REGULATORY REPRESSIONS AMID PANDEMIC:

STATE OF DIGITAL MEDIA FREEDOMS IN PAKISTAN 2021

IRADA

Institute for Research, Advocacy and Development

Regulatory Repressions Amid Pandemic: State of Digital Media Freedoms in Pakistan 2021

Muhammad Aftab Alam
Adnan Rehmat and Waqas Naeem

IRADA

Institute for Research, Advocacy and Development

TABLE OF CONTENTS

State of Digital Media Freedoms in Pakistan 2021

ACRONYMS

CP	Citizens Protection (Against Online Harm) Rules, 2020
CPJ	Committee to Protect Journalists
DigiMAP	Digital Media Alliance of Pakistan
DPA	Data Protection Authority
DRF	Digital Rights Foundation
DTH	Direct-to-Home Services
FATA	Federally Administered Tribal Areas
FIA	Federal Investigation Agency
FN	Freedom Network
GDPR	General Data Protection Regulation
GNI	Gross National Income
HRCP	Human Rights Commission of Pakistan
ICT	Information and Communications Technology
IDPB	Indian Data Protection Bill
IFJ	International Federation of Journalists
IPI	International Press Institute
IRADA	Institute for Research, Advocacy and Development
ISI	Inter-Services Intelligence
ITNE	Implementation Tribunal for Newspaper Employees
ITU	International Telecommunication Union
IWF	Internet Watch Foundation
KICs	Key Internet Controls
MDGs	Millennium Development Goals
MMFD	Media Matters for Democracy
MOIT	Ministry of Information Technology and Telecommunication
NCM	National Commission on Minorities
NECOSA	Newspapers Employees (Conditions of Service) Act
NR3C	National Response Centre for Cyber Crime
NTC	National Telecommunication Corporation
OTT	Over-the-Top
PDPB	Pakistan's Personal Data Protection Bill
PECA	Prevention of Electronic Crimes Act
PEMRA	Pakistan Electronic Media Regulatory Authority
PFUJ	Pakistan Federal Union of Journalists
PMDA	Pakistan Media Development Authority

PSLM	Pakistan Social and Living Standards Measurement
PTA	Pakistan Telecommunication Authority
PTCL	Pakistan Telecommunication Company Ltd.
RSF	Reporters Sans Frontieres
RTI	Right to Information
VoIP	Voice over Internet Protocol
WJA	Women Journalists Association

SUMMARY

The state of digital media freedoms in Pakistan remained weak and vulnerable to regulatory pressures and threats against online expression during 2020-21 despite limited gains in Internet access and use.

Digital media freedoms were threatened in particular by the federal government's move to enforce controversial and restrictive rules to regulate online content and the information ministry's proposal to form a centralized media regulatory body that would conduct licensing, registration and content regulation of all types of media, including digital and social media. Meanwhile, Pakistani journalists who actively connected with news audiences on social media during the pandemic continued to face abuse, trolling, harassment and coordinated online campaigns to malign and discredit their journalism. Women journalists were targeted in particular and responded with two joint statements to call out the perpetrators of vicious online attacks against them. At the same time, disinformation, including false messages about the coronavirus and the Covid-19 vaccines, spread largely unchecked on Pakistani social media.

This report takes stock of the digital rights situation in Pakistan in 2020-21 by compiling a compendium of research reports published during the year by national and international stakeholders, including regulatory authorities, digital rights organizations and media freedom watchdog groups.

The report aims to provide a snapshot of the important findings and recommendations of these research studies on digital rights issues in Pakistan in one place. The collection of studies is expected to give a comprehensive overview of the challenges faced by media stakeholders and Internet users in the effective and ethical use of online spaces and the solutions proposed to overcome these problems.

The report is divided into five chapters: Access, Online Freedoms, Privacy, Legal Framework and Judicial Actions.

The chapter on access deals with annual reports about the current situation of Internet connectivity in the country and research about the digital divide

including online participation of marginalized groups such as women, religious minorities and media professionals, including women journalists. The chapter on online freedoms relays research on the overall state of digital rights and online freedoms in Pakistan and the impact of digital rights violations on online expression.

The privacy chapter provides information about enacted or forthcoming policies related to data protection and cyber security as well as enforcement of the cybercrimes law.

The fourth chapter, legal framework, provides documentary evidence of legal and regulatory action against journalists and media organizations, the state of right to information laws and media labour laws in the country and, most importantly, the increasing attempts to control online expression and digital media through rules for content regulation under the Prevention of Electronic Crimes Act and the proposed Pakistan Media Development Authority.

The fifth chapter provides the crux of key judgements passed during the period under review by the higher judiciary against the breach of privacy and surveillance and in support of freedoms of expression, online and offline.

It is hoped that the report will provide relevant stakeholders, including journalists, digital and human rights defenders, and policymakers, with a consolidated guide to the issues related to digital media freedoms and help them to develop strategies to overcome these challenges in order to create a progressive and safe enabling environment for digital media in the country.

CHAPTER ONE:
DIGITAL RIGHTS – ACCESS

This chapter on access to the internet and digital rights provides summaries and recommendations from the reports about the current situation of Internet connectivity in the country. This chapter also covers reports covering issue of digital divide and online participation of marginalized groups such as women, religious minorities and media professionals, including women journalists.

Part One: Access and Connectivity

Annual Report 2020[1]

Pakistan Telecommunication Authority (PTA)

The PTA annual report claims that more than 87% of the population has access to Internet services in Pakistan. The report states that rates of mobile data have come down to 0.70% of Gross National Income (GNI) per capita. As per the report, these rates are even less than the rates (2% of GNI per capita) suggested by the United Nations Broadband Commission. The report also claims that the International Telecommunication Union (ITU) has ranked PTA as a fourth-generation regulator. According to the ITU, "[t] his generation requires adaptability to an industry that not only grows exponentially but goes through constant innovations, causing radical changes in both business scenarios and consumer behavior." [2]

Broadband Penetration
According to the report, in 2020, the total penetration of broadband in Pakistan (both fixed and mobile) was 39.2% which shows an increase of about 16% over the previous year. As mobile broadband services topped

---

[1] https://pta.gov.pk/assets/media/pta_ann_rep_2020_10082021.pdf
This PTA Annual Report 2020 was published in Urdu only. However, for the purpose of this research, we have translated relevant parts of this report into English.
[2] https://www.itu.int/en/ITU-D/Regulatory-Market/Pages/Trends/Trends-Special%20Edition. aspx

the list, 3G and 4G services have surpassed 38.3%, an increase of 17% over the past one year. The report highlights that according to the Pakistan Social and Living Standards Measurement (PSLM) Survey 34% of households across Pakistan (including 41% in Khyber Pakhtunkhwa, 37% in Sindh, and 33% in Punjab) have access to the Internet.

Broadband Usage

The report further states that year 2020 has observed 17% increase in broadband usage in the country. In the month of October 2020, number of broadband users surpassed 90.1 million. Similarly, according to the report, usage of 4G increased by 60% in 2020. As result thereof, overall broadband usage increased by 42.4% in October 2020. With the expansion in 3G and 4G services in 2020, overall data use increased by 77%. The report provides that data usage of mobile phone operators increased from 2545 petabytes in 2019 to 4498 petabytes in 2020.

While referring to the finding of PSLM survey, the report states that 71% of the respondents used Internet for email, chatting, Facebook, voice and video calls, etc., while 7% used the Internet for online shopping and banking.

Fixed Line Broadband Usage

According to the report, there are currently more than 2 million fixed broadband subscribers in the country. These services are being provided through PTCL, NTC, Nayatel, Optics, Qubee, WorldCall, Wi-Tribe and Fiberlink. However, due to the limited capacity of wireless based services and limitation in PTCL expansion, total fixed broadband sale decreased by about 7.1% during the year 2020.

5G Technology Testing

The report mentions that PTA allowed testing of 5G services with limited scope and on non-commercial basis. CM Pak (Zong), Jazz and Telenor, respectively, have successful tested 5G services on trial basis in August 2019, January 2020 and March 2020.

Over the Top (OTT) Regulatory Framework

PTA's Annual Report 2020 states that according to the Telecom Policy 2015, PTA has to develop a formal framework for VoIP and other OTT services as a partial or complete alternative to traditional licensed telecommunication services.

Citizens Protection (Against Online Harm) Rules, 2020.
The report mentions that under section 37(1) of the Prevention of Electronic Crimes Act (PECA) 2016 related to removal and blocking of illegal online content, PTA is authorised to formulate procedures or rules for online protection and a transparent and effective mechanism for monitoring online content. These rules were initially called Citizens Protection (Against Online Harm) Rules, 2020.

According to the report, prior to the issuance of CP regulations, Prime Minister constituted a committee for "wide ranging consultation with the stakeholders for consensus on these rules." The report claims that participants from the civil society, human rights and digital rights groups, social media platforms (technology companies), and media representatives were invited.

However, this claim is contested by the digital rights organizations working in Pakistan and the rules themselves have undergone several amendments while also facing a legal challenge in the Islamabad High Court. (*For further details, please see chapter 4 of this report.*)

Digital Pakistan
The report states that the Prime Minister's Digital Pakistan vision given in December 2019 provides a comprehensive plan for development of digital systems. PTA is under obligation to work with all public and private stakeholders through its key pillars of its vision including expanding connections, improving digital infrastructure and develop digital skills and inventions.

Annual Report 2019-20[3]

Pakistan Electronic Media Regulatory Authority (PEMRA)

Pakistan Electronic Media Regulatory Authority (PEMRA) produced its Annual Report 2019-20 during the period under review. According to this report, PEMRA since its establishment in 2002, has so far issued 106 licenses for satellite channels, out of which 30 licenses are for news and current

---

[3] PEMRA Annual Report 2019-2020: https://pemra.gov.pk/uploads/pub-rep/pemra_annual_report_19-20.pdf

affairs channels. Similarly, 40 licenses are granted for entertainment and 22 for regional language programmes. Moreover, the regulator has issued 257 radio licenses out of which 196 are commercial and 61 are non-commercial radio stations. As per the report, PEMRA has also issued 43 landing rights permission to international satellite television channels.

Licensing Status as on December 31, 2020

Sr.	Description	Number of Licence
1	**Satellite TV Licences**	**106**
	i. News & Current Affairs	30
	ii. Entertainment	40
	iii. Regional Languages	22
	iv. Health	3
	v. Sports	3
	vi. Education	3
	vii. Specialized subject Channel	5
2	**FM Radio Licences**	**257**
	i. Commercial	196
	ii. Non Commercial	61
3	**Landing Rights Permissions**	**43**
4	**Mobile TV (Video & Audio Content Provision) Service Licenses**	**6**
5	**Internet Protocol TV (IPTV) Licences**	**11**
6	**Direct-to-Home (DTH) Licence**	**1**
7	**Cable TV Licences**	**4,062**

Source: PEMRA Annual Report 2019-20

The report also separately provides details of licenses issued in the year under review. The report states that the regulator has issued 16 licenses for satellite channels in 2020, out of which 04 were news and current affairs licenses.

Licences Issued During 2020

Sr.	Description	Number
1	Satellite TV	16
	a. News & Current Affairs	4
	b. Entertainment	2
	c. Regional	4
	d. Health	2
	e. Sports	2
	f. Education	2
2	FM Radio	2
	a. Commercial	1
	b. Non-Commercial	1
3	Landing Rights Permission	6
4	IPTV Distribution Service	2

Source: PEMRA Annual Report 2019-20

Direct-to-Home (DTH) Services

PEMRA's Annual Report 2019-20 states the regulator "has been pursuing the major initiative, Direct-to-Home (DTH) licensing project which is expected to have enormous positive impact on the electronic media industry." According to the report, PEMRA received the security clearance from the federal ministry of interior in respect of M/s Shahzad Sky (Pvt.) Ltd. – one of the three successful bidders – for DTH license. As per the report, the "launch of the DTH service in the country by the Licencee is in its final stages."

