

Pakistan: The last fortress

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For the third time, the cabinet has approved a draft of social media rules titled the 'Removal and Blocking of Unlawful Content Rules 2021' to govern (read: censor) content on social media in Pakistan. The utility of social media as the last fortress of citizens to express themselves with relative freedom has been commented on ad infinitum, but this [notification](#) presumably is the climax of the state's perseverance to exercise control over narratives and speech on social media that have unsettled the powers that be owing to the accountability that citizens are able to demand for the abuse of power.

Despite several rounds of sham consultations after a domestic and international [outcry](#) from stakeholders (including voices within the government) and orders from the courts asking the government to revise them, the rules remain more or less the same.

They borrow from a colonial-era penal code to draw boundaries around the freedom of speech in contrast to the constitutional provisos of Article 19 where this right is supposed to be subject to "reasonable restrictions" and interpreted by the superior judiciary. In this case, it is the Pakistan Telecommunication Authority (PTA) that will decide.

For protection of the "glory of Islam", blasphemy laws have been included, without safeguards against the misuse and abuse of the law — an irresponsible move by the government — as was witnessed in the brutal killing of Mashal Khan based on false accusations.

The state wants to use the social media rules to trample on the right to freedom of speech.

Strangely, the rules' definition of the "security of Pakistan" is the same as in Article 260, which merely states the definitions of key terms. Hence, we still do not know what speech related to the "security of Pakistan" on social media is going to be censored under these rules. Precedent shows that this power is broad and whimsical. It is also important to note that a PTI MNA's [private member bill](#) for 'Punishment for intentional ridiculing of the armed forces' by amending Section 500 of the Pakistan Penal Code (PPC) has the support of the National Assembly Committee on Interior and also the law ministry, though Information Minister Fawad Chaudhry calls it a "ridiculous idea".

With regard to the "public order" proviso in Article 19 of the Constitution, the PTA also has the power to clamp down on content it feels is in violation of Chapter XIV of the PPC 1860 which deals with 'Public health, safety, convenience, decency, and morals' and to proceed under Section 144 of the Criminal Procedure Code 1898 ('Power to issue order absolute at once in urgent cases of nuisance or apprehended danger') relating to unlawful assembly. How the PTA will determine its actions is anyone's guess; no process has been outlined.

Under "integrity or defence of Pakistan", colonial clauses from the PPC such as "sedition", which should be done away with, are cited.

The rules stipulate that these categories should take precedence over community standards or rules

that platforms already have in place. This, in effect, makes the rules for social media platforms different in Pakistan from the rest of the world, even though all dangerous acts such as incitement to violence, harassment, child pornography, nudity, etc are already being taken down by platforms proactively. This shows that the state wants to use these rules to trample on internationally recognised freedom of speech rights within the territory of Pakistan and thus to control narratives.

What is worse, the rules stipulate a 48-hour period for social media companies to restrict for users in Pakistan content that the government wants censored. Live-streaming of content under the categories mentioned will also be prohibited. The state must realise that content on social media often goes viral immediately, and is easy to download and save.

Social media companies have the capacity to detect a hash of a dangerous video or photograph that harms others and take down copies; for implementing this the government needs a relationship with these companies. It already has one. This is obvious in the transparency reports of social media companies that show that the vast majority of legitimate requests by the Pakistani government in line with policies are complied with.

The worst and most regressive part of the rules is that they allow the government to officially block entire social media platforms, something that is detrimental to the economy, disproportionate, and archaic. Apart from this, non-compliance by companies would make them liable to pay up to Rs500 million in fines — a move aimed at forcing them to implement censorship as demanded by the government.

The rules also ask for grievance and compliance officers to be located in Pakistan that users and government can contact, and to open local offices “when feasible”. Police in Delhi recently [raided](#) the Twitter office and arrested officials; in such an environment, companies would be hesitant to open offices anywhere, especially when technology makes communication easy and renders physical meetings unnecessary.

The broad powers given to the PTA make it judge, jury and executioner of online content with the only option of a second appeal in a high court. Additionally, they require companies to provide requested information related to users in decrypted and readable form to the FIA, raising questions about data privacy rights.

Is a free-for-all social media where people can say whatever they want feasible? Or a social media where users’ speech can be easily restricted? Neither. For their part, social media companies must improve moderation in local languages, be more transparent about content moderation procedures, and improve existing channels of communication. Criminal behaviour on the internet such as cyberterrorism, hate speech, morphing and misusing photographs, cyberstalking, hacking, etc are already illegal under several sections of the Prevention of Electronic Crimes Act (Peca) 2016.

These rules streamline the state’s censorship of social media under Section 37 of Peca, and can cease to exist if parliament amends the act to delete this draconian section, a move several lawmakers and government members already support. Instead, the state must focus on quality digital literacy, provide legal protection to victims of cybercrime that the FIA is failing at currently, and understand the workings of social media and the internet. It must stop deliberately violating the basic democratic right of free speech.

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