

Pakistan Media Legal Review 2017



Annual Review of Legislative, Legal and Judicial Developments on Freedom of Expression, Right to Information and Digital Rights in Pakistan

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Developments on Freedom of Expression, Right to
Information and Digital Rights in Pakistan

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- Strengthen democracy *through inclusivity and pluralisms*
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- Strengthen governance *through accountability and transparency*
- Strengthen justice *through fundamental rights*

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Executive Summary

In terms of legislative, legal and judicial developments on freedom of expression, right to information and digital rights in Pakistan, 2017 remained a year characterized by some good developments and key expectations that did not materialize. This was as true for the federal government as it was for the four provinces.

Anti-cybercrime mechanisms

Irrespective of the shortcomings of the Prevention of Electronic Crimes Act (PECA), the federal government fell short of its commitments to mechanize its implementation by failing to either establish any independent forensic laboratory or the committed 10 ‘cybercrime police stations’ to provide the relevant authorities expert opinion before the court or investigation agency in relation to electronic evidence collected for the purpose of investigation and prosecution of the offences under this Act. The result: throughout the whole year, the quantum of pending complaints continued to increase without them being resolved. The authority designated to lead implementation of this Act, the Federal Investigation Agency, continued to struggle in dealing with the rising number of cases due its limited resources. As required by this Act, the FIA failed in producing the two biannual progress reports on the implementation of the Act in 2017 nor were they tabled before Parliament, as required.

Right to information laws

Irrespective of the merits and demerits of the right to information (RTI) laws in Pakistan, there was some forward movement in 2017 on this front. Two new laws on the right to information (RTI) were passed – one in Sindh province and one at the Federal level. These enactments replaced the first generation FOI laws in their respective jurisdictions. However, by the end of 2017, the province of Balochistan remained the only federating unit in Pakistan with a first generation RTI law. In terms of information commissions required under all RTI laws to help enforce them, the Federal and Sindh governments failed to establish them. Punjab province also failed to renew the information commission by appointing new commissioners after the three-year terms of the first set of commissioners expired. Khyber Pakhtunkhwa province was the exception – upon expiry of the tenure of the first bench of commissioners in 2017, the provincial government appointed a fresh batch of information commissioners who assumed charge.

Print media registration laws

Controversy erupted at the federal and Sindh provincial levels in 2017 regarding proposed new legislation on press registration. In mid-2017, reports surfaced of the federal government seeking to bring a new law on regulating the print media similar to the Pakistan Electronic Media Regulatory Authority (PEMRA), which regulates the private broadcast media. The government denied the intent to bring the law but then order disciplinary action against officials of the Federal Ministry of Information and Broadcasting for working on a draft law by allegedly keeping the minister in charge in the dark. In late 2017 news emerged that the Sindh government was working on the draft of the ‘Sindh Press, Newspapers, News Agencies and Books Registration Act, 2017.’ However, there was no further development was reported.

Media and Internet blackouts

On November 25, 2017 the government, through PEMRA suspended broadcasts of all TV channels in the country to prevent live coverage of a police crackdown to forcibly remove a sit-in staged by a religious group that had suspended traffic between Islamabad and Rawalpindi cities. This was, a few hours later, followed by a blackout of social media platforms such as Facebook, Twitter and YouTube, etc., which lasted for about 35 hours. In other instances, the authorities also forced cellphone networks and internet shutdowns at least 17 times in various parts of the country throughout the year.

Federal law on safety of journalists

In late 2017, Senator Farhatullah Babar initiated a concerted initiative, under endorsement of opposition and treasury benches as well as the Pakistan Federal Union of Journalists (PFUJ), All Pakistan Newspaper Society (APNS), Pakistan Broadcasters Association (PBA) and Council of Pakistan Newspaper Editors (CPNE) to draft a new federal bill on safety of journalists. It was decided to discard all previous versions and use a model bill on safety of journalists drafted jointly by Pakistani civil liberties groups IRADA and Freedom Network. A sub-committee of the Senate committee was formed to finalize the draft and table it in the Senate for approval in early 2018.

