

Critical Appraisal of Regulatory Framework of Social Media in Pakistan: Challenges and the Way forward

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Abstract:

This research examines the evolving landscape of social media in Pakistan, highlighting both advancements and challenges within its regulatory framework. Social media's rapid expansion has prompted significant changes in communication, but it has also introduced concerns such as privacy violations, misinformation, hate speech, and the spread of harmful content. The study assesses Pakistan's current legal and regulatory measures, including the Prevention of Electronic Crimes Act (PECA) of 2016, and identifies gaps and areas needing improvement. Key findings indicate a need for clearer definitions of "illegal content," enhanced enforcement, and more effective stakeholder engagement. The research proposes legislative reforms, strengthened regulatory authorities, capacity-building initiatives, and improved collaboration with social media platforms to create a balanced and effective regulatory environment. These recommendations aim to protect user rights while promoting a safe and responsible online space.

Key words:

Social media regulation, privacy, cybercrime, hate speech, legislative reforms

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Introduction

In the rapidly evolving digital landscape, social media has emerged as a powerful force reshaping how people communicate, share information, and engage with the outside world. Social media, which serves as a platform for self-expression, connectivity, and access to a wide range of knowledge, has expanded at an unprecedented rate in Pakistan and many other countries. However, the growth of online platforms has also spawned new issues and concerns, leading to a critical assessment of the national social media regulatory framework (Choi, 2018). As the virtual world becomes more intertwined with people's everyday lives, concerns related to privacy, false information, hate speech, and the proliferation of dangerous material have increased considerably. Given these difficulties, it is essential to assess Pakistan's current regulatory system and pinpoint its advantages, disadvantages, and possible areas for improvement. Such an evaluation is necessary to provide a secure, responsible, and welcoming online environment that supports people's rights while sustaining the social fabric.

Communication was revolutionized with the launch of the first social media platform, Facebook, in February 2004. Digital technologies and the widespread adoption of social networking platforms have created new channels and horizons for citizens to express their opinions, share information, mobilize support, and hold governments accountable. This policy research meticulously examines the legal system controlling social media in Pakistan. It aims to highlight the gaps, issues, and complexities that prevent effective governance by assessing the current policies, regulations, and practices. The objective of this paper is to provide a strong regulatory framework that strikes a balance between the requirements for user safety, free speech, and societal well-being. Additionally, it will offer beneficial guidance and a strategy to address the identified issues.

Statement of the Problem

Despite the rapid growth and increasing influence of social media, there prevails a perception that there is a pressing need to assess the effectiveness and adequacy of existing social media regulations in Pakistan to ensure the responsible use of these platforms and safeguard the rights and interests of users and society as a whole. The paper at hand attempts to critically appraise the regulatory framework governing social media platforms in Pakistan, focusing on the challenges faced and exploring potential solutions for the way forward. This paper also aims to investigate the challenges encountered within the current regulatory framework, such as addressing misinformation, protecting privacy, combating hate speech, and balancing freedom of expression with the need for accountability. By identifying these obstacles and proposing viable solutions, this study aims to contribute to the

development of an improved and implementable regulatory framework for social media in Pakistan, promoting a safe, inclusive, and responsible digital ecosystem.

Methodology

This study is qualitative in nature. The goal of qualitative research is to collect and examine non-numerical (descriptive) data in order to comprehend social reality, including people's attitudes, beliefs, and motivations (Merriam, 2015). Data for this study was collected from secondary sources, including news articles, research papers, social media, etc.

Scope of study

The study seeks to critically appraise the regulatory framework, which includes: a) Legal Framework (PECA, Social Media Laws/Rules, etc.) and b) Institutional Framework (FIA, PTA, NITB, etc.). After a critical appraisal of the regulatory framework, this paper lists the way forward and provides recommendations.

Situational Analysis

According to the PTA, Pakistan has around 193 million mobile cellular subscribers, 124 million mobile broadband subscribers, 3 million fixed telephone subscribers, and 127 million broadband subscribers (Indicators, 2023). According to an FIA report, the total number of cybercrime complaints was 107,493 in 2022. However, only 124 people were convicted of these crimes, indicating the weak capacity of relevant government authorities. Additionally, international companies like Facebook and other platforms are often hesitant to share data that may be used unlawfully.

Current Legal Framework for Regulating Social Media in Pakistan:

- Electronic/Cybercrime Bill Ordinance 2007: The year 2007 saw the adoption of the Prevention of Electronic Crimes or Cybercrimes Ordinance (PECO), which covered electronic offenses such as data loss and electronic fraud.
- Prevention of Electronic Crimes Act (PECA-2016): The Prevention of Electronic Crimes Act (PECA) came into effect in 2016. It complies with the Cyber Crime Bill of 2007 and addresses online offenses such as cyber-terrorism, electronic forgery and fraud, denial of service attacks (DOS attacks), and unauthorized access to data (hacking).
- Citizens Protection (Against Online Harm) Rules, 2020: Deals with the establishment of the National Coordinator for citizen protection against online harms, along with obligations on social media companies with respect to blocking and removal of unlawful online content.