OTT Content Services

PEMRA's Annual Report 2019-20 mentions that the regulator has conceived "soft touch regulatory regime and floated for consultation with the stakeholders pertaining to OTT content services and Web TV." The report claims that "this concept received very encouraging response from local as well as international stakeholders." However, Senate's Standing Committee on Human Rights rejected this move to regulate web TV content on the basis that "PEMRA has no jurisdiction to regulate web TV and over-the-top (OTT) content services." [4]

---

[4] https://www.thenews.com.pk/magazine/instep-today/612852-senate-on-human-rights-rejects-pemras-move-to-regulate-web-tv-content

National Policy on Digitalization of Cable TV Networks
The report mentions that "International Telecommunication Union (ITU), while chalking out Millennium Development Goals (MDGs) decided that "all analog distribution networks should be converted to digital by the end of 2015"." However, PEMRA admits that the "deadline could not be met due to huge financial injection which was not possible for an ordinary Cable TV Operator." The report further states that lack of technical expertise and knowhow of digital networks were also a major impediment towards digitalization. The report claims that "the Government through Ministry of Information and Broadcasting and PEMRA are working on the National Digitalization Policy for Cable TV Networks, through consultative process."

Part Two: Digital Divide

Women Disconnected: Feminists Case Studies on the Gender Digital Divide amidst Covid-19[5]
Media Matters for Democracy (MMFD)

This research focuses on three key questions:

- Which factors exacerbate the digital gender divide in Pakistan?
- How does the gender digital divide impact the marginalized on a personal and societal level?
- What have been the implications and impacts of the gender digital divide during the Covid-19 pandemic and the subsequent increase in technological dependence?

The report finds that:
1. Financial ability to access the internet is directly linked to women's use of the internet.
2. The gender divide is also affected by the region in which women are residing.
3. A significant majority of the respondents said that the internet is expensive to varying degrees – collectively.
4. Mobile [phone] appears to be the main mode of [internet] connection for women.

---

[5] https://www.digitalrightsmonitor.pk/wp-content/uploads/2021/01/Women-Disconnected-Gender-Digital-Divide-in-Pakistan.pdf

5. Women's use of the internet is either considered bad or there are some concerns about their usage.
6. [Women] face some sort of restrictions when using the internet.
7. Many women, who previously accessed the internet outside of their homes, like at educational institutions and in workplaces, libraries, etc. are unable to do so due to the lockdown and mobility restrictions that have been put in place due to the coronavirus.
8. In newly merged districts of FATA, accessibility, lack of mobile phones and internet connectivity continue to be a challenge for both men and women and continue to affect opportunities for education and employment.
9. There have been various fatalities in the region due to women's inability to reach emergency health services in time.
10. Expectant women facing complications in child birth are severely affected. Interviewees from the region recounted multiple incidents of death or severe bodily harm resulting from their inability to call for emergency healthcare.
11. While cultural barriers, including the belief that the internet is unsafe or that the use may expose women to outsiders, continues to create hurdles in women's use of technology.
12. Women users of the internet, including those from vulnerable and marginalised communities continue to assess safety of different online spaces and platforms and continue to make personal decisions about altering their usage to counter those threats.
13. Some Pakistani women feel surveilled online and observe a kind of 'digital purdah'.
14. An important aspect of the use of technology that has been highlighted is leisure and entertainment.
15. The questions of surveillance including on payments and earnings and the often questionably low cost of digital labour continue to be pose a challenge.

Religious Minorities in Online Spaces [6]

Digital Rights Foundation (DRF)

This report explores "intricacies of religious minority experiences online, in an effort to understand the precarious nature of their existence as it

---

[6] https://digitalrightsfoundation.pk/wp-content/uploads/2021/05/Religious-Minorities.pdf

extends into and out of the online domain." The report finds "that religious minorities in Pakistan exist under precarious and vulnerable conditions in online spaces." The report states that "majority of respondents mentioned having experienced online negativity, including backlash or threats on the basis of religious affiliation and/or a combination of factors." According to the report, "forms of online negativity range from receiving negative comments and derogatory, abusive language to daily abuse and threats to their life." The report says that "those who chose to reveal their religious affiliation online, have experienced online abuse as a result" thereof. As per the report, many feel insecure and unsure about their own privacy in online spaces and the institutional measures to protect them from online breaches."

The report makes the following recommendations:
- **Awareness building:**
    o   Using internet forums to bring awareness to the society about the different religions that exist in Pakistan, instead of erasing their identities in school curriculums.
    o   Awareness among the general public about what constitutes unacceptable online behaviour and laws that govern these spaces.
    o   Awareness-building efforts need to be linked to misinformation and disinformation about minority religions and sects.
- **Transparency and accountability**
    o   The state needs to be forthcoming and transparent about the proceedings and efforts it has taken in curtailing of hate speech. Increased awareness of laws and rights, without concrete action and implementation, will be a hollow effort.
    o   There needs to be mechanisms of accountability for state institutions to ensure checks and balances to prevent effects of possible biases in the implementation of laws and regulations.
    o   Government institutions are encouraged to perform annual human rights audits and make the audit reports available to the public; the audits should include information about inclusion of minorities, programs to address gaps in minority rights and efforts to incorporate minority rights into the agenda of each department.
- **Religious leaders and relevant government ministries**
    o   There needs to be a sincere effort in advancing interfaith harmony by using awareness to change mindsets and misled beliefs. Unambiguous rhetoric along with policy changes that brings together leaders from all religious faiths, without any exclusions, is needed.

- **Clamping down on anti-minorities content both online and offline**
  o Material inciting violence and entrenching discrimination against minorities needs to be regulated through due process.
  o Online hate speech and anti-minority pages, accounts, and posts need to be taken seriously as they foment ideas regarding discrimination and marginalisation that spill over into violent acts. However, regulation of online spaces and speech should be conducted through a human rights framework.
  o Hate speech should be removed from textbooks, talking about Hindu, Sikh, Christian and Ahmadi heroes of history as well and teaching children to recognise contributions of all faiths.
- **Free speech protected for all**
  o There is a need to revise existing laws that disproportionately impact minority groups and discriminate against religious minorities. For online spaces there is a need to review criminal defamation (section 20) and content moderation (section 37) sections of the Prevention of Electronic Crimes Act 2016 to ensure compliance with international human rights frameworks.
- **Counter-speech**
  o It is important to ensure that counter-narratives that affirm the rights, contributions and humanity of religious minority groups should also be developed.
  o Experiences of discrimination and marginalisation need to be documented and made available to the general public.
- **Accountability**
  o An inclusive and progressive National Commission on Minorities (NCM) be enacted to listen to the complaints of minorities with confidentiality and review them as well as act on them urgently as lives could be in danger.
  o Hate speech should be removed from textbooks, talking about Hindu, Sikh, Christian and Ahmadi heroes of history as well and teaching children to recognise contributions of all faiths.
- **More responsive law enforcement bodies**
  o Reporting hate speech should be made easier and accessible, particularly keeping in mind the oppressive relationship the members of minority groups have with law enforcement.
- **Inclusivity**
  o Representation of minority groups in all aspects of life, from public service to the media, is important in slowly changing attitudes.

Recommendations for civil society
- Awareness-raising campaigns at a mass scale to counter misinformation, exclusion and to bust myths and defamatory beliefs against any religious minorities.
- Urge the Special Rapporteur on Freedom of Religion and Belief and the Special Rapporteur on Freedom of Expression to raise the issue of the abusive use of the blasphemy laws with the Government of Pakistan with a view to immediately establishing procedural safeguards on the application of these laws.
- A coalition of civil society organizations interested in advancing the cause of religious minorities must be formed so it can serve as an effective and substantial platform to rally around any instances of rights violations.

Recommendations for the State
- Recognition of Pakistan's international human rights norms, ratification, and ensuing international obligations must be taught to the judiciary and law enforcement agencies that deal with such cases.
- Recognition of possible mental illness in a person accused of blasphemy must be made possible by training first responders to such a case.
- Laws must be enacted to protect witnesses in cases involving blasphemy to ensure fair trials
- Human rights-compliant monitoring of online spaces for religiously-motivated hate speech, incitement of violence.
- Ensure legal representation or access to such representation for any person accused of blasphemy charges.
- Fair trial, as per legal definition and international practice, must be given to anyone accused of blasphemy.

Recommendations for social media platforms:
- Investment of resources in comprehensive content moderation, including monitoring, regulation and removal of online hate speech, misinformation and violent/graphic images and videos.
- Understanding cultural and linguistic complications tied to the abuse, hate speech and threats faced by religious minorities online. Much of the hateful content posted online is in languages other than English, and therefore, takes longer to report and remove. More must be done to ensure that all forms of hate speech in all languages are being treated with the same urgency.
- Adopt preventative measures such as actively initiating and bringing

attention to issues tied to hate speech and digital violence against religious minorities in the online sphere. This could include providing resources and tools for further awareness and education on platforms where such problems are common.
-   Increased protection and privacy for vulnerable groups and online communities.

Women Journalists and the Double Bind[7]
Media Matters for Democracy (MMFD)

This study maps the prevalence of self-censorship among women journalists and explores the factors that compel the women to self-censor.

Following are the main findings of the research.
-   Online violence leads to self-censorship among women journalists: The research shows a strong connection between the online attacks against women journalists and the restraint exercised by the journalists on their professional and personal expression.
    o   Online harassment was most frequently identified by the respondents as the factor that forced Pakistani women journalists to self-censor their work. There was near-unanimous consensus among the respondents that women journalists who do not self-censor are more likely to be the target of online violence.
    o   The women journalists interviewed for the study referred to the 'weaponisation' of social media against journalists and said they regularly faced coordinated online campaigns on social media, especially Twitter, designed to discredit their work and malign their reputation.
    o   Perceived practice of journalistic self-censorship among women journalists has not shown any signs of slowing down. In fact, a slightly greater number of women journalists now confirm that they limit their work on sensitive issues.
    o   Women journalists are most wary of their online expression as they connect it directly with the abuse and the trolling they face on social media.
    o   The historical pressures against journalists to self-censor — religion, security establishment — are now rivalled by a growing

---

[7] https://drive.google.com/file/d/1nt9hTGPxdaoOqiZtsPouV66FdzILuwok/view

culture of political intolerance that directs its hate and anger toward women journalists on the Internet.

o   Forced to self-censor in the face of online violence, women journalists have started to put up a collective effort against these attacks.

Recommendations

The study offers the following recommendations for different stakeholder groups to thwart the threats and risks that push women journalists toward coercive self-censorship.

- **For women journalists:**
  o   **Establish a national forum:** Women journalists should consider formalising their efforts to ensure a united and sustained movement for their rights and safety.
  o   **Issue regular reminders:** Women journalists must make an effort to follow up on their demands.
  o   **Document the instances of online abuse and self-censorship:** Women journalists could document the sexualised and gender-based online abuse they are targeted with.
- **For federal and provincial governments:**
  o   **Legal protection:** The federal government should expedite the process to introduce the journalists' safety bill in the legislature and ensure that this draft bill includes appropriate actions to counter the digital threats to women journalists, including efficient investigations into incidents of digital violence.
  o   **Effective law enforcement:** The federal government should enhance the human resource and gender sensitivity capacity of the Federal Investigation Agency (FIA) to facilitate the registration and follow-up of cases of digital violence against women, including women journalists, in an efficient and effective manner.
  o   **Accountability:** The federal and provincial governments should immediately investigate all government officials accused of inciting digital violence against women journalists, make the results of these investigations public, and take appropriate punitive action against officials found guilty.
- **For political parties:**
  o   Political parties must immediately ask their party leaders, party workers, official social media teams as well as their supporters and followers to refrain from launching online attacks against women.

- o   Political parties must educate supporters about press freedom
- **For media organisations:**
    - o   Media organisations must make their newsrooms safe and non-discriminatory places for women journalists.
    - o   Media organisations must educate and sensitise male journalists.
- **For representative associations of journalists:**
    - o   **Ensure equal representation:** The Pakistan Federal Union of Journalists (PFUJ) and other trade unions that represent journalists must ensure that women get equal chances to participate in the decision-making units of these associations.
    - o   **Set up a women-led special task force:** PFUJ should create a special national task force of women journalists in light of the joint statements issued by journalists against coordinated and abusive online attacks against them.
- **For media development organisations and press freedom advocates:**
    - o   **Provide digital safety training:** media development organisations should offer ample opportunities to women journalists for digital safety training.
    - o   Promote collaborative journalism
    - o   Support a national alliance of women journalists
    - o   Urge social media networks for better enforcement

CHAPTER TWO:
DIGITAL RIGHTS – ONLINE FREEDOMS

This chapter on online freedoms relays research on the overall state of digital rights and online freedoms in Pakistan and the impact of digital rights violations on online expression.

