

DATA PROTECTION AND DIGITAL RIGHTS IN PAKISTAN: A PATH FOR THE FUTURE

In the age of smartphones, digital banking, cloud computing, and social media, Pakistan is rapidly transitioning into a digitally driven society. This transformation has unlocked significant economic opportunities and improved access to services, but it has also exposed individuals and businesses to serious risks involving the misuse of personal data, privacy violations, and unchecked digital surveillance. Despite this reality, Pakistan continues to function without a comprehensive and enforceable data protection framework, leaving citizens and institutions to operate in a legal vacuum at a time when personal data has become one of the most valuable economic assets.

Data protection governs how Personal information such as identity details, financial records, biometric data, and online activity is collected, processed, stored, and shared by both private entities and the state. Its purpose is to ensure that such processing is lawful, transparent, secure, and accountable. Closely linked to this concept are digital rights, which extend fundamental freedoms into the online space, including the right to privacy, freedom of expression, informational self-determination, and access to digital services. Without effective data protection safeguards, digital rights remain largely theoretical, as individuals cannot exercise autonomy in an environment where their personal information can be exploited without consent or oversight.

Pakistan's existing legal framework offers only limited protection. The primary statute governing the digital space, the Prevention of **Electronic Crimes Act (PECA) 2016**, was enacted to combat cybercrime rather than to protect personal data. While it criminalizes offences such as hacking and identity theft, it does not recognize individuals as data subjects with enforceable rights over their information. There is no legal entitlement to access, correct, or erase personal data held by companies or government bodies. Although certain sectors, such as banking and telecommunications, operate under confidentiality obligations, these measures are fragmented and inconsistent, failing to meet modern data governance standards.

For several years, successive drafts of a **Personal Data Protection Bill (2023)** have attempted to address this gap, most recently in 2023. However, the Bill remains stalled within bureaucratic channels. This delay is not the result of parliamentary rejection but of institutional inertia. Inter-ministerial disagreements, concerns raised by security agencies regarding restrictions on state access to data, fears of regulatory overlap, and a lack of political prioritization have collectively impeded progress. As a result, Pakistan's digital economy continues to grow without a clear legal framework, exposing both citizens and businesses to ongoing uncertainty and risk.

Despite legislative stagnation, Pakistan's constitutional jurisprudence offers cautious optimism. Article 14 of the Constitution guarantees the dignity of man and the privacy of the home, and superior courts have progressively interpreted this provision to include informational privacy. Judicial recognition of an individual's right to control personal data signals that privacy is a constitutionally protected value. However, courts cannot substitute for detailed legislation. Without statutory rights, regulatory institutions, and enforcement mechanisms, constitutional principles remain difficult to apply in everyday digital interactions.

The absence of a comprehensive data protection regime also carries significant commercial consequences. While limited regulation may appear to reduce compliance costs in the short term, it exposes businesses to reputational damage, consumer distrust, and barriers to international

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trade in the long term. Global partners increasingly require compliance with robust data Protection standards such as the General Data Protection Regulation. Pakistani firms operating in technology, outsourcing, fintech, and e-commerce risk losing cross-border opportunities if they cannot demonstrate adequate safeguards for personal data. Furthermore, modern corporate governance frameworks treat data privacy as a key risk, yet Pakistani companies lack clear legal guidance to manage this responsibility.

Another critical dimension of the debate concerns state surveillance. While lawful access to data for national security and law enforcement is necessary, excessive or unchecked surveillance undermines democratic values, erodes public trust in digital platforms and discourages innovation and investment. Any future data protection framework must therefore ensure that state access to personal data is lawful, necessary, proportionate, and subject to independent oversight rather than broad and discretionary powers.

Regional developments further highlight Pakistan's regulatory lag. India our neighbor's adoption of the Digital Personal Data Protection law is the **Digital Personal Data Protection Act, 2023 (DPDP Act)**, enacted in August 2023 and operationalized with the **Digital Personal Data Protection Rules, 2025** in November 2025 provides a useful comparison. The Indian law recognizes individuals as data principals with enforceable rights, imposes clear obligations on organizations, mandates breach notifications, and establishes a dedicated enforcement authority. Although it has been criticized for granting wide exemptions to the state, it nevertheless provides legal certainty, supports international data flows, and enhances regulatory credibility advantages Pakistan currently lacks.

Pakistan's proposed **Personal Data Protection Bill (2023)** contains many essential features, including principles of lawful processing, individual rights over personal data, the creation of a Data Protection Authority, and penalties for violations. Its success, however, will depend on the independence of the regulator, the scope of exemptions granted to public bodies, and the strength of enforcement mechanisms. A weak or compromised law risks legitimizing intrusive practices rather than protecting fundamental rights.

Pakistan now stands at a critical digital crossroads. The absence of a comprehensive data protection law is no longer merely a legislative omission; it is a constitutional, economic, and governance vulnerability. **The authorities' unfettered discretion to access the Data for surveillance is nerve racking for business.** While judicial recognition of privacy has laid an important foundation, only a clear and enforceable statutory framework can translate constitutional values into practical protection. **A robust data protection regime is not an obstacle to progress but a prerequisite for it, fostering trust in digital systems, safeguarding individual dignity, and strengthening Pakistan's position in the global digital economy.**

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