

Online defamation under PECA 2016: Legal boundaries and misuse

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Abstract

The present article examines the problems of online defamation with reference to The Prevention of Electronic Crimes Act 2016 (PECA) of Pakistan, with specific reference to its ambit and potential abuse. Section 20 of PECA makes it illegal to intentionally send a false electronic message with the intention to violate the reputation or privacy of another person, a new 21st-century punishment to the existing defamation damages. While the law was designed to combat "hate speech" online, the law is overbroad and criminal, which presents issues of overkill and chilling effects, and selective enforcement. This research situates PECA historically, theoretically, and practically with reference to comparative literature on cyber defamation, intermediary liability, and human rights norms. It examines the application of the statute, identifies some of the major challenges to the fair implementation of the statute, and provides options for reform. The research recommends that the definition, procedural protections, and proportionate punishment should be clarified to ensure the rights-based principles have been enshrined in the law. The dignity of the individual is preserved without compromising freedom of speech in the cyber world.

Keywords: challenges, historical context, laws, opportunities, theoretical context

Introduction

Defamation over the internet has become one of the most urgent legal issues of the digital age, particularly due to the sudden increase in the use of social media in Pakistan (Aleem et al., 2021; Kumar, 2024). The Prevention of Electronic Crimes Act (PECA) 2016 has been adopted to deal with the crimes that are related

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to cyber, such as the publication of false or harmful information to destroy the reputation of a person (Jamil et al., 2024). According to scholars like Judijanto et al. (2025); Mashdurohatun et al. (2025); Murrey (2025); & Zukic and Zukic (2025) legislation on digital defamation has to strike a balance between two opposing rights, namely the right to freedom of expression and the right to protection of personal dignity. In Pakistan, where social media platforms tend to be arenas of community argument, political involvement, and self-expression, the issue of online defamation regulation is further complicated (Iqbal et al., 2024). Studies have shown that a lack of digital literacy and quick distribution of unconfirmed information are factors that lead to more cases of defamation complaints (Zukic & Zukic, 2025).

In addition, critics state that some provisions of PECA, especially Section 20 on offences against the dignity of a natural person, have been abused and misused to protect and defend, and to exploit and abuse power (Haq & Zarkoon, 2023). This begs questions of being over-criminalized, selective enforcement, and the potential censorship of dissent (Khan et al., 2023). This paper discusses the meaning of online defamation in PECA 2016 and the legal spectrum of its framework, justifies the evidence of abuse, and frames the discussion in the academic perspectives of the digital rights and regulatory excess.

Research Justification

This study is important because PECA rules clearly define what people can and cannot say online, and if people are aware they are doing this, they will be more likely to abide by the rules. In addition, it is important to see whether PECA is being misused. The situation with media in Pakistan talks about changing PECA rules and cases where journalists say they were harassed because of PECA show we need to investigate. The research also needs to comprehend the relationship between PECA and the law on online offensive language and liability of online content in various international countries. This will help us determine whether or not we need to change PECA. Legislators, judges and policymakers should know about PECA. Knowing PECA, lawyers, journalists, lawmakers and anyone interested in society can be able to determine the appropriate balance of reputation and freedom of speech.

Review of the Literature

The literature on online defamation tends to revolve around a well-worn tension. Free speech is important, not only is it important, but it's vital (Judijanto et al., 2025). Research in various jurisdictions indicates that overly general or somewhat sloppy legislation on cybercrime can lead to a variety of outcomes (Mashdurohatun et al., 2025). When cybercrime legislation is drafted too broadly or carelessly, a number of results can occur, as research in various jurisdictions demonstrates to have a tendency to go over their intended use. Once that's done, the challenges begin, i.e. human rights are infringed (Zukic & Zukic, 2025). Sometimes, it's done in secret; sometimes very openly. There are reports of censorship and even instances of arrests for offenses not committed, along with misleading or erroneous arrests. It's not always something that is done on purpose, but it still happens (Khan et al., 2023). The situation in South Asia is complex. These placed pressure because of the changes in political and cultural sensitivity and the increasing number of people online. Sites on the web expand rapidly and much more quickly than the law. Some academics say that such a mix promotes defamation on the Internet. Not only is it a legal issue, but a social issue as well (Jamil et al., 2024).

