

USE OF SOCIAL MEDIA AS INVASION OF PRIVACY RIGHT; A CASE STUDY OF PAKISTAN



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DECLARATION

I, Hafiza Quddusia Rashid bearing Registration No. 433-FSL/LLMIL/S21 do hereby solemnly declare that the work done under the title Use of Social Media as Invasion of Privacy Right; A Case Study of Pakistan of degree LLM International Law is my own and has never been presented before any institution for the award of any degree. Further that any credit in compliance with prescribed requirements is fully given in the dissertation where it is due.

Date:-----

Hafiza Quddusia Rashid

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ACRONYMS

Covid-19	Corona Virus of 2019
UNGA	United Nations General Assembly
UDHR	Universal Declaration of Human Rights
CEDAW	Convention on Elimination of all forms of Discrimination against Women
CRPD	Committee on the Rights of Persons with Disability
MMS	Multi Media Services
PEMRA	Pakistan Electronic Media Regulatory Authority
PECA	Pakistan Electric Crime Act 2016
ECHR	European Convention on Human Rights
VPNs	Virtual Private Network/s
ISPs	Internet Service Provider/s

LIST OF AUTHORITIES

Cases

1. Cengiz and Others v. Turkey - 48226/10 and 14027/11 Judgment 1.12.2015
2. Katz v. United States, 389 U.S. 347 (1967)

ABSTRACT

This paper explores the evolution of human rights, particularly the right to privacy, in the context of the social media age, with a focus on Pakistan. The concept of privacy on social media as crucial human right, including the right to have and express opinions, education, private and family life, and protection from mistreatment, is discussed, highlighting their universal nature and protection under the Constitution of Pakistan and other legislations like Pakistan Electronic Crime Act 2016 (PECA) and Pakistan Penal Code 1860 (PPC). The historical development of privacy as human right is traced from ancient times, including landmark documents such as the Cyrus Cylinder and the Universal Declaration of Human Rights (UDHR).

The study delves into the international perspective of privacy invasion as human right, emphasizing the obligations of governments to protect and promote the right. Furthermore, the paper examines privacy as a human right in the social media age, focusing on social media's impact and the challenges posed by privacy intrusion by mean of trolling, cyber bullying, memes making and cyber harassment leading to reputation damage and in some cases leading to death of the victim.

The significance of the study lies in its exploration of privacy issues on social media, including invasion of privacy, spread of fake memes, and cyber trolling. The paper advocates for a code of social media human rights with erection of updated special courts to address these challenges and ensure a balanced approach between freedom of speech and privacy rights on social media. Through a descriptive, comparative, and analytical research methodology, the study seeks to provide insights into the future of privacy in social media spaces, particularly in Pakistan, and its implications on human rights in the virtual age.

USE OF SOCIAL MEDIA AS INVASION OF PRIVACY RIGHT; A CASE STUDY OF PAKISTAN

1. Thesis Statement

Unlimited and arbitrary use of social media as freedom of speech leads to invasion of privacy right of people. Age of digitalization demands balance between both fundamental rights, the right of freedom of speech and right of privacy by mean of review in existing legislation.

2. Introduction and Significance

Human rights are those basic rights ¹and freedoms that belong to every person present in the world since inception until death. A human enjoys them and apply regardless of your belonging land, religion or the way of spending the life. These rights could never be taken away, although they may be restricted in special circumstances. For example, if a person breaks the law, or commit activities which are unfavourable for National Security. These basic rights are based on shared values like dignity, fairness, equality, respect and independence which are protected by law. In Pakistan our human rights are protected by the Constitution² of Islamic republic of Pakistan 1973. Any kind of repression or punishment do not affect the basic human rights. Few of the rights are as under: -

- i. Right to have and express your own opinions
- ii. Right to education
- iii. Right to private and family life

¹Brian Christopher Jones, "Is Social Media a Human Right?" SSRN, December 5, 2014.

² Constitution of Pakistan 1973

- iv. Right not to be mistreated or wrongly punished by the state

The idea that human beings should have a set of basic rights and freedoms has deep roots in Britain³. Landmark developments in human rights started from followings: -

- i. Cyrus Cylinder 539 BC
- ii. The Magna Carta of 1215
- iii. The Habeas Corpus Act of 1679
- iv. The bill of Rights of 1689
- v. Universal Declaration of Human Rights

Privacy rights are termed as⁴ those legal human rights which allow individuals to publish and create data on social media along with safety of financial information, personal identity, religious association and social privacy on telecommunication networks. This concept basically deal with the protection and realization of existing rights which may be right to privacy and freedom of expression in respect of social media, more specifically, the Internet⁵. Several countries around the globe have recognized access to internet as right and numerous laws have been regarded relevant to this right.