Whistleblowers' protection law

In October 2017, Pakistan made a forward stride by enacting the Public Interest Disclosure Act, 2017. The operationalization of the law was notified by the federal government the next month. The Act aims at providing “a mechanism for public interest disclosures to prevent corruption and corrupt practices [and] protect persons making such disclosures.” The preamble of the Act can be termed as a ‘step in right direction’ but the overall Act itself falls short of best practices by not providing an ‘independent, effective and adequately resourced ‘whistleblower complaints authority / regulator / commission’ to receive and investigate complaints of retaliation and improper investigations of whistleblower disclosures.’ The Act also gives an over-broad definition of ‘organization’ including private sector body, company or entity, including NGOs, of national and public importance. It also does not provide any mechanism to ensure implementation of the law beyond governmental organizations.

CHAPTER 1: The State of Freedom of Expression Online

Implementation status of PECA

The Prevention of Electronic Crimes Act (PECA), 2016, was enacted on August 18, 2016. The objective of the Act, as mentioned in its preamble, is to prevent unauthorized acts with respect to information system and provide for offences related thereto. The Act aimed at providing mechanisms for the investigation, prosecution and trial of crimes defined in the Act.

Designation of investigation authority and establishment of forensic labs

As a part of the mechanisms, under Section 29 of PECA, the federal government is responsible to either establish a new body or designate any existing law enforcing agency to investigate offences under this Act. The Act, under Section 40, requires the federal government to establish or designate a forensic laboratory, independent of the investigating agency. The purpose of this laboratory is to provide expert opinion before the court or investigation agency in relation to electronic evidence collected for the purpose of investigation and prosecution of the offences.

In order to operationalize the Act, in September 2016, the government approved selection of the Federal Investigation Agency (FIA) as the ‘designated investigation agency’ to investigate crimes under PECA. The government, in October 2016, also announced allocation of PKR 2 billion for the establishment of ten ‘cybercrime police stations’ and forensic laboratories as required by the Act. However, by the end of 2017, nothing had been reported towards the establishment of these police stations or laboratories. After the Act’s enactment, the quantum of pending complaints is increasing. It is observed that the FIA has been struggling in dealing with the rising number of cases due its limited resources.

Notification of cyber courts

The Act requires designation of special judges to try cases under PECA. Its Section 44 mandates the federal government to designate special judges in all four provinces after consultation with the chief justices of the respective high courts. However, the government took more than seven months to notify designation of the judges. The Federal Ministry of Law notified 27 district and sessions judges and 27 judicial magistrates in Sindh province to try cases under the Act. For Khyber Pakhtunkhwa, one district and sessions judge and one judicial magistrate was notified. In Balochistan one district and sessions judge and one judicial magistrate was notified. Punjab has been divided into two parts: Rawalpindi division and the rest of the province. One additional sessions judge and one judicial magistrate (Section 30) were notified for Rawalpindi division while one additional sessions judge and one judicial magistrate (Section 30) will deal with the cases from the rest of the province.

Reporting to parliament on implementation of PECA

The Act, under Section 53, also requires the designated investigation agency to submit a half yearly report to both houses of Parliament in respect of its activities undertaken under the Act. By the end of year 2017, since its designation in September 2016, the FIA was supposed to submit two biannual reports to Parliament. It reportedly filed just one brief report in late 2017. The report has neither been discussed in the Parliament nor made public so far.

Federal government focus on developing social media guidelines

On October 25, 2017, several media platforms reported the federal interior minister announcing a plan “to formulate a framework to monitor social media in order to prevent it from being used as a tool to malign national institutions and spread anarchy or extremism in the country.” The minister, reportedly, said that social media was being “used as a deadly weapon to discredit and destroy leaderships and state institutions and promote conflicts through fake news,” and stressed that like the armed forces and the judiciary, the parliament was also a national institution.

