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Digital Surveillance and the Right to Privacy in Pakistan: A Constitutional and International Law Perspective

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ABSTRACT

The growth of new digital surveillance technologies has in turn radically transformed the relationship between the state and the individuals and casts deep suspicion on the question of privacy, accountability, and constitutional rule. Surveillance power in Pakistan has expanded in nearly all aspects: telecommunications surveillance, data retention regimes, biometrics and intelligence-driven online surveillance, but this has far exceeded the establishment of a consistent legal and constitutional framework to guard the right to privacy. This article discusses the issue of digital surveillance in Pakistan through the prism of constitutional and international law critically looking at the legal, institutional, and normative grounds that support the power of state surveillance. It contends that although the Constitution of Pakistan acknowledges privacy to be a fundamental right, the boundaries, subjects, and the enforceability of the same, is still not well-developed in respect of the increasing surveillance activities. Legal measures regulating interception, access to data, and national security usually put wide discretionary authority in the arms of the executive by granting executive power to executive authority, and offering meager checks and balances to prevent misuse. Comparing to the international human rights practices, especially, the ideas of legality, necessity, proportionality, and accountability, the surveillance system in Pakistan has noticeable loopholes, which could encourage the acceptance of invasive surveillance in the absence of a guarantee of individual privacy and democratic liberties. This article reveals the conflict between the governance of security and the rule of law by placing the domestic laws on surveillance in the context of constitutional jurisprudence and international and comparative law. It finds that, unless there is a more explicit interpretation of the Constitution, extensive legislation on data protection and an enhanced system for overseeing it, digital monitoring in Pakistan is set to destroy the right to privacy and compromise the rule of law in cyber space.

Keywords: Digital Surveillance; Right To Privacy; Constitution Of Pakistan; International Human Rights Law; Telecommunications Interception; Data Protection; Proportionality; Judicial Oversight; National Security; Fundamental Rights.



Introduction

The digital surveillance is now a part of modern governance, as it transformed the way states gather information, cope with security threats, and govern online. The development of telecommunications infrastructure, data analytics, biometric identification and artificial intelligence has increased the ability of governments to monitor communications, track individuals, and aggregate individual-level data on an unprecedented scale and speed. Although their justification is mostly grounded on the national security, prevention of crimes, and maintenance of order in society, they also become a great challenge to the basic rights, especially the right to privacy. Where the surveillance is done as per a clear legal framework against the security goals as well as autonomy, transparency, and accountability, this is considered legitimate in constitutional democracies. This balance has continued to be a controversial one in Pakistan.¹

Privacy is a recognized right in the Constitution of Pakistan which most articulately states the inviolability of the privacy of home and the dignity of man in Article 14. In a continued way, judicial interpretation has interpreted privacy to be more than the physical home to encompass elements of individual autonomy, dignity and control of information. Nonetheless, this constitutional appreciation has been experienced more or less in a pre-digital environment and has not been systematized to deal with modern digital surveillance. Because of this, constitutional safeguards have been slow to adapt to technological advances and there has been much ambiguity over the extent of privacy when it comes to electronic communications and metadata gathering, mass surveillance and what the state can see of personal data that are in the possession of a private organization.²

The digital surveillance environment of Pakistan is defined by the intricate network of statutory, executive, and institutional balances. Telecommunications interception, cybercrime, and law enforcement, national security, and intelligence operation laws all offer legal grounds upon which communications may be monitored and information accessed. But in many cases such laws confer wide discretionary authorities on executive authorities and limited procedural safeguards and high standards of independent authorization or supervision. Often surveillance operations are legitimized using broad conceptions of national security and the overall national interest, which paves the way to a governance regime where secrecy is accepted and other checks and balances are limited. This institutional and legal structure leaves substantial doubts about adherence to constitutional assurances and the abuse or over action of authority.³

The surveillance proliferation should also be put in the context of the overall politics and security situation in Pakistan. The persistent issues of terrorism, domestic security and political turmoil have influenced a culture of governance that places emphasis on preventive and intelligence based solutions. Although these issues are not specific to the situation in Pakistan, their combination with poor data protection systems and transparency enhances the threats to democratic rights of surveillance. The growing use of digital sources of communication and expression by journalists, activists, political

¹ Sethi, A., Ullah, H. H., & Naseem, R. M. S. (2025). Surveillance, National Security and the Right to Privacy in the Digital Era. *The Critical Review of Social Sciences Studies*, 3(4), 431-443.

