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Hon. Minister of Information Technology and Telecommunication

AMNESTY INTERNATIONAL RECOMMENDATIONS FOR RIGHTS-RESPECTING ARTIFICIAL INTELLIGENCE AND DIGITAL NATION ACTS

On behalf of Amnesty International, I am writing to you regarding the crucial steps recently taken by Pakistan to establish a governance framework for regulating the development and uptake of digital technologies. Two regulatory efforts stand out in this regard: the proposed Artificial Intelligence Bill (hereafter, draft AI Act), and the recently passed Digital Nation Pakistan Act 2025 (hereafter, Digital Nation Act).

Amnesty International advocates for binding and enforceable regulation of artificial intelligence and digital technologies that protects and promotes human rights of all people, everywhere. We therefore welcome Pakistan's initiative to establish a binding regulatory framework around AI and around the wider digital transformation of country's economy, governance and society. These initiatives come at a critical time when decisionmakers, stakeholders, and rightsholders plan to discuss the future of AI and its regulation at the global AI Action Summit in France on 10-11 February 2025.[1]

For both the draft AI Act and the newly passed Digital Nation Act to be successful instruments of a just digital transition and benefit communities and individuals in Pakistan, they must be led by human rights priorities above all, account for intersectional upstream and downstream impact of development and deployment of technologies[2] and relevant infrastructure, as well as guarantee that impacted communities and rightsholders have a central role in the development and implementation of these regulations. To this end, Amnesty International calls on Pakistani authorities, to make several improvements to the draft AI Act and revisit the passed Digital Nation Act for crucial amendments.

[1] Artificial Intelligence Action Summit
[2] For example, labour exploitation and environmental harm caused during the development of technologies and rights violations caused by the deployment of technologies.

Recommendations on the draft AI Act

Prohibitions on rights-violating technologies

As a vital first step for safeguarding human rights, the draft AI Act must explicitly ban AI-based practices which are incompatible with human rights, including systems used for public facial recognition, social scoring,[3] predictive policing, biometric categorization, emotion recognition, risk assessment and profiling tools that violate people's rights, including those of migrants, refugees and asylum seekers. Amnesty International, as many other civil society organizations, has been calling for prohibitions on the above-mentioned AI practices[4] based on extensive research, including a ban on the development, production, sale, use, and export of remote biometric surveillance technologies by all public and private actors which lead to mass and discriminatory surveillance.[5]

Human rights due diligence throughout the AI lifecycle

As it stands, the draft Act falls short of one of the essential elements of any rights-compliant regulation of AI technologies - a requirement to assess the impact these technologies can have on people and their rights. Amnesty International recommends that the draft AI Act:

- Requires developers of AI technologies to conduct adequate human rights due diligence to identify and address human rights harms that might appear at any stage of the supply chain or product lifecycle as outlined in the United Nations Guiding Principles on Business and Human Rights;

- Further obliges deployers of AI technologies to conduct and publish human rights impact assessments prior to each deployment, including assessment of appropriateness of an AI-based solution in a specific scenario. Any identified human rights risks must be mitigated before the deployment of the said AI system.

Public transparency and accountability measures related to the development and deployment of AI technologies

Crucially, the draft AI Act is missing a mechanism for public accountability and transparency over the development and deployment of AI technologies which will impact people and their rights. Transparency is a necessary, though not sufficient, safeguard, and an essential starting point for ensuring rights-compliant development and deployment of AI. The Act should:

- Mandate the creation and maintenance of a publicly accessible database for reporting the development and deployment of AI technologies which can impact people's rights;

- Require public and private entities developing and deploying AI technologies to register those technologies on the database, and publish the relevant human rights impact assessments;

- Oblige deployers of AI technologies to provide meaningful information to individuals impacted by AI-assisted decision-making;

- Oblige developers and deployers of AI systems to disclose information requested by public interest organisations, including through freedom of information requests.

Measures to empower individuals and communities impacted by AI

While the draft AI Act aims to protect and preserve the privacy, freedom and dignity of individuals, it lacks several necessary measures to empower impacted people and communities to seek redress and remedy from AI harms.