These rights list long from privacy protection, data protection, and right of staying anonymous, Intellectual property rights, minor's safety rights, freedom of

³ Gosztanyi, Gergely. "The European Court of Human Rights: Internet Access as a Means of Receiving and Imparting Information and Ideas." ICJ 6 (2020): 134.

⁴F.H. Cate, Privacy in the Information Age (Brookings Institution Press, Washington, 1997).

⁵Samuel D. Warren and Louis D. Brandeis, "The Right to Privacy," Harvard Law Review 4, no. 5 (December 15, 1890).

expression, right to be forgotten, right to multilingualism, consumer rights, and capacity building. The right to speak one's mind is a hallmark of free societies but on social media, this freedom of speech popping up as trolling, cyber bullying and harassment which is also a crime termed as defamation in Penal Codes.

In this way, one person's abuse of their right to freedom of expression can have a chilling effect on others, leaving them less able to express themselves freely or prove their stance spontaneously as they were swiftly defamed and public was made to believe it all. The internet and particularly social media provide citizens with an unprecedented ability to share their views but maintenance of privacy has not been yet given a border line adequately by any social media platform out of You Tube, Face Book or Instagram. Freedom of expression on social media is welcomed and progressed world intend to strengthen it. As it has been seen on You Tube that trolling and bullying videos obtain more views, get easily viral and give earnings to the members and trollers. Therefore, the digital public square i.e. social media has become a medium to exploit the reputation of people by mean of trolling, memes and leaking personal videos, which often leads to suicide cases or honour killing if the victim is women. Lack of censorship programme to discourage and amplify certain types of content over others is direly needed.

The netizens on digital media are often guided by their commercial and sentimental interests rather than the rights and wellbeing of their users. The benefits of freedom of expression must not be curtailed by mean of any reforms but reputation and integrities must not be put at stake by mean of any social media platform by any mean. Alongside Pakistan Electronic Crime Act 2016, a charter for protection of privacy rights may be introduced with erection of special courts in order to stop intrusion crimes on social media.

According to an editorial in the journal *La Civiltà Cattolica*⁶ Internet is universally a public good supposed to be respectful toward rights of others. Authorities should hold content creators to strict timeframes where content is clearly illegal or media ethics are not observed. The legislation is required to be of such nature that may apply full force of the law to bring down the perpetrators urgently. Law is active for the offline /online activities, cyber terrorism and child pornography⁷ but there is an awful silence when we need to say about right to privacy on social media.

In cases where, individuals are exploited for financial gains⁸ in return of provision of privacy on social media by harassment and trolling, an active code of social media rights to protect privacy of social media users is direly needed. As mentioned earlier, multiple countries across the globe have adopted protection on social media as a right which prevent the states from unreasonably invading individual's privacy. Listing the countries that have recognized social media access law, we may name Costa Rica, European Union, Finland, France, Greece and Spain.

According to estimates, the potential cost of worldwide data breaches will be more than \$5 trillion by 2024 which may include invasion of privacy. Use of the Internet and social media for elections, both as tool of participation and for spreading disinformation and hate speech, raises complex issues. As the world grapples with the corona virus disease (COVID-19) pandemic⁹, it is witnessing first-hand how social media help to confront the threat and keep people connected with health help but at same

⁶"La Civiltà Cattolica," accessed July 10, 2024, <https://www.laciviltacattolica.com/la-civiltà-cattolica/>.

⁷B. Moore Jr., *Studies in Social and Cultural History* (Armonk, NY: M.E. Sharpe, Inc., 1984).

⁸Beverage, James. "The Privacy Act of 1974: an overview." *Duke law journal* 1976, no. 2 (1976): 301-329.

⁹ Digital Freedom Fund, "Why COVID-19 is a Crisis for Digital Rights," April 29, 2020.

time privacy of many patients were intrude by capturing their videos and publishing them on social media without their permission which put them in health trauma as they wanted to keep their illness confidential.

Beside this, social media has been misused to spread dangerous misinformation and fuel discrimination, xenophobia and racism regarding treatment and attitude towards patients. A balance has to be struck between the use of social media to combat the spread of the virus and to safeguard privacy of individuals. Social media does not exist a vacuum. It has enormous potential for positive change, but can also reinforce and magnify existing fault lines and worsen social and other in equalities.