² Rana, A., & Iqbal, A. (2025). Privacy and Surveillance: Legal and Technical Perspectives. *UCP Journal of Law & Legal Education*, 3(2), 01-28.

³ Zaib, H. U., Shaheen, M. B., & Chaudhary, H. K. (2025). Constitutional Validity of Surveillance Technologies in Pakistan: Reconciling National Security with Individual Privacy Rights in the Digital Age. *Social Science Review Archives*, 3(3), 1653-1665.



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opponents, and average citizens makes the practices of surveillance especially significant to the freedom of expression, association, and political participation.⁴

The application of digital surveillance to the practices of international law is a valuable approach to normative assessment. Privacy is an established human right acknowledged by instruments like the International Covenant on Civil and Political Rights and enforces significant commitments upon states to make sure that any intrusion is justified, warranted, commensurable, and that the intrusion is effectively monitored. The use of comparative jurisprudence by international and regional human rights bodies has placed greater focus on the fact that mass or indiscriminate surveillance cannot be applied alongside such principles. It is on this background that the surveillance regime in Pakistan is not only worrying internally but also regarding its international obligations to protect its human rights especially in the face of no all-inclusive data protection laws and autonomous check bodies.⁵

The paper discusses the problem of digital surveillance in Pakistan in the prism of constitutional and international law, trying to determine whether the legal systems and practices are sufficient to safeguard the right to privacy in the digital era. It examines the way the constitutional provisions have been applied, the way the statutory surveillance powers are established and utilized, and the way the arrangements are contrasted with the international human rights standards. Through the critical examination of the legal and normative grounds of surveillance, the article strives to obtain structural holes and tensions that lead to the defeat of privacy protection. The following sections will examine the academic literature on the privacy and surveillance issue, provide the methodology of this study, examine the laws and constitutional jurisprudence of surveillance in Pakistan, and suggest some reforms to balance the goals of security with the fundamental rights in a democratic legal system.

Literature Review

Pakistan literature on digital surveillance and right to privacy is quite small yet gradually increasing because of increasing awareness on the consequences of surveillance technologies to constitutional governance and human rights. The initial legal thought on privacy in Pakistan was centered on the Fourth Amendment of the Constitution and its assurance of decency of the man and privacy of the home. These works mostly understood privacy spatially and physically, with much focus on safeguarding against unlawful searches, encroachment into the home and infringement of personal dignity by the state. Although the basis, this literature was still pre-digital in its assumptions and failed to foresee the issues of electronic surveillance, data collage, and networked communication technologies.⁶

With the increase in the role of digital technologies in governance and security, scholars started to analyze the suitability of the constitutional structure in Pakistan to cover informational privacy. According to the arguments of legal commentators, constitutional acknowledgment of privacy was implicit and developing, and it was not doctrinally clear and comprehensively elaborated by the judiciary. Development of jurisprudence on

⁴ Shahid, A., Hameed, U., & Ahmad, A. PRIVACY IN PERIL: THE ROLE OF INTERNATIONAL LAW IN REGULATING DIGITAL SURVEILLANCE IN THE 21ST CENTURY.

⁵ Ali, H. M. A. (2025). Surveillance Technologies and Human Rights: Reassessing Privacy and Life Protections in Pakistan (Analysing Risks under Articles 6 and 17 of ICCPR and the HRC's 2024 Concluding Observations). *ASSAJ*, 4(02), 3203-3215.

