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Social Media Regulation in Pakistan: Balancing Digital Governance and Freedom of Expression

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ABSTRACT

This article explores the conflict between digital governance and free speech in Pakistan, where constitutional rights to free speech coexist with cybercrime laws, blocking policies, platform directives and new administrative bodies established to regulate online activities. It questions the ability of the Prevention of Electronic Crimes Act 2016, the Removal and Blocking of Unlawful Online Content Rules 2021, the Prevention of Electronic Crimes Amendment Act 2025 and the blocking practices of the Pakistan Telecommunication Authority (PTA) to meet the test of legality, necessity, and proportionality outlined in Article 19 of the Constitution and Article 19 of the International Covenant on Civil and Political Rights (ICCPR to which Pakistan is signatory. The judgments of Pakistani courts on broadcasting, press freedom and information, along with similar comparative authorities from India, the United States and Europe, clearly demonstrate that Pakistani governance is strong in the language of order and may not be so assertive in enforceability. Digital governance is only legal if it is accurate, subject to independent review, minimally intrusive to avoid overreaching to actual harms, and sufficiently modest to avoid impinging on the contested "middle" of political speech.

Keywords: Social Media Regulation, Pakistan, PECA, Freedom of Expression, Article 19, PTA, Digital Governance, Judicial Review.

Introduction

The legal issue is no longer whether a state can assert regulation over digital space, for every constitutional dispensation will have some response to fraud, child exploitation, terrorist activities, organized defamation, and the like, but whether there is a response that can be formulated in legal terms fine enough to be applied to actual harms without being applied to the ordinary speech of citizens, on journalists reporting uncomfortable facts who question state socio-economic policies. The Constitution of Islamic Republic of Pakistan 1973, Article 19(2) provide that every citizen has right to freedom of speech and expression and freedom of the press, "subject to reasonable restrictions prescribed by law in the interest of the glory of Islam, the integrity, security or defence of Pakistan, friendly relations with foreign States, public order, decency or morality, contempt of court and commission of or incitement to any offence". The digital age has not changed these words, but it has made them more ubiquitous: the same technology that spreads information, makes surveillance, while it contributes to mass education it also encourages anti-state agenda and blocking them instantly may not be technically feasible posing serious glitches for the regulatory bodies as one post on social media can travel even beyond borders in nano seconds than a traditional newspaper could have disseminated in a week.

The problem that Pakistan finds itself in is nothing new that began with the advent of Facebook, YouTube, X, TikTok or WhatsApp and the Internet because all states globally saw it a place where it would be harder to monitor and thus easier to tolerate dissent. But keeping in view socio-

religious circumstances of the Pakistani society especially the ever-spreading tentacles of cross border terrorism, its vast local network of recruitment and its ideological repercussions “The Prevention of Electronic Crimes Act 2016/PECCA” was introduced as a contemporary measure in the fight against hacking, online fraud, data theft, child abuse, hate crimes and defamatory harassment. The 2021 Rules for the Removal and Blocking of Unlawful Online Content were later put into practice for blocking, providing short compliance periods and obligations on major social media platforms (Pakistan Telecommunication Authority, 2021). The Prevention of Electronic Crimes Amendment Act 2025 further extended the scope of offences by introducing false and fake information, broadening aspersions on the constitutional bodies, and establishing a Social Media Protection and Regulatory Authority (National Assembly of Pakistan, 2025), Protection Tribunals, and a National Cyber Crime Investigation Agency.