According to media reports, the minister stressed a need to formulate a framework of guidelines that “maintains democratic freedoms and ensures that no foreign hand or saboteur can use social media to create political chaos, spread extremism or carry out terrorism in Pakistan, or belittle national institutions.” The FIA was directed to formulate this framework for social media monitoring in consultation with all stakeholders including people in the information technology [industry], bloggers and social media activists.¹

Official requests to Facebook, Twitter and Google for users info, content removal (Jan-Jun 2017)

Facebook

During first half of 2017 Pakistan submitted a total of 1,050 requests to Facebook ‘relating to criminal cases’ for user data, referring to a total of 1,540 Facebook accounts. During this period, Pakistan also made 399 accounts data preservation requests to Facebook in connection with official criminal investigation. Facebook also received 613 requests from Pakistan about users/accounts related requests. In the same period, Facebook restricted access to 177 places of content upon requests from the Pakistan Telecom Authority (PTA) and FIA. The content was allegedly in violation of local laws relating to blasphemy and national security.²

Twitter

From January to June 2017, Pakistan submitted seven information requests to Twitter concerning 60 Twitter accounts. The authorities in Pakistan also submitted 24 content/account removal requests to Twitter during this period. The government of Pakistan also made two emergency disclosure requests to Twitter.³

Google

The Google Transparency Report showed that that the Pakistani authorities submitted eight user data requests. These requests were mainly about “how a person has used the company’s services.” Pakistan also made 12 user/account requests to Google. Under these requests, the authorities may seek information about multiple accounts.⁴ Since 2009, Google received a total of 69 content removal requests, concerning 896 items, from Pakistan. Out of these 69 requests, 14 were submitted to Google during

¹ <https://www.dawn.com/news/1366130>

² <https://transparency.facebook.com/country/Pakistan>

³ <https://transparency.twitter.com/en/countries/pk.html>

⁴ https://transparencyreport.google.com/user-data/overview?user_requests_report_period=series:requests,accounts,compliance;authority:PK;time:Y2017H1&lu=user_requests_report_period

the first six months of 2017. Through these 14 requests, Pakistan requested to remove 98 items. Ten out of 14 requests were relating to items of ‘religious offence’, two were about hate speech and one each for defamation and violence.⁵

⁵ https://transparencyreport.google.com/government-removals/by-country/PK?country_request_amount=group_by:totals;period:Y2017H1;authority:PK&lu=country_request_amount

CHAPTER 2: Status and implementation of Right to Information (RTI) laws

In 2017, which was the 20th year of the promulgation of the first freedom of information (FOI) law in Pakistan, two new laws on the right to information (RTI) – one in Sindh province and one at the Federal level – were passed. These enactments replaced the first generation FOI laws in their respective jurisdictions. In 2013, Khyber Pakhtunkhwa and Punjab provinces had already enacted RTI laws in the light of Article 19A of the Constitution of Pakistan. By the end of 2017, the province of Balochistan still lived with old, pre-Eighteenth Constitutional Amendment FOI law, enacted in 2005.

Information commissions

While four of the five federating units had second-generation RTI laws in place by the end of 2017, not all were operationalized. The Sindh Transparency and Right to Information Act, 2016, was enacted on April 12, 2017. The law requires appointment of information commissioners within 100 days of its enactment. However, none were appointed by the end of the year.

Similarly, under the Federal Right to Access to Information (RAI) Act, 2017, it is mandatory to appoint the commissioners within six months of its enactment. No progress was witnessed by end-2017.

The Punjab Information Commission is dysfunctional since April 2017 when the tenure of its first batch of commissioners expired. In October 2017, however, the provincial government appointed Mr Naseer Ahmed Bhutta as the chief information commissioner. Nevertheless, he resigned soon after his appointment. Since then, until end-2017, the RTI law remained redundant due to the absence of any member of the Commission.