⁶ Aftab, S. (2024). Right to Privacy and Freedom of Expression in the Constitution of Pakistan. In *Comparative perspectives on the right to privacy: Pakistani and European experiences* (pp. 99-126). Cham: Springer Nature Switzerland.



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informational self-determination and data protection in Pakistan has been done in a piecemeal and sporadic manner, unlike in some other jurisdictions where courts have explicitly established informational self-determination and data protection as constitutional rights. The literature points out that as much as in some instances, courts have broadened their concept of privacy to encompass communications and personal information, the evolution has never been a solid constitutional doctrine that can limit contemporary surveillance activities.⁷

Much of the literature criticizes the statutory surveillance regimes in Pakistan, especially laws that govern intercepting telecommunications, cybercrime investigation and national security. According to scholars, such laws have a tendency to base them on broad and open-ended powers that give excessive emphasis to executive discretion at the expense of individual rights. Literatures that explore interception models state that need, proportionality, and a separate authorization are either zestfully formulated or nonexistent. According to this literature, secrecy laws and national security exemption clauses further render surveillance practices to stay beyond the attention and judicial reexamination of the population, which generates accountability gap. Analysts caution that these forms of legalizing surveillance make it a normalized form of governing people instead of an extraordinary operation that needs extreme justification.⁸

The digital surveillance and freedom of expression have become a leading theme of scholarly and the civil society literature. Scholars believe that ubiquitous or cloudy surveillance has a chilling impact on the expression of opinions via the internet, deterring a person to argue about politics, journalism, or even activism. The practices of surveillance are regarded as especially consequential in the context of Pakistan where digital platforms become one of the crucial spaces of dissent and community dialogue. Concerns that journalists, human rights defenders, and political actors might be targeted in monitoring activities have been recorded in empirical studies and reports on human rights, in which the exercise of democracy and media freedom are compromised. This literature places privacy not as a singular right but as a precondition of the valuable exercise of the other fundamental freedoms.⁹

The international and comparative scholarship is significant in developing criticisms towards the surveillance regime in Pakistan. The international human rights law, especially the Article 17 of the International Covenant on Civil and Political Rights, is often used by legal experts to evaluate the validity of state surveillance. Comparative studies point to the shift in global standards suggesting that the use of legality, necessity, proportionality, transparency, and oversight are key protective measures. The international and regional human rights bodies are known to make several decisions which are quoted to show that mass or indiscriminate surveillance cannot be equated with the democratic standards. It is here that the legal system of Pakistan is presented as being underdeveloped, especially in the inability of this system to create an independent system of checks and balances or a unified system of data protection.¹⁰

The other theme that is emerging in the literature is about data protection and informational governance. As observed by scholars, Pakistan does not have any broad

⁷ Baig, K., Fazail, A., & Shahzadi, A. I. (2025). Protection of Digital Privacy under the Constitution: A Comparative Analysis of the EU, US and Pakistan. *Journal for Current Sign*, 3(4), 1519-1536.

⁸ Aftab, S. (2024). Recommendations: A privacy law for Pakistan. In *Comparative perspectives on the right to privacy: Pakistani and European experiences* (pp. 257-291). Cham: Springer Nature Switzerland.

⁹ Aftab, S. (2024). *Comparative Perspectives on the Right to Privacy*.

¹⁰ Raza, A., & Malik, S. (2022). Human Rights Protection in the Era of Digital Surveillance. *INTERNATIONAL JOURNAL OF RESEARCH & SOCIAL SCIENCES*, 2(1), 18-26.



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data protection law that would help in controlling the gathering, storage and utilization of personal information by both the state and non-state actors. This is especially an issue in a surveillance scenario, as intercepted or monitored data can be stored, distributed, or reused without definite legal restrictions. The literature puts it underline that privacy protection in the digital era should not only be confined to restriction of authorization to surveillance, but also data lifecycle rules, security and individual redress. Otherwise, surveillance practices may lead to long-term and systemic negative impacts on privacy.¹¹ Overall, the literature unites to the opinion that the digital monitoring of Pakistan is conducted within the legal and constitutional framework that is lacking in adequacy to safeguard privacy under the conditions of a high rate of technological evolution. Although constitutional principles and international commitments offer some form of normative basis, its implementation into legal standards is still not complete. Researchers always claim that effective protection of privacy needs stricter interpretation of the constitution, more specific laws, and more effective control systems. This literature gives the theoretical and normative framework of the methodological and theoretical approach taken in the latter parts of this paper, which aims to critically evaluate the surveillance system in Pakistan with the lenses of constitutional and international law.

