

RESEARCH PAPER**Analyzing PECA Amendments: Press Freedom, Democratic Values, and Digital Regulation in Pakistan**Fazail Asrar Ahmed¹ Sohail Zafar² Seema Gul^{3*}¹ Assistant Professor, Faculty of Law, Grand Asian University Sialkot, Pakistan² PhD Law Scholar, TIMES Institute Multan, Pakistan³ Lecturer, Department of Law, University of Sialkot, Pakistan*Corresponding Author gulseema03@gmail.com

ABSTRACT

This article examines the amendments to the Prevention of Electronic Crimes Act (PECA) in Pakistan, highlighting their implications for press freedom, democratic values, and digital regulation. The study investigates the tension between national security imperatives and constitutional guarantees of freedom of speech, exploring how these amendments impact media organizations, journalists, and the broader digital ecosystem. Using a qualitative research design, the article employs a doctrinal analysis of PECA's provisions and their alignment with international human rights standards, particularly Article 19 of the ICCPR and Pakistan's constitutional protections. The findings reveal that the amendments have broadened state authority to regulate online content, often resulting in arbitrary censorship and a chilling effect on investigative journalism. Enhanced penalties for defamation and expanded surveillance powers pose significant risks to press freedom, public discourse, and individual privacy. A comparative analysis with global best practices underscores the need for transparent and balanced digital governance. The study concludes by recommending legislative reforms, judicial oversight, and public consultation to align PECA with democratic values and foster a free and secure digital space in Pakistan. This research contributes to ongoing debates on balancing governance, security, and freedom in the digital age.

Keywords: Online censorship, media regulation, cyber governance, constitutional rights, investigative journalism, digital freedom, privacy protection, content moderation, legal overreach, democratic accountability.

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INTRODUCTION

The digital age has irrevocably transformed communication, generating several forums for the public to disseminate information and foster innovation. The digital revolution has fundamentally altered culture, politics, and the economy in Pakistan, facilitating easier connections and interactions among individuals and ideas. However, it has also engendered significant concerns, like the information crisis, the proliferation of cybercrimes, and online harassment. In response to these challenges, a legislative framework aimed at combating digital crimes and protecting individuals online was instituted in 2016 with the enactment of the Prevention of

Electronic Crimes Act (PECA). The PECA was enacted to create equilibrium between governance and security in the digital realm; however, numerous amendments significantly undermining fundamental rights, including press freedom and democratic principles (Ahmed et al., 2023).

This article seeks to examine the implications of the amendments in PECA and their potential impact within the context of Pakistan's socio-political realities. The papers examine how these amendments address digital harm while maintaining the essential constitutional protections outlined in Article 19 of the Constitution, which guarantees free speech but permits reasonable restrictions. The research evaluates how these amendments correspond with Pakistan's international commitments under human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), to which Pakistan is a state party (Khan et al., 2019). The research will address three central questions: Firstly, how do the amendments in PECA affect press freedom and public discourse in Pakistan? Secondly, to what extent do these amendments align with democratic values and international conventions regarding freedom of expression and the right to privacy? What legislative or procedural reforms are necessary to achieve a regulatory balance in the country from a digital perspective?

This paper employs a theological qualitative technique to address these issues. It analyzes the text of PECA, its amendments, judicial interpretation, and pertinent academic literature. It also analyzes comparable practices in digital governance from other jurisdictions that, while not confined to national borders, can yet offer a larger perspective. The paper concludes that the PECA modifications, although addressing certain urgent concerns in the digital realm, pose a risk of excessive regulation of internet environments through potential arbitrary filtering, criminalization of protest, and significant privacy implications. These outcomes cumulatively undermine democracy and hinder open public conversation.

The structure of this article is organized to provide a comprehensive analysis. Section II reviews the legal framework of PECA and its amendments, exploring their legislative intent and scope. Section III investigates the amendments' impact on press freedom, privacy, and innovation in Pakistan. Section IV offers a comparative analysis of global best practices, highlighting potential lessons for Pakistan. Section V outlines recommendations for aligning PECA with democratic values, including legislative reforms and greater transparency in digital governance. Finally, Section VI concludes by emphasizing the importance of fostering a free, secure, and equitable digital environment. By critically analyzing the legislative evolution of PECA, this article contributes to the broader discourse on balancing governance, security, and fundamental freedoms in the digital era, offering insights into the challenges and opportunities of regulating digital spaces in democratic societies.