In Khyber Pakhtunkhwa, upon expiry of the tenure of the first bench of commissioners in 2017, the provincial government appointed a fresh batch of information commissioners before the end of the year.

Barriers and hurdles

Despite the fact that better second-generation RTI laws were present in most parts of Pakistan by the end of 2017, these laws continued to face several operational challenges like non-existence of information commissions, non-allocation of budgets and absence of required staff to run their day-to-day business. Apart from this, the bureaucratic mindset and traditional culture of secrecy among public officials continued to be a serious challenge in the way of effective and meaningful implementation of these laws. The Punjab Information Commission worked without a dedicated office space for more than a year. Moreover, the commissioners faced tough times in their bid to secure allocation of budgets, office space and required human resources during their entire tenure.

While it is encouraging to have new RTI laws in three of the four provinces and at federal level, the Federal RAI Act 2017 is a ditto copy of the old FOI Ordinance of 2002 with reference to the definition of ‘public record / information.’ While this law

is applicable only to a few specified ‘public’ sector entities, ironically, its scope has been extended to the private sector. The definition of ‘public body’ in this Act includes even those non-governmental organizations (NONGOs) which neither receive any public fund nor undertake any specific public function. This would imply that a sole proprietor registered firm, a consultancy firm, a law firm or a private limited company will also be considered as a ‘public body’ under the Federal RAI Act 2017.

Despite several definitional and scope-related issues in these laws, these developments can be termed as steps forward in the right direction. Nevertheless, most of these ‘positive’ developments to ensure citizens’ right to know are only on paper. A lot is needed on the ground to expedite the free flow of information in the country for effective governance accountability.

CHAPTER 3: Proposed legislation on press registration by federal and Sindh government

[Proposed] Pakistan Print Media Regulatory Authority (PPMRA) Ordinance

In mid-2017 a controversy concerning media laws emerged when news broke about the preparation of a new national level press/print media registration law. According to news reports, the federal government was preparing a law on the pattern of the Pakistan Electronic Media Regulatory Authority (PEMRA) for the print media. Allegedly, the Federal Ministry of Information, Broadcasting and National Heritage tasked the Press Council of Pakistan (PCP) in March 2017 to prepare a draft of the bill. The news about the preparation of the bill appeared in newspapers in September 2017 when a meeting of the PCP was convened to discuss the draft. The media stakeholders, particularly media owners and journalists, strongly reacted to reported bill.⁶

However, the State Minister for Information, Broadcasting and Cultural Heritage expressed her ignorance about the preparation of the bill.⁷ She ordered an inquiry into the matter and immediately suspended an assistant director of her ministry, whose signature had appeared on the correspondence with the PCP on the bill. The ministry also made two of its senior official OSDs (Officers on Special Duty) and formed an inquiry committee headed by Mr Shafqat Jalil, the director general External Publicity Wing of the ministry.⁸ The inquiry / fact-finding committee held Mr Nasir Jamal, the director general of the Internal Publicity Wing of the ministry, responsible for initiating the preparation of the draft bill apparently without the minister's permission.⁹ Later, the government dropped the idea of bringing in the new print media law altogether.

The Sindh Press, Newspapers, News Agencies and Books Registration Act, 2017

In September 2017, a news item emerged in the newspapers that the Sindh provincial government had prepared a draft law to regulate registration of papers, printing presses, news agencies and books in the province. According to the news items, the Sindh government prepared the draft in the wake of Eighteenth Constitutional Amendment. The draft law, as reported, was aimed at ensuring that every book or paper printed in the province will clearly mention the name of the printer and place of publication, along with the date. The proposed law, as reported, required every publisher or owner of a newspaper to apply for a declaration [regulated prior permission] and submit an affidavit saying that he will pay salaries to employees as

⁶ <https://tribune.com.pk/story/1502802/govt-proposes-law-gag-print-media/>

⁷ <https://www.dawn.com/news/1356916>

⁸ <https://www.thenews.com.pk/print/229273-Govt-orders-probe-into-sending-of-controversial-draft-ordinance-to-Press-Council>

⁹ <https://www.thenews.com.pk/print/231482-Inquiry-finds-director-responsible-for-draft-law-to-gag-media-minister>

per the Wage Board Award.¹⁰ By the end of the year, no further development was reported in this regard.