[3] Denmark: AI-powered welfare system fuels mass surveillance and risks discriminating against marginalized groups – report, Amnesty International, 12 November 2024, https://www.amnesty.org/en/latest/news/2024/11/denmark-ai-powered-welfare-system-fuels-mass-surveillance-and-risks-discriminating-against-marginalized-groups-report/

[4] EU: AI Act must ban dangerous, AI-powered technologies in historic law, Amnesty International, 28 September 2023, https://www.amnesty.org/en/latest/news/2023/09/eu-ai-act-must-ban-dangerous-ai-powered-technologies-in-historic-law/

[5] 'Ban dangerous facial recognition technology that amplifies racist policing', Amnesty International, 26 January, 2021, https://www.amnesty.org/en/latest/press-release/2021/01/ban-dangerous-facial-recognition-technology-that-amplifies-racist-policing/

Positively, the draft Act foresees a complaints mechanism allowing individuals and entities to file complaints before the Commission against the violation of the Act. However, charging fees for processing complaints can create substantial financial barriers to access this avenue of redress and remedy by people and communities who are at most risk of marginalisation. To empower people and communities and offer meaningful safeguards against violation of their rights and freedoms, Amnesty International recommends that the Act:

- Affirms the right to information and meaningful explanation of AI-supported decision-making for impacted people, including about the use and functioning of AI in the system and its effect on the final decision;
- Establishes effective, accessible and cost-free judicial and non-judicial pathways to remedy for rights violations of people and communities;
- Grants public interest organisations the right to support impacted people seeking remedy and to lodge cases on their own initiative.

Accountable and transparent policymaking and implementation

Under the new AI Act, Pakistan plans to establish a National Artificial Intelligence Commission (hereafter, the Commission), with an extensive and nearly exclusive mandate to enforce the implementation of the Act. The Commission is accountable to the Federal Government which can arbitrarily increase the number of Commission members, prescribe their qualifications and change mode of appointment. The Government also has the right to issue policy directives "related to the regulation of Artificial Intelligence".

While the Commission and Federal Government are granted vast enforcement powers, public accountability and oversight measures proposed by the draft AI Act are not sufficient. In addition to the welcome proposal of conducting annual audits of the activities of the Commission by the Auditor General of Pakistan and making them available to the Parliament and general public, Amnesty International recommends strengthening the proposed oversight measures by:

- Strengthening the Parliament's role in overseeing the implementation of the AI Act, including through the establishment of a relevant parliamentary committee with the ability to monitor and evaluate the enforcement of the Act by the Commission and seek formal clarifications on questions relevant for effective oversight from the Commission and the Federal Government;
- Requiring a mechanism of parliamentary vetting and approval of members of the Commission proposed by the Federal Government;
- Guaranteeing the role of the Parliament in the development and implementation of policy directives and other implementation measures under the Act;
- Ensuring that the above processes are transparent and accessible to the general public.

A representative public enforcement authority with relevant human rights expertise

In addition to public accountability and oversight shortcomings, the Commission lacks the necessary requirements for ensuring its independence, expertise and representation needed for a body overseeing the development and deployment of AI effectively impacting the country's two hundred forty million population. To address some of these gaps, Amnesty International recommends that the Act:

- Ensures that the Commission has adequate sociotechnical expertise on human rights and wider societal impact of AI technologies;
- Establishes a mechanism of meaningful consultation with civil society organisations, human rights, digital rights advocates, and community representatives;

- Clarifies that any affiliation with private actors developing and deploying AI and related technologies, irrespective of whether such affiliation is remunerated or not (e.g. being member of governing board), would constitute conflict of interest for members of the Commission under the draft AI Act;

- Ensures transparency of the Commission's engagement with stakeholders, including private actors through public disclosure of industry lobbying efforts (e.g. minutes of meetings).

- Guarantees gender parity, as well as establishes a mechanism of ensuring diversity of the Commission based on religious, ethnic, geographic, socio-economic and other grounds. In this regard the current draft text risks discriminating against persons with disabilities, barring from acting as members of the Commission on equal basis with others. Therefore, amendments must be made to ensure diversity and gender balance of the Commission, and to remove explicitly discriminatory requirements.

Recommendations on the Digital Nation Act

The newly approved Digital Nation Act seeks to accelerate Pakistan's transition to a fully digitalised society, economy and public administration. Amnesty International recommends caution against an approach where digitalisation is in itself an end-goal and where proliferation of digital technologies is seen as the go-to solution to systemic societal and global challenges, as often such approaches lead to exacerbation of existing inequalities, rights violations, and environmental harms.

