

The PECA Amendment 2025: A Critical Analysis

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Introduction

The Prevention of Electronic Crimes (Amendment) Act, 2025 ('Amendment')¹ has introduced significant changes to Pakistan's digital regulatory framework, which aim to enhance and modernise the law for combating cybercrime in Pakistan. This article critically analyses the legal compatibility of the Amendment with Article 19 of the Constitution of the Islamic Republic of Pakistan ('Constitution')² and the international human rights obligations concerning freedom of expression, privacy, and due process. It assesses the implications of the introduced changes for digital democracy and press freedom by examining key provisions of the Amendment. The study concludes that the Amendment poses substantial risks to fundamental rights enshrined in the Constitution, while also breaching Pakistan's international obligations under various human rights instruments.

The original Prevention of Electronic Crimes Act, 2016 ('PECA') was enacted to curb the increasing challenges posed by prevailing cyber offences in the country. A perusal of its preamble reveals that the primary objective of the PECA was to protect individuals, institutions, and national interests from the rising threats of cyber attacks and malicious online activities. However, the recently enacted Amendment to the PECA has introduced excessive regulatory overhauls in the digital landscape, expanding state control over online content. The Amendment has sparked widespread national and international debate and received great criticism. Patricia Gossman, Associate Asia Director at Human Rights Watch, stated that 'Pakistan's amended Prevention of Electronic Crimes Act neither protects the public from legitimate online security threats nor respects fundamental human rights.'³ She called on the government to safeguard free expression and repeal the law's oppressive provisions. Moreover,

¹ The Prevention of Electronic Crimes (Amendment) Act 2025.

² The Constitution of the Islamic Republic of Pakistan 1973, art 19.

³ Patricia Gossman, 'A dangerous digital crackdown' *The News* (Karachi, 12 December 2024) <<https://www.thenews.com.pk/print/1260638-a-dangerous-digital-crackdown/>> accessed 16 October 2025.

the Human Rights Commission of Pakistan has expressed concern that the Amendment may be misused to target political activists, human rights defenders, and journalists by effectively punishing criticism of state institutions.⁴ Responding to the draft of the Amendment, the Pakistan Federal Union of Journalists announced nationwide protests, condemning the Amendment as an infringement of constitutionally guaranteed fundamental rights.⁵

Key Amendments and their Implications

I. Broad and Vague Definitions of Key Terms

A major concern regarding the Amendment is the introduction of vague and overly broad definitions. For instance, through Section 2(iii)(a), the Amendment inserts a new definition for ‘aspersion’, describing it as ‘spreading false and harmful information which damages the reputation of a person.’ However, the provision lacks clear criteria for what constitutes ‘false’ or ‘harmful’ information, thus leaving it open to subjective interpretation.

Similarly, the Amendment expands the meaning of ‘unlawful’ or ‘offensive content’ under Section 2R(1)(h) to include aspersions against any person, including members of the judiciary, armed forces, Parliament, or a Provincial Assembly. Such vague terminology further encroaches upon public discourse by criminalising online criticism of powerful state entities, thereby shielding these institutions from public scrutiny. This significantly erodes press freedom and restricts the ability of citizens to hold state institutions accountable.

II. Establishment of the Social Media Protection and Regulatory Authority

The Amendment introduces the Social Media Protection and Regulatory Authority (‘Authority’) pursuant to Sections 2A and 2B. This Authority has been granted wide powers to regulate, block, or remove online content that it deems ‘unlawful’ or ‘offensive’. Moreover, it has the discretion to suspend or completely shut down non-compliant social media platforms, creating a serious risk of arbitrary censorship. The vague definition of ‘offensive content’

⁴ Human Rights Commission of Pakistan, ‘PECA Bill Curbs Fundamental Rights’ (*hrcp-web.org*, 25 February 2025) <<https://hrcp-web.org/hrcpweb/peca-bill-curbs-fundamental-rights/>> accessed 25 February 2025.

⁵ Kalbe Ali, ‘Journalists announce nationwide protest against Peca changes’ *Dawn* (Islamabad, 28 January 2025) <<https://www.dawn.com/news/1888162>> accessed 16 October 2025.

allows for broad interpretation, which could be used to silence dissent and suppress political criticism.

III. Criminalisation of ‘False’ or ‘Harmful’ Information

A concerning addition to the PECA is that of Section 26A, which criminalises the dissemination of ‘false or fake information’ that could cause ‘fear, panic, or unrest’. The vague and subjective nature of this provision creates a high risk of misuse, allowing authorities to classify critical journalism, whistleblowing, or political dissent as ‘false information’.