- Removal and Blocking of Unlawful Online Content Rules, 2021: These rules were framed with the aim of serving the causes of the glory of Islam, the security of Pakistan, public order, decency and morality, and the integrity and defense of Pakistan.

Current Institutional Framework for Regulating Social Media in Pakistan:

In Pakistan, the government enacted the FIA Act 1974, which paved the way for the establishment of the FIA. The FIA set up its cybercrime wing in 2007 to battle online crime. Similarly, the Pakistan Telecommunication (Reorganization) Act (1996) led to the formation of the PTA, which later formed a wing to monitor online crimes and issues. However, the FIA is a major stakeholder that is approached in cases of electronic crimes. The Ministry of Information Technology, the Ministry of Interior, and the Ministry of Information and Broadcasting also deal with issues related to media and social media.

The government established the NITB in 2014 to promote and integrate an e-governance culture in the federal and provincial governments. In addition, one can also appeal to a court to seek justice in cases of online fraud or crime.

Issues and Challenges (GAP Analysis):

The research has highlighted several problems with Pakistan's social media legislation as well as general issues with the country's strategy. Firstly, the vague "Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules, 2021" require social media businesses to make fundamental structural adjustments. Since Pakistan cannot order the removal or censorship of material from websites beyond its borders, websites that host certain content the government deems illegal may still be available to users everywhere. What is considered "unlawful" content as per the subject rules is still unclear, in addition to the statute's deceptive nomenclature.

Secondly, the "Citizens Protection (Against Online Harm) Rules, 2020," the first set of social media rules, omitted any reference to the right to free speech or expression. The first law with a clause on freedom of speech is the "Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules, 2021." Despite modifications in these rules, Pakistan has come under fire for failing to uphold Article 19 of its constitution, which guarantees its people the freedom of speech and expression.

In addition to the above-mentioned systematic issues, the objectives and parameters of the social media laws that have been approved and then repealed remain unclear. The "Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules, 2020" cover a wide

range of issues, including hate speech, privacy, and data security (Shafiq, 2022). Nonetheless, these features need more consideration and justification. In response to growing national and international concerns about data protection and privacy, governments and international bodies have developed policies. India, Pakistan's arch-rival, has also been seen trying to spread false information while disguising their actions as exercising their right to free speech and engaging in hybrid warfare. To lessen the effects of such attempts, the Pakistan Telecommunication Authority and external groups must pay attention.

Pakistan has previously carried out targeted steps to deal with issues. For instance, in the wake of the 2014 incident at the Army Public School, the GoP developed a targeted counterterrorism campaign in Pakistan (Purdon, 2015). In line with this plan to eradicate terrorism and militancy in Pakistan, the National Assembly approved the "Prevention of Electronic Crimes Act 2016." Although many claimed that the PECA just regulated speech and not criminal action, it had a definite intent and objective. The present legislation in Pakistan must thus have a precise, clearly defined purpose that it would target rather than implementing rules with a broad scope.

Businesses required to operate in Pakistan shall have physical locations here and licensed compliance officers who reside there under all social media regulations. These requirements are legitimate and necessary, but they also have due dates. For example, the registration period for the establishment of offices was available for three months after the rules were put into effect. In accordance with the "Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules, 2020," these offices must be established within nine months after the registration process. However, social networking sites pledged to stop functioning in Pakistan less than a day later. The "Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules, 2021," the most recent set of legislation, now enables the creation of offices "as and when feasible" in response to criticism from social networking companies and civil society.

They argued that in order to operate in Pakistan, social media firms require a friendly business climate. Businesses need to be encouraged rather than coerced because many other nations in the region provide a more favorable environment. Given the country's expanding internet user base, entrepreneurial culture, and untapped market, the government must emphasize that Pakistan is favorable to private digital enterprises.

Analysis and Findings:

Existing Laws and Regulations:

Pakistan's rules and regulations for social media management have changed over time to address issues relating to privacy, misinformation, hate speech, and the dissemination of dangerous content. These legislations, which seek to

combine the right to free expression with responsible use of digital media, have had contradictory effects. One key piece of legislation is the Prevention of Electronic Crimes Act (PECA), introduced in 2016. PECA offers a framework for handling digital offenses relating to social media platforms, including cybercrime. It gives the government and the Pakistan Telecommunication Authority (PTA) the authority to pass laws that forbid particular activities, such as harassment, cyberbullying, and the dissemination of objectionable content (Shafiq, 2022). The advantage of PECA is that it has enabled law enforcement to combat online crimes and protect people from digital harm.