¹⁰ <https://www.dawn.com/news/1357762>

CHAPTER 4: Media blackouts – TV channels and Internet

Pakistan Electronic Media Regulatory Authority (PEMRA) and Pakistan Telecommunications Authority (PTA)

During November 2017, federal capital Islamabad and adjacent city Rawalpindi saw a protest sit-in at the main interchange between two cities by a religious group. In order to remove the sit-in by force, the government launched a crackdown on the protesters on November 25, 2017. According to media reports, “hours after police and paramilitary forces launched a crackdown on protesters...the electronic media watchdog shut down the transmissions of all private news channels, accusing them of violating the code of conduct.” The PEMRA accused the private news channels of violating media regulations by airing live coverage of the security operation.

PEMRA stated that, “Under the Electronic Media Code of Conduct, 2015, live coverage of any security operation is prohibited.” The statement of the Authority further said, “TV channels are advised to exhibit utmost sensitivity regarding the matter and refrain from live coverage.” The spokesperson for PEMRA told reporters that private news channels had been shut on the orders of Prime Minister Shahid Khaqan Abbasi and the Islamabad administration. Total media blackout left people without any information about what was happening in major cities across the country, triggering all sorts of speculations. A similar media blackout had occurred when General Pervez Musharraf imposed a state of emergency in the country on November 3, 2007.¹¹

After PEMRA ordered a complete media blackout on coverage of Islamabad operation, the Pakistan Telecom Authority (PTA) ordered blocking of all social media networking websites such as Facebook, YouTube and Twitter as well as popular communications apps such WhatsApp, etc.

Besides, according to www.killswitch.pk, people faced cellphone networks and internet shutdown 17 times in various parts of the country. During 2017 cellphone networks were shut down on five occasions in Islamabad and Rawalpindi. These shutdowns included suspension of cellular and internet services on National Day on March 23, Independence Day on August 14, and religious holiday of Muharram (Ashura). The cellular and internet services remained down on Ashura in all major cities of the country. In addition to these regular shutdowns, various parts of Balochistan province and the Federally Administered Tribal Areas (FATA) have faced cellular and internet shutdowns on different occasions.

¹¹ <https://tribune.com.pk/story/1568146/1-media-blackout-faizabad-sit-pemras-orders/>

CHAPTER 5: Key developments on media safety legislation

Impunity of crimes against journalists and information practitioners in Pakistan remained a serious throughout 2017. During the year four journalists were killed. Several incidents of attacks on journalists and information practitioners were also reported. However, prosecution of the criminals / culprits remained a challenged, like preceding years. Of the 117 cases of journalists' killed in Pakistan since 2000, only three have passed the first stage of trial. The entire year, 2017, went without a single conviction of the offenders in these reported cases, including the four journalists killed in 2017.

Given the situation, the media stakeholders, particularly journalists and information practitioners, have continued to demand a comprehensive legislation to combat impunity of crimes against journalists and information practitioners. Responding to these demands, the federal government initiated the process to draft a law on journalists' safety in 2015. Building upon the earlier drafts – one prepared by a Senate Standing Committee, headed by Senator Raja Zafarul Haq, in 2011 and another submitted by Sahibzada Tariq Ullah and others in National Assembly in 2014 – the government drafted the Journalists Welfare and Protection Bill, 2017. This bill was later shared with the stakeholders, who strongly criticized its weaknesses, irrelevances and inadequacies. The Pakistan Federal Union of Journalists (PFUJ), which represents Pakistan's 20,000 journalists, altogether rejected this draft. Others, including the Pakistan Broadcasting Association (PBA) and All Pakistan Newspapers Society (APNS) also did not support the bill for various reasons.