This is a second and more dramatic aspect of the same debate, as access to YouTube was blocked for years after 2012, TikTok has also been blocked and unblocked in waves, and X (formerly known as Twitter) has been blocked for many months since February 2024, with the interior ministry informing the Hon’ble Islamabad High Court that “misuse” justified the blocking while the Hon’ble Sindh High Court once ordered its lifting (Express Tribune, 2024). Thus, our courts have been oscillating sometimes deferring to national security rationales at times insisting on tighter necessity and proportionality. In these instances, the whole discussion turns into a battle over the medium rather than any specific posts. Let’s see the response of global Judiciary on these curbs affecting millions of users for the fault of few. The European Court of Human Rights has ruled that to block the access to an entire hosting service for the aim of accessing a single page is not a necessary restriction in a democratic society (**Ahmet Yildirim v. Turkey, 2012**). Later, the same Court found a blanket ban on YouTube to be controversial, as users have the right to receive and share information via platforms that are vital to democratic discourse (**Cengiz and Others v. Turkey, 2015**). The Supreme Court of the United States has referred to social media as the modern-day public square, and access to that architecture as a constitutional interest (**Packingham v North Carolina, 2017**). The Supreme Court of India has ruled that internet services can only be suspended for a fixed period with reasoned, published and proportionate orders which are subject to review (**Anuradha Bhasin v. Union of India, 2020**). But Pakistan has already taken a lead as its Apex Court in Pakistan Broadcasting Authority V Pakistan Electronic Media Regulatory Authority (PEMRA) Case (**PLD 2016 SC 692**) observed that blanket ban on social media is unlawful and can only be justified if it is backed by justiciable reasons. When a complete ban on airing Indian movies and dramas in Pakistan was imposed by PEMRA in the wake of deteriorating bilateral relations between the two neighbors due to alleged terrorist activity in Indian Occupied Kashmir the same was declared null and void by the Hon’ble Lahore High Court with the observation that Regulatory Authority can censor anti-Pakistan social media contents but blanket ban was disproportionate and unjustified. (**M/S Leo Communication Case, PLD 2017 Lah. 709**).

The point of this study is not to say that digital harms do not exist, but that the constitutional way of dealing with them is to carefully define them, establish a constitutionally independent process to address them, and then have them subject to judicial review to make sure they are both necessary and justifiable. Under international doctrine, restrictions have to be established by law; serve a legitimate aim; be necessary in a democratic society; and to be proportionate; and to be for the purpose of protecting the rights and freedoms of others. (United Nations Human Rights Committee, 2011). This article examines the disconnect between the legalese and the realities of PECA, PTA blocking, and the changes made in 2025 amendments.

Response of World Judiciary.

Over the past 20 years, the academic and policy discourses surrounding social media regulation have changed from the early romanticism about the internet as a borderless republic of letters to one where the power of platforms, viral harms, and the return of the state have been the focus. A US Supreme Court decision that the Internet is entitled to the most liberal interpretation of free speech, as opposed to the more indulgent one applied to broadcasting, helped to shape early American writing (**Reno v. American Civil Liberties Union, 1997**). Subsequent American cases demonstrated that it continues to be a challenge for courts to draw a fine line between the hosting and authoring of content by platforms while seeking to impose broad civil liability for algorithmic amplification (**Gonzalez v. Google LLC, 2023**). The European Courts and society reacted differently, and saw these platforms as part of a public order which may be asked to take down illegal content quickly. The Court of Justice of the European Union established a very limited right to be forgotten for search results, but not a general right to the cancellation of public history (**Google Spain SL v. AEPD, 2014**). This subsequently became an issue in the European Court of Human Rights, which found a large news portal liable for not removing clearly unlawful hate comments in a timely fashion, a ruling which was read in both ways as a protection for dignity and as a warning against excessive removal (**Delfi AS v. Estonia, 2015**).

But the Supreme Court of India took a progressive approach and in 2015 when it declared a cyber-offence that criminalized electronic message causing annoyance or insult to be unconstitutional, on the grounds that the law was vague, overbroad and could be used to stifle legitimate speech (**Shreya Singhal v. Union of India**). Later, the same Court added that, “the freedom to speak is hollow if the State can turn off the network on which speech lives without giving reasons for its action that are published and subject to review” (**Anuradha Bhasin v. Union of India, 2020**).