Freedom on the Net 2020[8]
Freedom House Report – The Pandemic's Digital Shadow

According to the Freedom on the Net 2020 report, Pakistan has scored 26 out of 100 with employment of 7 Key Internet Controls (KICs). In 2019, the report monitored application of 6 KICs in Pakistan. The report ranks Pakistan among those countries which are considered 'not free' with reference to Internet freedom.

The report states that the "coronavirus pandemic is accelerating a dramatic decline in global internet freedom." The report further mentions that "State and nonstate actors in many countries are now exploiting opportunities created by the pandemic to shape online narratives, censor critical speech, and build new technological systems of social control."

According to the report, "[t]hree notable trends punctuated an especially dismal year for internet freedom. First, political leaders used the pandemic as a pretext to limit access to information. Second, authorities cited COVID-19 to justify expanded surveillance powers and the deployment of new technologies that were once seen as too intrusive. Third, transformation of a slow-motion "splintering" of the internet into an all-out race toward "cyber sovereignty," with each government imposing its own internet regulations in a manner that restricts the flow of information across national borders."

The report recommends to the policy makers to "reject undue restrictions on access to information and free expression during a pandemic." The report asks the governments to "support and maintain access to the internet and refrain from banning social media and messaging platforms."

---

[8] Freedom on the Net 2020 report: https://freedomhouse.org/sites/default/files/2020-10/10122020_FOTN2020_Complete_Report_FINAL.pdf

The report demands the private sector to "ensure fair and transparent content moderation." The report suggests private companies to prioritize users' free expression and access to information, particularly for content that can be considered journalism, discussion of human rights, educational materials, or political, social, cultural, religious, and artistic expression. The report also recommends that the companies must provide an efficient and timely avenue of appeal for users who believe that their rights were unduly restricted, including through censorship, banning, assignment of labels, or demonetization of posts.

Freedom on the Net 2021[9]
Freedom House Report – The Global Drive to Control Big Tech

This report notes that "in the high-stakes battle between states and technology companies, the rights of internet users have become the main casualties." The report mentions that "[a] growing number of governments are asserting their authority over tech firms, often forcing the businesses to comply with online censorship and surveillance." According to the report, "[t]hese developments have contributed to an unprecedented assault on free expression online, causing global internet freedom to decline for an 11th consecutive year."

The reports further notes that "[m]ore governments have introduced problematic rules on removing users' speech from internet platforms. Some of the laws are designed to suppress content that is critical of the government, rather than protecting users from harmful material." According to the report, "[a] similar pattern is apparent on matters of data management." The report states that "[a] growing number of laws facilitate government surveillance by undermining encryption and mandating that platforms store user data on servers based within the country."

---

[9] https://freedomhouse.org/report/freedom-net/2021/global-drive-control-big-tech

Governments in at least 48 countries pursued new rules for tech companies on content, data, and competition over the past year.

24 countries initiated measures governing how platforms treat content

38 countries pursued reforms affecting companies' management of data

21 countries proposed action to defend competition

Argentina	Egypt	Japan	Pakistan	Ukraine
Australia	France	Jordan	Russia	United Arab Emirates
Bangladesh	The Gambia	Kazakhstan	Rwanda	United Kingdom
Belarus	Germany	Kenya	Saudi Arabia	United States
Brazil	Ghana	Kyrgyzstan	South Africa	Uzbekistan
Canada	Hungary	Malaysia	South Korea	Venezuela
China	India	Mexico	Taiwan	Vietnam
Colombia	Indonesia	Myanmar	Thailand	Zambia
Cuba	Iran	Nicaragua	Turkey	
Ecuador	Italy	Nigeria	Uganda	

Source: Freedom on the Net 2021

This report finds Pakistan among the top 10 countries in the world where internet freedom has been on the decline. Freedom House raised concerns over rules proposed by the country that could further damage cyber liberty. The report ranked Pakistan as seventh among "abusers of internet freedom". According to the 2021 scorecard, Pakistan got 25 out of 100 points – one point less than its 2020 score.

The report recommends that policy makers must consider strict regulation of use of surveillance tools and the collection of personal information by government and law enforcement agencies. The policies must ensure a competitive, transparent and accountable market based on the principles of human rights and democratic oversight. The policies must ensure a *reliable and diverse information space* and support for free expression online, particularly during elections, protests, and periods of conflict.

This report recommends that the companies must ensure fair and transparent content moderation, resist government orders to shut down internet connectivity or ban digital services, adhere to the UN Guiding

Principles on Business and Human Rights and conduct human rights impact assessments, with a commitment to do no harm and engage in continuous dialogue with civil society organizations to understand the implications of company policies and products.

The report recommends that the civil society must conduct research on and raise awareness about censorship, surveillance, and content manipulation and utilize strategic litigation to push back against shutdowns and censorship.

Pakistan's Internet Landscape 2020[10]
Bytes for All

This report meticulously maps Pakistan's internet landscape alongside covering digital trends and their impact on socio-economic developments as well as challenges and threats in the digital age during 2019-20. This edition also looks at the impact of the ongoing Covid-19 pandemic on people's digital lives in Pakistan.

The report finds that the year 2020 saw more downturns in Pakistan's internet landscape than ups. This report states that the country saw accelerated growth in terms of adoption and usage mainly due to the Covid-19 crisis and nationwide lockdowns forcing citizens to turn to new means of communication, doing business, working from home, continuing education remotely etc. The report notes that Pakistan maintained its position as one of the worst-ranked countries globally with regards to the internet in terms of almost all variables.

The report states that "government's much touted, 'Digital Pakistan' program - cited to be a gamechanger for the country's technological future - was essentially defunct by mid-year due to internal political struggles." However, "positive strides were seen on the fintech, e-commerce and online banking fronts with some improvements in policies and better, rapidly evolving services made possible in part due to the extraordinary circumstances the pandemic created."

The report also mentions that "the issue of online blasphemy accusations and campaigns continued to spiral out of control, with social media users

---

[10] https://bytesforall.pk/publication/internet-landscape-pakistan-2020

able to target anyone with near complete impunity. Most online cases targeted minorities, members of the media or those teaching/studying in educational institutions." Similarly, the report notes, "little seemed to change with regards to child pornography, with large numbers of reported cases of child abuse - reflecting only a fraction of reality - and few arrests and court cases, with most action coming at the prompting of Interpol and European and international law enforcement agencies."

The report also highlights that "all cybercrime, be it harassment of women, hate speech against minorities, financial scams and cyberattacks, data breaches and sale of private information and more saw a marked increase." The year, according to the report, also saw a sharp rise in disinformation - focused on the pandemic, the coronavirus and government lockdowns, hampering efforts and causing panic.

The report notes a further drop in free speech and access to information with greater censorship led by state policies and efforts and exacerbated by an increasingly hostile environment for free speech online. Furthermore, it underlines "blanket bans on websites, online content, social media and apps with low to no transparency, using controversial laws and little to no explanations behind such actions was a recurring trend, as were increasing attacks and campaigns against journalists - and especially female journalists."

The reports states that "with the introduction of the Removal and Blocking of Unlawful Online Content Rules, 2020, the State has not only upped the ante in terms of censorship, it has also brought Pakistan to the brink of complete digital isolation with all major social media/internet companies threatening to end services in the country if pushed to comply with the new rules."

The report mentions that Pakistan has remained one of the most dangerous countries to practice journalism for years, and the same held true for 2020. According to the report, the online landscape for freedom of expression for media practitioners witnessed multiple arrests related to online speech and experienced ongoing harassment campaigns.

The report further notes that "[a]s the fight against the coronavirus raged on across the globe, a second crucial battle was simultaneously fought to end a different, menacing phenomenon: disinformation/misinformation. False claims - intentional or unintentional - which circulated as the mass

forwarded messages on WhatsApp, ranged from incorrect and misleading information on the origin of the virus to its symptoms and so-called cures created unprecedented fear and panic."

The report concludes that "the state appeared to be a mix of misguided or willfully ignorant, lacking in resources and strategy, unable to turn ideas into action and in some cases, actively causing harm in order to maintain control over the internet. It is likely that the coming years will see a similar landscape, barring the inventiveness and resilience of private enterprise and citizens."

Misinformation in the Public Eye[11]
Media Matters for Democracy (MMFD)

This exploratory study revolves around three basic questions: (1) How does the public perceive misinformation? (2) What is the impact of misinformation on public perception and trust on news media? (3) Is the public using any strategies to tackle misinformation?

Here are key findings of the study:

Understanding Misinformation
- Results show that an overwhelming majority of the respondents (90%) see misinformation as a challenge to Pakistan.
- Younger people between 18-25 years are coming across misinformation most frequently.
- Given that 'social media' is a broad term used for the online platforms on which both professionally/journalistically produced content and content by other creators is being shared, it stands to reason that misinformation would make more frequent appearance on social media.
- Almost 3 in 10 respondents (27%) said they cross-check the information on the different digital platforms. Twitter, YouTube, Google, and Facebook were specifically mentioned as the platforms to which the respondents turn for verification.
- The method of information verification that was identified by the second largest cluster of respondents was comparison of news on different news channels.

---

[11] https://drive.google.com/file/d/1atFtFxJKAmMcjcQ0MO7HY9cTKeLJ68Ar/view

Sources of Misinformation
- Majority of people believe that 'anonymous social media accounts' are responsible for spreading misinformation.
- Among the actors who can be identified, majority seems to put the blame on the politicians and political parties.

Platforms Being Used to Spread Misinformation
- According to a majority of the respondents, Facebook is a platform that is used most often to spread misinformation.
- Only 2 percent of the respondents in this survey identified WhatsApp as the main source of misinformation.
- 20 percent of respondents felt that YouTube and Twitter contributed to spread of misinformation in the online spaces.

Trust in Media
- Highest number of respondents placed their trust in television, newspapers, and news websites
- Thirty nine percent of respondents believe that social media platforms are always used to share misinformation
- 22 percent believe that WhatsApp is a culprit
- 15 percent of people said they consume news through newspapers
- About 3 in 10 respondents talk of a 'low' level of trust in the media and the majority has an average level of trust.
- Only 50% of the respondents depend on the media to form opinions about important political and social issues.

Dealing with Misinformation
- Four in ten respondents think improving policies of social media platforms can help deal with misinformation
- Three in ten think media and information literacy should be improved
- 13% respondents talked about the media's role in dealing with misinformation.

Recommendations for Further Research
The report makes following recommendations for identification of areas for further research that in turn can help create a deeper understanding of the subject.
- A baseline study about understanding of and attitudes towards misinformation conducted with a larger sample would help map trends that are generalisable to the overall population.

- • Experimental research assessing any differences in the perceptions about the skills and ability to identify the misinformation versus actual ability will help highlight gaps of perception.
- • One of the research findings shows that respondents think that politicians and political parties are also responsible for spreading misinformation. This phenomenon, along with the implications of this distrust on political decision making and democratic processes, needs to be studied.

***Modernization and Reforms: Towards Representative Models of Journalists' Unions, Association and Press Clubs in Pakistan[12]
Freedom Network – 2021***

This baseline research is part of a rapid assessment of the key factors preventing media unions in Pakistan accepting the growing number of young journalists, particularly digital and women media practitioners, as members and defending their labour rights.