In 2019, close to 87 percent of individuals in developed countries used the social media/Internet¹⁰, compared with only 19 percent in the least developed countries. As more people are brought online, new vulnerabilities arise. Social media provide new means to exercise human rights, but they are too often also used to violate them. Data protection and privacy issues, digital identity and online violence are of particular concern. This study seeks to evaluate the negative effects of social media, with regards to invasion in privacy, religious outrage, social privacy, fake news¹¹ and invasion in financial privacy. In order to avoid the imbalance and cyber war, a code of social media rights is need of the time.

¹⁰Council of Europe, Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, European Treaty Series No. 108 (Strasbourg, 1982).

¹¹Amandha Rohr Lopes, "The Impact of Social Media on Social Movements: The New Opportunity and Mobilizing Structure," Journal of Political Science Research 4, no. 1 (2014): 1-23.

3. Research objectives

This study is aimed to:

- i. Brief the definition of Privacy as Human right
- ii. Determination of privacy rights of internet users with special reference to Pakistan
- iii. Access to internet for privacy invaders as human right in Pakistan
- iv. Find a room for the future of privacy in context of social media spaces in least liberal society of Pakistan
- v. Is social media a blessing or future battle ground for cyber war for a country like Pakistan
- vi. Know the preference; maintenance of the Code of Social media norms with erection of special courts to achieve social media/cyber tranquility

4. Research Questions

- i. What is the concept of privacy as human right in era of social media?
- ii. Can right of privacy be used to restrict freedom of speech?
- iii. How politicized social media may affect privacy of users?
- iv. How balance may be maintained between right to privacy and right to freedom of speech?
- v. Are Social media regulations need to be reviewed in context of best legal practices?

5. Literature Review

Despite being sensitive and rising issue of the contemporary, very less has been done on Use of social media as Invasion of Privacy Right; a Case Study of

Pakistan. Major work may be found in books as referred below but the actual sense of topic has not been addressed directly anywhere. For the purpose of this research the researcher has explored little literature to rely a little. In this particular sense, present research is new undertaking analyzing the issue. The literature relied upon for the preparations of this research proposal are as under:

A thorough and detailed review of the book **“Human Rights in Digital Age”** by **Mathias Klan, Andrew Murray** published in **December 2004** in which they have stated the kinds of issues that are difficult like privacy invasion but they are what set the ethical framework for the future. Books like this edited by Mathias Klan and Andrew Murray on Human Rights in the Digital Age i.e. social media, should be required reading for all those interested in the future good health of our subject. It is the future battle grounds that Human Rights supporters should be identifying and occupying, not wasting valuable time and energy re-fighting old wars.

Review of the book, **“Human Rights Responsibilities in the Digital Age: States, Companies and Individuals”** shows responsibilities of law agencies toward secure and smooth usage of social media in cyber era. These are often seen as commercial law topics, but working on them prove it most seemingly private law aspects, such as online contracting, will have some human rights dimension. Other topics, such as surveillance or freedom of speech, are clearly rooted in human rights. As social media has become essential, these issues have become more pressing. Scholars are tackling the important questions that arise with increasing rigour and greater understanding of both the tools that are used and the vital public policy debates that need to be had. This book is a welcome contribution to that developing engagement of humans into social media and cyber increasing digitisation of society.

The book “**Human Rights and Digital Technology**”, by **Susan Perry and Claudia Roda** is made by **David Wright**. He stated that “This book is a timely wake-up call for those concerned with the impact of social media on human rights. It is conceptually and historically well-rooted. More than that, it is erudite, insightful, sensitive, inquisitive, well-structured and a pleasure to read. I can heartily recommend Human Rights and Digital Technology, not only to academics, but also to policy-makers, civil society organisations and corporate decision-makers.”

This LLM dissertation, Use of social media as Invasion of Privacy Right; a Case Study of Pakistan, deal with issue of privacy invasion in the age of social media, victimization and vulnerable legislation comprehensively. The author strongly suggested to reframe legal bindings in terms of privacy invasion on social media particularly and erection of special courts to deal the cybercrimes as it require well equipped and up to date personnel’s able to handle the daily basis changes in cyber world.

6. Methodology

In my work, methodology used for research purpose would be combination of descriptive, comparative and analytical research techniques. The style used for citation is Chicago Manual. I have adopted descriptive approach for which I have gathered examples from Pakistani society, based on genuine cases of social media privacy invasion and international practices to cope privacy invasion on social media from different countries. The combined exploration of descriptive techniques is utilized in which the information accessible at online libraries as books, research articles, and auxiliary information would be included.