Legislative framings in Pakistan, and in the literature dealing with freedom of expression, have been historically focused on the regulation of print and broadcast; contempt, defamation, and the limitations posed by Article 19 on freedom of expression, with a more recent shift towards the internet as a distinct constitutional area of focus in the past decade. The Pakistan Electronic Media Regulatory Authority / PEMRA studies revealed that the media regulator has been mandated to not only expand expression but also narrow it down by regulating morality, national security and societal balance, which the courts have attempted to ensure using the prism of reasonableness. Thus, the Hon’ble Lahore High Court, Lahore ruled that foreign content can be permissible up to certain limits as specified in Article 19 (**Leo Communications Ltd. v. Federation of Pakistan, PLD 2017 Lahore 709**). Later the Hon’ble Supreme Court came up with a generous definition of expression, which is the communication of thoughts, ideas, emotions, beliefs or opinions (PEMRA v. ARY Communications, **PLD 2023 SC 431**). The citizen's right to know had earlier been considered as a constitutional obligation of the State and not a gift from the administration (Watan Party v. Federation of Pakistan, **PLD 2012 SC 292**). Later, the right of access to information was extended even to powerful institutions which completes a picture in which the listener is as much a rights holder as the speaker (Mukhtar Ahmad Ali Case, **PLD 2024 SC 192**). Paradoxically speaking, if the citizens have a right to get information on matters of public importance, then a legal framework which allows platforms to be blocked and which regards criticism of state institutions as aspersion seems in conflict not only with the spirit of Article 19, but also, with Article 19A.

The journalist governing body has criticized PECA regulatory regime that broadened its definition of defamation to cow down journalists noting that in 2022, an attempt to charge criminal defamation of public officials with a more severe punishment, barring bail, was overturned by

the Hon'ble Islamabad High Court (International Federation of Journalists, 2022). It further opined that undefined concept of "false information" and "aspersion" along with the protection tribunal based on executive authority is at odds with the older doctrine that tribunals enjoying judicial powers must be under the control of the High Court (Mehram Ali v. Federation of Pakistan, 1998). Amnesty International (2025) has reported that the 2025 package is a serious restriction on online speech, and that international organizations have assessed it as such. Instead, security minded writing focuses on the limited cooperation of platforms globally and the dissemination of terrorist propaganda, and sees rules from PECA and PTA though incomplete yet necessary remedial measures for a true enforcement gap (ISSRA, 2026). The standards for that debate are provided by theoretical literature. **The tripartite test of legality, legitimate aim and necessity can be interpreted in Pakistan's terminology as a hard reading of the term reasonable in Article 19 (United Nations Human Rights Committee, 2011).**

Speech freedom in the digital age is not just classical liberty to utter, it is also about the design of platforms and networks, which means that blocking a network or platform is a reconstruction of the public sphere (Balkin, 2018). Gender bias and hateful abuse is often used to block the right of free speech, and in a rights respecting state, positive duty to prevent involvement in speech is not necessarily censorship (Citron, 2014). **In the present article both the security concern as well as the rights concern are taken as genuine and it rejects the false dichotomy between internet without governance and censor without bounds.**

Problem Statement

The problem that this article confronts is that Pakistan has built a digital governance regime that is supposed to serve four purposes: public order, morality, national security, and the integrity of institutions, but owing to lack of judicial minds on the regulatory bodies it often fails the constitutional tests of precision, necessity, independence, and proportionality, and so, at times, it militates against fundamental right of freedom of expression though it does not formally extinguish it. However, **no constitution in the world grants an absolute liberty to speak without reasonable restrictions because democratic governance requires the state not to sit idly by when terrorist recruiters are active.**

Constitutional Speech Framework

This discussion is an attempt to analyze the constitutional and international context in which any Pakistani exercise of social media regulation should be evaluated where statutes and rules of cyber administration are actually exercises of public power over the most sensitive of liberties and like any other exercise of public power it must be subject to judicial review by an impartial, independent tribunal in the backdrop of constitutional guarantees enshrined in Article 19, Article 19A, Article 10A on fair trial, Article 14 on dignity as well as international obligations that Pakistan has entered into by ratifying the International Covenant on Civil and Political Rights. Article 19 is a compound right, which safeguards the press, speech and expression. The Hon'ble Supreme Court has called expression a "conveyance of thoughts, ideas, emotions, beliefs, or opinions through any means of communication" which is a generous definition and is apt to govern the digital space **where the Constitution is not to be turned into a "museum of categories created before the internet" (PEMRA v. ARY Communications, PLD 2023 SC 431).** The listener and the seeker of information complete the picture provided by Article 19A, which is precisely the interest that platform blocking annihilates when it blocks the voices of millions of lawful speakers for the sake of few unlawful speakers (**Watan Party Case, PLD 2012 SC 292**).