LITERATURE REVIEW

This literature review examines the existing sources and scholarly discourse regarding the Prevention of Electronic Crimes Act (PECA) and its amendments in Pakistan, with a focus on their implications for press freedom, democratic values, and the justifications for digital regulation. A variety of studies have examined the conflict between national security laws and freedom of speech. This book by Pillay (2016) serves as a significant resource in the field, examining the ways

in which digital regulation under authoritarian regimes can restrict freedom of expression in a broader context. This framework provides a critical examination of the constraints imposed by PECA on press freedom, particularly those justified under the guise of national security. Critics highlight that the amendments to PECA are at odds with Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which ensures the right to freedom of expression, thereby contradicting the established international human rights consensus regarding press freedom.

The amendments to PECA expand the scope of state surveillance capabilities, raising significant concerns regarding privacy and individual freedoms. Murphy (2017) examines the equilibrium between security and privacy in the context of digital surveillance. The situation in Pakistan is further complicated by PECA, which possesses ambiguous characteristics and grants extensive powers to authorities for the interception of online communications, all with minimal judicial oversight. Khan and Ali (2020) conducted a study that provides insights into the subject matter. Khan and Ali (2020) contend that the surveillance provisions in PECA lack clarity, making them susceptible to arbitrary and expansive interpretation, which can be employed to suppress dissent and freedom of expression.

The amendments to PECA have introduced heightened penalties for defamation, a topic that has sparked considerable debate. In recent years, particularly after 2016, the introduction of the 2017 cybercrime bill has brought into question the application of defamation laws when considered within an international framework in contrast to local standards (Mahmood 2019). Raza (2021) examines and highlights the ways in which inductive media organization and journalists face repercussions under the law of PECA, which ultimately deters investigative journalism and the publication of sensitive stories, particularly those related to government policy or corruption.

Furthermore, to attain a comprehensive understanding of the limitations and constraints of PECA, it is essential to conduct a comparative analysis of global digital legislation. This study introduces a novel approach distinct from previous research, such as Zeng (2020) and the natural tangent basis developed by Bauer et al. Notably, (2019) offers a comparative analysis of how the EU and various countries endeavor to reconcile regulation, privacy, and freedom of expression in the digital era. The findings indicate that an open and equitable approach to digital governance, along with pragmatic judicial review, is essential for safeguarding democracy in the context of security. These international frameworks offer essential insights for evaluating the regulatory overreach apparent in the modifications to PECA, particularly concerning the deficiency of transparency and the lack of explicit norms for content regulation.

Recent literature advocates for a certain level of judicial intervention to prevent the overextension of legislation like PECA on the liberties that define a democracy. Hussain (2018) asserts that judicial review is essential in the digital realm to regulate state power, which escalates more rapidly than legislation due to digitalization, thereby necessitating the limitation of this power and the role of judicial review in safeguarding fundamental rights. Without legal amendments to restrict the too broad provisions of PECA, Pakistan's regulatory system would continue to possess the ability to stifle journalistic freedom and erode democratic principles. Javed and Sadiq (2022).

The modifications to PECA emphasized the interplay between national security, press freedom, and democratic principles as outlined in the existing literature. These sources express concern that arbitrary censorship, increased surveillance, and the repression of free expression may jeopardize the functioning of a robust democracy. The current literature supports transparent, responsible, and equitable methods for digital regulation and suggests that modifications to PECA should conform to international human rights norms and best practices. The legislative framework must be revised more than ever to enhance the protection of journalistic freedom and individual privacy in relation to legitimate national security interests.

CONCEPTUAL AND THEORETICAL FRAMEWORK

The study's conceptual framework integrates digital regulation, press freedom, and democratic values, particularly in relation to the amendments made to the Prevention of Electronic Crimes Act (PECA) in Pakistan. The objective is to clarify the significant consequences of increased state powers under PECA on essential rights, specifically focusing on freedom of speech, privacy, and the independence of journalists. The theories underpinning the theoretical framework originate from governance, surveillance, and human rights, particularly those addressing the dichotomy between security and freedom in cyberspace. Examines the global discourse surrounding the relationship between the state and the citizen, informed by international human rights standards, while also considering the conflicting constitutional issues that arise from national security needs and democratic principles.