Methodology

The article would follow a doctrinal, and normative research approach to explore the issue of digital surveillance in Pakistan in the prism of constitutional law and international human rights law. The methodological approach is built on the concept of understanding that surveillance is not just a technical practice or security practice but a profoundly legal and constitutional phenomenon that alters the conditions of power interchanging between the state and individuals. In line with this, the paper will assess surveillance structures based on their ability to deal with security issues, but it also will be judged by their alignment with the constitutional rights, rule-of-law and international human rights demands. Such dual legal approach enables to examine systematically whether the regime of surveillance that has been established in Pakistan is lawful, normatively lawful as well as institutionally responsible in the digital age.

The initial part of the methodology is a doctrinal analysis of the constitutional provisions of Pakistan that concern privacy and surveillance. This involves the close consideration of Article 14 of the Constitution, also judicial interpretations which have broadened the understanding of privacy beyond the physical realm to include dignity, autonomy, and elements of informational privacy. The constitutional case law is subject to research to determine how the courts have dealt with the state intrusion, communication intrusion, and executive jurisdiction as well as gaps in the doctrine over which digital surveillance is not adequately regulated. This aspect measures the ability of the current constitutional principles to give a consistent approach to evaluating current surveillance practices or it is still based on pre-digital assumptions that restrict their ability to protect.

The second methodological section includes an active examination of the statutory and regulatory tools that apply to digital surveillance in Pakistan. These involve legislation regarding telecommunications interception laws, cybercrime investigation laws, national security and intelligence activities that legitimate the acquisition, storage and examination of digital information. The doctrinal examination is on the limits of the surveillance authority, the process of authorization, the checks and balances, and the solution to the individuals. Specific focus is given to the presence or absence of these

¹¹ Ahmed, Z. S., Yilmaz, I., Akbarzadeh, S., & Bashirov, G. (2023). Digital authoritarianism and activism for digital rights in Pakistan. *European Center for Populism Studies (ECPS)*.



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laws of safeguards against the requirements of the constitution and a global standard including, prior judicial approval, necessity and proportionality inquiries, limited-period surveillance, and transparency guidelines. This discussion allows one to locate structural intrusion that either limits or facilitates intrusive surveillance.

A third element in the methodology places the surveillance form in Pakistan in the international human rights law. It entails scrutiny of the commitments of Pakistan in relation to treaties like the International Covenant on Civil and Political Rights and the discussion of the manner in which international legal principles on privacy, surveillance, and data protection have been expressed by the human rights organizations. The evaluative benchmarks established are set through comparative references to international jurisprudence and best practices as opposed to using external models blindly. This normative comparison will assist in evaluating the legal framework used in Pakistan as to whether it adheres to minimum global standards or arraigns deviations which are systemic threats to privacy and to democratic governance.

The approach taken throughout this series of articles, therefore, is that the methodology has been justified using structured analytical tools to make the work clarity and rigorous. It uses a conceptual framework that is used to describe the connections between the goals of surveillance, legalization, mechanisms of oversight, and the result of rights, to help structure the analysis and trace causal connections. Legal analysis is put into context with secondary statistical indicators, including growth in digital surveillance infrastructure, growth in the number of telecommunications users, or reported interceptions practice published in credible sources, where appropriate. These signs are not considered as an ultimate empirical evidence but they serve as supporting evidence on which the constitutional and normative arguments are based on the observable trends.

