

## **Regulating Cyberspace: Pakistan's New Social Media Rules**

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### **Summary**

*Pakistan's new social media law recently approved by the Pakistani cabinet expects social media firms like Facebook to establish domestic offices, store data and work with government officials to identify and remove content that transgresses particular social and political norms. The new law places the government as the arbiter when it comes to online content.*

The lack of clear global rules to govern internet content has left countries scrambling to address the gaps left behind by social media platforms like Facebook where citizens communicate, transact and interact. Pressures are rising within countries to oversee social media companies and platforms like Facebook and Twitter that have, till now, largely evaded regulation in countries where their platforms are being used. Instead, social media platforms largely rely on United States law, specifically section 230 of the 1996 Communications and Decency Act, to police themselves. Section 230 absolves social media, and other internet platforms of any liability from anything published on their services. As a result, countries have to adopt specific laws to manage the effects of what is published and communicated on these platforms, particularly if they foment violence, spread misinformation or cause harm. The onus falls on legislators to balance free speech entitlements with their consequences. In trying to stem the social and political effects of social media platforms like Facebook, Pakistan has swung towards more regulation than not.

Under Pakistan's new law (Citizens Protection (Against Online Harm) Rules 2020), which falls under the 1996 Pakistan Telecommunication Act and 2016 Prevention of Electronic Crimes Act, social media platforms like Facebook, Google and Twitter are obliged to block or remove posts deemed objectionable by Islamabad. Information that the federal government can demand ranges from personal information to traffic and content data. In addition, online platforms will have to remove any content that the government deems 'unlawful' within 24 hours and in special emergency cases in under six hours. All online content and data will have to be stored in database servers located in Pakistan. As for the regulatory entity that will supervise this process, the legislation is less clear – designating a 'National Coordinator' who will be appointed by the Minister of Informational Technology and Telecommunication. As outlined, this 'National Coordinator' will possess considerable power over social media regulation with discretion in determining what online content should be removed and when. Moreover, the 'National Coordinator' will serve as the coordinating authority for social media content, working with social media companies, other federal agencies and departments and provincial governments. As drafted, the law trumps existing rules other government agencies and departments might have on internet and social media regulation.

The law also seeks to fix a structural flaw that has powered the growth of companies like Facebook which have worried little about the political contexts where they operate as long as they provide a platform to 'connect citizens'. The new legislation stipulates that platforms like Facebook must be cognisant of Pakistan's 'religious, cultural, ethnic and national security

sensitivities’ that necessarily trump their own community values. Facebook has found it difficult to square institutional values with that of the contexts where they operate. In fact, Pakistan ranks above all other countries globally in the number of censorship requests sent to Facebook – it submitted around 31 per cent of the 18,000 content restriction requests Facebook received globally from January to July 2019. In response, Facebook admitted to restricting access to content that the Pakistan Telecommunications Authority claimed violated various local laws concerning blasphemy, defamation and anti-national rhetoric. Going ahead, Islamabad will have the authority to deem which content violates domestic norms and sensitivities, calling for such content to be classified as ‘false’. Sanctions for disobeying injunctions are stiff. In such cases, the ‘National Coordinator’ can call for the blocking of a social media platform or particular service.

Islamabad’s new legislation has unleashed some domestic criticism. Opposition parties like the Pakistan Peoples Party and Pakistan Muslim League (Nawaz) have queried the need for a subordinate legislation, not a new legislation, to govern social media platforms. Both parties also questioned why the Imran Khan government did not consult with civil society and media organisations before unveiling the legislation through cabinet. The Pakistan Digital Rights Foundation laid bare its concerns of the bill noting that government officials should not have fiat power to classify online content as impermissible and that the bar the government sets, for what it deems as objectionable content, is so broad that effectively gives no room for debate. Fears Islamabad could use new rules as a cudgel to hush critics and quell dissent abound. Some civil society groups released a joint statement against the new law, claiming it could “point towards the centralisation of power to exercise strict controls over digital and online narratives”. Islamabad’s proclivity to police blasphemy gives such calls urgency since new rules could serve as another tool to constrict online speech.

Like countries across the world, Pakistan is attempting to regulate the effects of social media at home, trying to find a workable balance between permitting, protecting and prohibiting forms of online speech. With the new social media law, Pakistan finds itself amongst countries that look to robustly restrain the operation of social media firms like Facebook within their borders, setting stiff rules on information sharing with government, personal data retention and penalties should firms fail to adhere. Pakistan has opted to augment state power over citizens and group rights when it comes to internet governance.

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