RESEARCH METHODOLOGY

The research approach is qualitative in nature, and the doctrinal analysis is the main research method used in this study to investigate the changes in the Prevention of Electronic Crimes Act (PECA) in Pakistan. Our research investigates legal texts, legal frameworks, official documents, case laws, and literature to analyze the implications of these amendments regarding the aspects of press freedom, democratic principles, digital regulation, and duty of care. The reason for adopting this approach is to be able to explain in detail the legal provisions and their compliance with both international human rights standards, in particular Article 19 of the ICCPR. It also includes a global best practices comparison to contextualize the Pakistani legal structure. The research study legal texts, judgments, or international human rights reports, as well as scholarly treatments of the Google effect, digital regulation, privacy, and freedom of expression.

LEGAL CONTEXT OF PECA

The 2016 PECA, or Prevention of Electronic Crimes Act, is Pakistan's basic framework for law on electronic crimes that includes cyberstalking, internet defamation, hacking, information stealing, etc. It was meant to bring the framework of the law in Pakistan at par with the standards set for cybercrime laws at the international level and to respond to the emerging threats from the increasing digital space. Under PECA, with a view to preventing cybercrimes and promoting the security of information technology, namely, offences relating to electronic transactions, unauthorized access to protected computers, cyber terrorism, violation of privacy, and online harassment, among others, were defined along with the penalties therein (Arshad Khan, 2018).

Nonetheless, the law has been met with heavy criticism, particularly for its use of vague and sweeping language in several key provisions. For instance, one of the sections is Section 20, which makes online defamation a crime. This provision seeks to protect individuals from unwanted online content that is harmful to their public image; however, the broad definition of defamation under the provision has raised concerns of being used to target political dissent, curtail freedom of speech, and penalize criticism, thus stifling free expression. In particular, the imprecise wording resulting from this section seems to invite violations of constitutional guarantees of freedom of expression, especially for dissenting opinions or those critical of the government (Yongmei et al., 2023).

Likewise, correspondent Section 37 of PECA empowers the government to suspend and/or block any content that it considers a threat to national security or public order. The vagueness of determining what is "harmful" content has raised concern in this section, as this paves the way for disproportionate and arbitrary censorship. But critics say the provisions could be misused to shut down dissenting voices and political rivals, especially with the decision-making process over what content to remove taking place largely behind closed doors (Iqbal et al., 2023).

The changes to PECA made earlier this year widened the net of PECA, increased penalties for defamation online, criminalized social media platforms, and expanded content-regulating powers. Among the several changes is the increase of sanctions for defamation, with high fines and imprisonment. This idea of applying criminal liability onto social media platforms so that they must take down any content deemed as offensive, or illegal has generally opened the discussions of whether tech companies should be liable in this sense and whether or not free speech should be limited in the online world. Such unilateral moves are not without controversy, but associated changes are widely regarded as belated reactions to the emergence of a societal crisis in communications channeled through these platforms—often cantered around misinformation, global/cross-border cybercrimes, and the need for tighter regulatory teeth. But the enforcement of these provisions has been deemed unconstitutional as they go against Article 19 of the Constitution of Pakistan that ensures the basic democratic right of freedom of speech and expression (Haider et al., 2023).

Opponents say these amendments have the power to violate fundamental tenets of democracy. The broadening ambit of PECA, along with the vagueness in key provisions, has the potential to create a climate of fear resulting in self-censorship by individuals and media organizations alike—even when they write about issues of public interest, especially political or social, that are controversial. Such worries highlight a broader debate about the line between national security and individual freedoms, as governments worldwide grapple with how to restrain cyber-areas without stepping over human rights boundaries (Haq & Zarkoon, 2023).