The restrictions clause of Article 19 is a more generic with widespread scope than the limitation clauses of other countries constitutions, as it provides restriction for the glory of Islam, to protect friendly relations with foreign States, decency or morality in addition to security, public order,

contempt and incitement which are run of the mill approach so is prone to misinterpretation by regulatory bodies. But the judiciary in Pakistan stood as a vanguard against such a flimsy attack as in the famous case of Pakistan Broadcasters Association v. PEMRA, PLD 2016 SC 692, Hon'ble Supreme Court has ruled that the word 'reasonable' connotes intelligent care and a restriction should be just, right and fair, not arbitrary, oppressive or fanciful. It further ruled that expression should not be suppressed merely because of speculative apprehensions as threatened danger must not be remote, conjectural or far-fetched rather there must be a proximate and direct nexus between the expression and the anticipated harm. Quoting previous precedent, it noted that freedom of speech is more than just the liberty of the tongue (Nawaz Sharif v. President of Pakistan, PLD 1993 SC 473). Later the Hon'ble Islamabad High Court ruled that even the threat of retaliation is not acceptable for press freedom and that journalists cannot be coerced or intimidated by threat for their reporting (**Rana Muhammad Arshad v. Federation of Pakistan, PLD 2021 Islamabad 42**). The freedom to seek, receive and impart information and ideas of all kinds, without restriction on frontiers, and by any means, is, on the other hand, protected by the International Covenant on Civil and Political Rights, 1966, and offers a disciplined way of reading the same clause. It requires a lawful restriction, which must be prescribed by law, serves a legitimate aim, and be necessary in a democratic society; in particular, laws on blasphemy, lese majesty and disrespect for authority are prone to abuse (United Nations Human Rights Committee, 2011). Indian ruling that a cyber-offence based on annoyance or insult would not be countenanced while holding that the state could be held liable for acts of real harm (Shreya Singhal v. Union of India, AIR 2015 SC 248) is the right step towards remedial approach wherein it struck down Section 66-A of the Information Technology Act, 2000 as unconstitutional because of its vagueness and overbroad restrictions on online speech.

Direct incitement to imminent violence against the state, child sexual abuse material, online hate crime, harassment, intimidation, threats, or cyber fraud, are not immunized under Article 19, and a state that does not do anything about these serious cybercrimes would be violating the dignity and equality of the victims, including women, religious minorities and journalists who are hunted online before they are hunted offline as abuse can silence individuals from speaking out. The mistake is to include those valid targets as legitimate grounds for dismissing offences which also encompass issues such as satire, investigation, and opposition politics. This vice of over breadth was discovered when the indecency rules in the United States were determined to prohibit much more adult speech than was necessary for the child protection outcomes that the rules sought to produce (**Reno v. American Civil Liberties Union, 521 U.S. 844 (1997)**). Article 19 is accompanied by the right to a fair trial and dignity; thus, the citizen cannot simply be condemned to a sentence for an online activity without a fair trial.

In Pakistan regulation of social media is often criticized as means of curbing free speech with political implications but here the many political leaders by misusing the right of free speech incite its follower towards violent protests, blocking roads, disturbing free flow of traffic, violating right of the public to have free access to their employment, business and even to basic utilities like food and water so putting curbs on such combustible contents becomes national obligation of the regulatory regime so as to protect public welfare which always holds precedence over individual liberties the world over.. But even such apparently justified ban on hate speech is always subject to ordinary court judicial review so scathing criticism against such regulatory measures is simply a venomous and opprobrious diatribe without understanding the legal remedies available to every champion of free speech.