Key Findings:
- Digital journalism in Pakistan in general still does not get recognised as part of the general media landscape allowing journalists working only for digital media to be discriminated against for membership of journalists' unions, media workers' associations and press clubs.
- Journalists without contracts from their media employers – whether legacy media or digital media – find it difficult to become members of journalists' unions, media workers' associations and press clubs.
- Charters and constitutions of journalists' unions, media workers' associations and press clubs do not reflect current realities of an emerging digital media landscape and its workers.
- All digital journalists consider digital media part of the overall media landscape.
- There is a huge demand within the broader digital media practitioners' community for membership of journalists' unions, media workers' associations and press clubs.
- The broader journalists' community in general and the leaderships of journalists' unions, media workers' associations and press clubs in particular are not oriented on the technology-driven transformation of the media landscape urgently requiring redefining the concepts of

[12] https://www.fnpk.org/wp-content/uploads/2021/07/Final-Report-Modernization-and-Reforms.pdf

journalism and people who practice it.

- There is high demand for both a dialogue between practitioners of legacy media and digital media to determine new rules of solidarity and for reforming the outdated and outmoded foundational documents and mission charters of journalists' unions, media workers' associations and press clubs that are excluding legacy media journalists making the switch to digital as well as a new crop of journalists that work only for digital media.

- Women journalists still face hurdles in becoming members of journalists' unions, press clubs and media workers' associations, especially if they have digital journalism-only backgrounds or if they don't have employment contracts.

- Charters and constitutions of journalists' unions, media workers' associations and press clubs tend to be outmoded by being rooted in times that did not reflect the concepts of gender equality and digital media – both of which militate against gender-affirmation and acknowledging and supporting digital media realities.

- There is still considerable room for improvement in the policies and practices of journalists' unions, media workers' associations and press clubs to both engender a gender-affirmative environment to encourage greater women journalists' memberships as well as instituting multiple offices within their bodies for women to be elected to them.

- There is high demand among women journalists and their various platforms for technical resources to improve their skills and strategies to acquire greater representation and influence within journalists' unions, media workers' associations and press clubs.

- There is a high degree of unmet need within the independent digital journalism media community of Pakistan to be mainstreamed into the broader media and media practitioners' communities.

- There is high interest within the independent digital journalism media community to engage with the community of legacy media (including print and electronic) in a dialogue on solidarity.

- Most digital journalism platforms and their workers are keen on becoming members of various journalists' unions, press clubs and media workers' associations.

- Digital journalism in Pakistan in general still does not get recognised as part of the general media landscape thereby hindering digital journalism platforms from engaging meaningfully with journalists' unions, media workers' associations and press clubs.

- The community of digital media and its practitioners lack adequate

technical resources and strategies to effectively engage with journalists' unions, media workers' associations and press clubs as partners.

- There is high desire within the community of digital journalism media platforms to engage with journalists' unions, press clubs and media workers' associations for recognition and membership.

- The digital media community lacks – and wants – resources, skills and opportunities to engage with legacy media practitioners' community to lobby for recognition and eventual memberships within the journalists' unions, press clubs and media workers' associations.

- Digital Media Alliance of Pakistan (DigiMAP) can serve as the representative platform of the country's emerging ecosystem of digital journalists to spearhead a campaign for greater recognition and acceptability within the mainstream media practitioners' community.

- While there is a broad recognition among the journalists' unions, media workers' associations and press clubs of the reality of digital media as being part of the overall media landscape, there is still a great deal of reluctance within them in bringing digital media and its journalists within their folds.

- There is high support for inclusion of young journalists within the fold of journalists' unions, media workers' association and press clubs as members.

- There is comparatively lower support for inclusion of both digital journalists and women journalists within the fold of journalists' unions, media workers' association and press clubs as members.

- There is wide acknowledgement among media workers' groups that their charters and constitutions are outdated, outmoded and in need of overhaul through reforms.

- Media workers' groups particularly admit to the gap between legacy media and digital media in terms of the rights of their respective practitioners and that they must engage to new, equitable rules of rights and representation.

- Media workers' groups admit factionalism within their ranks and can welcome initiatives on greater unity and solidarity.

- There is a high degree of willingness among the journalists' unions, media workers' associations and press clubs on amending their charters and constitutions and to reform membership rules to allow greater inclusivity and diversity in membership.

- There is tentative willingness among the journalists' unions, media workers' associations and press clubs on creating mandatory representation of young journalists, women journalists and digital

journalists through creating of special seats for them in their elective offices.
- There is a high degree of willingness among the journalists' unions, media workers' associations and press clubs to engage with all excluded principals within the media workers' communities and to build capacities and partnerships to draft and implement a charter of membership reform and greater media worker solidarity.

Recommendations:
- Help broaden the understanding of modern definitions of key phrases "journalism" and "journalists" to accommodate new realities of internet media and digital journalists.
- Help reform charters, constitutions, manifestos and policies of journalists' unions, press clubs and media workers' associations to accommodate into their fold digital journalists.
- Facilitate dialogue between legacy media (print and electronic media) and digital media (internet media) practitioners.
- Reforming rules and criteria of membership of journalists' unions, press clubs and media workers' associations to promote inclusivity of all kinds of journalism practitioners.
- Creating special positions in journalists' unions, press clubs and workers' associations' office bearers for digital journalists and women journalists.
- Strengthening groups of digital journalists, women journalists and digital journalism platforms to expand their influence and collective representation in journalists' unions, press clubs and media workers' associations.
- Facilitating dialogues among factions of journalists' unions, press clubs and media workers' associations to improve and strengthen unity among journalists' community.

Truth in a Time of Contagion[13]
International Federation of Journalists (IFJ) Report 2020-21

This report studies key media issues of the Covid-19 pandemic and documents the stories of struggle, courage and resistance of a media industry in crisis and under attack on economic and political fronts in

---

[13] https://samsn.ifj.org/SAPFR/

almost every country of the region.

Here are the key aspects of the report relating to Pakistan.

Tightening Regulation and Digital Controls
- Controlling the flows of information seemed to be the overriding preoccupation of the governments across the South Asia region. From the reigning in of burgeoning independent digital media, and clamping down on the critical voices on the social media, government and the social media platforms fell short of upholding the freedom of expression at the critical juncture.
- **Pakistan** suffered under harshest clampdown on dissent by any government. Media rights and freedom of expression have taken a severe beating, with government seemingly leaping at the opportunity to deprive media of both the freedom and funds, driving the already beleaguered media industry into a deeper crisis. PECA which criminalises free speech and gives overarching power to law enforcement authorities is overused to clamp down on free speech. Media, political opponents, activists and members of the public found the boundaries of free speech indiscriminately scrunched in violation of the constitutional guarantees.
- The arbitrary blocking of independent websites, internet, and communication shutdown are deployed to censor media. This inevitably led to the proliferation of misinformation that Pakistan could ill-afford in the midst of not only the pandemic but also civil strife and political upheaval. Cutting off the connectivity in politically sensitive areas in an attempt to censor news had other adverse effects during the lockdown on health and education.

Livelihood in peril
- The year of the pandemic witnessed a dramatic loss of jobs in the media in the region. Over 8,000 of **Pakistan's** estimated 20,000 journalists lost their jobs in the year 2020 and the rural and district staff are likely to be retrenched.
- The journalists through the Pakistan Federal Union of Journalists (PFUJ) remained up in arms for most of year 2020 and in early 2021 launched the "Enough is enough" campaign to protest job losses, pay cuts, censorship and rising intimidation. The media industry found new external supporters, including the legal community and the civil society, in the institutional, and organised partnership with the PFUJ to

jointly resist the rise in attacks on media freedom, journalist rights, and public interest journalism.
- The pandemic crisis, however, only added to the existing pressure that journalists face across the region, with one threat being the increasing polarisation along the communal lines.

Rising Extremism
- The minorities in **Pakistan**, India, Sri Lanka, and Bangladesh have been vulnerable in the context of the majoritarian politics. The divisions have inevitably affected the media. While a few sections of the press have added to problems by exacerbating the divisions and amplifying hate, others have had to struggle to remain independent.

Women Journalists in the Firing Line
- **Pakistani** women journalists had a rough year facing unrelenting abuse by the organised troll armies variously backed by the members of ruling parties prompting them to release a petition taking the government to account.

Welcome Pushback
- In **Pakistan**, independent online journalism platforms together have formed the Digital Media Alliance of Pakistan (DigiMAP) to challenge and resist the state's increasing authoritarianism on national dialogues initiated by the grassroots communities. The DigiMAP represents the emerging and bold ecosystem of independent media start-ups and has taken it upon itself to champion the cause of public interest journalism that the legacy media has been suppressed to surrender before an increasingly hostile state. The DigiMAP put out a strong statement against new digital regulations.

- The strong push back to curtailment of the hard-won rights was witnessed among the women journalists in Pakistan. In March 2021, Women Journalists Association (WJA) was launched as the spirited response to unrelenting online violence and the abuse directed against them and demanded a special desk at the Federal Investigation Agency's Cyber Crime Cell to deal with the online harassment cases of women journalists.

- The WJA has demanded the allocation of at least 33 percent seats in the journalists' bodies in Pakistan, including the PFUJ, and press clubs.

The WJA called for gender audits of media organisations to assess the number of women journalists who have lost their jobs during the current media crisis and demanded the availability of basic facilities for women at the workplace.

World Press Freedom Index – 2021[14]
Reporters Sans Frontieres (RSF)

The annual World Press Freedom Index by RSF ranked Pakistan at number 145 out of 180 countries in 2021 – a six-point drop in the ranking since 2018.

RSF also states that: [15]
- The Pakistani media, which have a long tradition of being very lively, have become a priority target for the country's "deep state," a euphemism for the military and Inter-Services Intelligence (ISI), the main military intelligence agency, and the significant degree of control they exercise over the civilian executive.
- The influence of this military "establishment," which cannot stand independent journalism, has increased dramatically since Imran Khan became prime minister in July 2018.
- After reining in the traditional media, the establishment has set about purging the Internet and social media of content not to its liking. To that end, the government is trying to step up online "regulation," by which it clearly means censorship.
- A new phenomenon is emerging – cyber-harassment campaigns by pro-government or pro-military trolls against journalists, especially women journalists.

Global Impunity Index 2020[16]
Committee to Protect Journalists (CPJ)

The Global Impunity Index by the CPJ spotlights countries where journalists are slain and their killers go free. Pakistan has been a mainstay on the Global Impunity Index since its inception in 2008. The 2020 Index put Pakistan at number 8 among the top ten dangerous countries for journalists in the world.

---

[14] https://rsf.org/en/ranking
[15] https://rsf.org/en/pakistan
[16] https://cpj.org/reports/asia/pakistan/

The CPJ notes that "corruption, weak institutions, and lack of political will to pursue robust investigations are all factors behind impunity in these countries, which include Pakistan, Mexico, and the Philippines."

The CPJ further states that "[i]n Pakistan, a surprise legal development this year–while not directly affecting the 2020 Impunity Index–showed that even murder cases that were long thought to be resolved can be upended" in reference to the Sindh High Court's decision to overturn the murder convictions of four men accused in the killing of Wall Street Journal reporter Daniel Pearl in Pakistan in 2002.

Facebook transparency report (2020)
According to the Facebook transparency report, the Government of Pakistan submitted a total of 1,485 request to Facebook during January – June 2020.[17] Facebook made 1,083 content restrictions within Pakistan, including 557 items related to blasphemy, 209 items related to anti-judiciary content, 180 items related to condemnation of the country's independence, 66 items related to sectarian enmity, and 71 items for a range of offenses, including obscenity, advocacy against the polio vaccine, and other offenses under the Prevention of Electronic Crimes Act.

Similarly, Facebook received 1,816 requests from Government of Pakistan during July – December 2020.[18] Facebook imposed 1,652 content restrictions – including restricting 1,531 items for blasphemy, 33 items related to anti-judiciary content, 30 items related to sectarian enmity, and 58 items for a range of offenses, including obscenity, advocacy against the polio vaccine, and other offenses under the Prevention of Electronic Crimes Act. [19]

Google Transparency Report (2020)[20]
According to the Google transparency report, the company has received 154 requests for content removal from Pakistan between January and June 2020. These requests asked for removal of 903 items on Google products or services.