IV. Creation of the Social Media Protection Tribunal

Under Section 2V, the Social Media Protection Tribunal (‘Tribunal’) has been established to hear appeals against the decisions of the Authority, and issue binding decisions on speech regulation, including the imposition of penal consequences. However, the functioning of the tribunal has been entirely placed in the executive branch, as the federal government shall appoint the members of the Tribunal, determine its territorial and subject-matter jurisdictions, and may even unilaterally remove Tribunal members if it finds them incompetent to perform their duties. This essentially vests untrammelled adjudicatory powers in bureaucratic hands, with no significant judicial oversight.⁶ Such an executive excess also defeats the longstanding jurisprudence established in the *Mehram Ali* case, where the Supreme Court held that the control and supervision of all tribunals is to be exclusively vested in the High Courts, and required the tribunals to decide matters in a fair, equitable and impartial manner.⁷ Without any judicial oversight, the Tribunal under PECA will not be independent of the government’s influence; consequently, it raises serious concerns as to the fair trial guarantees under the Constitution⁸ that have been considered improbable in the absence of an impartial forum.⁹

⁶Areeba Khan, ‘The Peca tweaks are aimed at combating disinformation free speech. Here’s why they may also be unconstitutional’ *Dawn* (Islamabad, 28 February 2024) <<https://www.dawn.com/news/1891733>> accessed 16 November 2025.

⁷ *Mehram Ali v. The Federation of Pakistan* PLD 1998 SC 1445.

⁸ Constitution of the Islamic Republic of Pakistan 1973, art 10(A).

⁹ Suo Moto case no 4. (contempt proceedings against Syed Yousaf Raza Gillani) PLD 2012 SC 553.

V. Enhanced Investigative Powers for Online Speech

The Amendment replaces the Federal Investigation Agency's Cyber Crime Wing with the National Cyber Crime Investigation Agency ('NCCIA') pursuant to Sections 29 and 30. NCCIA has been given enhanced powers to investigate, prosecute, and arrest individuals for online speech violations. This increases the risk of state surveillance as authorities can now monitor digital activity and silence critics under the pretext of cybercrime investigations.

VI. Mandatory Compliance by Social Media Platforms

Under sections 2Q, 2S and 2U, social media platforms are now required to comply with government directives on content removal. These platforms must establish effective complaint-handling mechanisms and remove 'unlawful' or 'offensive content' upon government orders. Failure to comply can lead to legal action or complete blocking of the platform. Such executive action carries various practical and jurisdictional challenges. Most social media platforms, like Facebook, X (formerly Twitter), and YouTube, operate outside Pakistan, and therefore, make it difficult for domestic authorities to ensure compliance. As a result, the likely outcome of non-compliance would be the blocking of such platforms, which could become a default mechanism of exercising control over digital spaces, instead of undertaking reforms in the legal and technical frameworks.

Analysis in Light of the Right to Freedom of Speech and Expression

PECA has been widely criticised for infringing upon the fundamental right to freedom of speech as guaranteed under Article 19 of the Constitution.¹⁰ Freedom of speech and expression are essential rights that serve as the foundation of democratic institutions. These freedoms are, however, not absolute and may be subject to reasonable restrictions as imposed by the law.¹¹

¹⁰ Digital Rights Foundation, 'The Prevention of Electronic Crimes Bill 2015 – An Analysis' (June 2016) <<https://www.article19.org/data/files/medialibrary/38416/PECB-Analysis-June-2016.pdf>> accessed 16 October 2025.

¹¹ Article 19 of the Constitution provides wide restrictions on freedom of speech, notably, in the interest of the glory of Islam, matters of defence and security, diplomatic relations, public order, decency or morality, in relation to contempt of court, commission of or incitement to an offence; however, in *Pakistan Broadcasters Association v. Pakistan Electronic Media Regulatory Authority* PLD 2016 SC 692 [17], the Court held that "reasonable"

The Supreme Court of Pakistan has elaborately defined the term ‘expression’ in the *Pakistan Electronic Media Regulatory Authority*:

‘Expression’ in the context of freedom of expression (Article 19), refers to the act of conveying thoughts, ideas, emotions, beliefs, or opinions through various forms of communication...Freedom of expression is a fundamental human right that allows individuals to openly communicate their thoughts and ideas without fear of censorship, discrimination, or punishment. It is essential for the healthy functioning of a democratic society to encourage the exchange of ideas, foster debate and allow for the development of diverse opinions and perspectives.¹²

In the case of *Rana Muhammad*, the Islamabad High Court (‘IHC’) ruled in favour of the petitioner journalist and held that the Federal Investigation Agency had abused its authority under PECA by issuing an undated and vague notice and taking adverse actions against the petitioner in violation of Articles 19 and 19A of the Constitution.¹³ The IHC noted that even fear of retaliation undermines press freedom, and that a free and independent press is essential for democracy, economic stability, and public accountability. The IHC also reaffirmed that journalists must not be subjected to coercion or intimidation for their reporting and that such actions not only infringe constitutional rights but also harm democratic principles.