Digital Governance Machinery

The question of order and liberty cannot be settled in the textbooks, but in the definition of offences, design of regulators, timeliness of blocking orders, and technical expertise to probe online illegality. The Prevention of Electronic Crimes Act 2016 (PECA) is an amalgamation of ordinary criminal laws against unauthorized access, identity crime, and child pornography and provisions that extend to expression, including glorification of an offence, offences against dignity and modesty, and more importantly, section 37, which gives the Pakistan Telecommunication Authority (PTA) the power to remove or block access to information if it considers it necessary in the interest of the glory of Islam, the integrity, security or defence of Pakistan, public order, decency or morality, or in relation to contempt of court or commission of or incitement to an offence, which mimics the language of Article 19 and thereby claims constitutional authority for administrative blocking (Prevention of Electronic Crimes Act, 2016). It is section 37 that is the hinge on which the entire system turns: it turns the restrictions clause of the Constitution, which was drafted to be applied by courts in concrete cases against acts by Parliament or other law makers, into a standing administrative warrant that a telecommunications body may use against content and even whole services that are invisible. That warrant was then to have a procedure of complaints, time limit for action of 48 hours and special responsibilities for major social media companies under the 2021 Rules (Pakistan Telecommunication Authority, 2021).

There is a reason why those rules are important: "The forms are the substance in speech regulation." The regulatory body will almost always have to make a decision within hours whether a political, religious or ideological video is unlawful or not, failing which it will be blocked, or penal consequences will follow, which is why neighboring judiciary felt it was necessary to provide notice, reasons and hearing before blocking (*Shreya Singhal v. Union of India*, 2015). International jurists consider 'vague law' as no law at all (United Nations Human Rights Committee, 2011). While there is provision for complaints and reviews, Journalists consider PTA blocking of such contents as unreasoned jurisprudence, with platform-level bans of TikTok and X, which can plausibly be called surgical (Dawn, 2021). TikTok has been banned numerous times for its immorality reasons and the Hon'ble Peshawar High Court had previously ordered to block it for vulgarity (Geo News, 2020). The ban on X that started in February 2024 was justified before the Hon'ble Islamabad High Court as a measure to deal with misuse of the platform, but the Hon'ble Sindh High Court ordered its unblocking which indicates courageous judicial review by an independent judiciary. In Turkey the Courts held that total destruction of lawful speech on a platform is a measure of disproportionality (*Ahmet Yildirim v. Turkey*, 2012). A recent amendment of 2025 that introduces Section 26A on intentional dissemination of false or fake information likely to cause fear, panic or unrest was also denounced by the journalist with the argument that it is lacking transparent test for falsity in political controversy (National Assembly of Pakistan, 2025). They further castigated it due to its vague definition of unlawful to encompass any "aspersions or imputations" on the judiciary, the armed forces, a Provincial Assembly or Parliament, terming it an electronic version of the offence of lese majesty which is abhorred by human rights watchdogs. Transnational Press lambasted its Social Media Protection and Regulatory Authority, Protection Tribunals on the ground that its members are appointed in a process involving the executive, and a National Cyber Crime Investigation Agency, which focus investigation, regulation, and first line adjudication in bodies that look to the federal government, rather than to the High Courts (International Press Institute, 2025). It was next agitated by that watchdog that tribunals with judicial powers must be under control and supervision of the High Court (*Mahram Ali v. Federation of Pakistan*, **PLD 1998 SC 1445**). Quoting criminal prosecution of one hundred and fifty journalists in one month under different heads of

PECA, it then lamented that the law has become a tool to manage newsrooms through fear and that is precisely the injury suffered when the vague PECA notice was deemed an abuse of authority.

It chided that in democratic countries, duties of transparency and targeted removal, as the European Union has done with its Digital Services Act, have been experimented with, but in Pakistan, it has been done with the criminal law, elastic definitions, executive fora and bans on entire platforms, instead of notice and action against illegal content, independent regulation and civil remedies (European Union, 2022) claiming that the system of digital governance in Pakistan is penal, centralized and thick, and thickness is not equal to constitutionality. (European Union, 2022)

Comparative Judicial Doctrine

This discussion reads the decided cases, both from Pakistan and abroad, as a kind of comparative conversation between how courts have policed the “boundary” between digital governance and freedom of expression, and because the legislation in this field has lunged more quickly than any corresponding doctrine, and because the decided cases contain most of the principles that would be needed in a balanced Pakistani settlement. The Hon’ble Supreme Court of Pakistan has held that reasonable restrictions are also subject to the proportionality requirement: they must be fair, and not oppressive (Pakistan Broadcasters Association v. PEMRA, 2016), and this requirement is even more stringent when it comes to PECA blocking than to broadcast licensing as blocking is often secret, sudden and complete in its impact on the user. Given how expression is defined and its links to the health of democratic debate, it is difficult to see how the speech of social media platforms can be regarded as a less sophisticated form of expression just because it is posted, not broadcast (PEMRA v. ARY Communications, PLD 2023 SC 431).