However, PECA's implementation has drawn criticism for potential limitations on the right to free expression and for the ambiguity of certain provisions. Due to the law's vague language and broad scope, it has been selectively interpreted, resulting in restrictions on what is permitted online. To silence online criticism, there have been cases of arbitrary arrests and prosecutions, negatively impacting people and journalists critical of the Act.

Additionally, the government has set rules specifically for social networking platforms. The "Citizens Protection (Against Online Harm) Rules, 2020" were established to regulate social media content and prevent online damage. Nevertheless, it drew criticism for limiting the right to free expression. In response, the "Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules, 2021" included a clause protecting free speech. While this framework was a good idea, it is still unclear how this right will be properly maintained. The legal ambiguity around what constitutes "unlawful content" remains a problem. Laws are subjectively interpreted, leading to uneven enforcement and potential abuse. Since material the government deems illegal may still be accessible internationally, the effectiveness and reach of the legislation are in question.

Furthermore, social media networks manage a significant portion of content policing. Platforms are required to open local offices in Pakistan, choose which areas to focus on, and respond to removal requests in accordance with deadlines. Despite this strategy seeking to promote accountability, there are numerous limitations and practical difficulties. Complying with local legislation can be challenging due to the platforms' complex global nature. This has occasionally resulted in platform bans or brief suspensions due to disputes between the government and social media corporations. The law's positive outcome has been to increase awareness of the need for social media platforms to handle problems like misinformation and hate speech. The restrictions have sparked discussions and disagreements between the government, civil society, and social media corporations to come to a consensus and work together on solutions. Understanding of appropriate online conduct and the need for user safety has also risen.

However, it is necessary to continuously review and modify the existing laws and regulations. The current framework needs to be clearer, more accessible, and compliant with universal human rights standards. It is critical to strike a balance between defending people's right to free expression and protecting them from harm online (Regan, 2016). The government should also engage in in-depth conversations with stakeholders, such as social media companies and civil society organizations, to ensure that the policies are effective, reasonable, and inclusive.

It can be asserted that Pakistan's social media rules and regulations have made an effort to solve the problems created by online platforms. While they have helped deter cybercrime and inspire talks about responsible online conduct, there are concerns about constraints on free expression, the uncertainty of the definition of "unlawful content," and the practical difficulties of implementation. To offer a regulatory structure that preserves basic rights while successfully addressing online harm, the government and significant parties must strike a balance between user protection, responsibility, and freedom of speech.

Regulatory Authorities and their Role:

The PTA significantly affects Pakistan's ability to implement legislation regarding the regulation of social media. Its advantages stem from its ability to provide recommendations, rules, and instructions compelling social media companies to adhere to local laws and regulations. The PTA may forbid or stop the use of a platform or a piece of content if it is determined to be unlawful or harmful to national interests. This requires the authority to be more prepared to act swiftly in response to problems like hate speech, inciting violence, and the dissemination of harmful information. The PTA has also set up a system for accepting and handling user complaints regarding questionable information to better protect users. However, the PTA's regulatory measures have come under fire for possible power abuse and a lack of transparency. Decisions made by the authority regarding blocking and suspension have occasionally been seen as arbitrary and influenced by political factors. This gives rise to worries about censorship and the restriction of free speech. To guarantee that regulatory measures are reasonable, fair, and founded on clearly stated criteria, clear rules and transparency in the decision-making processes are necessary.

The FIA is authorized to pursue legal action against anybody participating in illegal activities on social media platforms since it is the law enforcement organization in charge of investigating cybercrime. Its abilities to work with overseas peers to combat transnational offenses and its skill in examining cybercrimes are its key competencies. Through the FIA's efforts, persons responsible for online harassment, cyberbullying, and the distribution of

illicit content can be apprehended and put on trial. However, the FIA's inability to thoroughly investigate and prosecute cybercrimes is one of its shortcomings. It is difficult for the agency to remain on top of emerging risks given the quick development of digital platforms and the constantly changing nature of online offenses. Strengthening the FIA's ability requires enhanced training to combat cybercrimes and provide a secure online environment, investments in technological expertise, and infrastructure.

Another problem with the regulatory structure is the lack of coordination and cooperation between the regulatory bodies, social media companies, and civil society organizations. Moreover, the reduced availability of a thorough multi-stakeholder approach hinders the development of effective legislation and enforcement strategies. To achieve a balance between user safety, free expression, and responsible online conduct, a collaborative ecosystem is necessary for the stakeholders to address the complex challenges surrounding social media regulation. Notably, social media networks are under considerable strain as a result of the current regulations and controls over content. Despite the fact that this technique seeks to promote accountability, the different cultural, legal, and linguistic contexts make it challenging for platforms to consistently understand and apply the law.