Lastly, the evaluative criteria used in this study establish the idea of legitimacy of surveillance based on the concepts of legality, necessity, proportionality, accountability, and remedy. The surveillance measures are evaluated not by the state intent but by the fact that they are explicitly authorized by the law, necessary in a legitimate purpose, and by the extent and duration, independently checked, and with the effective redress of abuse. This framework not only indicates the constitutional principles but the international human rights standards too and enables the study to get beyond the descriptive analysis to a critical evaluation of the structural adequacy. The results obtained using this methodology form the foundation of the next section, which examines the laws and practices of digital surveillance in Pakistan and what they imply on the right to privacy in both constitutional and international legal aspects.

Research Findings

The results of the research show that the digital surveillance in Pakistan is conducted on the basis of the legal and institutional framework that gives extensive powers to the state and gives partial and unequal protection to the principle of the right to privacy. A notable outcome is that the power to engage in surveillance in Pakistan is fragmented in various laws and executive tools instead of being vested in one and consistent legal framework. The regulatory frameworks of telecommunications spying, cybercrime investigations, intelligence activities and national security all allow a state to access communications data, metadata, and digital content. These tools, however, often depend on general enabling provisions that put executives discretion on in place of legally stated thresholds. Consequently, the surveillance authority is not only available in legal form, but it is loosely regulated, which provides the grounds of the ability to intrude into the personal



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life without systematic use of constitutional guarantees.¹²

The key result is related to the inefficiency of authorization and control systems. In most cases, the surveillance activities are approved by executive orders or administrative sanctions instead of being previously and independently sanctioned by a court of law. Judicial intervention is frequently restricted in scope or procedural depth in cases where it is undertaken, and is concerned more with formal than with substantive examination of necessity and proportionality. This framework is quite opposite to the constitutional values that entail the presence of substantial limitations on the executive authority, especially when the rights of fundamental character are at stake. The results indicate that oversight mechanisms are more of a formality as opposed to being effective constraints because they minimize their ability to deter abuse or over-surveillance.¹³

Table 1: Key Characteristics of Digital Surveillance Authorization in Pakistan

Feature	Observed Practice
Primary authorizing authority	Executive / administrative
Prior judicial authorization	Limited or inconsistent
Necessity and proportionality tests	Weakly articulated
Independent oversight bodies	Largely absent
Transparency requirements	Minimal

The other critical discovery is associated with the extent and magnitude of monitoring. The fast development of telecommunications systems, databases with biometrics, and digital platforms of services has greatly enriched the amount of personal data available to the state. The practices of surveillance are becoming engaged in metadata analysis, location monitoring and aggregation of data that is not only intercepted in content, but also in multiple sources. Although less observable, these types of surveillance can be as invasive as more obvious methods, and demonstrate finer details about patterns of behavior, association and movement. The results have shown that the current laws fail to effectively differentiate between targeted surveillance in the name of individualized suspicion and the extensive data gathering procedures that are near to mass surveillance hence eroding the boundaries of the constitution.¹⁴

The lack of extensive data protection laws becomes one of the key structural flaws. The surveillance related information gathered by state agencies is not governed by definite regulations on the retention time, scope of purpose, data protection, and rights to access and to correction. Such a regulatory gap further endangers the possibility of data acquired on one use being stored forever, used by other agencies, or used again without sufficient reason. Constitutionally, this compromises the nature of the privacy as possession of personal information and undermines the capacity of persons to invoke a solution to abuse. The results imply that surveillance harms are not constrained at the

¹² Khan, A. S., Gul, R., Naznin, S., & Khan, Y. (2022). The Right to Privacy, Its Progress & Decline: A Critical Review. *Journal of Business and Social Review in Emerging Economies*, 8(2), 331-340.

¹³ Butt, M. F., Sultan, S., Pitafi, J. K., & Razaq, M. U. (2025). Fundamental Rights vs. National Security: A Constitutional Dilemma. *Social Science Review Archives*, 3(3), 306-317.

