

Universal Periodic Review:
“Digital Rights in Pakistan”

Individual Stakeholder Submission



DigitalRightsFoundation
"KNOW YOUR RIGHTS"

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About DRF:

Digital Rights Foundation (DRF), established in 2013, is a non-profit organisation 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. Working in this space for ten years, the organisation is submitting its second Universal Periodic Review for Pakistan (the previous submission was made during the third cycle for Pakistan in 2017).

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1. Introduction

1.1 The scope of this submission covers issues of online freedom of expression (FOE), online gender-based violence (GBV), privacy, and freedom of assembly in Pakistan. The organisation draws on its work and experience in the field as well as other documentation to present the state of digital rights in Pakistan from 2018 till 2022.

2. Country Follow-up

2.1 In the previous cycle, 302 recommendations were made by member states to Pakistan. Two recommendations were made specifically regarding digital rights and spaces, both of which were rejected. The rejected recommendations, made by Australia and Canada respectively, pertained to “protect[ing] freedom of expression, including online freedoms”ⁱⁱ and ensuring justice for violations against human rights defenders and journalists, including bloggers.ⁱⁱ Since 2017, Pakistan’s internet freedoms have only deteriorated. According to Freedom House, Pakistan consistently ranks as “not free” with its ranking steadily declining in 2018, 2019, and 2021.ⁱⁱⁱ

2.2 With regard to GBV and issues of gender equity, none of the recommendations focused on online gender-based violence. Online gender-based violence has grown exponentially in the last few years with the number of reported cases pertaining to online GBV rising from 8,500 in 2018^{iv} to over 19,000 cases in 2021.^v

3. Gender Digital Divide

3.1 While internet access is fast becoming a basic right across the world, internet connectivity remains low in Pakistan despite experiencing growth during the COVID-19 pandemic.^{vi} According to the World Bank, internet connectivity stood at a mere 25% in 2020.^{vii} However, as per the Pakistan Telecommunication Authority (PTA), broadband internet is accessible to 53.1% of the population and mobile internet penetration was 51.73% by mid-2022.^{viii} Furthermore regions such as Gilgit-Baltistan, ex-FATA and most parts of Balochistan lack access to even basic mobile internet, while rural parts of Punjab and Sindh are also deprived infrastructurally. According to the Pakistan Bureau of Statistics, only 12% of households have at least one of the following devices: computer, laptop and tablet.^{ix}

3.2 Pakistan has the highest gender digital divide in the world, as religious, social, and cultural norms discourage women from owning devices. According to the GSMA, women are 33% less likely than men to own a mobile device and 38% less likely to use the internet.^x This gap is largely due to familial restrictions and lack of access to independent financial resources.

3.3 Given that access to the internet and SIM cards require national identity cards (CNICs), these requirements disproportionately impact women and gender minorities who are on the whole less likely to hold official documentation.^{xi} This is particularly the case with the transgender community,^{xii} who despite being legally allowed to identify as trans on their official documentation,^{xiii} still face institutional barriers to attaining their identification documents.

4. International Human Rights Obligations

4.1 Pakistan has signed various international human rights instruments, including the Universal Declaration of Human Rights (UDHR), and ratified the International Covenant on Civil and Political Rights (ICCPR), UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

4.2 The country is not a signatory to the Optional Protocols for the ICCPR, UNCAT or CEDAW.

5. Online Freedom of Expression

5.1 During the fourth UPR cycle period, online FOE greatly suffered due to repressive legislative developments and heavy-handed measures by the state to silence dissent. While FOE is guaranteed under Article 19 of the Constitution of Pakistan 1973, the right has been undermined by legislation and arbitrary state practices.

5.2 The ‘*Prevention of Electronic Crimes Act, 2016 (PECA)*’ has been used to persecute journalists,^{xiv} human rights defenders, members of opposition parties^{xv} and survivors of GBV speaking out in the #MeToo Movement,^{xvi} particularly through Section 20^{xvii} i.e. the online criminal defamation clause which targets critical speech against public figures and institutions.^{xviii} Furthermore, Section 10 of PECA which covers hate speech has been unjustly weaponized to arrest and prosecute members of grassroots civil rights movements such as the Pashtun Tahafuz Movement (PTM), amongst others.^{xix} The government, through the ‘*Prevention of Electronic Crimes (Amendment) Ordinance, 2022*’, also attempted to expand the online criminal defamation section further to apply to legal persons and “public figure[s] or a holder of public office”. The Ordinance was struck down by courts within months of its passing.^{xx} In addition to arrests, detentions and prosecutions, these laws have had a chilling effect on the FOE of human rights defenders, journalists,^{xxi} and dissidents, forcing many to practise self-censorship in online spaces.^{xxii}