Journalist bodies have all the right to rebuke PECA amendment of recent time as quoted above, but it should not be forgotten that in Pakistan very few professional journalist speak on social media and they normally use modest language with analytical skill due to which none of them was prosecuted under PECA but emerging trend of unprofessional propagandist and mushroom growth of spin doctors practicing yellow journalism has surfaced its ugly head in the country where every Tom and Jerry has opened its own unlicensed, unregistered YouTube channels to malign national institutions like Judiciary and Security Apparatus with not so hidden axe to grind to incite public violence against them and tarnish their image frequently through sponsored agenda having no parallel in an civilized democratic dispensation for whom disciplined and regulated reporting of event is a creative asthma. Hence this fine distinction between professional journalist with a code of conduct and rumormonger as well as muckrakers should be kept in mind because it is the latter category which violate with impunity the restrictions mentioned in Article 19 and when they are prosecuted, they take refuge behind façade of journalist body. Despite the above carping our Hon’ble Superior Courts have shown courage and independence to protect right to free speech in number of precedents like the Hon’ble High Court of Islamabad which in the judgment of 8 April 2022, declared the PECA Ordinance unconstitutional, stating that the government cannot, without the preconditions of the true ordinary, rewrite the criminal law of defamation at the expense of the journalists (Dawn, 2022). The later passage of the 2025 Act by the Parliament does not negate that lesson, it only shifts the arena of next battle, and petitions by journalist unions have already put the Amendment on Article 19 grounds in the courts. Another cluster is that of platform cases. The Hon’ble Islamabad High Court questioned the Pakistan Telecommunication Authority (PTA) about TikTok bans, while the Hon’ble Sindh High Court ordered unblocking of X, which indicates judicial discomfort as the court consider wholesale blocking of platforms as presumptively disproportionate (Express

Tribune, 2024). Foreign content is not a thing that is barred by nature, it is Article 19 which provides the real restriction on what can be telecast (Leo Communications Case PLD 2017 Lah.709).

The Indian cases are the most down to the nuts-and-bolts regional authorities. Discussion, advocacy and incitement were differentiated, a cyber-offence whose very common everyday words could not guide citizens and police was struck down, and a blocking power was saved only by written reasons and subject to judicial challenge (Shreya Singhal v. Union of India, AIR 2015 SC 1523). In this case Indian Supreme Court declared section 66 of the IT Act, 2000 as void being vague lacking clear definition of cyber offence. Speech and occupation are restricted when the internet is completely shut down so such restrictions must be proportional, necessary, in the public interest and must be to challenge (Anuradha Bhasin v. Union of India, AIR 2020 SC 1308). The right to criticize the government is not the same as the right to incite violence as was observed in Kedar Nath Singh v. State of Bihar, AIR 1962 SC 955).

The **American cases** have added to the distrust of prior restraint and have placed a high value access to the speech environment itself. The internet was refused reduction to the more heavily regulated model of broadcasting (Reno v. American Civil Liberties Union, 521 U.S.844 (1997). Later, the platforms became known as the modern public square, and even a person with a serious criminal history could not be banished from the public square (Packingham v. North Carolina, 582 U.S 98 (2017). The US Supreme Court declared social media as protected space for lawful speech. Platforms have interests in expressing and therefore a state's command to carry or to erase political speech is an interference with a speech institution and not just a neutral pipe (Moody v. NetChoice, LLC, 603 U.S 707 (2024).