¹⁴ Zehra, F., Khan, M. S., & Khan, A. N. (2024). Understanding and Balancing the Freedom of Expression and National Security in Realm of Cyberspace: An Overview of Legislative Framework in Pakistan. *Global Legal Studies Review*, 9(1), 32-43.



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interception point but go throughout the data lifecycle.¹⁵

There is an ambivalent picture of judicial intervention in claims relating to privacy of surveillance. On some occasions, courts have deemed the need to consider privacy and have sounded warning bells over the unchecked executive power, but such interventions are still only specific and reactionary. No standardized body of jurisprudence has been put in place to set clear criteria in the assessment of digital surveillance in the light of Article 14 or other constitutional provisions. Such anomaly constrains the capacity of the judiciary to operate as a systemic protection and puts an undue burden on individuals to dispute surveillance practices without information as to whether they have been surveilled. This is even made worse by the secrecy in the surveillance that prevents the access to evidence that can be used to challenge the law.¹⁶

In the international law view, the results reveal that there is a vast discrepancy between the surveillance system of Pakistan and the stipulated human rights. The principles of legality, necessity, proportionality, and accountability, which form the principles of international privacy jurisprudence, are poor in local law and practice. This absence of self-regulation and meaningful redress is especially worrisome, as the international standards stress that a surveillance regime should have mechanisms that are able to deter abuse and offer redress. Such deviation puts Pakistan through continued criticism in the international human rights forums and is one of the factors that render its commitments less credible in protecting the rights.¹⁷

On balance, the study results reveal that laws in Pakistan that regulate digital surveillance are marked by broad jurisdiction, a lack of control, and the absence of privacy laws. The predictive actions of the surveillance are normalized by the general power of the statute and executive and the constitutional and international protection is underdeveloped. These results indicate that there is a necessity to discuss, in greater detail, the interplay between security-based governance, legal gray zone, and institutional architecture to influence the outcomes of surveillance and limit the successful safeguarding of the right to privacy.

Discussion

This study has shown that the logic of governance that drives digital surveillance in Pakistan is the logic that gives preference to security, control, and executive discretion over the constitutional restraint and rights-based accountability. The debate shows that the main problem lies not in the fact that the privacy is not an acknowledged constitutional right, but the inability to convert this right into practical legal principles, which can limit contemporary surveillance activities. Article 14 of the Constitution offers a normative basis of privacy, but the interpretation of it is still not developed enough to cover the reality of interception on the digital level as well as the reality of metadata analysis and data aggregation in bulk. Consequently, the surveillance practices exist in a constitutional gray area where the executive extends its power more rapidly than the judicial doctrine or the legislative protection.¹⁸

¹⁵ Faheem, M. M. Privacy and Surveillance in Pakistan. *A RESEARCH JOURNAL*, 41.

¹⁶ ALI, M. I. (2025). FROM SOVEREIGNTY TO SURVEILLANCE: THE LEGAL LANDSCAPE OF "DIGITAL COLONIALISM" IN INDIA AND PAKISTAN. *Vietnamese Journal of Legal Sciences*, 13(01), 67-81.

¹⁷ Sheikh, F. (2024). SURVEILLANCE, PRIVACY, AND CIVIL LIBERTIES: ANALYZING THE TENSIONS BETWEEN SECURITY AND INDIVIDUAL FREEDOMS IN THE DIGITAL AGE. *Frontiers in Multidisciplinary Studies*, 1(01), 31-39.

¹⁸ Nyst, C., & Falchetta, T. (2017). The right to privacy in the digital age. *Journal of Human Rights Practice*, 9(1), 104-118.



