

Muhammad Ayoub vs. Federation of Pakistan and 6 others

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Author: Usama Bin Zafar

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*Muhammad Ayoub vs. Federation of Pakistan and others*¹ involved the dissemination of inflammatory and blasphemous material on social media platforms. The Lahore High Court (“Court”) was called upon to determine two issues: first, whether the dissemination of inflammatory and blasphemous material on social media platforms constitutes a violation of constitutional provisions and warrants intervention by state authorities; second, whether the jurisdictional challenges in regulating content hosted on social media platforms outside Pakistan’s territorial jurisdiction justify the measures taken by the authorities.

The petitioner argued that the dissemination of blasphemous content on social media platforms not only offended religious sentiments but also violated the limitations prescribed under Articles 19 and 19-A of the Constitution of Islamic Republic of Pakistan, 1973 (“Constitution”). The respondents—including the Director Generals of the Pakistan Telecommunication Authority (“PTA”) and the Federal Investigation Agency (“FIA”)—explained the jurisdictional challenges in regulating content on social media platforms hosted outside Pakistan. The Court’s analysis delved into constitutional provisions including Articles 2-A, 19, and 19-A. It highlighted the legal framework for addressing blasphemy offences under the Pakistan Penal Code, 1860 (“PPC”), particularly Section 295-C. Moreover, while acknowledging the challenges posed by jurisdictional boundaries and the complexities of enforcing regulations on global platforms, the judgement emphasized the need for collaboration with international stakeholders and diplomatic efforts to address the issue at the global level.

The judgement set an important precedent by reaffirming the state’s responsibility to prevent and address crimes offending religious sentiments. It emphasized the delicate balance between freedom of expression and the protection of religious sanctity, highlighting that liberties enshrined in the Constitution are subject to certain reasonable restrictions: public order, morality,

¹ 2018 PCr.LJ 1133.

and religious harmony. Furthermore, the judgment referred to existing jurisprudence on the matter—including *Bytes for All*² and *Islamic Lawyers Movement*³—and reiterated the directions issued in those rulings. In its judgement, the Court expanded on the established jurisprudence that freedom of expression guaranteed under Article 19 of the Constitution is not absolute and can be restricted in the interest of public order or religious harmony. Moreover, recognizing that blasphemous content online poses new challenges in the context of social media, the Court reaffirmed the principle established in previous rulings that while the Constitution guarantees free speech, the latter must be balanced against societal interests, particularly when speech incites violence or disrupts peace.

While addressing the state’s responsibility to prevent crimes offending religious sentiments, the judgement did not carve out a meaningful test to determine when content falls within the constitutional limitations prescribed under Articles 19 and 19-A. Instead, the judgement relied on a broad, subjective, and somewhat vague interpretation of “blasphemous content,” and did not assess whether the material in question satisfied the constitutional limitations or whether the restrictions imposed were proportionate to the alleged harm being done. Admittedly, Article 19 of the Constitution subjects freedom of expression to reasonable restrictions. However, it demands, at the same time, precise application, not expansive generalizations. Similarly, Article 19-A of the Constitution guarantees the right to information, which cannot be arbitrarily withheld under sweeping censorship justified by vague standards. Besides, by referencing other literary works and examples as blasphemous without considering the nuances of genres like magical realism, the Court risked oversimplifying complex issues involving artistic freedom and social critique. Such an unsophisticated approach can cause the suppression of intellectual discourse, creative expression, and a more pluralistic understanding of art and literature—areas crucial for cultural and societal development.

Successive legislative changes such as the amendments to the Prevention of Electronic Crimes Act, 2016 (“PECA”) and the enactment of the Removal and Blocking of Unlawful Online Content Rules, 2020 (“RBUOC Rules”) have granted the executive extensive powers to regulate online content, with vague definitions of “objectionable material” allowing the state to encroach

² *Bytes for All vs. Federation of Pakistan* Writ Petition No 958/2013.

³ *Islamic Lawyer’s Movement vs. Federation of Pakistan* 2012 CLC 1300.

upon citizens' fundamental rights. For instance, Rule 4 of the RBUOC Rules grants individuals and organizations the theoretical freedom to express themselves online but imposes vague restrictions under the banners of "glory of Islam," "public order," and "decency and morality." Without precise definitions, these terms are open to broad interpretations, allowing for potential misuse. Moreover, the lack of judicial oversight in such matters has compounded the problem, as courts remain largely disengaged from the sensitivities of digital governance and the growing digital divide. Granting unbridled authority to the executive is pernicious to citizens' rights, turning regulation into a means of control rather than protection. This digital disenfranchisement disproportionately impacts marginalized communities that rely on digital platforms for education, civic engagement, and economic advancement. Training and awareness regarding safe digital spaces are essential for equipping the judiciary with the tools needed to uphold constitutional protections.

Despite the state's limited territorial jurisdiction over social media platforms hosted outside Pakistan, the state has continued to enforce bans under the pretext of national security and public order. Most recently, X (formerly Twitter) was banned in Pakistan in February 2024, a decision reportedly necessitated by the urge to limit the platform's use in circulating dissenting content.⁴ This follows a series of earlier bans on other platforms including TikTok, which has faced multiple suspensions over the past few years for allegedly promoting immoral content. These arbitrary measures not only stifle free speech but also exacerbate the digital divide and hinder economic growth. Social media platforms are crucial infrastructures for trade and innovation. The modern digital economy thrives on the free flow of information, and blanket bans on social media platforms hinder both local and global economic participation. Restrictions on online freedom can deter foreign investment, create an atmosphere of regulatory uncertainty, and diminish Pakistan's standing in the global tech landscape. The digital sector, which could otherwise be a major driver of economic growth, suffers due to these unclear policies. Arbitrary censorship in the name of public order threatens to disconnect Pakistan from the global digital economy, resulting in economic losses that could have long-term consequences for the country's competitiveness.

⁴ Fariha Aziz, 'The ministry of (dis)information and the ban on X' *Dawn* (Karachi, 25 April 2024) <<https://www.dawn.com/news/1828972>> accessed 16 February 2025.

In conclusion, though the judgment aimed to address concerns regarding religious sensitivity, it failed to strike a balance between fundamental rights and state regulation. The legislative changes and blanket bans introduced in the judgement's aftermath have only exacerbated the problem, stifling dissent, inhibiting economic growth, and reinforcing a digital divide in Pakistan. As the country navigates its way in the digital age, there is a pressing need for a more nuanced approach that upholds constitutional principles while fostering innovation and inclusivity in the digital sphere.