The cases in Europe are the most forthright on wholesale blocking and the responsibilities of large intermediaries. In the case of Ahmet Yildirim v. Turkey (2012) ECHR 3003, the violation of Article 10 of the European Convention on Human Rights was determined and damages were ordered against Turkey due to the blocking of a whole Google Sites service instead of the offensive one-page content. The same reasoning was used when considering wholesale blocking of YouTube as illegal which platform was acknowledged as a significant way of being informed and informing Cengiz and Others v. Turkey, 48226/10 (ECHR 2015). A large commercial portal that is aware of clearly unlawful hate comments made on its pages, but does not take any action against them, cannot plead freedom of expression (Delfi AS v. Estonia, (GC no.6469/09 ECHR 2015) and the Grand Chamber held that large platforms must proactively prevent and rapidly remove hate speech on their own. There are some cases that may be considered as justifying targeted de-indexing but not a general power to rewrite public history recognizing "right to be forgotten" ordering search engine to remove link offensive to citizen privacy declaring that right to privacy overrides economic interest of the search engine. (Google Spain SL v. AEPD, ECLI-EU.C.2014.317). The cases, when combined, convey a consistent set of rules. Speech on social media like oral speech is protected by the Constitution. Restrictions should be very specific. All procedures should be fair and subject to judicial review. **Platforms may have to take action in case of illegal content.** Whole platforms can pretty much never be banned. Attacks on institutions are not fringe cases of protected expression, but are at the heart of it though incitement to violence content can be banned. Any tribunals adjudicating speech conflicts should be independent. Vague criminal law is a constitutional violation; as is the fear it creates.

Balanced Regulatory Mode

This discussion asks what a balanced model would look like if Pakistan were to take its own Constitution and the comparative case law as seriously as it takes its anxiety about online disorder, and the answer begins with an unfashionable concession to the state, which is that

digital governance is not optional, because terrorist organizations, child abusers, and fraudsters use the same platforms that journalists and families use, and because coordinated campaigns can endanger communities in a country where blasphemy allegations leads to lynching and where sectarian speech can create national chaos. A Constitution that protects life, dignity and equality cannot be interpreted as a suicide pact with a viral harm; a regulator that cannot get the child sexual abuse material or operational terrorist content out of the world has failed in a no less constitutional task than the protection of speech. This positive aspect of governance is recognized by the European platform legislation (European Union, 2022). Dignity and illegal hate also advocate specific obligations for large portals to take prompt proactive action to remove such contents (**Delfi AS v. Estonia, 2015**). Hence, Pakistan has a right to a specialized capacity against cybercrime, a right to international cooperation with platforms, a right to blocking of clearly illegal uniform resource locators, a right to criminal law targeting real and defined offences. It is not a question of the elimination of PECA. This is in cutting PECA back to the size of those wrongs.

The first criteria for attaining balance are the requirement of strong legality, that is, the definiteness of definitions such that they can be applied by a citizen, a journalist, a prosecutor and a judge without having to guess the government's mood. Section 26A of the PECA on intentional sharing of false and fake information, and the impunity clauses for institutions are being continuously denounced by the press and human right activists as overly broad and subjective, prone to be misused against political opponent through criminal trial which is a harsh tool for resolving such conflicts (Shreya Singhal v. Union of India, 2015). The way forward is that threat of defamation action, in which reputation is actually on the line, is already there and should be limited to prevent public officers from having a privileged shell for them to hide behind (Dawn, 2022). Any "hate speech" regulation must be linked to the incitement of "identifiable harm" and not "a vague offence." There are operational definitions for glorification of terrorism that do not involve historical research or reporting on militant claims, but do involve glorification of terror up to the recruitment level. What can't be carefully defined, shouldn't be a crime.

The other requirement is institutional independence and ordinary courts' judicial review. Tribunals based on the executive selection would continue to be a mistrusted, and speech cases are the last type of cases that should be handed over to tribunals whose members are appointed and whose tenure depends on the will of the federal government (Mahram Ali v. Federation of Pakistan, 1998). The need of the time is to place those tribunals under the administrative control of respective High Courts even if their selection is retained by the government. The Pakistan Telecommunication Authority's section 37 should be revised to necessitate a reasoned order, prior notice (where it would not undermine the object of the order), an opportunity to be heard, a register of such orders (to be published) and automatic revocation after a certain period unless renewed by a court (Anuradha Bhasin v. Union of India, 2020). Whilst it is true that platforms can themselves be criminal enterprises (Ahmet Yildirim v. Turkey, 2012), wholesale blocking of platforms should be presumed unconstitutional, unless the platform is itself an exclusively criminal enterprise. A similar principle applies to social media, a platform which is accessible to a whole population and which cannot be closed to them solely because some misuse it (Packingham v. North Carolina, 2017).