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One of the core concerns that arise out of the discourse is that surveillance is becoming a normalized practice by way of disjointed legalization. Instead of being controlled by the same, broad law that clearly delimits authority, functions and control systems, in Pakistan, surveillance authority is decentralized between various laws and executive tools. This fragmentation blurs responsibility and renders it hard to determine the overall cumulative effect of surveillance on the rights of individuals. Such a decentralization of the surveillance authority does not give any single institution the full accountability of observing constitutional and international standards. The debate indicates that this decentralization of power undermines the rule of law because the intrusive practices are perpetuated without rigorous scrutiny.¹⁹

This issue is also worsened by executive empowerment in decision-making when it comes to surveillance issues. Any surveillance actions that are not preceded by autonomous judicial consent are inconsistent with the concept of the constitution that the right to interfere with the fundamentals of the rights needs to be checked and counterbalanced. In the cases, where courts are technically engaged, very frequently their role becomes one of formal certification, and not of assessment of necessity and proportionality. This will render judicial control a mere formality and trust too much to executive judgment, even though the dangers of abuse of secret and discretionary power have a long history of being documented. In terms of the constitutionality, the discussion is that in order to have meaningful oversight there must be judicial activity as well as the establishment of legal standards that will direct and bind the decision-making process.²⁰

Transformative character of digital surveillance is also brought into the discussion and does not coincide with traditional surveillance. The use of metadata collection and algorithmic analysis with data integration across platforms helps the state to develop detailed profiles of individuals without content necessarily being accessed. The practices undermine traditional conceptions of privacy based on physical intrusion or direct intercepting of communications. Lack of legal status of informational privacy as an independent constitutional concern exposes people to the dangers of developing a surveillance that is not easily perceived but is so pervasive. This loophole highlights the necessity of the constitutional interpretation and a change in the legislation that would consider privacy as an extension of control over personal information and digital personhood.²¹

The reference point in this argument is the international human rights law. The contrast of the surveillance system and international standards in Pakistan is indicative of larger conflict between order of security and law of rights. The principles of legality, necessity, proportionality, transparency, and remedy are not some ideal norms but practical needs aimed at preventing the abuse and maintaining the democratic legitimacy. The argument here is that Pakistan cannot entrench these principles in a systematic way to its surveillance system because this undermines domestic constitutionalism and the international credibility of Pakistan. In a global digital context, the weak privacy protection can also be cross-border, with implications on data flows, collaboration across

¹⁹ Butt, F. A., Makk, M., & Yamin, T. (2022). 'National Security' and the Construction of Digital Governance Models: Content Regulation in the Pakistani 'Digital Public Sphere'. *Webology*, 19(2).

²⁰ Sherwani, M. (2018). The right to privacy under international law and Islamic law: a comparative legal analysis. *Kardan J Soc Sci Humanit*, 1(1), 30-48.

²¹ Bhatti, A., & Afraz, T. (2025). Digital Innovation, Data, And Rights: Reassessing Pakistan's Intellectual Property and Cyber Law Framework.



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the borders, and confidence in the digital governance institutions in Pakistan.²²

The last stage is the situationalizing of digital surveillance in the larger political and social framework where secrecy, national security discourses and a restricted discussion of reform are limiting. This is because of the absence of transparency in the practices of surveillance that makes it impossible to have a democratic argument and erodes trust on the part of the population. The citizens cannot estimate the appropriateness or excessive surveillance unless they can be informed of the extent, magnitude and consequences of the surveillance. It is concluded then that effective safeguarding of privacy involves not only legal revision but also a change of culture to an atmosphere of transparency, responsibility, and the view that privacy is a principle of democracy and not a luxury.

Recommendations

The problem of digital surveillance in Pakistan needs a holistic reform agenda, which reinforces the interpretation of the constitution, demystifies laws and statutes, and formalizes the checks and balances. Among such recommendations is the formulation of a coherent and all-encompassing surveillance law that will bring together all available interception and monitoring powers into one legal system. A law like this ought to explicitly specify the purposes of which surveillance can be carried out, restrict it to that which is absolutely needed and the distinction between focused surveillance and the generalized data gathering procedures. The codification of these limits would increase the legal clarity and minimize the chance of unreasonable or excessive encroachment into the privacy life.