Academics have mostly focused their debate on the Prevention of Electronic Crimes Act (PECA) 2016 in Pakistan (Iqbal et al., 2024). Much has been written about its deployment, the loopholes, and the primary issues that keep coming up are enforcement difficulties, procedural vacuum, and alterations of representations from one case to another (Haq & Zarkoon, 2023). Especially, the section 20 has taken a lot of heat. Some argue it has been misinterpreted. Also, it had been used earlier against journalists, activists, and even political opponents. That does cause alarm, sometimes on suspicion and/or sometimes proven (Kumar, 2024) As for the main enforcement body is the Federal Investigation Agency (FIA). But doubts have been cast on its effectiveness. Shortage of technical resources delays in handling of complaints, different procedures in different places. All of this converges to an inconsistent system. Not continuous, nor reliable, but it isn't suspicious either (Murrey, 2025).

Developing on this, some authors speak of a civil/criminal defamation interplay. But therein lies the problem. Civil defamation, which is normally handled under the tort laws, is one thing. The PECA criminal defamation will also be part of this. When they are happening side by side, it can be very confusing. Jurisdiction can become

very unclear. The evidential lines may get blurred (Aleem et al., 2021). Deciding on the course of action may indeed be the most challenging aspect of it. In some writings, it's said that PECA was aimed at overhauling the digital laws, but it has very ambiguous provisions in it, especially with regard to defamation. Slightly under-defined. Suggested changes for a more suitable definition, stronger procedural safeguard, and more scrutiny by the courts. Otherwise, it might need to be used only once in a while.

Historical Context of Online Defamation Under PECA 2016

The online defamation law in Pakistan is based on the earlier legislation related to the reputation of individuals and the order of people (Iqbal et al., 2024). In the past, the regulation of defamation was based on the Pakistan Penal Code (PPC), according to which damaging the reputation of a person was punishable by law (Haq & Zarkoon, 2023). According to scholars, these laws were shaped by the doctrines of the public order of the colonial era (Aleem et al., 2021). As the internet became popular in the early 2000s, the issues about cyber harassment, online fraud, and defamation became more pronounced (Mashdurohatun et al., 2025).

The absence of encouraging cybercrime law, though, curtailed the enforcement activities. The first attempt to close this divide was the Electronic Crimes Ordinance (ECO) (Khan et al., 2023). In 2016, PECA 2016 was subsequently codified to fully deal with cyber-crimes, including defamation, hacking, cyber stalking, and electronic forgery (Jamil et al., 2024). Scholarly reviews indicate that PECA was authored without consulting the general population, which contributes to the apprehensions of its voluminous wording and potential misuse (Judijanto et al., 2025). PECA has, over time, been a constitutional debate over its application, especially in Section 20. Its critics note that its practice can go against the principles of free speech as provided in Article 19 of the Constitution (Kumar, 2024). Online defamation history is thus a conflict of sorts between the changing technology, the adapting law and the protection of fundamental rights.

Theoretical Context of Online Defamation

The theoretical framework of the research is based on the multi-layered legal theory pertaining to defamation, the protection of human rights and freedom of expression, as well as the cyber law theory on intermediary liability and state regulation. One of

the standard arguments for defamatory speech cases is the need to "balance" the interest in protecting the reputation and the free expression. Community isn't as fixed as you think in today's Internet world. The audience that takes part may often not be local in scope, making analysis difficult.

Proportionality is a key aspect of human rights theory regarding speech. Limit speech only when it is needed, proportionate, serves a legitimate purpose, and is as limited as possible. International standards entail that imprisonment for defamation must not take place, as far as possible. There is a right to ask questions about proportionality and necessity, particularly in the application of the law by the state against critics of the establishment.

