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# **New social media rules and fundamental rights**

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**16 Dec 2020**

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## **New social media rules and fundamental rights**

By Farooq Naiyer\*

The Ministry of Information Technology announced new social media rules in November 2020, triggering push back from civil society and other stakeholders in the eco system.

This sudden action by the government has raised questions about the motives and objectives of the new rules and how they align with protecting the fundamental rights of the citizens of Pakistan as they relate to their privacy and freedom of speech.

One of the first questions that comes to mind is the scope of these guidelines.

The scope of these guidelines was supposed to be limited to the use of social media, however, it seems to be applicable to internet service providers and cloud providers. PTA has, moreover, assumed the role of judge, jury and executioner which creates an imbalance within the law and order setup of Pakistan.

The second question that comes to mind is the consultation process; were all the stakeholders in the eco system including social media companies, telcos, civil society, internet users, the legal fraternity, social media influencers etc consulted.

Meanwhile, this sweeping action by the government also gives an impression that though the guidelines were protecting the state and state institutions, they have given rise to lots of concerns about the privacy and basic rights of an internet and social media user in Pakistan; and were, to some extent, curtailing the rights of the citizens especially those related to the freedom of speech.

The other alarming concern about these guidelines is the provision regarding the imposition of blanket ban on the social media or other internet services in the event of them not removing or unable to remove objectionable content or comply with a request. This action will have far reaching consequences.

Given the fact that a large number of users or organizations might be using these services for commercial or educational purposes, such a ban, if imposed, will result in disrupting many activities which rely heavily on those social media channels.

The emphasis should, therefore, be more around removing the content or getting the content makers, who are involved in producing or promoting controversial content, rather than putting a blanket ban on such a service.

Another aspect of these guidelines which seem quite unreasonable is the requirement of handing over of data to relevant authorities in Pakistan. This does not align with the current practices within the social media organizations, which prefer to have their own data management staff mine the relevant data to fulfill a certain request rather than handing over the entire data set.

Towards the end I will like to highlight that there is an unreasonable expectation from the social media providers to delay and regulate content. It would have been better if the social media providers were consulted and a more practical and acceptable approach should have been adopted. The social media platforms have various AI rules through which content is currently being monitored.

I will like to point towards the process and approach that the Canadian government took in order to address this subject. In November 2020, the government proposed the [Digital Charter Implementation Act, 2020](#), which would modernize the framework for the protection of personal information in the private sector. This legislation takes a number of important steps to ensure that Canadians will be protected by a modern and responsive law and that innovative businesses will benefit from clear rules, even as technology continues to evolve, including:

- increasing control and transparency when Canadians' personal information is handled by companies;
- giving Canadians the freedom to move their information from one organization to another in a secure manner;
- ensuring that when consent is withdrawn or information is no longer necessary, Canadians can demand that their information be destroyed; and
- providing for the strongest fines among G7 privacy laws—with fines of up to 5% of revenue or \$25 million, whichever is greater, for the most serious offences.

This is surely a good example for Pakistan on how to approach and address this subject and ensure that the fundamental rights of its citizens are protected and that Pakistan is able to move towards a consumer focused digital economy.

*\*Farooq Naiyer is a visiting fellow with Islamabad Policy Institute.*