New draft model law on safety of journalists

In this backdrop, Pakistani organizations Institute for Research, Advocacy and Development (IRADA) and Freedom Network undertook a joint initiative to draft a model law on journalists' safety in collaboration with the PFUJ. After an intensive desk-based review on the issue and extensive field-based research and extensive consultations with the largest press clubs (Karachi, Lahore, Peshawar and Quetta press clubs) and unions of journalists in the four provinces (Punjab Union of Journalists, Karachi Union of Journalists, Khyber Union of Journalists and Balochistan Union of Journalists) and at the federal level (National Press Club and the Federal Union of Journalists), a model draft was prepared. The Model Journalists Safety Law was reviewed by international experts and endorsed by the PFUJ on November 2, 2017 at the National Press Club – the International Day to End Impunity.

Following this, in November 2017 an international conference held in Islamabad on journalists' safety, attended by a large body of parliamentarians, political parties, media representatives, academics, civil society, international media and safety experts and diplomats, recommended that the government consider the model draft law as a working draft and consult with representatives of media associations to draft a new one. Experts and stakeholders agreed upon having a specialized law to combat impunity of crimes against journalists and information practitioners. The participants of the conference also endorsed the proposal of appointment of a special prosecutor and establishment of dedicated journalists' safety council recommended in the model draft law. Senator Farhatullah Babar, who was among the key speakers of the

conference, promised to draft a new bill on journalists' safety in the light of the model journalists safety law and after consultation with journalists safety experts. A subcommittee of the Senate's Standing Committee on Information and Broadcasting was constituted under endorsement of the opposition and treasury parties, including the government to draft the new bill on journalists' safety, which is expected to be tabled and enacted in 2018.

CHAPTER 6: Legal protection for whistleblowers

‘Whistleblowers’ are those ‘insiders’ who, in the interest of public, expose or disclose privileged information on activities, which are deemed illegal, unethical, or not correct within an organization. Whistleblowing is a key instrument for public interest disclosure, transparency in official functioning, accountability of public officials and citizens’ right to information. The Public Interest Disclosure (PID) or Whistle-Blower Protection (WP) is not a novel idea. It is in fact a requirement of the United Nations Convention Against Corruption (UNCAC), which Pakistan signed in 2003 and ratified in 2007.

Article 8 (4) of the Convention states that “[e]ach State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.”

Similarly, Article 33 of the UNCAC requires that “[e]ach State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.”

The International Labour Organization (ILO) also requires specific legislation for the protection of whistleblowers.

Since 1989, several countries including the United States of America (USA), the United Kingdom (UK), South Africa, Japan and India have enacted such laws. All these legislations provide distinctive mechanisms for PID and WP. There is no fit-for-all model that can be adopted or replicated. Nevertheless, Guidebook of Transparency International (TI) on ‘International Principles for Whistleblower Legislation’ provides three principles for whistleblower protection legislation: (i) accessible and reliable channels to report wrongdoing; (ii) robust protection from all forms of retaliation; and (iii) mechanisms for disclosures that promote reforms that correct legislative, policy or procedural inadequacies, and prevent future wrongdoing.

The Public Interest Disclosure Act, 2017

On November 06, 2017, the federal government notified the Public Interest Disclosure Act, 2017. The National Assembly passed the Act in August 2017 and the Senate of Pakistan in October 2017. The Act aimed at providing “a mechanism for public interest disclosures to prevent corruption and corrupt practices [and] protect persons making such disclosures.” The preamble of the Act can be termed as a ‘step in right direction.’

However, a perusal of the Act shows that it falls short of the international principles and best practices of legislation for WP. The Act does not provide an ‘independent, effective and adequately resourced ‘whistleblower complaints authority / regulator / commission’ to receive and investigate complaints of retaliation and improper investigations of whistleblower disclosures.’