To sum it up, though PECA and its amendments purportedly address the challenges posed by digital, electronic crimes currently, the Act and its amendments press forward some distasteful debates over the compromise of democratic rights, press freedom, and violation of individual privacy. Specifically, many view the provisions of the act—especially the defamation provisions and provisions permitting content blocking—as excessive and disproportionate and have called for reforms to ensure that the law is in line with international human rights law standards without

compromising constitutional protection. Pakistan needs a more transparent, proportional, and accountable approach to the regulation of digital speech, as the country continues to face the conundrum of digital regulation vs. expression on the internet (Sattar et al., 2018).

IMPACT ON PRESS FREEDOM

Amendments to the Prevention of Electronic Crimes Act (PECA); the effect of those amendments on press freedom in Pakistan; and the serious threat to a free and independent media. Traditional and digital media play a crucial role in protecting democratic principles by promoting accountability, transparency, and the free flow of information. Yet, there are limitations in the PECA amendments that create direct threats to the viability of a free press (Mustafa, 2024).

Criminalized online defamation The most (or one of the most) alarming things to worry about the imposition of heavier penalties for defamation offers the prospect of reputational revenge by launching lawsuits against media organizations over critical reports or probes into matters concerning influential figures or state agencies. The legal framework puts a damper on investigative journalism, where journalists and media houses are wary of running stories that may offend powerful people. The threat of criminal charges or heavy fines prevents constructive criticism, especially in relation to politically sensitive issues, thereby undermining media accountability of the powerful (Mustafa, 2024).

Content regulation and censorship, particularly under Section 37 of PECA—where online content regarded as objectionable may be blocked or removed as determined by the Pakistan Telecommunication Authority (PTA). Although the provision aims at blocking anti-social elements like hate speech or content promoting violence, the critics say that the move gives "unfettered discretionary powers" that make it "easy to abuse". The generic definition of "objectionable" content—and the PTA's lack of transparency regarding its decisions—creates the scope for arbitrary censorship. Such restrictions could effectively erode the core principles of freedom of expression, restrict the information available for citizens, and curb the media's ability to report on important issues for the public interest (Iancu et al., 2023).

Additionally, the amendments have become a tool to arrest journalists and activists who either oppose or question these policies. Many cases of journalists facing harassment, arrest, or criminal charges under PECA over the publication of government or state-institution-hostile material have been reported. The two cases highlight the ways in which PECA is being weaponized to suppress opposition and silence free speech, particularly regarding the provisions in it related to online defamation and content regulation that can be misused in this manner. The political repression inherent in the use of PECA contradicts democratic principles because it shuts down discourse, preventing not only journalists from holding the powerful accountable but also activists and ordinary citizens who dare to speak their minds (Njotini, 2016).

The PECA amendments are such a big threat to freedom of the press in Pakistan. It is where your interests connect with the interests of others in the communities or collective you operate within. Criminalizing defamation, allowing content to be removed at will, and criminalizing journalists and activists through these amendments have resulted in a situation where media houses are more hesitant than ever to cover critical issues. It has wider lessons for democracy because a free and independent press is a pillar of a functional government that is held accountable and that is transparent. To save press freedom, the provisions of PECA need to be

revisited and amended so that they do not overly impede free expression and the role of the press in a democracy (Nadir Guramani, 2024).

DEMOCRATIC VALUES AND DIGITAL REGULATION

Free speech, accountability, and an informed public form the bedrock of a strong democracy. Nonetheless, passes amendments to the Prevention of Electronic Crimes Act (PECA) pose grave threats to these democratic virtues, especially in freedoms of expression, privacy rights, and digital innovation.

Firstly, the amendments infringe on freedom of speech with their general and ambiguous wording, especially in online defamation and content regulation provisions. Such vagueness allows the authorities to silence dissenting views and critical discourse, which is a prerequisite of a challenge in a healthy democracy. The amendments also give the government incredible power to censor everything from what may be considered illegal or offensive online content to discussions and opinions that challenge the status quo. They (the government) are the ones manipulating in the name of democracy; ideas that need to flow freely without fear of censorship are a vital element to democratic governance (Monitoring Desk, 2024).

Secondly, the surveillance powers given under PECA infringe on privacy rights. Under the amendments, authorities obtain extensive access to digital communications and interception powers, which critics argue violates individual privacy. But those powers violate international human rights law, such as the International Covenant on Civil and Political Rights, of which Pakistan is a party, activists and human rights groups argue. Ultimately, the prospect of mass surveillance and the insufficient judicial control render the privacy of individuals vulnerable to unjustified interferences, since citizens cannot fully trust in the will of the state to defend their fundamental rights.