The Cyber law theory discussed here on the intermediary liability issue illustrates that overly broad and vague regulations can encourage platforms to overly remove the content, thereby chilling speech. Such an impact could be the result of the criminalization of users of these technologies, and therefore reduce public discussion. Theories are relevant to appreciating the scope of permissible use, as well as how defamation is being enforced and the issues arising when defamation is misused.

Laws Regarding Online Defamation in Pakistan

PECA 2016 includes several provisions that deal with the privacy of a natural person, whether intentionally or unintentionally. The maximum sentence may be a three-year jail term and/or fine, and this has created a criminal regime for old-style defamation damages. Legal practice encompasses federal investigations, which are manifestations of PECA. It gives some jurisdiction to federal agencies with electronic crimes, such as crimes related to online speech. Section 20 makes it illegal to transmit false information that is likely to intimidate or damage the image of her person.

Other pertinent Pakistani legislation includes civil and criminal defamation under the previous statutes that have traditionally focused on print and broadcast media. The introduction of PECA expanded the legal environment to clearly include digital media and online communication systems. This development makes it more challenging for courts, lawyers, and citizens to identify which legal norms are relevant, the standards of evidence, the most common defenses, such as the truth, and the requirements of the process.

Online defamation legislation across borders is diverse and includes both strict criminal and civil-only organizations. Comparative literature on intermediary liability and reforms indicates that laws strictly applied to online speech should also include measures to curb excess, ensure due process, and provide clear definitions of falsehood, intent, and harm. These comparative lessons apply particular issues, such as the interpretation of the limits of PECA, especially such terms as knowingly false information, intimidation, or harm, and the level of criminal liability.

Moreover, PECA is in conflict with the constitutional rights and international commitments. Critics of due process, privacy, and possible surveillance authorities cite issues like how courts and policymakers interpret due process. For this reason, clear legal boundaries are important to ensure that laws regarding harmful speech are not used to unfair or politically motivated actions.

Challenges for Online Defamation Laws in Pakistan

The online defamation provisions of PECA are multifaceted and have a number of issues that could make it difficult to develop a uniform and equitable approach to enforcement. A major problem is that the law itself is not precisely written, and therefore, there are multiple potential interpretations of the legality of how the courts will apply the law. Such expressions as false information, intimidation, or harm are mostly subjective, particularly when it comes to politics, which can be abused when criticizing opponents.

Second, the criminality of Section 20 has human rights problems. International organizations have discouraged the use of incarceration as a solution to defamation and promoted civil solutions. Punishments may prevent speech, particularly when journalists or activists are pressurized or when they have fewer resources to defend themselves. There is evidence reported that PECA has been applied against journalists and critics, and there is a mismatch between the intentions and the reality.

Third, there are problems with capacity and incentives. The implementation by the federal agencies can be affected by politics or a lack of resources. When the law is interpreted or applied to protect state institutions rather than individual reputations, people lose their trust in the law institutions. It is stated that criticism

of institutions or the state is becoming more and more countered, which only adds to this problem.

Fourth, the online platforms and intermediaries have to deal with various legislation, pressure to delete content, and liability cries. In the absence of explicit regulations, sites might need to delete them before they occur or restrict the online conversation. Finally, PECA is not a famous and reputable tool among users. The potential liabilities or procedural requirements might be unknown to many users and only contribute to the anxiety and constrain the perceived safety of online expression. All these problems erode the effectiveness.

Opportunities for Online Defamation Laws in Pakistan

Nevertheless, the framework of PECA has its opportunities for positive reform and responsible use as well. Firstly, the law provides a formal basis to address the really harmful speech, including malicious falsehoods that damage the reputation of people. When used correctly and without prejudice, Section 20 can help to prevent the extreme use of online platforms, which may be used to attack or harass people. Second, the presence of the law helps with the interpretation of the law in court. Courts can provide clarity on the meaning of ambiguous language, a standard of intent and harm, and procedural protections. The extent to which there is overlap between malicious defamation and fair comment/reporting may be restricted by consideration of the law. This would provide greater certainty and public confidence.