The Act is silent on PID to external parties such as media or civil society in matter of human rights and extreme public interest. This vitiates the very purpose of such law, which is meant to 'disclose' matters relating to 'money laundering, fraud, embezzlement, kickbacks, commissions and other forms of corruption and corrupt practices.

The Act gives an over-broad definition of 'Organization' including private sector body, company or entity including NGOs of national and public importance; however, it does not provide any mechanism to ensure implementation of the law beyond governmental organizations.

The Act exempts a variety of information from public disclosure. Such blanket exemption to certain information & organizations is against the purpose and spirit of the public interest disclosure. Though the Act requires preparation of 'consolidated annual report of the performance of its activities,' it does not obligate the authority and government to make it 'public.'

Among several other weakness and loopholes of the Act, absence of 'right of appeal before the court of law' to whistleblowers makes it ultra vires to the provisions of Article 10A of the Constitution of Pakistan, 1973. Similarly, the Act does not provide any safeguard to the whistleblowers against libel and defamation suits and opens the way of litigation for damages against the whistleblowers.

CHAPTER 7: Key judicial proceedings and court actions related to Freedom of Expression

Salman Shahid vs Federation of Pakistan (Online Blasphemy Case)

In the aftermath of issue of missing bloggers early in 2017, Mr Salman Shahid (son-in-law of Abdul Aziz of Lal Masjid fame) filed a petition in February 2017 against the bloggers and their alleged role in online blasphemy in Pakistan. As reported, the petitioner prayed the court to direct the concerned quarters to block all [allegedly] blasphemous pages on the social media besides taking action against those who have developed these blasphemous pages.¹²

On February 27, 2017, Justice Shaukat Aziz Siddiqui of Islamabad High Court, while admitting the petition for hearing directed the “authorities to block social media pages posting blasphemous and objectionable content, while key government officials were told to submit replies over such pages within a week.¹³” The Judge, on March 08, 2017, ordered the authorities to place names of alleged blasphemers on the Exit Control List, initiate criminal cases against those committing blasphemy and form a joint investigation team (JIT) to look into the matter. The Court also directed PTA to set up teams to monitor and scrutinise social media for blasphemous material so that it may be removed.¹⁴

On March 31, 2017, the Court ordered FIA to bring back bloggers, who are allegedly involved in online blasphemy, in the country in order to initiate the proceedings under the law of land. The Judge also directed Ministry of Interior to identify NGOs operating in Pakistan with an [alleged] agenda to spread blasphemy and pornography.¹⁵

On August 11, 2017, the Court, in its detailed judgment, again ordered the PTA to identify NGOs involved in circulating “blasphemous content” on social media. In the same judgment, the Judge suggested that the Parliament should make the blasphemy law tougher by fixing the same punishment for any person misusing it or falsely accusing someone of blasphemy. The court also directed PTA to create a firewall to block unwanted and sacrilegious content in Pakistan.¹⁶

PEMRA’s advice to TV channels not to portray Sindhis as ‘extremists’

In November 2017, upon public complaints, PEMRA issued an advisory to all Sindhi-language TV channels not to portray Sindhis as “extremists and miscreants”. The regulator also advised these channels to respect the code of conduct agreed upon in 2015 and refrain from promoting themes and subjects that glorify violence in Sindhi

¹² <https://dailytimes.com.pk/26705/petition-filed-in-ihc-against-five-bloggers-for-committing-blasphemy/>, & <https://www.telecoalert.com/petition-filed-ihc-facebook-fixed-monday-27th-february/>

¹³ <https://tribune.com.pk/story/1341101/objectionable-content-block-blasphemous-pages-social-media-directs-ihc/>

¹⁴ <https://tribune.com.pk/story/1350197/ihc-orders-removal-blasphemous-content-social-media/>

¹⁵ <https://nation.com.pk/01-Apr-2017/fia-directed-to-bring-bloggers-back-to-pakistan>

¹⁶ <https://www.dawn.com/news/1351121>

plays. The press release issued by PEMRA stated that “the public has expressed concern over the theme and topic of these dramas and complained that such programmes are tarnishing the image of Sindhis,” the press release said. All Sindhi channels are therefore advised to give consideration to the viewers’ apprehensions and review the theme of their dramas keeping in view the provisions of Electronic Media Code of Conduct 2015 and cultural values of society.” The regulator asked the Sindhi TV channels to set up in-house editorial committees for improvement of content and intimate it about progress within 15 days.