5.3 The PTA enjoys unfettered and wide powers under Section 37 of PECA to block and remove content based on a wide set of criteria. This power has resulted in the blanket banning applications such as PubG,^{xxiii} TikTok,^{xxiv} BigoLive^{xxv} and even dating applications such as Tinder.^{xxvi} The reasons cited for blocking these websites/applications included vague justifications like “vulgarity” and “corruption of the youth”.^{xxvii} There is little transparency from the PTA regarding removed content, however, it reports to have blocked more than 25,000 URLs for allegedly “anti-state material”, including 25,000 Facebook accounts, 307 Twitter posts, and 224 YouTube videos.^{xxviii} Worryingly, there has been a steep rise in the volume of blocked content: the total URLs blocked from 2016-2020 was 418,139,^{xxix} whereas it more than doubled by June 2021 (1,091,095).^{xxx} An overwhelming majority of this content (903,074 URLs) was blocked on the basis of “decency and morality” which disproportionately impacts content related to women and gender minorities, particularly related to reproductive and sexual health.

5.4 The ‘*Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards), Rules 2021*’ (Social Media Rules) has expanded the ambit of the PTA under Section 37 by giving it the powers to require removal of content within 48 hours, with failure

in compliance resulting in complete bans on platforms. The Rules also require that social media companies register within the jurisdiction of Pakistan, a stipulation that resulted in mass opposition from major tech firms due to accompanying prohibitive data localisation requirements.^{xxxvi} These Rules, while currently being challenged at the courts, nonetheless signal a worrying trend for online FOE.

5.5 Coordinated disinformation campaigns are increasingly being used to manipulate narratives, spread fake news, and silence critics. For instance, in 2020, a report by the *Oxford Internet Institute* found that coordinated teams with full-time staff members employed mostly by Pakistani political parties were running disinformation campaigns attacking the opposition and suppressing critical content.^{xxxvii} Meta has removed multiple networks of such accounts,^{xxxviii} often with links to state institutions, for engaging in coordinated and inauthentic behaviour.^{xxxix} These disinformation campaigns have also taken on a gendered dynamic.^{xl} In 2020, a public petition was signed by women journalists^{xli} against the ongoing online harassment, character assassination and baseless accusations they face in the course of their work in an attempt to undermine their credibility.^{xlii} Similarly, in 2021 Aurat March organisers^{xliii} and participants were targeted with false^{xliiii} blasphemy allegations through a disinformation campaign using doctored photos and videos.^{xliiii}

6. Privacy

6.1 The right to privacy is protected under Article 14 of the Constitution, however little has been done to extend the right to digital spaces. Pakistan currently does not have any data protection legislation, and though multiple drafts have been released by the Ministry of Information Technology and Telecommunications (MOIT). The draft bills^{xliii} do not have provisions for a strong data protection commission, and they require data localization which raises concerns regarding data security.^{xliii}

6.2 The existing legal mechanism, on the other hand, provides wide powers for monitoring the personal data of citizens. The ‘*Fair Trial Act, 2013*’ allows security agencies to seek a judicial warrant to monitor private communications “to neutralize and prevent [a] threat or any attempt to carry out scheduled offences.” Furthermore, Section 54(1) of the ‘*Pakistan Telecommunication (Re-organization) Act, 1996*’ empowers the Federal Government to authorise any person to “intercept calls and messages or to trace calls through any telecommunication system” in the interest of national security. Lastly, the *Social Media Rules 2021* mandate social media companies to provide decrypted information to the FIA.^{xliiii}

6.2 The government also made attempts to restrict the use of Virtual Private Network (VPN) through Clause 4(6) of the ‘*Monitoring and Reconciliation of Telephony Traffic Regulations (MRITT), 2010*’, requiring internet users within Pakistan to register their VPNs,^{xliiii} compromising user privacy. So far, there has not been a concerted crackdown on non-registered VPNs, but the legal cover holds potential for future misuse and has resulted in intermittent throttling of unregistered VPNs.^{xliiii}

6.3 In the absence of adequate safeguards for privacy, the state has concurrently increased its technical powers for monitoring. The government acquired a national “web-monitoring system” for USD18.5 million from Canada-headquartered firm Sandvine.^{xliiii} To be used by the PTA, the system has Deep Packet Inspection (DPI) capabilities which allows monitoring

of the contents of internet traffic, not just metadata.^{xlvi}

6.4 State-held data regarding citizens is increasingly becoming centralised and linked to the National Database Registration Authority (NADRA) which contains personal citizen data, including biometric information. Registration with the database is a prerequisite for voting, access to public spaces, opening a bank account, enrolling in educational institutions, and getting welfare services and healthcare.^{xlvi} NADRA identification is also needed for purchasing SIM cards.^{xlvi} The security of the data maintained by the state is highly questionable since there have been multiple leaks^l, resulting in personal data of citizens being shared and sold online.