The second point of vital advice is that more effective checks and balances of the judiciary should be reinforced. The general rule to which surveillance measures, that infringe on privacy, must be subjected beforehand is authorization by an independent and competent judicial authority. The courts must be enabled and bound to evaluate necessity, proportionality as well as time constraints, according to well-defined statutory guidelines. Where it is required, emergency exceptions ought to be limited and must be submitting to expeditious post-facto judicial review. The quality of oversight and constitutional compliance should also be advanced with the help of specialized training of judges on digital technologies and surveillance practices.

Comprehensive laws on data protection should be implemented to curb privacy risks that are related to surveillance. This should be legislated to control the gathering, storing, use, and dissemination of personal information by state entities, even information that may have been monitored. The most important principles, like limited purpose, data minimization, security control, and the right of an individual to personal access and correction, must be well identified. Having an independent data protection authority that has powers to investigate and enforce would bring an added accountability and it would serve to bridge a gap between the surveillance practices and privacy protection.

There should also be an increased use of institutional control of oversight other than that of the judiciary. Autonomous parliamentary or hybrid surveillance agencies who have access to classified material may be of prime importance in scrutinizing surveillance operations, budget, as well as adherence to legal norms. Frequent reporting, auditing, as well as publication of aggregate statistics, would increase the transparency without undermining the real security interests. These mechanisms would bring a greater balance of accountability to the branches of government and a decrease of the power concentration of the executive agencies.

²² Khokhar, M. A. (2025). Cross-Border Data Flows and Privacy Rights: Reconciling International Norms with National Security. *Sarhad Journal of Legal Studies*, 1(2), 01-09.



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Lastly, it is necessary to promote the participation of people and constitutional debate on privacy and surveillance. Privacy is a living constitutional value and needs to be addressed as such by policy makers, courts, and even civil society, which changes with the advancement of technology. The balance between security and rights can be better understood with the help of the public consultations, academic research, and judicial reasoning. Pakistan can create a successful and legitimate surveillance regime by integrating privacy into democratic discourse as opposed to concealing it in the top-secret executive procedures.

Conclusion

This paper has discussed the topic of digital surveillance in Pakistan in relation to the conception of the constitutional law and the international human rights law to show that there is a big gap between the widening of the surveillance powers by the state and the legal protection that secures the right of privacy. Although the Constitution of Pakistan considers privacy as a basic right, it has not been interpreted and implemented with the technological revolution of surveillance practice. The statutory and executive frameworks on interception and data access accord wide discretionary powers to the state, which is not usually limited in any clear way, nor guarded by independent check or balance, or by effective remedy. This has led to the normalization of surveillance in the system of governance with privacy protection being weak and immature.

The main finding of this paper is that digital surveillance is not a problem of incident in Pakistan but of structure. Disjointed legal empowerments, executive-based takeovers, lack of data protection laws, and the inappropriate constitutions all fail to enhance the successful maintenance of privacy. These vices are not only contributing to the fact that people are being subject to intrusive surveillance, but are also ruining democratic accountability and the rule of law. Under the international law, the surveillance regime of Pakistan has moved contrary to the normal human rights that the presence of the law should be accompanied by requirements of necessity, proportionality, accountability and legality as prerequisites to lawful interference in privacy.

Another important point that the article makes is that efficient surveillance governance does not imply giving up the security goals but rather requires such goals to be implemented within a legal system that respects human rights. Well-enforced privacy strengthens and does not undermine the validity and capacity of security systems by fostering trust among the population and holding officials accountable. The judicial checks, legislative understanding, independent control, and protection of data is not a barrier to security; rather it is an invaluable aspect of democracy in the digital era.

To sum up, the digital surveillance-right to privacy dilemma in Pakistan can only be addressed through a voluntary and long-term transformation of the constitutional interpretation process, statutory frameworks, and the establishment of monitoring procedures. In the absence of such reforms, the surveillance practices will be ahead of the law and will be normalized as standard practices that compromised individual autonomy and democratic liberties. Pakistan can gain with them the chance to build up a framework of surveillance, which deals with the genuine security issues and the constitutional principles and international human rights promise in the ever-digitalized world.

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