Third, excessive regulation of digital platforms under PECA could impair Pakistan's slumping digital economy. The amendments to the initial bill would follow up on the initial ambitions to tighten content monitoring and liability for social media and digital businesses to an extent that could risk stifling investment and innovation. Increased legal uncertainties would discourage many of the entrepreneurs and tech companies from operating from Pakistan by bringing a risk of legal action against them. While this overregulation may be well-intentioned, it could also kill creativity and innovation, which are critical ingredients to nurture Pakistan's digital economy by creating new opportunities for economic growth in the tech sector (Monitoring Desk, 2024).

Amendments to PECA violate basic democratic principles by limiting freedom of expression, making privacy rights almost non-existent, and posing a risk to the growth of the digital economy. Such dangers invalidate the call for a precise re-evaluation of the law, which must ensure the safeguarding of individual liberties, the promotion of transparency, and the nurturing of Pakistan's digital economy. In short, reforms must strike a balance between national security considerations and, arguably even more critical, the very principles of democracy that underpin a free and open society.

COMPARATIVE ANALYSIS

Comparing amendments to Pakistan's PECA with worldwide practices—predominantly in the European Union (EU)—reveals that the approach towards digital across these countries is

starkly different. Digital regulation is a more even playing field in the EU, between the ability to protect at least individual rights and public safety. One such example that strikes this balance is the General Data Protection Regulation (GDPR), which sets out strict rules on data privacy with the intention of securing individuals' private data but urging the development of data-driven technologies. By centering transparency, consent, and accountability, the GDPR both seeks to ameliorate the risks of privacy violations and to successfully balance those risks with the interests of free expression. The EU has also implemented its specific measures targeting online harm, including the Digital Services Act (DSA) and Digital Markets Act (DMA), which regulate online platforms while still balancing protection of freedom of expression and information (Gul et al., 2016).

On the contrary, PECA, with its amendments in Pakistan, takes a markedly different approach. PECA was introduced as a solution to the rising challenges of cybercrime and protecting national security but instead has primarily been punitive, containing excessive punishment for online defamation and draconian powers for the regulation and surveillance of content online. It fails to incorporate some more pressing protections of the rights to truth and privacy—some of the most important pillars of democratic societies. To illustrate, the amendments give powers to the Pakistan Telecommunication Authority (PTA) to disable and remove web content that is seen as damaging, but no procedures exist that allow for review or appeal in transparent and accountable ways. This sets the stage for random censorship, stifling free speech and access to information (Akhtar, 2023).

In addition, the PECA amendments made by Pakistan have also been flagged as potential privacy violations, especially regarding increased surveillance activity. PECA, whose design lacks judicial oversight and accountability, and which lacks a meaningful cause of action against abuse, is more prone to potential abuse compared with the robust privacy protections that the EU has included in its regulatory body. Privacy rights are guaranteed in the EU through Article 8 of the European Convention on Human Rights, and the cancellation of grounds for data processing and surveillance activities does not count as "necessary."

Compared to global best practices, however, Pakistan's PECA amendments are lacking in proportionality and transparency, as regulatory measures must be guided by the ideas of balance—solutions to security concerns must not encroach on the rights of the individual. The EU set forth a regulatory framework based on accountability, transparency, and a definite separation between security interests and individual liberties that provides a blueprint that can ensure citizens are protected without quashing innovation or free speech.

However, while both Pakistan and the EU face challenges related to the digital age, in the case of the EU the response is undoubtedly more moderated and rights compliant. Pakistan's PECA amendments could undermine broader democratic principles of expression, privacy, and free media due to the harshly punitive measures against harmful information and the insufficient safeguards. It would also be imperative for Pakistan to develop a digital regulatory framework that is aligned with international best practice in being transparent, proportionate, and human rights respecting, so that safeguards on national security would not come at the price of fundamental freedoms (Akhtar, 2023).