---

[17] https://transparency.fb.com/data/government-data-requests/country/PK/
[18] https://transparency.fb.com/data/government-data-requests/country/PK/
[19] https://transparency.fb.com/data/content-restrictions/country/PK/
[20] https://transparencyreport.google.com/government-removals/government-requests/
PK?removal_compliance_rate=requestor:;period:2020H1;authority:PK&lu=country_
breakdown&country_request_explore=period:2020H1;authority:PK&country_
breakdown=period:2020H1;country:PK

Similarly, according to Google transparency report, the company received 725 content removal requests from Pakistan between July and December 2020. These requests were for the removal of 9,720 items from Google products or services.

Twitter Transparency Report (2020)[21]
Account Related Information Requests:
During the period from January to June 2020, according to the Twitter transparency report, the platform received a total of 18 accounts related information request from Pakistan specifying 38 twitter accounts. Twitter did not comply with any of these requests.

However, during July – December 2020, the platform received 21 accounts related information specifying 69 twitter accounts. Twitter's compliance – to these requests – rate was 4.7%.

Content removal Requests
Similarly, Twitter received 241 requests from Pakistan, specifying 2080 twitter accounts, for content removal in January – June 2020. Twitter's compliance rate was 29%.

During July – December 2020, the Twitter received 417 requests from Pakistan, specifying 6,518 twitter accounts, for content removal. Out of these 417, three requests were based on the court order. Twitter's compliance rate for these requests was 40.5%.

---

[21] https://transparency.twitter.com/en/reports/countries/pk.html

CHAPTER THREE:
DIGITAL RIGHTS – PRIVACY

This chapter provides details of review reports on data protection bill, pending with the Federal Ministry of Information Technology and Telecommunication. The chapter also provides information about enacted or forthcoming policies related to data protection and cyber security as well as enforcement of the cybercrimes law.

Personal Data Protection Bill 2020 – Civil Society Submission to the Ministry of Information[22] Technology and Telecommunications
Digital Rights Foundation 2020

The report states that "[t]he new 2020 Personal Data Protection Bill, while a better version in comparison to the drafts issued in 2018, still does not fully capture the data protection needs of people in Pakistan." According to the report, "most prominent issue we see with the draft is the exemption-making and wide-ranging powers given to the Federal Government, in particular under Sections 31 and 38 which risk undermining the protections afforded under the Act." The report also demands that "the independence of the Personal Data Protection Authority of Pakistan needs to be ensured, by limiting the powers of the Federal Government to appoint members and approve rules made by the Authority." Here are primary recommendations of the report:

1. Definitions of terms such as "Public Interest" and "Critical Personal Data" should be explicitly defined under the Act;
2. The definition of "Sensitive Personal Data" should be expanded to include categories such as "membership of a trade union" and "philosophical and/or religion beliefs";
3. Implementation of the Act should be on a progressive basis to ensure a balance between rights protection and a grace period for data controllers to ensure compliance;
4. Clearer language regarding scope and jurisdiction of the Act;
5. Mandatory requirements for obtaining consent should be expanded to include information on intention to transfer of personal data to a third

---

[22] https://digitalrightsfoundation.pk/wp-content/uploads/2020/05/PDPB-2020_-Final-Analysis_05.05.2020-1.pdf

country and the level of protection provided, the existence of profiling for targeted purpose, and the existence of automated decision-making;

6. The Act should develop a higher consent standard for personal data of children and young adults below the age of majority;

7. Clearer and minimum requirements for security measures for data controllers should be laid down in the Act;

8. Data localisation measures introduced for cross-border personal data flows should be seriously revised in light of international best practices;

9. Procedure for withdrawal of consent should be simplified to ensure that it is as easy for the data subject to withdraw consent as it is to give it;

10. Rights of data subjects such as the right to data portability, right to information related to profiling and automated decision-making, and right to compensation should be explicitly included in the Act;

11. Powers of the Federal Government to make exemptions under Section 31 be removed;

12. Safeguards should be included to ensure independence of the Data Protection Authority;

13. Powers of the Federal Government to issue policy directives under Section 38 should be removed.

Protecting the Data - A Comparative Analysis of Pakistan's Personal Data Protection Bill, 2020
Media Matters for Democracy (MMFD) 2021

"This research identifies significant commonalities and differences between Pakistan's Personal Data Protection Bill (PDPB), 2020 and the Indian Data Protection Bill (IDPB), 2019"

The report makes following recommendations:

1. The definition of "government" as controller or processor in the PDPB should be revised to include attached departments, autonomous bodies, parliamentary bodies and other public bodies and authorities to expand the application of the law to any public body that holds citizens personal data.

2. A more robust and accountable data protection regime should be incorporated in the PDPB, similar to the DPA that deals with processing for law enforcement purposes, and extends its protection to the processing of personal data by intelligence services and their processors.

3. Clause 5 of the PDPB must provide guidance in relation to the manner in which informed consent is to be obtained, particularly the processing of personal data belonging to minors and those incapable of giving consent.

4. The PDPB should also avoid placing unnecessary reliance on consent as a ground for processing, especially in the context of automated decision-making and profiling, as often the data subject does not fully understand what they are consenting to and to what extent, and has various other technicalities when a minor data subject is involved. It must also grant the right not to be subject to a decision based solely on automated processing, including profiling as laid down in article 22 of the General Data Protection Regulation (GDPR).

5. The requirement under clause 23 of the PDPB to withdraw consent through a written notice should be revised, because it excludes those who are unable to furnish a written notice and places unjustifiable burden on the subject. The responsibility should instead be shifted to the controller to provide assistance to those who are faced with such hurdles and limitations, and simplify the manner in which consent can be withdrawn, at any time. For instance, GDPR mandates the data controllers to enable withdrawing consent through a process which is as simple as the process used to opt-in to data processing; a process that should be one-step and does not require the subject to engage in lengthy written requests and is automated through online platforms.

6. Clause 29 of the PDPB should be removed, and controllers must be obligated to obtain consent each time personal data is collected, and any further processing should be subject to the same standard of fair and lawful processing.

7. Clause 32 is extremely broad in exempting sensitive and critical personal data for certain purposes. It needs to be narrowed down and safeguards and qualifications should also be included to protect against its misuse by public authority.

8. Clause 31 provides sweeping powers to the Federal Government without any parliamentary scrutiny. This contravenes with the fundamental constitutional principle of separation of powers and allows the Federal Government to make arbitrary exemptions in excess of their powers. Therefore, it should be revised to make any rules proposed by the Federal Government subject to the active approval of the Parliament.

9. Clause 20(1) of the PDPB should be revised to obligate the controller to notify a personal data breach if such notification is not impossible or

does not involve disproportionate effort. It is crucial that the standards are lowered to "commercially reasonable steps" and other similar exceptions in the GDPR are incorporated.

10. Blanket exemptions in Clause 15 such as *"strategic interests"* of the State should be removed to avoid the arbitrary use of this provision.

11. It is imperative that the Authority is completely separated from the Federal Government for it to enjoy "*complete independence*" in line with recital 117 of the GDPR. Therefore, the requirement under clause 32 that places the Authority under the administrative control of the Federal Government must be removed. Further, sub-clauses that vest sweeping powers in the Federal Government in relation to appointments, directions, exemptions and financial assistance must also be removed.

12. Provisions that authorise the Federal Government to nominate and increase members of the Authority, nominate chairman, remove members, prescribe their qualifications, payment of salary and mode of appointment should be removed, and a more democratic and consultative process must be adopted that is subject to parliamentary approval

13. The requirement under clause 41(3) to give unfettered control and access to the Federal Government to any return, statement, estimate, statistics or other information in respect of any matter under the control of the Authority or a copy of any document in the custody of the Authority should also be removed.

PERSONAL DATA PROTECTION BILL 2021 - Civil Society Submission to the Ministry of Information Technology and Telecommunication[23] Digital Rights Foundation 2021

The report notes that "[t]he Personal Data Protection Bill 2021 which has been released by the Ministry of Information Technology and Telecommunications (MOIT) is the fourth draft of the Bill released since 2018." However, the report urges to the government to take following measures in order for a consultation process to be open, inclusive and transparent:

1. **Adequate time for feedback and consultation:** The short timeline given to stakeholders to submit their feedback regarding the new version of the Bill is inadequate given the complex subject matter. The

---

[23] https://digitalrightsfoundation.pk/wp-content/uploads/2021/09/PDPB-2021-Submission-by-DRF.pdf

latest draft was ostensibly finalized on the 25th of August (as per the date on the draft) and came to the notice of stakeholders after the 27th of the same month with a deadline of September 2, 2021. The timeframe for feedback was less than a week, a deadline that most stakeholders cannot meet without due notice. If the consultation process strives to be inclusive and comprehensive, measures must be taken to facilitate feedback from all cross-sections of society.

2. **Transparency:** Currently the consultation process suffers from a lack of transparency where there is no timeline or public list of individuals and organizations consulted. Furthermore, there should be transparency regarding the kinds of objections being raised from stakeholders and a record of which recommendations have been incorporated and which have not. Reasons should be given for rejecting recommendations so that the legislative intent of the government is clear and on the record.

3. **Inclusion:** There is an obligation on the state to consult a diverse set of stakeholders when drafting and finalizing the law. Stakeholders should include civil society, industry representatives, the legal fraternity, academics, and individuals across the political spectrum. Including a wide cross-section of stakeholders will ensure that all aspects of data protection are captured in the Bill and result in ownership over it when it is implemented.

4. **Adherence to human rights standards:** Lastly, while the process itself is important and crucial, the substance of the Bill must adhere to human rights standards to ensure that Bill not only complies with international norms but also Article 14 of the Constitution of Pakistan, 1973 which guarantees the right to privacy of all persons.

National Cyber Security Policy 2021[24]
Ministry of Information technology and telecommunication

This policy aims to deal with the issues of cyber security and online safety. The policy document claims that "to ensure the online safety of the citizens of Pakistan and to ensure the security of the digital systems, various initiatives are already in place by different federal & provincial bodies … "

This policy document highlights the following challenges and risks:

- **Ownership [of the data and information] at the Top:** Information being a national asset, its management, governance, and regulation

---

[24] https://moitt.gov.pk/SiteImage/Misc/files/National%20Cyber%20Security%20Policy%20 2021%20Final.pdf

must be synchronized at the national level using all available resources to secure this time-sensitive valuable asset.
-   **Governance and Implementation Challenges of Cyber Security Policy and Strategy:** In the absence of a centralized policy and strategy for cyber security, attempts at securing the digital assets of the country are liable to be random and uncoordinated.
-   **Enforcement of Required Structures and Processes:** The assurance of cyber security requires proper structures and processes for governance, regulation, implementation and enforcement. Any absence or weakness of the regulation structures poses a threat to cyber security.

Objectives of the National Cyber Security Policy

The policy document states its objectives as follows:
-   To establish governance and institutional framework for a secure cyber ecosystem.
-   To enhance the security of national information systems and infrastructure.
-   To create a protection and information sharing mechanism at all tiers capable to monitor, detect, protect and respond against threats to national internet and communications infrastructures.
-   To protect the national critical information infrastructure by mandating national security standards and processes related to the design, acquisition, development, use and operation of information systems.
-   To create an information assurance framework of audits and compliance for all entities in both public and private sectors.
-   To ensure the integrity of ICT products, systems and services by establishing a mechanism of testing, screening, forensics and accreditation.
-   To protect the online privacy of the citizens by provisioning the required support and system to all the concerned institutions and organizations that are dealing with citizens' data-related matters to be more equipped and able to render their services accordingly.
-   To develop public-private partnerships and collaborative mechanisms through technical and operational cooperation.
-   To create a country-wide culture of cyber security awareness through mass communication and education programs.
-   To train skilled cyber security professionals through capacity building, skill development and training programs.

- To encourage and support indigenization and development of cyber security solutions through R&D programs involving both public and private sectors.
- To provide a framework on national-global cooperation and collaborations on cyber security.
- To identify and process legislative and regulatory actions under the mandates of relevant stakeholders assigned in the policy.
- Risks related to cyber security need to be managed continuously. Encourage adoption of a risk-based approach to cyber security through frameworks including those for regulation, assurance, threat management and incident management.

Annual Administration Report 2020[25]
Federal Investigation Agency (FIA)

Performance of the Cyber Crime Wing

The report states that the Cyber Crime Wing, formerly known as National Response Centre for Cyber Crime (NR3C), has specialized units which investigate complaints relating to cyber crimes. The Cyber Crime Wing is headed by an Additional Director General who is assisted by Director Operations along with a number of Additional Directors.