The International Human Rights Law

Article 19 of the Universal Declaration of Human Rights¹⁴ (‘UDHR’) and the International Covenant on Civil and Political Rights¹⁵ (‘ICCPR’) guarantees the right to freedom of expression, which includes the right to seek, receive, and impart information through any media, including digital platforms. Specifically, Article 19 of the ICCPR protects journalists

implies intelligent care and deliberation....For an action to be qualified as reasonable, it must also be just, right and fair, and should neither be arbitrary nor fanciful or oppressive’.

¹² *Pakistan Electronic Media Regulatory Authority (PEMRA) v. ARY Communications Private Limited (ARY Digital)* PLD 2023 SC 431.

¹³ *Rana Muhammad Arshad v. Federation of Pakistan through Secretary Ministry of Interior, Islamabad* PLD 2021 Islamabad 42.

¹⁴ Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) art 19.

¹⁵ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 19.

from government interference, even when they publish critical information about state institutions. This has also been affirmed by the European Court of Human Rights, which ruled that public officials should tolerate higher levels of criticism than private individuals to ensure democratic accountability.¹⁶

The United Nations Human Rights Committee's General Comment No. 34 on Article 19 of the ICCPR ('Comment') provides that freedom of opinion and freedom of expression are indispensable for the full development of an individual.¹⁷ Thus, pursuant to the Comment, restrictions on speech must be necessary, proportionate, and should serve a legitimate aim only such as protecting national security or preventing hate speech. The Comment further stresses that the penalisation of media outlets, publishers, or journalists solely because such entities or individuals are critical of the government or the political system espoused by the government can never be considered a necessary restriction on the freedom of expression. The Comment also clarifies that restrictions on any internet-based electronic or other information dissemination system are only permissible to the extent they are compatible with paragraph 3 of Article 19. Therefore, permissible restrictions should be content-specific and clearly stipulated in statutory law.

In light of the foregoing, the broad and vague definitions of 'aspersions', 'false information', and 'unlawful or offensive content' under the Amendment fail to meet the necessity and proportionality test as laid down by Article 19(3) of the ICCPR and Article 19 of the Constitution. Criminalising 'aspersions' against state institutions, including the judiciary, the military, and the Parliament, could be used to suppress political dissent and public debate, thus violating international free speech protections. Such a law serves as a legal tool for silencing journalists who investigate government misconduct, military actions, or judicial irregularities.

The international human rights law also deems 'access to internet' as instrumental to realising free speech and expression. The United Nations Human Rights Council ('UNHRC') resolutions affirm that internet access is a fundamental right, and governments must not impose

¹⁶ *Sunday Times v United Kingdom* [1979] ECHR 1.

¹⁷ UN Human Rights Committee, 'General Comment No 34' (12 September 2011) UN Doc CCPR/C/GC/34.

arbitrary or disproportionate restrictions on online content.¹⁸ The United Nations Special Rapporteur on Freedom of Expression, in its 2011 Report, explicitly warns against broad and vague laws that allow governments to block social media platforms or censor content without independent judicial oversight.¹⁹ A perusal of the Amendment reveals that the Authority has been granted unbridled powers to block, suspend, or regulate digital platforms, violating the principle of proportionate restriction of free speech required under international human rights law. Besides that, the lack of an independent review mechanism before blocking content contradicts national and international best practices, which require judicial oversight before any digital restriction is imposed.

Lastly, undue interference with the exercise of free speech raises concerns regarding ‘digital privacy’. The UN General Assembly Resolution recognises privacy in digital communications as a fundamental right and calls on states to refrain from arbitrary surveillance.²⁰ Article 17 of the ICCPR also prohibits arbitrary or unlawful interference with an individual’s privacy and digital data. Despite this, the NCCIA has been granted unregulated powers to monitor, investigate, and prosecute digital activities without adequate privacy safeguards. Moreover, the Amendment does not require judicial warrants or independent supervision before conducting digital surveillance, thus infringing the UN Basic Principles on the Independence of the Judiciary, which require judicial bodies to be independent of political influence and free from executive interference.

Conclusion

The Amendment contradicts constitutional guarantees and violates international legal standards on human rights, freedom of expression, privacy, and due process. Undeniably, cybersecurity and misinformation regulation are legitimate concerns; however, unbridled powers, lack of judicial supervision, and arbitrary restrictions unlawfully criminalise speech and impose authoritarian control models that undermine democratic values. It is high time to

¹⁸ UN Human Rights Council, ‘Promotion, protection and enjoyment of human rights on the Internet’ (27 June 2016) UN Doc A/HRC/32/13; UN Office of the High Commissioner for Human Rights, ‘Internet shutdowns: trends, causes, legal implications and impacts on a range of human rights’ (13 May 2022) UN Doc A/HRC/50/55 (2022).

¹⁹ Frank La Rue, *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression* (UN Human Rights Council, 16 May 2011) UN Doc A/HRC/17/27.

²⁰ UNGA Res 68/167 ‘The Right to Privacy in the Digital Age’ (21 January 2014) A/RES/68/167.

revise this law to make it compliant with constitutional law and compatible with international human rights standards to ensure a balance between security concerns and fundamental rights in the digital age.