Direction of Lahore High Court to PEMRA to stop 'anti-judiciary' speeches from airing on national media

In August, The Lahore High Court (LHC) ordered PEMRA to prevent the airing 'anti-judiciary' speeches of former Prime Minister Nawaz Sharif and other ruling Pakistan Muslim League-N parliamentary members till it deliberates the maintainability of a case regarding the same. LHC Justice Mamnoon Rasheed Sheikh, while hearing a contempt of court petition filed by Amaan Welfare Foundation President Amina Malik, issued notices to PEMRA and its Council of Complaints (CoC) asking them to file a report regarding what the petitioner termed ‘anti-judiciary speeches’ made by the former premier and other PML-N parliamentarians in the past. The contempt of court petition was filed by Malik earlier this month against the former premier and 13 federal and provincial ministers of the ruling PML-N for their outburst against the Supreme Court following Nawaz's disqualification in the Panamagate verdict.¹⁷

Similarly, on November 30, 2017, the LHC issued notices to PEMRA and Maryam Nawaz, daughter of Nawaz Sharif, on a petition seeking contempt proceedings against the latter for uttering ‘outrageous’ remarks against judges of the Supreme Court. Amina Malik of the Civil Society Network had filed the petition in reference to recent tweets of Maryam allegedly against the judiciary. Petitioner’s counsel told the court that Maryam and her father had been using contemptuous language since the commencement of trial in accountability court as directed by the Supreme Court in Panama case.¹⁸

Licensing for Direct to Home (DTH)

DTH or digital TV allows the subscribers to have multiple choices of news and entertainment channels at home without any cable system. A small overhead dish receiver, a decoder and a top-up card enable the viewers to have access to hundreds of TV channels. While the DTH is functioning both in India and Afghanistan quite a long ago, Pakistan has missed several deadlines to introduce this service in the country.

In 2016, PEMRA initiated the process of bidding to issue licences for DTH or digital television services in the country. As a result of the Bidding process, three licences for PKR 14.69 billion.¹⁹ However, the Independent Newspaper Corporation and others

¹⁷ <https://www.dawn.com/news/1353656>

¹⁸ <https://www.dawn.com/news/1374005>

¹⁹ <https://www.thenews.com.pk/latest/167346-Pakistans-first-DTH-licences-auctioned-for-Rs-1469-billion>

challenged the bidding process alleging that PEMRA licencing rules for DTH are discriminatory towards local broadcasters. According to the petitions, the rules do not allow local broadcasters to participate in the bidding process.²⁰

On November 22, 2016, the Lahore High Court stayed the DTH licence bidding process till a decision on petitions challenging PEMRA rules for grant of the licences. The stay order was issued on applications filed by the Independent Newspaper Corporation and others. The PEMRA filed an appeal against the stay order issued by LHC on the bidding process for DTH. In April 2017, the Supreme Court accepted the plea of the PEMRA for regular hearing of the case.²¹ Earlier, in November 2016, the Supreme Court directed PEMRA not to grant licence to successful bidder till final determination of the matter pending before LHC.²² By the end of 2017, the issue was still pending in LHC for further adjudication.

²⁰ https://epaper.dawn.com/DetailImage.php?StoryImage=23_11_2016_016_006

²¹ <https://fp.brecorder.com/2017/04/20170428173510/>

²² <http://fp.brecorder.com/2016/11/20161124106089/>