According to the report, the Cyber Crime Wing has taken many initiatives to educate the nation about seriousness of cyber crimes. It issues advisory notes and alert messages against cyber threats through social media. Cyber Rescue 1991 is also providing 24/7 services to help the victims of cyber crimes. Here is an overview of performance of the Cyber Crime Wing, as given in the Annual Administrative Report 2020 of the FIA.

---

[25] https://www.fia.gov.pk/files/publications/522413583.pdf

Performance of Cyber Crime Wing
(Annual Administration Report 2020)

Comparison of Enquiries:

CCRC	B/F on 01.01.20	Added	Total	Enquiries Converted into Cases	Disposed Off	Pending on 31.12.20
Lahore	2721	2979	5700	117	2451	3132
Karachi	840	641	1481	46	651	784
Rawalpindi	545	823	1368	80	1044	244
Peshawar	829	1285	2114	37	1184	893
Quetta	307	198	505	7	241	257
Islamabad	128	402	530	27	285	218
Abbottabad	219	229	448	20	332	96
D.I Khan	194	191	385	7	207	171
Gujranwala	434	946	1380	49	1003	328
Faisalabad	756	402	1158	31	892	235
Multan	707	675	1382	50	515	817
Hyderabad	39	173	212	7	121	84
Sukkur	72	106	178	18	118	42
Gawadar	0	0	0	0	0	0
Gilgit	2	62	64	0	29	35
Total	**7793**	**9112**	**16905**	**496**	**9073**	**7336**

Comparison of Cases:

CCRC	B/F on 01.01.20	Added	Total	Challaned	Disposed Off	Pending on 31.12.20
Lahore	415	152	567	102	11	454
Karachi	43	45	88	15	0	73
Rawalpindi	103	80	183	90	3	90
Peshawar	56	40	96	23	0	73
Quetta	0	7	7	7	0	0
Islamabad	20	27	47	5	7	35
Abbottabad	14	23	37	13	0	24
D.I Khan	11	7	18	4	0	14
Gujranwala	90	49	139	27	0	112
Faisalabad	53	88	141	65	0	76
Multan	64	59	123	12	0	111
Hyderabad	2	8	10	2	0	8
Sukkur	4	18	22	8	1	13
Gawadar	0	0	0	0	0	0
Gilgit	0	0	0	0	0	0
Total	**875**	**603**	**1478**	**373**	**22**	**1083**

Comparison of Court Work:

CCRC	BF 01.01.20	Added	Total	Convicted	Acquitted	CRR	Pending 31.12.20
Lahore	226	103	329	7	28	59	235
Karachi	67	15	82	6	11	2	63
Rawalpindi	119	67	186	2	31	5	148
Peshawar	70	23	93	0	13	0	80
Quetta	36	6	42	1	1	0	40
Islamabad	30	36	66	3	0	0	63
Abbottabad	0	13	13	0	0	0	13
D.I Khan	0	0	0	0	0	0	0
Gujranwala	93	0	93	0	0	0	93
Faisalabad	33	66	99	0	1	0	98
Multan	26	53	79	0	0	0	79
Hyderabad	1	2	3	0	0	0	3
Sukkur	3	8	11	0	3	0	8
Gawadar	0	0	0	0	0	0	0
Gilgit	0	0	0	0	0	0	0
Total	**704**	**392**	**1096**	**19**	**88**	**66**	**923**

CHAPTER FOUR:
DIGITAL RIGHTS – LEGAL FRAMEWORK

This chapter provides documentary evidence of legal and regulatory action against journalists and media organizations, the state of right to information laws and media labour laws in the country and, most importantly, the increasing attempts to control online expression and digital media through rules for content regulation under the Prevention of Electronic Crimes Act and the proposed Pakistan Media Development Authority.

PEMRA Annual Report 2019-20[26]
PEMRA also acts as a watch-dog to ensure implementation of the terms and conditions of its licences and the observance of the code of conduct for all electronic media broadcasters, distributors and service providers. PEMRA operates via its regional offices located in various parts of the country. The satellite TV channels are dealt with by the Operations Broadcast Media Wing at PEMRA that on the basis of the input received from the Monitoring Wing initiates appropriate enforcement actions keeping in view the severity of violations. The actions taken against violators during 2019 and 2020 are detailed below:

Actions Taken Against Satellite TV Channels
According to PEMRA's Annual Report 2019-20, Operations Wing issued show cause notices, guidelines, warnings, advices, and directives to all the Satellite TV Channels on committing the different types of violations, a few of which were specified in the report as follows:
- Use of abusive language during the talk shows and dramas
- Airing anti-judiciary or anti-State remarks in talk shows
- Telecast of derogatory, biased, defamatory, personalized and inappropriate remarks and vilification campaigns
- Broadcast of Indecent, vulgar, objectionable, gory scenes and speculative language, remarks or discussions
- Telecast of deceptive, vulgar and quackery advertisements
- Promoting black magic through TV dramas or morning shows
- Discussing or analyzing sub-judice matters or violating court orders and directives as well as the PEMRA Code of Conduct, 2015
- Airing foreign content in excess of the approved limit of 10%

---

[26] https://pemra.gov.pk/uploads/pub-rep/pemra_annual_report_19-20.pdf

- Telecast of the fake or false news and allegations
- Airing of hate speech during the talk shows
- Illegally changing the channel category, logo and names
- Broadcast of Indian content mainly on the distribution network
- Defaulting on the payment of regulatory fees, which include the annual renewal fee, fines, or any other dues
- Violating the programming mix, as approved in the licensee's terms and conditions
- Not creating editorial boards and not maintaining records

A total of 335 show cause notices were served to the various Satellite TV channels in 2019 and 2020.

Number of Pieces of Advice Issued
According to the report, a total of 118 pieces of advice were disseminated among the media houses involved in violating PEMRA laws, rules and regulation related to editorial control, such as showing indecent scenes in dramas, discussing sub-judice matters, airing excessive foreign or Indian content, showing acts of black magic, demeaning religious sects, castes or communities and telecasting false news.

Number of Warnings Issued
The report provides that a number of TV channels are warned to refrain from airing content that was either indecent, objectionable, anti-judiciary, defamatory, derogatory, baseless, sub-judice, of Indian origin or violated the Code of Conduct 2015 clause pertaining to a time delay mechanism.

Ban on Airing Lottery Programs
The report states that on the receipt of complaints from different segments of society on the Pakistan Citizen Portal against Bol TV's program "Card Game Show", PEMRA prohibited the airing of the programs and advertisements of lotteries, gambling or betting under Clause 6 of the Electronic Media (Programs and Advertisements) Code of Conduct 2015. However, the program is still being aired under a stay order granted by the Islamabad High Court.

Advertisements Edited or Taken Off-air
The report mentions that advertisements of Qamar Tea, Sprite, Coca Cola, Candy Land Toss Jelly and Gala Biscuits were found to have objectionable content and were either prohibited from airing or allowed after the necessary editing of the objectionable content.

Prohibition or Temporary Ban on Individuals and Programs

- Hafeez Ullah Niazi, an analyst in a program on Geo News on July 6, 2019, had leveled certain allegations against Senator Azam Swati. The channel could not substantiate the allegations before the Council of Complaints, which extended sufficient time to Geo News to prove the veracity of its comments uttered by the analyst during its program. When the channel could not come up with a satisfactory reply, PEMRA on the recommendations of the Council banned the appearance of Niazi on any channel for 30 days.

- On June 15, 2019, Bol News aired a program "Meri Jang" wherein the anchorperson Noor-ul-Arfein passed highly provocative and hateful comments against the Prime Minister of Pakistan. Under the Section 27 of PEMRA Ordinance 2002, as amended by PEMRA (Amendment) Act 2007, the programme "was prohibited for 30 days". Further, the appearance of Noor-ul-Arfein on Bol News or on any other channel in any manner was also prohibited.

- On the receipt of a complaint from the Embassy of Pakistan in Athens, Greece, against TV Channels that had indulged in the coverage of an organisation operated by Javied Aslam Arain, a Pakistani fugitive red-warranted by Interpol Pakistan and convicted by a court in Gujranwala on the charges of human smuggling, as well as hateful remarks issued by him PEMRA directed all Satellite TV Channels to refrain from providing media coverage to the events organized by fugitive, his local handlers (Keerfa) and his organization "Pakistan Community Unity" in Greece in compliance with the principles laid down in PLD 2016 Karachi 238 wherein it has been held that a proclaimed offender or absconder has no right to enjoy various rights such as appearing on TV screens.

- A complaint was lodged by Muhammad Azhar Siddiqi, Muhammad & Ahmed Constitutional, Corporate & Tax Council, Lahore against Satellite TV channels for airing the interview/ speech of absconder Ex-Finance Minister of Pakistan. The complaint requested to PEMRA to stop airing the comments of proclaimed offenders/absconders. The complaint was referred to the Council of Complaints, Lahore, which in its 89th meeting held on April 9, 2019, disposed of the aforesaid complaint. Order of the Council was disseminated among all Satellite TV Channels vide letter No. 13(89)/ OPS/2018/1335 dated May 27, 2019, with the directions to not allow proclaimed offender/absconders Ex-Finance Minister to appear on any electronic media in compliance with the principles laid down in PLD 2016 Karachi 238 wherein it has been held that a proclaimed offender/absconder has no right to enjoy various rights such as appearing on TV.

Airing of Anti-Judiciary or Contemptuous Remarks
- As per the report, during the year 2019-20, 26 show cause notices, warnings and pieces of advice were issued to different channels for airing derogatory and defamatory remarks against the institution of judiciary and cases were disposed of by issuing warning letters, imposing fines and suspension or prohibition of programs. Details of notices served to different news channels for airing anti-judiciary remarks are as under:
  o Aap TV, Abb Takk, ARY News, Bol News, Channel 24, Channel 92, Channel-5, City 42, Dawn News, Dunya TV, Express News, Geo News, GNN, Hum News, Khyber News, Lahore News, Neo TV, News One, Public TV, Roze TV, and Samaa TV.

Moreover, on the directives or orders of Honorable Supreme Court of Pakistan in the matter of W.P No. 3716 of 2019 titled "Mian Muhammad Shehbaz Sharif Vs. The State", etc. and in light of judgment of Honorable Supreme Court of Pakistan dated September 12, 2018, against the program "Power Play" on ARY News hosted by Arshad Sharif dated August 28, 2018, all Satellite TV Channels were directed on January 18, 2019, to refrain from casting aspersions using derogatory language against the judiciary and discussing sub-judice matters.

Fines Imposed on Satellite TV Channels during the Year 2019-20
Around 34 satellite TV Channels were fined on account of airing false, fabricated, fake, unverified news, hate speech, maligning state institutions, discussing sub-judice matters, airing foul language, vulgarity, indecency and leveling allegations. Fines of Rs. 23.1 Million were imposed during the period under review.

Annual Report 2020[27]
Pakistan Telecommunication Authority (PTA)

Action against Objectionable Content: PTA's Annual Report 2020 claims that the PTA obtained a list of 2,384 websites and, through Interpol, blocked several URLs and websites identifying pornographic material. The report

---

[27] https://pta.gov.pk/assets/media/pta_ann_rep_2020_10082021.pdf
This PTA Annual Report 2020 was published in Urdu only. However, for the purpose of this research, we have translated relevant parts of this report into English.

further says that this is an ongoing process because millions of web pages are uploaded to the Internet on a daily basis. Therefore, the PTA considers the monitoring process in this regard is extremely important.

Total	2020 ـ 2019	2019 ـ 2016	Category
قابل اعتراض یو آر ایل مواد کی بندش			🚫
5,499	503	4,996	توہین عدالت
11,906	5,053	6,853	سالمیت پاکستان
32,885	6,910	25,975	عظمت اسلام
2,287	1,059	1,228	بہتان تراشی/ نقالی
1,766	1,062	704	متفرقات
348,560	5,237	343,323	شائستگی/ ضابطہ اخلاق
354	1	353	پراکسی
14,882	8,161	6,721	فرقہ وارانہ/ نفرت انگیز تقاریر
418,139	27,986	390,153	کل

Source: PTA Annual Report 2020

Social Media Monitoring: The PTA has called on social media and gaming platforms operating outside Pakistan to be respectful to local sensitivities, including social, cultural and religious norms and values, to imitate and respect local laws.