Third, PECA's emphasis on digital means fosters the incorporation of technological and procedural measures. As an illustration, the rules on notice, opportunity to respond, evidential standards of digital content, and time constraints may be codified or created by regulations or court rules. These mechanisms minimize the possibility of action taken in an arbitrary manner and provide for an effective resolution of complaints. Fourthly, knowledge of international norms and comparative literature provides an opportunity for a positive dialogue about proportionality and human rights. Civil society, policy makers and media can participate in making sure that the use of PECA is in line with international best practices, such as restricting criminal sanctions on speech, increasing civil sanctions or independent regulation. Fifth, the law will be able to accelerate the process of capacity building of lawyers, journalists and online platforms. Digital evidence,

ethical reporting, and legal compliance training will be promoted by the knowledgeable ecosystem.

Lastly, PECA can be used in a way to facilitate more extensive deliberations on cyber laws, misinformation and free expression through systematic mechanisms for revisiting a controversial law through parliamentary review, public consultation, or expert committees, and to turn a controversial law into an inclusive platform for policy making.

Discussion

The problem of PECA legal restrictions and misuse is just as much a problem of policing of online speech. Criminalizing certain forms of online defamation should safeguard individuals, but unless the definitions are precise, the safeguard is uniform, and the defamation is identical, this form of safeguard can be coercive or political in nature. This risk is seen in the fact that the law is being used against journalists, and there is a need for the intent and enforcement of the law to be aligned. Both theoretically and from the human rights and comparative point of view, excessively general and vague criminal sanctions on speech are chilling and harmful to democratic speech. However, making a drastic transition to a legal solution to harmful online content gives victims no choice.

The equilibrium is evident in the clarity of legal definitions, strong procedural safeguards, commensurate penalties, and independent checks and balances to allow legitimate grievances to be attended to and to avoid abuse of the law. The digital mandate of PECA is still applicable and possibly useful, but its future usefulness hinges on changes to define its limits, enhance procedural fairness, and bring its practice in line with international standards. Policymakers and interested parties need to balance the signs of abuse and establish systems to regain trust and make regulations work in the best interest of people and not in expediency.

Conclusion

The defamation provisions of PECA (as used online) underscore the difficulty of regulating the damaging online speech. While Section 20 provides a legal means to address misleading or negative material, the language is not precise, the punishment is criminal, and there are examples of the abuse of critics. The contextual and political backgrounds behind the law-making process provide insight into the

reasons for the creation of such a law, as well as the reasons for its transformation at a politically charged time, where the application of such a law might be seen as riskier than the aims it was intended to achieve. Opportunities exist to change and modify legal boundaries, accept protection and use the law to their advantage. Minimizing misuse and legitimate responsibility by conducting clarification of intent and harm, facilitating civil remedies, proportionality, and being in line with human rights norms will help minimize misuse and promote legitimate responsibility. The entire force of the PECA defamation law is that it might be applied uniformly and fairly without strangling free expression on the Internet.

Recommendations

The necessity to define clearly the statutory definitions in PECA, especially in Section 20, seems to become more and more apparent. In a sense, it is an open-ended language. Not entirely precise. The concept of what is meant by knowingly false information needs to be defined. Clearly, in addition, the route followed by the damage or threat should be well documented as well. There is disagreement if this is not included. Sometimes widely. The difference between malicious defamation and the speech that is safeguarded, e.g., criticism or journalism, should also be made. This is crucial as it impacts the law/expression relationship. Yet, if it is not clarified, it can be too much. Something that has also been very often warned against in literature.