In contrast, we suggest that the Act should be revisited and should undergo several crucial amendments led with the prioritization of human rights protections, including measures protecting people from privacy violations, surveillance and discrimination. In line with these priorities, the Digital Nation Act should:

- Affirm the obligation of Pakistan to promote and protect privacy, non-discrimination and other rights as enshrined under international human rights law;

- Guarantee alternative, non-digital means of access and support to essential services, as technologies can amplify existing barriers and create new ones for people and communities at most risk of marginalisation;

- Require relevant authorities to conduct data protection and human rights impact assessments, as well as assessment of the wider societal impact before the roll-out of digital ID systems;

- Codify established data protection principles, including lawfulness, fairness, and transparency, purpose limitation, data minimization, accuracy, storage limitation, integrity and confidentiality (security), and accountability, into the text of the Act;

- Establish a public accountability and transparency mechanism for the three governing bodies mandated under the Act – the National Digital Commission (NDC), the Strategic Oversight Committee (SOC) and the Pakistan Digital Authority (PDA). Such a mechanism could strengthen the oversight capabilities of the Parliament related to vetting of the proposed members of the aforementioned bodies, engaging in the development of rules and regulations by the PDA, and policy directives by the Federal Government, and the wider implementation of the digital masterplan;

- Ensure that oversight bodies have the relevant expertise to address concerns regarding data protection, privacy, non-discrimination, accessibility, and overall compliance with international human rights standards;

- Establish a mechanism of meaningful participation of human rights advocates, digital rights experts and civil society organizations in the consultative processes, such as those coordinated by the PDA;

- Require that the PDA monitors and reports on the developments related to human rights and data protection impacts of the Digital Nation Act in their annual report, including assessment of its wider societal impact such as those related to inequality and marginalisation of specific communities or demographic groups;

- Revoke the indemnity (section 23) and bar of jurisdiction (section 29) provisions of the draft Act given that these undermine effective public accountability of authorities mandated to implement the Act and challenge possible unlawful decisions and actions taken by those authorities.

Recommendations in support of effective development and implementation of both Acts

Meaningful consultation and engagement of impacted communities

For the AI Act and the Digital Nation Act to protect and promote human rights of everyone, especially communities most at risk of adverse impact of digital harms, including of AI-based harms, Amnesty International emphasises the need for developing and implementing these laws with representatives of those communities, as well as human rights and digital rights advocates and organisations. Consequently, Pakistani authorities should improve the draft AI Act and reopen the Digital Nation Act for amendments through a meaningful public consultation before implementing these Acts. Proactive measures should be taken to involve community and civil society organisations, including through allocating resources needed for engaging in the lengthy and resource-intensive policymaking processes, as well as implementation down the line.

A wider ecosystem of legal protections of individuals' privacy and non-discrimination

Amnesty International further notes the absence of a wider legal ecosystem which creates further human rights risks, including related to privacy and non-discrimination of individuals. In this regard, Pakistan should adopt a comprehensive privacy and data protection law aligned with international human rights standards and with effective and independent public accountability mechanisms, to protect people from unchecked and non-consensual collection and processing of their data. Existing legal instruments should additionally be brought in line with international human rights standards to protect people from state surveillance. It is imperative that the Pakistani authorities ensure that human rights underpin any proposed or enacted legislation.

Pakistan has the duty to uphold international human rights law. As unchecked proliferation of digital technologies, including of AI systems, increasingly exacerbates existing inequalities and creates new human rights challenges, that duty is ever more urgent. Pakistan's forthcoming AI Act provides a unique opportunity to ensure that necessary safeguards are established to protect people and communities against harms and enable them to use technological advancement to their benefit. Amnesty International calls on Pakistani authorities to implement the above-mentioned recommendations to improve the proposed AI Act, reopen the Digital Nation Act for amendments, as well as to advocate for rights-respecting binding and enforceable AI governance mechanisms at the forthcoming AI Action Summit in Paris.

Thank you in advance for your consideration. We would welcome the opportunity to discuss these recommendations further.

Yours sincerely,

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