actions violate transparency and fundamental rights, including the right to freedom of expression, the right to access information, and the right to privacy. There is an urgent need for the state to provide an immediate explanation and establish legal clarity regarding these measures.
- 7) The state must undertake a comprehensive review of all laws affecting freedom of expression and privacy, including the Punjab Defamation Act 2024 to decriminalise defamation; not to introduce repressive laws and/or amendments such as the proposed E-Safety Bill to prevent undue restrictions on expression; implement the Protection of Journalists and Media Professionals Act 2021 to better safeguard journalists from threats and violence; and amend the PEMRA Ordinance 2002 to mitigate risks of censorship and ensure transparent, and fair regulations.
- 8) Establish an independent oversight body, comprising a majority of civil society experts and a minority of government officials, to review and monitor internet censorship and throttling decisions, ensuring transparency, accountability, and adherence to international human rights standards.