7. Online Gender-based Violence

7.1 According to the ‘Gender Parity’ reports by the Punjab Commission on the Status of Women (PCSW), there were 602 reported cases of online violence against women (VAW) in 2020 and 794 in 2021 in the province of Punjab. In 2020, the ‘15 Punjab Helpline’ reportedly received 7741 cases of online harassment.^{li} DRF’s own Cyber Harassment Helpline, which records cases from across the country, reports an increase in online harassment complaints in 2018 (1283)^{lii}, in 2019 (2023),^{liii} in 2020 (3298),^{liv} and in 2021 (4441).^{lv}

7.2 Transgender individuals are particularly vulnerable in digital spaces. The Gender Interactive Alliance reported that more than 200 threatening video and audio messages were received by trans individuals in 2021 in Karachi alone.^{lvi} In 2021 a trans woman, Paras, received dozens of threatening video and audio messages for refusing the advances of a man.^{lvii}

7.3 The Cyber Crime Wings of the FIA, the law enforcement agencies tasked with addressing online GBV, are severely under-resourced and experience shortage of staff engaged on a contract, rather than permanent, basis.^{lviii} There are only 15 offices of the Wings, located in major urban centres of the country, to deal with complaints from across Pakistan. In 2021, the Cyber Crime Wing received over 100,000 complaints out of which only 15,000 were upgraded to inquiries. There were only 1,160 arrests, 552 ‘challans’ (investigation reports) filed, and 28 convictions for the entire country.^{lix}

7.4 Furthermore, survivors of online harassment are regularly subjected to victim-blaming when they report crimes. They are also likely to face counter-defamation cases,^{lx} and often see their perpetrators receive relief and release from custody – even in cases involving the dissemination of non-consensual intimate images, which is a non-bailable offence. Furthermore, the Cyber Crime Wing has consistently failed to publish its bi-annual report to Parliament (mandated under Section 53 of PECA); it has only submitted one report in 2021 since the passage of the law in August 2016.^{lxi}

7.5 Repercussions of this state of affairs have proved to be fatal in many instances. In 2020, a victim allegedly committed suicide after repeated pressure from the perpetrator and the FIA’s failure to provide timely support.^{lxii} There have been several cases of victims committing suicide as a result of being blackmailed, particularly from smaller cities where offices of the Cyber Crime Wing are not located.^{lxiii} Videos and pictures being shared online can lead to physical harm for women and gender minorities, often at the hands of their own family. There have been several instances of honour killings during the last four years.^{lxiv} Prosecution

of honour killings due to digital content have either experienced delays in the courts^{lxv} or resulted in acquittals. Despite the high-profile nature of the case and a confession, Qandeel Baloch's brother, for instance, was acquitted six years after her murder.^{lxvi}

8. Freedom of Assembly and Association

8.1 Pakistan's Constitution guarantees the right to assembly under Article 16. Over time digital technologies' relevance in organising protests^{lxvii} has also grown. In response to this, internet shutdowns have been the primary method of curtailing protests and gatherings. Section 54(3) of the '*Pakistan Telecommunications Act 1996*' has been employed to block communications to prevent public gatherings and mobilisation. The Act allows the Federal Government to suspend or modify licences to service providers in the name of "national security". In 2018, mobile internet signals were closed in Bannu attempting to thwart a peaceful protest organised by the PTM.^{lxviii}

8.2 The internet shutdown in the ex-FATA region has lasted more than 5 years since its issuance on June 12, 2016.^{lxix} While there has been some progress in 2021 regarding the restoration of the internet in some parts^{lxx} overall access in these regions remain precarious as services are frequently re-suspended on vague security grounds.^{lxxi}

8.3 Technologies are also employed to monitor and restrict gatherings in urban settings. Pakistan has safe cities projects in 3 cities^{lxxii} and has plans to launch these projects in an additional 12 cities.^{lxxiii} These projects involve installation of cameras and nerve centres to monitor activities at key areas of the city. In absence of data protection safeguards, transparency and independent oversight, these technologies can be employed to monitor and profile protestors. In some cases, protestors have been identified through safe city cameras.^{lxxiv}

8.4 These technologies are bound to impact marginalised communities the most. For instance, footage of couples from the city and private cameras has been leaked and disproportionately impacted women given the prevailing cultural attitudes.^{lxxv} The country is also acquiring Artificial Intelligence technologies such as facial recognition software, currently utilised mostly at borders^{lxxvi} (ports of exit and entry, and airports)^{lxxvii}, however there have been plans in the pipeline to extend these systems to urban policing^{lxxviii}, which raises concerns given the lack of safeguards against digital discrimination and profiling.

9. Recommendations

9.0.1 Pakistan should endeavour to close the digital divide, particularly with reference to the gender disparity, through increased digital literacy programs incorporated into school curriculums and developed with the help of civil society organisations.