We have to rethink the role of punishment of offenders through imprisonment, especially when the crime is committed by means of speech. Criminal law changes people's behaviour through its deterrent effect, but it may also be a tool for uncovering social problems. After all, people hide their true selves. Even those who do not want to suppress themselves, changing the civil penalties or the administrative fines could still be a less harsh measure where the harm is not precisely very intentional or serious.

Countries internationally seem to be heading that way, not without mistakes, but with an acceptable level of faultlessness. Besides everything, proper procedural safeguards are also very important. Small things matter. The accused person has to be clearly informed. Enough time for the response should be given. The case must be investigated in a clear way. Easy, but not always possible. If they are not present, then enforcement will most likely be arbitrary or, even worse, biased. For instance,

such risks can be reduced by, say, upgrading the internal checks system in FIA like agencies.

Plus, the issue of whether some external control is necessary will be raised as well. Maybe an independent inspector or a more judiciary review. Such a system can monitor enforcement trends, identify discrepancies, and publicize them very publicly. This is how accountability and trust are gradually built.

Many people are still very ignorant, and it is not only the people but also the organizations. Training and skill enhancement in law enforcement, judiciary, and media for the different stakeholders of various kinds. All these must be taken into account: digital evidence, ethical problems and rights-based solutions. Meanwhile, one should not disregard the public understanding. Easy and available information on people's rights should be provided. And responsibilities. This should be accompanied by involvement in policy-making. Civil society, journalism, law and technology voices are missing from the discussion and should be brought in.

Research Limitations

The current paper is heavily dependent on the existing academic analysis, reports, and secondary sources, and there is no new empirical data, no interviews, and no case-level statistics apart from those available in written form. The literature and reports cited are a snapshot of the PECA implementation and criticism, and may not be sufficiently detailed to reflect enforcement trends or changes in the law. The changes in law, policy, or practice may have changed since the last sources were consulted, and the analysis is not likely to include all the provinces or institutional peculiarities.

There are also some local and/or unpublished resources available that are not publicly reported and/or accessible in the English language. Theoretical dimension, although based on international scholarship, may not fully encapsulate cultural and socio-political influences peculiar to the diverse realities in the country of Pakistan. Future empirical studies might challenge or enhance the results presented in this paper, but due to the scope and data limitations of this paper, it is possible to do so.

Research Implications

The results indicate that legislations such as PECA, with the best intentions to deal with digital harms, stand a risk of abuse without clear limits and protections. The research indicates a need for in-depth studies that will take an overall perspective on the impact of cyber defamation laws on media freedom, freedom of speech and freedom of the individual. Policymakers should consider such studies as evidence in their debates and/or when drafting amendments to ensure that legal instruments are not applied in a disproportionate manner against critics or journalists.

The law practitioners' discussion has highlighted the need to know the legally nuanced aspects of the statutes and record enforcement practices, and the need for promoting procedural fairness. Data can inform civil society and media in creating advocacy campaigns, in following up on cases and providing support to victims. Finally, careful research in turn can help lead to just policies and improve the capability of the institutions to promote reputational security and free speech in an ever-more digital world: the internet.

Future Research Directions

Future researchers should consider conducting empirical investigations of cases actually processed under PECA Section 20 instead of just theorizing. Information like the number of complaints, charged persons, complainants, and length of the cases could uncover important legal trends and also potential biases. It is equally important to do a comparative legal study because looking at how other countries have dealt with the same problem may give good pointers for the reform of legislation and the interpretation of courts in Pakistan.

Besides that, the effect of these kinds of laws on public debate also needs to be explored in depth. Journalists, scholars, and members of civil society might change their behavior due to self-censorship because of the fear of the law. However, methods like surveys and interviews could be a good way to measure these changes. Besides, procedural safeguards also deserve a thorough scrutiny in order to figure out whether they are working in reality or are just nice-sounding promises. Last but not least, we cannot forget the power of digital platforms, as their complaint registering systems, rules for restricting content, and limitations on accounts have a great impact on online freedom of expression.

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