Cyber Harassment Helpline Report – 2020[28]
Digital Right Foundation (DRF)

This report provides an overview of the cases reported to the Cyber Harassment Helpline run by the DRF and gives a summary of the complaints managed by the helpline. According to the report, a total of 7790 complaints were received by the Helpline since its establishment on 2016. Out of these complaints, 55% (4214) were filed by women and 32% (2516) were received from men. The report further mentions that "[i]n the year 2020, the helpline has had a monthly average of 278 complaints including 212 calls on the

---

[28] https://digitalrightsfoundation.pk/wp-content/uploads/2021/05/Helpline-Report-2020.pdf

toll-free helpline number." Following are the key aspects of the report:

-   **Perspectives and Impacts of Online Violence:** The breakdown of this year's data reveals that most of the complaints received were by women (66%).

-   **Invisibility of Marginalized Communities:** The helpline received a very low number of complaints from marginalized communities. However, there are tremendous societal barriers in reporting cases for marginalized communities. Therefore, figures of the helpline do not reflect the extent of harassment the marginalized communities face in Pakistani online spaces.

-   **Geographical Distribution:** A majority of the cases received by the helpline were from Punjab (57%), which is the most populous province in Pakistan. The second-highest number of cases were received from Sindh (11%)

-   **Inaccessible FIA Offices:** Access to law enforcement agencies is one of the most important determinants of a smooth functioning criminal justice system.

-   **Age Distribution:** A majority of the callers (28%) were between the age of 21 and 25 years, followed by 26 to 30-year-olds and 18 to 20-year-olds.

-   **Social Media Platforms:** The biggest number of complaints at the helpline were related to Facebook (83 complaints). Recently, there has been an influx of cases regarding WhatsApp (25%) and e-mobile wallets that have been found to be more prone to hacking attacks.

The report has identified following issues as "emerging challenges" in the cyberspace.
-   Blackmailing through pictures and information
-   Social engineering attacks/phishing
-   Hacking of mobile wallet/e-cash

The report makes recommendations for policy makers and investigation agencies for a safe and secure cyberspace.

Recommendations for Policy Makers

The report recommends the following steps for policy makers in achieving safe digital space for all:

- Transparency in governmental actions under the law
- Gender sensitization of the law enforcers
- Decriminalize defamation laws
- Training for judges on cybercrime law, Internet governance and online harassment
- Allocate funds for National Response Centre for Cybercrimes (NR3C)
- Allow smooth functioning of non-governmental sector / not for profit sector

Recommendations for FIA

The report recommends following steps for FIA in achieving safe digital space for all:

- Greater resource allocation to the NR3C
- Establish mechanism to deal with cases in foreign jurisdictions
- Introduce online portal for cybercrime-related complaints
- Produce sex-disaggregated data regarding the number of online harassment cases and the number of cases registered by women under each section of PECA, particularly Sections 20, 21 and 24
- Create a separate desk for online harassment within the cybercrime wing
- Establish Rapid Response Cell, operational 24/7
- Ensure privacy and confidentiality of complainants
- Ensure greater accessibility for people with disabilities
- Ensure coordination with other departments
- Empower local police to process cases of online harassment
- Provide psychological services to help complainants deal with the psychological trauma and distress
- Establish case management and tracking system
- Gender sensitization of officials
- Check on the performance of investigators and prosecutors
- Greater technical expertise of the officials and organization
- Collaboration with civil society organizations

***Right to Information Laws and Transparency: Progressive Legislation, Reluctant Governments*[29]**
IRADA Annual Proactive Disclosure Report 2020

This study provides a three-dimensional (3D) comparison of online proactive disclosure of information by selected federal and provincial public bodies under the second generation Right to Information (RTI) laws. Here are the key findings of the study:

- The study finds that "[a]ll the second generation federal and provincial RTI laws entail [online] proactive disclosure of information by all public bodies in respective jurisdictions".
- The study states that Federal RTI law entails proactive disclosure of 43 types of information while the Khyber Pakhtunkhwa (KP) RTI law requires disclosure of 30 types. Similarly, according to the study, Sindh and Punjab RTI laws require proactive disclosure of 25 and 24 types of information, respectively.
- As per the findings of the study, "[i]n inter-governmental comparison of online proactive disclosure of information, the KP government secured first position with overall score of 67%, while Punjab government got second position with 47% collective score. Sindh and federal governments secured third and fourth positions respectively."
- The study mentions that [i]n department-wise ranking, information ministry/ departments collectively occupy the top slot followed by law departments in second position and finance departments securing overall third position. Planning & development, communication/ works and interior/ home departments occupy the fourth, fifth and sixth positions respectively."
- The study further mentions that "[i]n the inter-information category comparison, least disclosed indicators include; description of decision-making processes, remuneration, perks and privileges and functions/ duties of staff. Budget/ expenditures and particulars about the recipients of grants, licenses and other benefits are also poorly disclosed indicators. To the contrary, information related to organizational structure/ functions, staff directories, statutory rules, orders, notifications and relevant Act/ Ordinance have been frequently disclosed proactively."

---

[29] https://irada.org.pk/wp-content/uploads/2020/09/Annual-Proactive-Disclosure-Report-2020.pdf

In Legal Crosshairs: Using the Law to Punish Journalists[30]
Freedom Network (FN) Impunity Report 2020

This report has tracked and examined failure of the legal system in providing justice to journalists facing legal cases against their journalism work during 2018-19. According to the report, "Pakistan has consistently been ranked for several years as one of the most dangerous countries on the planet to practice journalism by international media watchdogs like Reporters Without Borders (RSF), Committee to Protect Journalists (CPJ), International Press Institute (IPI) and International Federation of Journalists (IFJ) and national watchdogs like the Human Rights Commission of Pakistan (HRCP) and Freedom Network (FN)." It further states that "[o]ver 140 journalists and the media assistants have been killed in Pakistan since 2000, according to research and analysis by Freedom Network, an award-winning Pakistani media rights watchdog and civil liberties advocacy organization, which tracks attacks against the journalists and other violations of the freedom of expression."

The report highlights that "[o]ver the course of 2018-19 Freedom Network has documented at least 17 legal cases against the journalists – for which it has been able to get complete data from them, including copies of the legal notices and police FIRs against them, and details of the trials." Here are key findings of the report:

Journalists targeted by medium in Pakistan: Journalists working for print media are the most at risk to legal cases against them; print media practitioners are twice as likely to be the target of legal action than television media.

The riskiest regions for journalists facing legal cases: Sindh is the most dangerous region for journalists when it comes to registration of legal cases against them. It is three times as risky for journalists as compared to other provinces and federal capital.

Laws being used to target journalists: Most journalists (over one-third) are being charged under various provisions of the Pakistan Penal Code; nearly one-third of the journalists who face legal cases are at risk for being charged under the anti-terrorism law, while they are also at risk of being

---

[30] https://fnpk.org/wp-content/uploads/2020/10/FN-Impunity-Report-2020.pdf

charged under the electronic crimes law and defamation law.

Criminal allegations being used against journalists: The most frequent allegations (nearly 65%) under which legal cases are registered against journalists include "acting against state institutions" or "defaming state institutions".

Frivolous charges: In over one-third (35%) of the legal cases against journalists apparently outlandish and frivolous allegations – but which carry serious consequences – are slapped against them, including "illegal possession or arms and explosives," "drug running," "keeping banned literature" and even "harassing citizens."

The most dangerous actors targeting journalists: The state and its functionaries have emerged as the biggest legal threat to journalists in Pakistan with 15 of 17 cases (88.2%) registered by them while law enforcement agencies such as Police and FIA are the single largest (41.1%) type of actor registering legal cases against journalists.

Instruments of legal entanglement: For over two-thirds of all journalists that face legal cases, FIRs are registered against them; the rest receive either formal legal notices or court summons.

Initiators of legal cases against journalists: In nearly 80% of the legal cases filed against journalists, the initiators were affiliated with various government ministries and departments while individual government officials – often senior ranking bureaucrats – are initiators of the cases against journalists.

How journalists defend themselves against legal cases: Over 80% journalists hire services of a lawyer to defend themselves against legal cases while very few either attempt mediation or counter-departmental action against their accusers.

FIRs against journalists facing legal cases: Most journalists against whom legal cases are filed, find an FIR registered against them.

Variety of allegations and multiple charges against journalists: There is no distinct pattern of specific allegations against journalists facing legal cases; most journalists against whom FIRs are filed face multiple charges.

Actions demanded from complainants: Often more than one action is demanded from journalists from those registering legal cases against them. The most frequent demand (nearly 60%) is proof of allegations printed / posted by journalists in a court of law and the second most frequent (in over one-third of cases) demand is for an apology from journalists.

Adopting offense as the best defense: Most journalists (over two-thirds) ask their lawyers they hire to file counter legal cases against their complainants while one in three journalists facing a legal case focuses on merely defense, not offense.

Legal cases leading to court cases: In only two-thirds of the cases the investigation process by the police was completed and allowed to proceed to court for trial while in one-third cases the challan was not even completed.

Cases declared fit for trial by courts: In the two-third cases in which investigation was completed and landed in court, only about half the cases were declared fit for trial while barely one-third of overall cases were declared fit for trial.

Conclusion of trial in courts: Trials in an overall majority of cases (nearly 60%) never reached conclusion – leaving most journalists without a chance to prove themselves innocent although nearly 80% of cases declared fit for trial reached conclusion.

Outcome of concluded trials – guilty or innocent: In majority of instances (over 80%) where the trial was concluded, the accused journalists were declared innocent and acquitted. However, in overall terms most cases (7 out of 10) never reached a court or conclusion of trial and, therefore, most of the journalists facing legal cases never got justice.

Pakistan Media Legal Review 2020 – Growing Fear and Hate in Pakistani Online Civic Space [31]
Institute for Research, Advocacy and Development (IRADA)

This annual report produced by IRADA provides a review of legislative, legal and judicial developments on freedom of expression, right to information and digital rights in Pakistan. The report noted the following

---

[31] https://irada.org.pk/wp-content/uploads/2021/04/Pakistan-Media-Legal-Review-2020.pdf

key characteristics that ended up constricting the free speech and access to information environments during 2020:

1. **Accelerating internet controls:** The government in 2020 accelerated its efforts to beef up internet controls with the intended consequence of expanding its policy of reduced tolerance for dissent. It notified the Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules 2020 under the controversial Prevention of Electronic Crimes Act (PECA) law. The proposed regulations will govern online free speech and internet content for media producers, citizens and social media platforms that distribute content. The rules aim to strengthen the shackles on free speech and digital rights.

2. **Worsening media legal context:** The media legal context of Pakistan in 2020 was characterized by an aggressive government seeking to extend and expand its authority to overregulate the media sector and to redefine the boundaries of free speech not just of media and information practitioners, including journalists and online citizens, but also of opposition political parties and civil society movements and their leaders.

3. **Expanding censorship online:** Internet freedom in Pakistan declined during 2020 due to authorities' increased blocking of political, social, and cultural websites and undeclared policy of connectivity restrictions and increased disinformation. There was an increased reliance on the PECA law to encourage censorship. The cybercrime law was repeatedly invoked against journalists and opinion makers for exercising freedom of expression and social media activism. Several journalists and rights activists faced inquiries, abductions, investigations, arrests and criminal action related to their online / social media activities and posts.

4. **Hate speech prevalence online:** Hate speech against citizens, journalists and religious minorities on social media and their online harassment were prevalent in 2020. Discussions on the themes of religious minorities, security agencies, human rights, gender, politics and development elicited the most hostile reactions. Citizens, journalists, politicians and activists faced hate speech, hostility and organized targeting for their opinions as well as threats, abuse, trolling, hacking, blocking and charges of treason from various threat actors including individuals, political parties, religious groups, unknown organized groups and even official sources.