Enforcement and Compliance Issues

A major issue is the selective implementation of legislation, which leads to inconsistencies and the appearance of discrimination. Regulating opponents of the government or opposing viewpoints has occasionally been used to target or oppress them. This selective enforcement undermines the objective of creating a fair and balanced regulatory system, as it questions the right to free expression and creates the prospect of power abuse. For social media corporations, following local regulations has often been a controversial subject. Platforms typically find it challenging to comprehend and abide by complicated and evolving rules, particularly when such laws contravene the fundamentals of international free expression. Compliance efforts are further complicated by varying linguistic, legal, and cultural contexts. Furthermore, as social media platforms have a global reach, problems with other authorities often arise. Platforms located outside of Pakistan's boundaries may not always be immediately influenced by regulatory actions taken here. This can make it challenging to hold platforms accountable for content deletion or local law compliance due to enforcement gaps and limitations.

Conclusion

The research highlights several positive qualities, including the existence of a legal framework to combat cybercrime, the acceptance of user protection, and the engagement of regulatory agencies. However, issues were discovered,

such as potential limitations on freedom of expression, unclear definitions of "illegal content," and the need for more effective enforcement and compliance techniques. To create a functional and well-balanced regulatory framework, it is essential to address these issues through transparent decision-making, multi-stakeholder participation, capacity-building initiatives, and the protection of fundamental rights. By implementing the following recommendations, Pakistan may work towards building a responsible, user-friendly, and safe internet environment that promotes user privacy and free expression.

Policy Recommendations/ Way Forward

In light of the above analysis, the following policy recommendations are proposed to support a robust and effective policy formulation process for social media regulation in Pakistan:

Legislative Reforms

The following legal changes are suggested to address the issues in Pakistan's online environment. First, conduct a detailed analysis of the digital threat landscape to identify the most urgent problems, giving priority to topics like religious discrimination, sectarianism, and the violation of minority rights.

Next, create a precise definition of hate speech that is appropriate for Pakistan's cultural setting. Although there is no universally recognized definition of what constitutes hate speech, the government can learn from the self-regulatory guidelines of multinational social media organizations, such as Twitter's "Hateful Conduct Policy". This will enable the development of comprehensive laws against hate speech that address the specific challenges facing the nation.

Additionally, involve a wide range of stakeholders when creating regulations to combat online hate speech. These stakeholders should include those who have experienced hate speech firsthand, those who have perpetrated it, Internet Service Providers (ISPs), think tanks, social media platforms, civil society organizations, academic institutions, influencers, and the legal community. By including these parties, you'll not only facilitate the creation of effective policies but also encourage problem-sharing and the suggestion of workable solutions. This cooperative approach ensures accountability, transparency, and a thorough understanding of the challenges in addressing hate speech. Involving stakeholders early in the legislative process will also provide them with the opportunity to support the implementation of the rules and act as ambassadors for raising awareness.

Strengthening Regulatory Authorities

The role of regulatory authorities needs to be strengthened to better address privacy concerns and misinformation. This can help combat hate speech and the spread of harmful content through the application of legal and regulatory measures. The regulatory environment, particularly the Prevention of Electronic Crimes Act (PECA) of 2016, has played a productive role and can maintain the use of social media with a comprehensive and effective regulatory framework in the future. However, the concerns associated with online platforms need to be addressed within the Act. While PTA's regulatory measures are beneficial, there is a need to enhance oversight to prevent power abuse and increase transparency on digital platforms. This can be achieved by granting more authority to ISPs, think tanks, and social media platforms' privacy tools.

Capacity Building and Awareness Programs

Capacity building can support the law's positive outcomes for users. The role of the law can raise awareness about the need for social media platforms to handle issues like false information and hate speech. Both indirect and direct awareness can be provided in the context of religion. As an Islamic country, a cooperative strategy that emphasizes accountability and openness, with a thorough understanding of decency in speech, will help in eliminating hate speech. Capacity building can increase public confidence and encourage responsible social media use. Involving stakeholders early in the legislative process is beneficial, as they will promote awareness campaigns and support the implementation of the rules. Specific campaigns should be planned to regulate social media use and create a secure and business-friendly environment free of cybercrime. An awareness plan should be developed to counter targeted defamation campaigns launched by foreign social media users through policy support.

Collaboration with Social Media Platforms

Collaboration is essential for managing digital platforms and portraying a positive image of the country. The most popular platforms in the country for communication and information exchange include Facebook, YouTube, WhatsApp, Instagram, and Twitter. They need to collaborate positively in managing these digital tools. The audience needs to learn about decency and proper use. While Pakistan's social media rules and regulations have made efforts to address issues, there needs to be greater attention from media operators and the public to ensure effective collaboration on online platforms. Given social media platforms' global reach, it is important to ensure that nothing harmful is portrayed. Problems should be addressed as they arise by using specialized tools for reporting digital crimes and exercising the right to safety.

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