

Legal Implications

PAKISTANI MEDIA SYSTEM

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Overview

- ▶ Though Pakistani media enjoy relative freedom compared to some of its South Asian neighbors, the industry was subjected to many undemocratic and regressive laws and regulations.
- ▶ The country was subjected to alternating military and democratic rule - but has managed to thrive on basic democratic norms.
- ▶ The Pakistani media had to work under military dictatorships and repressive regimes, which instituted many restrictive laws and regulations for media in order to 'control' it, the media was not largely affected.

History (old Press laws)

- ▶ The first step in introducing media laws in the country was done by the military ruler and President Ayub Khan who promulgated the Press and Publication Ordinance (PPO) in 1962. The law empowered the authorities to confiscate newspapers, close down news providers, and arrest journalists.
- ▶ More draconian additions were made to the PPO during the reign of General Zia-Ul-Haq in the 1980s. According to these new amendments, the publisher would be liable and prosecuted if a story was not to the liking of the administration even if it was factual and of national interest.
- ▶ Another press law, known as the Registration of Printing Presses and Publications Ordinance came into effect in 1988.

Article 19 of Constitution of Pakistan 1973

- ▶ The Constitution of the Islamic Republic of Pakistan provides for its citizens, fundamental rights, one of which pertains specifically to the Press, Article 19, Freedom of Speech:

Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offense.

The Constitution of Pakistan, then, guarantees the freedom of expression and freedom of the press, subject to reasonable restrictions that may be imposed by law. It is the responsibility of the judiciary to determine the scope and parameters of the permissible freedoms and the extent of restrictions placed on their enjoyment.

New Media Laws effective till date

- ▶ There are a number of legislative and regulatory mechanisms that directly and indirectly affect the media in Pakistan.
- ▶ The Freedom of Information Ordinance of 2002, the Pakistan Electronic Media Regulatory Authority (PEMRA) of 2002, the Defamation Ordinance of 2002, Press Council of Pakistan Ordinance 2002, the Press, Newspapers, News Agencies and Books Registration Ordinance 2003, the Prevention of Electronic Crimes Act 2016.

Freedom of Information Ordinance 2002

- ▶ The freedom of information ordinance introduced in 2002 contains some positive features acknowledging citizens right to know.
- ▶ It is expedient to provide for transparency and freedom of information to ensure that the citizens of Pakistan have improved access to public records and for the purpose to make the Federal Government more accountable to its citizens.
- ▶ Large amounts of information are also not subject to disclosure under the ordinance, largely undermining the public's right to know. Instead of applying to all records held by public bodies, the ordinance provides a, restrictive list of public records subject to disclosure.
- ▶ 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.

The Defamation Ordinance, 2002

- ▶ The defamation Ordinance, 2002 is one of the laws, which were promulgated by President General Musharraf as a package of media laws in 2002.
- ▶ Prior to this Ordinance, defamation was a “criminal offence” under the Pakistan Penal Code (PPC), 1860.
- ▶ The Ordinance defines kinds of defamation i.e. libel and slander. It also provides defences in defamation proceedings. These defences include:
 - ▶ a) Fair comment on the matter in the public interest;
 - ▶ b) Truthfulness of matter made for public good; and
 - ▶ c) Absolute or qualified privilege.

PAKISTAN ELECTRONIC MEDIA REGULATORY AUTHORITY (PEMRA)

- ▶ The Pakistan Electronic Media Regulatory Authority (PEMRA) is a regulatory body for private broadcasters established on 1 March 2002 to facilitate, regulate and promote a free, fair and independent electronic media.
- ▶ The PEMRA Ordinance 2002 allowed the establishment of an umbrella body that issues licenses to broadcasters who have been labeled as broadcast media operators.
- ▶ The law aims to “improve standards of information, education and entertainment” and “ensure accountability, transparency and good governance by optimizing the free flow of information.
- ▶ PEMRA is also involved in media censorship and occasionally halts broadcasts and closes media outlets.

Press, Newspapers, News Agencies and Books Registration Ordinance (PNNABRO) 2002

- ▶ It is aimed at amending and consolidating “the law relating to [registration of] news agencies, publications and printing presses” in Pakistan. The Ordinance provides process and procedure for subscription and authentication of declaration for a newspaper.
- ▶ Besides, the Ordinance also deals with the registration of printing presses, news agencies and books.
- ▶ Section 5 of the Ordinance requires that “no newspaper shall be published except in conformity with the provisions of this Ordinance...” Similarly, the Ordinance states that “no news agency shall disseminate or defuse news except in conformity with the provisions of this Ordinance”. Nevertheless, the Ordinance is silent with reference to right to or freedom of information.

Press Council of Pakistan Ordinance 2002

- ▶ Prior to 2002, News agencies in Pakistan were completely unregulated. Established under the Press Council of Pakistan Ordinance in October 2002, the body operates on a semi-autonomous nature along with an Ethical Code of Practice. It is mandated with multi-faceted tasks that range from protection of press freedom to regulatory mechanisms and review of complaints from the public.
- ▶ The Press Council Ordinance has a direct link to the Press, Newspapers, News Agencies and Books Registration Ordinance (PNNABRO) of 2002. This legislation deals with procedures for registration of publications of criteria of media ownerships.
- ▶ Ownership of publications (mainly newspapers and news agencies) is restricted to Pakistani nationals if special government permission is not given. In partnerships, foreign involvement cannot exceed 25 percent. The law does not permit foreigners to obtain a 'Declaration' to run a news agency or any media station.

The Prevention of Electronic Crimes Act 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.
- ▶ 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.
- ▶ However, nothing had been reported towards the establishment of these laboratories. It is observed that the FIA has been struggling in dealing with the rising number of cases due its limited resources.

Laws Having Provisions relating to Media and Information

- ▶ **The Pakistan Penal Code, 1860:** contains various provisions, which directly or indirectly affect free-flow of information.
- ▶ **The Telegraph Act, 1885:** Telegraph means any apparatus, equipment or plant used for transmitting, emitting, making or receiving message.
- ▶ **The Post Office Act, 1898:** prohibits transmission by post of newspapers, which are printed and published in Pakistan without conforming to the rules/laws.
- ▶ The Contempt of Court Act, 1973
- ▶ The Pakistan Telecommunication (Re-Organization) Act, 1996