9.1 Online Freedom of Expression

9.1.1 Defamation should be removed as a criminal offence by repealing Section 20 of the '*Prevention of Electronic Crimes Act 2016*' and Section 499/500 of the Pakistan Penal Code in compliance with General Comment No. 34, Human Rights Committee.

9.1.2 Section 37 of the '*Prevention of Electronic Crimes Act 2016*' should be repealed and '*Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards), Rules 2021*' should be denotified, and all laws concerning freedom of expression should be amended to remove vague/overbroad criteria, including definitions of "decency and

morality”, “security of Pakistan”, “glory of Islam”, and “integrity or defense of Pakistan” for online content moderation.

9.1.3 Safeguards should be implemented for protected speech by journalists and human rights defenders in online and offline spaces, particularly their right to speak critically of public figures and institutions.

9.2 Privacy

9.2.1 Personal data protection legislation should be enacted through open and inclusive consultations with all relevant stakeholders, in compliance with global standards for data privacy and international human rights laws.

9.2.2 An oversight body should be constituted, such as a data protection commission, which is independent and has substantive powers to hold private and public bodies accountable for breaches of citizens’ privacy and data security.

9.3 Online Gender Based Violence

9.3.1 The Cyber Crime Wing, FIA should submit and make public its bi-annual progress report, including gender disaggregated data regarding online gender-based violence, as per Section 53 of the ‘Prevention of Electronic Crimes Act 2016’.

9.3.2 More material resources should be allocated to build the forensic capacity of the Cyber Crime Wing, FIA to investigate and prosecute online gender-based violence in a timely and gender-sensitive manner.

9.4 Freedom of Assembly and Association

9.4.1 Laws and mechanisms should be developed to ensure non-discrimination and safeguard against the misuse of emerging technologies (such as Artificial Intelligence, Facial Recognition Technologies, etc.) for profiling of citizens in public spaces based on their race, ethnicity, gender identity, class, disabilities, nationality, occupation, and religion.

9.4.2 Establish and implement effective transparency and accountability measures through mandatory human rights audits of state agencies and bodies regarding the acquisition of technologies used to regulate digital content, communications and data.

End Notes

- ⁱ “Take steps to protect freedom of expression, including online freedoms”. Recommendation by Australia, Third UPR Cycle, 2017.
- ⁱⁱ “Bring to justice anyone who threatens, abducts or attacks human rights defenders, journalists, bloggers or others who work to promote democracy”. Recommendation by Canada, Third UPR Cycle, 2017.
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- ^{iv} “FIA registers 8,500 complaints concerning women harassment,” *Digital Rights Monitor*, May 9, 2019, <https://digitalrightsmonitor.pk/fia-registers-8500-complaints-concerning-women-harassment/>.
- ^v Noman Wahab and Salman Aslam, “FIA received 95,567 cybercrime complaints in 2021,” *The News International*, January 1, 2022, <https://www.thenews.com.pk/print/921519-fia-received-95-567-cybercrime-complaints-in-2021>.
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- ^x “Connected Women: The Mobile Gender Gap Report 2021,” *GSMA*, June 2022, <https://www.gsma.com/r/wp-content/uploads/2021/07/The-Mobile-Gender-Gap-Report-2021.pdf>.
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- ^{xii} According to NADRA, only 5,626 transgender persons have been registered in Pakistan [Source: Iftikhar A. Khan, “Nadra to register transgender persons across country,” *Dawn*, December 11, 2021, <https://www.dawn.com/news/1663057>].
- ^{xiii} Section 3(3) of the ‘Transgender Persons (Protection of Rights) Act, 2018’ states that every transgender citizen above 18 has “the right to get himself or herself registered according to self-perceived gender identity with NADRA on the CNIC, CRC, Driving Licence and passport.”
- ^{xiv} Journalists Abducted, Arrested, Detained & Harassed,” Freedom Network, October 8, 2021, <https://www.fnpk.org/journalists-abducted-arrested-detained-harassed/>. Asad Hashim, “‘Chilling pattern’: Pakistani journalists ‘targeted’ by cyber law,” *AlJazeera*, November 2, 2021, <https://www.aljazeera.com/news/2021/11/2/pakistan-journalists-targeted-cyber-crime-law-press-freedom>.

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^{xvi} Zulqernain Tahir. “Meesha, eight others booked over vilification of Ali Zafar,” Dawn, September 29, 2020, <https://www.dawn.com/news/1582156>.

^{xvii} Fareiha Aziiz, “Rethinking the Prevention of Electronic Crimes Act - How Cybercrime Laws are Weaponized Against Women” (Human Rights Commission of Pakistan, 2022) <https://hrcp-web.org/hrpweb/wp-content/uploads/2020/09/2022-Rethinking-PECA-How-cybercrime-laws-are-weaponised-against-women.pdf>

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