The third is a shift from penal reflex to a "ladder of responses" - the first step in the case of harmful but lawful speech is more speech, the second is civil remedy, the third is administrative action and notice against already illegal speech, the fourth is criminal law, except in cases of threats, incitement, child exploitation, operational terrorism and fraud. Press bodies consider Pakistan's present ladder as upside down because it goes for criminal investigation and

nationwide blocking first hence journalists face charges dozens at a time and millions of readers lose a service simply because officials are unhappy about an article or post (International Press Institute, 2025). Nothing would do more for security and liberty than to turn the ladder the other way up; for necessity is a comparison of means, and a state which has never tried the milder means cannot credibly say that the harsher means are necessary.

Equality of the application and protection of the vulnerable speaker is the fourth requirement.

Not a system of law is a digital governance system that is very hard on the opposition workers and very soft on the organized abuse of women, minorities and independent reporters. The investigators must discontinue using PECA as a tool and merge the command with quick response to death threats, special benches and legal help to the victims of organized online violence (Rana Muhammad Arshad v. Federation of Pakistan, 2021). A part of this structure is education, media literacy, and professional journalism, and no statute will make a polarized public wise, nor will one make a public unable to tell investigation from rumors ever want the state to be an editor. Define harm narrowly investigate crime, not criticism. Control rumormongers and spin doctors by autonomous institutions. Seek cooperation of platforms like Google and YouTube to block anti-state contents including hate speech and terrorist glorification but block posts NOT platforms. Provide judicial review to the High Courts. Keep safe those who are at risk of virality. Determine success based on the number of surviving URLs, not the number of URLs removed. In operational terms, that's what it would look like to balance the digital governance and freedom of expression in Pakistan.

Conclusion

The question is not whether Pakistan will govern the digital sphere or not, it has already been decided by the extent of the harm that is happening online and by the fact that the digital sphere has become a place of political life; the only question is whether it will be constitutional or not. The Constitution provides a challenging and viable solution. It guarantees the right to speak, to express and the freedom of the press, it guarantees the right to know, it secures reasonable limits on the exercise of those freedoms, which are not arbitrary or capricious, and it invests those limits with dignity, fair trial and a court system whose historic role has been to say no to the transient passions of governments. Sometimes this can be something as simple as a post, a video, a meme, or a live stream. Any restriction must be a just restriction. Information is a commitment of the state and not a gift. Our Hon'ble High Courts have already demonstrated that cybercrime law can be misapplied and that any law which is intended to have a deterrent effect on journalists will not, with an alert judiciary, be accepted as just a routine administration. Comparative courts have provided the other parts of the map by breaking the template of the vague cyber insult offence, by holding that published and proportionate control of a medium is required, by putting social media on the map of public discussion, by stating that you cannot make a case for destroying a platform to silence a part of it, and by demonstrating that dignity and legality can underpin targeted duties without a ministry of truth.

That map has been accompanied by a trajectory for Pakistan from that statute to the rules in 2016 to the Amendment in 2025, during which the country's media landscape has been repeatedly assaulted via platform bans and a host of cases against journalists. Elastic offences, executive tribunals, forty-eight hour take downs, aspersion against institutions and nationwide inaccessibility of services are not the hallmarks of a careful balance. Those are the hallmarks of a state grown weary with the cacophony of the internet and resorted to the oldest means in the toolbox: fear of crime and the switch that turns off the signal. Such tools will not create the public that's informed and they're not going to create the debate that democracy needs in the health field, and they will not even create the security they promise to create because a silenced public

is not a safe public, and extremist and criminal networks move quicker than civic speech does when the platforms are darkened. The route back is the route of definition, independence, tailoring and review. If these principles are now codified in a cohesive cyber jurisprudence by the courts and Parliament so as to make less criminal and more specific offensive contents, Pakistan can still have a digital public square that is not a jungle or a barracks. That would be digital governance indeed, and it would be true to freedom of expression, at least.

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