5. **Growing misinformation, disinformation and fake news:** In 2020 concerns in Pakistan grew about misinformation, disinformation and fake news as political polarization grew encouraged by the ruling

party and its highest-ranking leaders. Misinformation, in particular, targeted women activists participating in the annual Aurat March on International Women's Day wherein disinformation led to threats against several activists forcing them to go underground for safety.

Annual Report 2020[32]
Digital Rights Foundation (DRF)

This report mainly provides details of the activities and initiatives undertaken by the Digital Rights Foundation (DRF). However, it also writes about the digital rights landscape of the country.

The report mentions that:
- The biggest challenge to Pakistan's recent digital landscape is Online Harm Rules 2020, which demanded that the social media companies develop data bases, and provide the government with any or all required information, about its citizens. Moreover, these Rules set up an ambiguous limit to what can and cannot be elaborated online in the Pakistani digital sphere.
- First attempt at the Rules was made in February 2020 by the government. New version of the Rules was published in November 2020 and was somehow also draconian.
- A lot of things remained the same in first and second version of the Rules. However, the second version of the Rules gave PTA unchecked power over the matters pertaining to blocking and removal of online content.
- The powers given to PTA go against the mandate established in law passed already - PECA 2016. All the organisations working for the digital rights in Pakistan have set up concerted and combined efforts against the new Rules and are working toward having the Rules revised.
- PTA banned multiple social media apps in this past year citing immoral content and indecency as their reasons. The apps are popular among the young population in the country thereby the blocking of these apps reduced the avenues and means of self-expression available to the youth.

---

[32] https://digitalrightsfoundation.pk/wp-content/uploads/2021/03/Annual-Report-2020.pdf

Internet Watch Foundation (IWF) Portal to End Violence against children[33]
According to the report, this new portal allows internet users in Pakistan to anonymously report child sexual abuse material in three different languages – English, Urdu, and Pashto.

Analysis: Removal and Blocking of Unlawful Online Content (Protection, Oversight and Safeguards) Rules, 2020[34]
Bolo Bhi

The report finds that:
- The Rules exceed the scope of the PECA 2016, especially Section 37; they run contrary to the various sections of the PECA, most notably Section 38, which extends liability protection to the service provider; the Rules are illegal and unconstitutional and should be withdrawn by the Federal Cabinet by de-notifying them.
- If the Federal Cabinet fails to denotify these Rules, the only remedy available to the citizens and local industry will be to invoke the jurisdiction of High Courts under the Article 199 and file challenges to their vires.
- The Parliamentary committees should extend the oversight with respect to the Rules, and initiate a process for repeal of Section 37 since both Rules and Section 37 appropriate legislative function, infringe on the fundamental right and violate the principle of separation of powers.
- The Section 37 of PECA is overbroad and it impacts the rights under Article 19 and 19-A of the Constitution of Pakistan in particular. In violation of due process as enshrined under the Constitution's Article 10-A, powers under the Section 37 have been abused and the Rules demonstrate that intent is to further exceed scope of law, which will lead to further infringement of the fundamental rights. Instead of permitting PTA to retain the power and function under the Section 37, it should be held accountable for its excesses and flagrant violation of law. The Section 37 should be repealed by the Parliament or struck down by the court. The remedies for the citizens under other sections of the PECA already exist; omission of the Section 37 will have no bearing on the remedies available to them as the Section 37 serves no utility

---

[33] https://report.iwf.org.uk/pk
[34] https://bolobhi.org/wp-content/uploads/2020/11/Analysis_-Removal-and-Blocking-of-Unlawful-Online-Content- Protection-Oversight-and-Safeguards-Rules-2020-.pdf

other than censorship enabling provisions for the State. Only once these Rules are denotified and the Section 37 repealed can honest and informed conversation begin on problems vis a vis online content and appropriate remedies, which respect rights, and offer actual recourse to aggrieved citizens.

Decent Work in Pakistani Media: An Assessment of Labour Laws & the Impacts for Media Workers[35]
IFJ / IRADA report

This report deliberates upon the applicability of general labour laws on media workers in the light of the decision of higher judiciary and describes the extent of rights and privileges provided in the Newspapers Employees (Conditions of Service) Act (NECOSA), 1973 for newspaper employees. The Wage Board and Implementation Tribunal for Newspaper Employees (ITNE) are key institutions in realization and protection of workers' rights in the newspaper industry.

The report finds that:
- Pakistan's constitutional and legal frame gives a number of constitutional and legal protections and remedies to the media workers. The 1973 Constitution outlines the policy framework for the provision of fair and enabling environment for the workers and guarantees fundamental rights of the labourers.
- The existing legal framework governing workers' rights provides a wide range of laws covering subjects, including the abolition of bonded labour, the trade unions and worker-employer relationship, wages and compensation, working conditions and workers' welfare.
- The special laws were made for the working condition of the media workers and newspaper employees. Now, Pakistan is planning to repeal Newspaper Employees (Conditions of Service) Act, 1973, and merge all the existing media regulatory laws through the proposed "Pakistan Media Development Authority (PMDA)" bill.

Here are the key recommendations of the report:
- **Inclusion of Gender and Marginalized Segments:** All labour laws, general and special – should conform to the international standards of inclusivity to make them give due representation to women and other

---

[35] https://samsn.ifj.org/wp-content/uploads/2021/07/210713-IFJ-IRADA-Pakistan-Labour-Rights-and-Media- Report.pdf

marginalized groups alongside men and other influential groups.

Action: Consultations with relevant stakeholders on reforming the laws to make them more representative including gender affirmative and socially diverse.

- **Inclusion of Digital and Online Media Industry:** In keeping with the expanding digitalization of media landscapes, there should be inclusion of freelancers and online and digital workers in the legal framework.

  Action: Support advocacy capacities of groups and associations representing digital media and its workers to lobby for their inclusion in journalists' unions, press clubs and media workers' associations.

- **Reformation of Existing Labour Laws:** There is a need to reform the existing labour laws dealing with print and electronic media to align them to international best practices. Furthermore, there is also a need to make pragmatic and positive regulations relating to the business of social and digital media platforms so that the rights of employees associated with that platform may be safeguarded.

  Action: Produce draft of model laws listing the required reforms to the relevant laws and hold a national and four provincial seminars on a roadmap for reforms that identifies duty bearing to help materialize the required reforms. The seminars should be attended by all relevant principals including line ministries (law, finance and information), media industry associations (APNS, PBA, DigiMAP, CPNE, PFUJ, AEMEND, etc.) and media development groups.

- **Adequate Measure to Ensure Journalists' Safety:** Adequate measures should be adopted to ensure safety of journalists. In recent years journalists have been killed, attacked, injured, kidnapped and intimidated but neither any effective investigations were conducted nor the prosecution services were up to the mark.

  Action: Support advocacy efforts for federal and provincial legislations on safety of journalists; capacity building for media houses to draft in-house safety policies and protocols; and establish and train cells of lawyers familiar with media laws and safety best practices to boost prosecution services.

Pakistan Media Development Authority – a New Headquarter of Censorship in Pakistan[36]
Digital Media Alliance of Pakistan (DigiMAP) and Freedom Network (FN) - 2021

This report analyzes the potential impact of proposed Pakistan Media Development Authority (PMDA) on future of digital media in Pakistan. The report concludes that:
- A detailed analytical review of leaked texts of the proposed PMDA, statements of ministers and other official functionaries, survey of independent digital journalism platforms make it clear that the proposed PMDA is widely opposed and rejected as a draconian attempt to impose 'media martial law'.
- Establishment of a 'headquarter of censorship' will undermine democracy.
- Public interest independent digital journalism will be decimated.
- Media reforms and making existing media regulators independent urgently required.

---

[36] https://www.fnpk.org/wp-content/uploads/2021/09/Impact-of-PMDA-PDF-Version.pdf

CHAPTER FIVE:
JUDICIAL ACTIONS AGAINST ONLINE CONTENT OR TO PROTECT ONLINE FREEDOM

This chapter provides crux of the key judgements passed during the period under review by the higher judiciary against surveillance and breach of privacy and supporting freedoms of expression, online and offline.

Rana Muhammad Arshad versus Federation of Pakistan (PLD 2021 Islamabad 42)

While adjudicating the petition, the Islamabad High Court held that "[f]reedom of speech and expression was the most cherished human rights and fortified other constitutionally guaranteed rights. Threats whether real or perceived, of direct or indirect censorship because of functions performed by an independent journalist amounted to breach of Constitutionally guaranteed rights under Article 19 and 19A of the Constitution. [It is the d]uty of the State to protect independence of individual journalist and that of the occupation was a constitutional obligation because it was an integral part of Article 19 and 19A of the Constitution."

The Court directed Director General of the Federal Investigation Agency (FIA) to "formulate guidelines for investigating officers, having regard to principles highlighted in judgements of the Supreme Court (in Dr Arsalan Iftikhar vs. Malik Riaz Hussain and others - PLD 2012 Supreme Court 903).

The Court advised the Federal government to consider proposing legislation similar to that of 'Protection of Journalists Act 2014' which was tabled before lower House of Majlis-e-Shoora (Parliament), having object of providing an effective forum for redressing complaints of journalists.

Furthermore, the Court "advised the Federal Government to also consider meaningful consultation with all the key stakeholders i.e. All Pakistan Newspapers Association, The Federal Union of Journalists, the Council of

Pakistan Newspapers Editors etc., regarding dispelling the perception of apprehensions and intimidation of independent journalists and abuse of coercive powers by public functionaries, particularly in relation to exercising powers under the PECA 2016.

Qazi Faez Isa versus President of Pakistan (PLD 2021 Supreme Court 1)

The Supreme Court of Pakistan, in this case, held that "[p]rivacy required that all information about a person was fundamentally his own, only for him to communicate or retain for himself. Intrusion by the State into the sanctum of personal space, other than for a larger public purpose, was violative of the constitutional guarantees. Right of privacy was deeply intertwined with the right to life, right to personal liberty and right to dignity. Illegal and illegitimate surveillance by, both, State and private actors had the impact of intrusion in the private lives of citizens … Surveillance had disparate impact, violating principles of non-discrimination and equality as enshrined in the Constitution."

According to this judgement, "State functionary could only embark upon the investigation of collection of material about a citizen under: (i) the authority of an enabling law; (ii) by a functionary designated under the law; and (iii) only for a justifiable cause or reason."

Shahid Akbar Abbasi Advocate versus The Chief Commissioner Islamabad (PLD 2021 Islamabad 1)

The Islamabad High Court, in this case, held that "free speech was not confined to speaking but extended to listening to and respecting opinions of others. Suppression of free speech led to regressive societies, encouraging extremism and eroding rule of law. Free press had the role of a watchdog and impeding its ability to disseminate information and hold the State and its institutions accountable denied to the people the enjoyment of their rights."

The Court further held that "[i]mpunity of crimes against journalists [was] taken seriously globally because of its fall out on the society and fundamental rights of the general public. No society could develop, prosper and progress by suppressing freedom of expression and free speech by ignoring impunity for crimes against journalists."

THE INSTITUTE FOR RESEARCH, ADVOCACY AND DEVELOPMENT – PAKISTAN

An independent research and advocacy organization focusing on social development and civil liberties

OUR VISION
We envision a democratic, participatory, peaceful and just polity in Pakistan

OUR MISSION
1. Strengthening democracy *through* inclusivity and pluralisms
2. Strengthening local empowerment *through* devolution of powers
3. Strengthening governance through accountability and transparency
4. Strengthening justice *through* fundamental rights

OUR WORK
1. Promoting inclusivity and pluralisms *through* support for free speech, civil liberties, peace and rights of minorities and marginalized communities
2. Promoting devolution of powers *through* support for empowerment of provinces and districts, policy development, provincial-level legislation and local governance
3. Promoting accountability and transparency *through* support for right to information, free media, open internet, open government
4. Promoting fundamental rights *through* support for equality, access to justice and rule of law.

IRADA
Institute for Research, Advocacy and Development

Institute for Research, Advocacy and Development
Islamabad, Pakistan
Twitter: @IRADAPK
Facebook: www.facebook.com/IRADAPK
Website: www.irada.org.pk