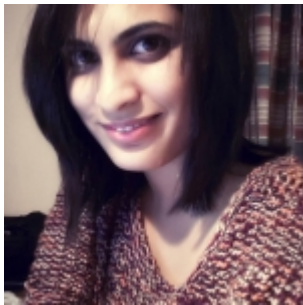


## Internet regulation and counter-terrorism: the dangerous clash in Pakistan's regulatory regime



*Sadaf Khan, an LSE alumna who has been associated with media and the media development sector in Pakistan since 2002 and who is now Director of Programs for the non-profit **Media Matters for Democracy**, looks at Pakistan's draft legislation on cybercrime and the threats it poses.*

Pakistan has been without a legal framework to deal with Cybercrime since 2009. Civil society actors have since been advocating for a bill that guarantees some protections for internet users in the country. Until recently, the government was not responsive to such efforts. In December 2014, a terrorist attack on a school in Peshawar resulted in 147 deaths; most of the victims were children. Following the attack, a National Action Plan for countering terrorism was devised, commonly known as NAP. The NAP follows in the wake of other counter terrorism legislation including the Pakistan Protection Act and the Fair Trial Act, both of which extend the powers of law enforcement agencies in ways that are questionable in a human rights framework. Now, the NAP framework has been used to draft legislation on cybercrime. According to Pakistan's State Minister for Information Technology, Anusha Rehman, the **Prevention of Electronic Crime Bill 2015** (recently approved by a parliamentary Standing Committee on Information Technology, and ready to be tabled in the National Assembly) has been drafted to **comply with the NAP**, to try and ensure that cyberspace isn't being used by terrorists.

The intention behind this draft might be noble, but a look at the draft exposes various sections that pose a danger to fundamental rights, such as the right to **freedom of expression**, to information, to privacy and to association and assembly. The bill, spanning 46 sections, **criminalizes hate speech**, and in some cases classifies it as cyber terrorism, gives arbitrary blocking powers to designated individuals, and legalizes disconnections. Perhaps most astoundingly under this bill, an eight year old (or in some cases a thirteen year old) can be convicted of an offense. Under Pakistan's Penal Code neither an eight year old nor a thirteen year old is seen as a legal adult. The extension of this bill to juvenile offenders, combined with the vague, subjective nature of offenses described in the draft creates a dangerous combination.

Under this Bill, the government can designate any agency the power to remove content and block access to intelligence through any information system. **Section 34** of the draft grants sweeping powers to any designated authority or individual within that authority to make judgments. In the current scenario this means that the Pakistan Telecommunication Authority, PTA, will be able to designate an individual officer to make decisions regarding the blocking of online content under a loosely constructed framework. The legal limitations to free speech as defined within this draft include speech against:

- the glory of Islam
- the integrity, security or defense of Pakistan or any part thereof
- friendly relations with foreign states
- public order
- decency or morality
- speech related to contempt of court
- and the committing of or incitement to an offence.

All of these factors are open to interpretation and thus can be manipulated for political gains. This section appears to be an attempt to legalize censorship online, curb the right to free speech, and block access to undesirable information. Other sections in the bill that claim to protect **'the**

**modesty** and 'the dignity' of 'natural persons' combine with this section to create a menacing framework within which genuine political commentary can be blocked and criminalized.

In addition, the bill also criminalizes 'glorification of an offence and hate speech'. This is a new offence and has been drafted in terms that are extremely subjective, making the whole framework arbitrary. One of the most problematic sections is the criminalization of the 'glorification of an offence or a person accused or convicted of a crime'. During a TV interview the State Minister for Information Technology said that the glorification of someone 'accused' of a crime has been criminalized, as the government does not want an 'accused' criminal being made a hero before trial. This attitude reflects how the counter-terrorism framework used to frame the legislation has had an impact. Section 9, criminalizing hate speech, is followed by Section 10, that says hate speech with the intent to 'coerce, intimidate, overawe or create a sense of fear, panic or insecurity in the Government or the public' would be seen as committing an act of cyber terrorism.

The concerns with this bill are not limited to freedom of expression and right to information threats. The bill asks a widely defined category of 'service providers' (that can include restaurants, cafes and educational institutions) to maintain user traffic data for up to a year. It poses **serious risks to the privacy of individuals** by creating a very general, unregulated clause for international cooperation through which "text, message, data, voice, sound, database, video, signals, software, computer programs, codes including object code and source code" can be shared with foreign entities without **prior request or oversight**.

In Pakistan, and more widely across the globe, 'counter terrorism' has become an excuse to curb civil liberties and fundamental rights. In this case, opposition to the draft is being rejected as objection to effective counter-terrorism. This narrative has to be countered. Such drafts, which try to limit citizen access to the internet and make speech a criminal offense must be denounced by both national and international rights activists.

*This post gives the views of the author and does not represent the position of the LSE Media Policy Project blog, nor of the London School of Economics and Political Science.*

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