CHAPTER 1

THE EVOLUTION OF PRIVACY AS A HUMAN RIGHT

1.1 Introduction

In contemporary, human rights and social media are two streams travelling parallel in global village. Privacy, as human right includes the right to be protected from interference and intrusion. The liberty to associate freely with whom you want to, to be able to control who can see or use information about you on social media. Since the civilization of human kind, rights have been evolved and reached current state. To reach this definition, the concept of privacy right has significantly evolved with an influence of culture, societal practices, legal evolutions and more importantly virtual progression.

As privacy became more relevant and sensitive topic as unprotected right, many articles and research papers regarding social media, its vulnerabilities, damages out of its unlimited use and legal boundaries have been published. Still there is a corner remained less discussed when “Social media” is a concern and a wide spectrum where privacy is invaded and vulnerable.

Human rights are those basic rights¹² and freedoms that belong to every person in the world since inception until death which could be taken away by state and may be restricted in special circumstances, for example where the act of the person is bringing any apprehension to peace of the state, where political stability is at stake, where defense strategies of the state are feared to be damaged. These basic rights are based on shared values like dignity, protection from intrusion in privacy, fairness,

¹²Brian Christopher Jones, "Is Social Media a Human Right?" SSRN, December 5, 2014.

equality, respect and independence which are protected by law of every constitutional state in the world. In Pakistan, our human rights are protected by the Constitution¹³ of Islamic republic of Pakistan 1973.

These rights begin from Right to privacy and extend to right to life, liberty, education, profession, assembly, association, shelter, protection, and extend its arms to Right to express alternatively called right to speech.

Right of privacy is protected in “Article 14 of Constitution of Pakistan 1973”. The article states that:

“Man's dignity should remain inviolable while, within lawful limits, home privacy shall remain private”.

But this is limited protection to privacy as the article speaks about the dignity and modesty of a confined place i.e. home and lack about many other aspects of privacy such as privacy of individual in every sphere, privacy in social spaces, and privacy on media etc. These rights are awarded to the citizens to enable them dignified and respectable life.

Therefore, privacy may be termed as admissibility of one's dignity. A person's ability to enjoy their human rights depends on the other people respecting those rights and taking respect towards other's rights as their responsibility.

Hence, human is declared as social animal that is bound to respect the rights of others in order to let their rights be protected. Basic human rights help people to set the standards of their internal values and limitations of relations in real world and social interactions. Before stepping ahead to speak about current era of social media

¹³ Constitution of Pakistan 1973

and specifically privacy as human right, let us have a look on evolution of privacy as human right.

1.2 Evolution of Concept of Privacy as Human Right

Civilization and right of privacy evolved together. In old times, concept of right of privacy¹⁴ was limited and often termed as physical space. For instance, the modesty of a house was included in many cultures where no one could enter someone's space without permission. Many religions including Greek, Islam and Judaism favored the concept of privacy of the house¹⁵. A set of rules was defined under each religion if one is in need to enter the house of someone.

1.2.1 Enlightenment Era

During 17th-18th Century¹⁶, an emergence of individual rights and liberties was witnessed. This was the era where philosophers like John Locke floated the importance of individual's space and protection of their valuables. In 18th century, Constitution of United States of America (USA), in its fourth amendment¹⁷ provided protection to right of privacy to human. The amendment states that:

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things.”

¹⁴B. Moore Jr., *Studies in Social and Cultural History* (Armonk, NY: M.E. Sharpe, Inc., 1984).

¹⁵D.H. Flaherty, *Privacy in Colonial New England* (Charlottesville: University Press of Virginia, 1972).

¹⁶Lars Cyril Nørgaard, "Privacy," in *Early Modern Privacy*, published December 9, 2021.

¹⁷"U.S. Constitution, Amendment IV," accessed July 8, 2024, <https://constitution.congress.gov/constitution/amendment-4/>.

1.2.2 Privacy in Media& International Recognition

19th century came with another addition to the right of privacy. Philosophers¹⁸ of that era debated to recognize privacy in media as legal right due to rising media and expanding journalism. After second world war, many bills like The Universal Declaration of Human Rights 1948(UDHR)¹⁹ and the International Covenant on Civil and Political Rights 1966 both included provisions protecting privacy.

1.2.3 Advent of Social Media & Privacy Protection

Virtual inventions like computer gave hype to social media which came as threat to privacy.

To cope up the matter, United States (US) introduced laws like the Privacy Act of 1974²⁰ handling the matters related to surveillance by state and protection of data²¹ of individuals on any media platform.

1.2.4 21st Century; the Rise of Virtual Age

Rapidly growing use of internet, social media and cellular gadgets invited trouble to privacy. In 21st century, issues like virtual harassment, hacking, online stalking and intrusion to personal information arose as direly addressable issues. Year 2018, introduced Law named, The European Union's General Data Protection Regulation (GDPR)²², which enabled an individual to maintain their privacy and a strong check on the data controlling agencies. Article 50 of The European Union's

¹⁸Samuel D. Warren and Louis D. Brandeis, "The Right to Privacy," Harvard Law Review 4, no. 5 (December 15, 1890).