RECOMMENDATIONS

To address the concerns raised by the amendments to the Prevention of Electronic Crimes Act (PECA) and safeguard democratic values, several recommendations can be made:

Revisiting Legislation:

PECA needs to be harmonized with the constitutional guarantees as well as international human rights standards in relation to freedom of speech and the right to privacy that Pakistan is committed to. Words like "objectionable content" must be strictly defined; if they weren't, the law could be used to stifle dissenting voices or critical journalism to disappear. Such changes should allow for a more clear and transparent regulation with lower degrees of vagueness and, consequently, more reliability regarding the laws enacted (Lin & Song, 2024).

Judicial Oversight:

Judicial oversight over the PTA's decisions to regulate content should be instituted to deter and prevent the arbitrary exercise of power. This negligence would make certain that the PTA is answerable, that its activities are in harmony with constitutional principles, and that the process of removal or blocking of material to be drug out online is undertaken with legal process. Judicial review of these decisions would constitute a bulwark against the abuse of state power and prevent state overreach into private citizens and strangers' rights of expression (Khan & Riaz, 2024).

Promoting Transparency:

A transparent process for complaints and appeals concerning online content regulation must exist. Some clear guidelines about how content is flagged, reviewed, and removed, as well as visible processes for appealing moderation actions when they occur, would promote fairness and transparency. It would also enable lowering the scope for overreach by authorities and enable citizens/media organizations to challenge the decision if they think that their rights are being infringed (Khan & Jiliani, 2023).

Capacity Building:

One of the most important aspects of the implementation of digital laws is that law enforcement and the judiciary will ideally have the knowledge and skills to handle cybercrime cases in a way that does not violate the principles of democracy. Building capacity among police, judges, and legal practitioners to engage with digital rights and human rights, as well as how these issues intersect with privacy and the nuances of online crimes, through training programs would also be a wise investment (Khan & Usman, 2023).

Public Consultation:

It is important to involve all stakeholders, as the amendments to PECA can not only be bad but bad for bad. The bill's drafting and reform process should also include civil society groups, journalists, academics, and technology experts. An inclusive approach would help in reflecting a balanced policy that takes the views of stakeholders impacted directly by the law into account and would help to shape a law that is not only in public interest but also achieves the purpose of regulating the digital ecosystem (Hussain et al., 2023).

These recommendations, we feel, would strike a better balance in establishing a transparent and accountable framework for digital regulation in Pakistan. Through repealing, institutionalizing judicial review, transparency, capacity, and public consultation, Pakistan can reconfigure PECA towards democracy and international law, resolving the tension between the necessary protection of national security and the essential and inviolable rights of citizens.

CONCLUSION

In conclusion, the amendments to Pakistan's Prevention of Electronic Crimes Act (PECA) present significant challenges to fundamental democratic values, including freedom of expression, privacy rights, and press freedom. While PECA was initially enacted to address cybercrimes and enhance digital security, the recent amendments have expanded its scope in ways that raise serious concerns about the potential for overreach and abuse of power. The criminalization of online defamation, the broad and vague content regulation provisions, and the lack of adequate safeguards against arbitrary censorship and surveillance have resulted in a chilling effect on journalists, activists, and the public. This research underscores the importance of revisiting the legislation to align it with both Pakistan's constitutional guarantees and international human rights standards. The need for judicial oversight, transparency in content regulation, and capacity building within law enforcement and judiciary is critical to ensure that the law serves its intended purpose without infringing upon basic democratic rights. Furthermore, involving civil society and technology experts in policymaking processes will ensure that the law remains balanced, inclusive, and reflective of the diverse needs and rights of Pakistan's digital population.

Future studies can examine international digital regulation versions in which success is located between countrywide protection and simple freedoms. Further, comparative studies can also explore the effect of similar laws in other countries, such as the EU and its GDPR and Digital Services Act, to find the lapses in digital governance in Pakistan. Further research has also reached the milestone of examining the adverse effects of digital overregulation's on the dynamically emerging Pakistani digital economy, where overdriven digital laws may bypass innovation and investments in the techno-economic front of the country. This research ends with recommending the reform in digital regulation so that laws like PECA can protect citizens from cybercrime while protecting the freedoms and democratic values that are foundations of a functioning society. Tackling these challenges will not only protect the rights of the individual but also nurture a more open, accountable, and progressive digital landscape for the future of Pakistan.

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