¹⁹"Universal Declaration of Human Rights," Palais de Chaillot, Paris, December 10, 1948.

²⁰Privacy Act of 1974, published December 31, 1974, 5 U.S.C. § 552a.

²¹Beverage, James. "The Privacy Act of 1974: an overview." Duke law journal 1976, no. 2 (1976): 301-329.

²²Paul Voigt and Axel von dem Bussche, The EU General Data Protection Regulation (GDPR): A Practical Guide, 1st ed. (Cham: Springer International Publishing, 2017), 10-5555.

General Data Protection Regulation (GDPR) 2018, relating to privacy states that:

The Commission and supervisory authorities shall take appropriate steps to:

1. Develop international cooperation mechanisms to facilitate the effective enforcement of legislation for the protection of personal data;
2. Provide international mutual assistance in the enforcement of legislation for the protection of personal data, including through notification, complaint referral, investigative assistance and information exchange, subject to appropriate safeguards for the protection of personal data and other fundamental rights and freedoms;
3. Engage relevant stakeholders in discussion and activities aimed at furthering international cooperation in the enforcement of legislation for the protection of personal data;
4. Promote the exchange and documentation of personal data protection legislation and practice, including on jurisdictional conflicts with third countries.

1.2.5 Emerging Artificial Intelligence; a Threat to Concept of Privacy in Era of Social Media

The propagation of Artificial Intelligence has become a threat to privacy²³ concerns. These are more lethal as artificial intelligence has ability to facial recognition and faking them along with other negative effects like productivity analysis and virtual alterations. The major problem to cope with the privacy concerns is varying privacy rules and regulations around the globe. Different countries have

²³Michael Brenton, *The Privacy Invaders* (New York: Coward-McCann, Inc., 1964).

different prioritizing approaches to privacy as a matter of concern.

For example, China prefers state control over individual's privacy and United States (US)²⁴ have bit federal and bit states authority over privacy concerns. As social world and virtual technologies are expanding, new challenges are annexed with them to put privacy at stake. Rapidly growing privacy concerns need ethical boundaries application as well including right to be forgotten, transparent access to data and promotion of informed consent. Advancement of privacy as human right is multidimensional subject followed by societal norms and customs which will remain an inevitable part of human nobility.

1.3 History of Privacy Progression in Pakistan

As stated earlier, Constitution of Pakistan 1973²⁵ provides right to privacy but that does not cover all aspects of privacy of human life and secure modesty of house for which Code of Criminal Procedure (CrPC 1898) under section 103²⁶ provides manner to search the house. The section states that:

“Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search and may issue an order in writing to them or any of them so to do.”

Therefore, we can say that actually right of privacy is missing partially from Constitution and is needed to be inculcated in all possible and required dimensions. In

²⁴EPIC and Privacy International, Privacy & Human Rights: An International Survey of Privacy Laws and Developments (Washington, DC: Electronic Privacy Information Center and Privacy International, 2002).

²⁵https://na.gov.pk/uploads/documents/1549886415_632.pdf

²⁶"Section 103," in The Code of Criminal Procedure, 1898 (CRPC), https://pg.punjab.gov.pk/general_provisions_relating_to_searches.

contemporary, human being is surrounded by cell phones and gadgets helping them to reach the people across the globe by mean of social media and internet and usually used as medium of privacy invasion. There is no wrong to call this age the age of virtual world or social media era.

Moreover, in multiple matters like accessing a specific information on any website during search or surfing, personal information of an individual is supposed to be public²⁷ including their contacts, photo gallery access and navigation access which is asked by websites as cookie permission and help main server to store the information and users are bound to share or make it visible in order to fulfil their needs.

This could more easily be termed as coercion. Documents like passports, driving licenses and mutual agreements also require sharing information like personal picture, date of birth, address and family identity that too without will of the person subject to this process. None of this document is allowed to be issued unless personal information is disclosed which leads to breach of privacy of a person because they are forcefully bound to share this information and there is no element of personal consent as envisaged in The European Union's General Data Protection Regulation (GDPR)²⁸, which enabled an individual to maintain their privacy. But these actions are backed by state's rules and regulations, hence fall under exception and differ from state to state.

An incident came on surface in Karachi where personal identification data of an individual was used to open bank account and transfer millions of rupees. Moreover, fake vote caste is also an outcome of the mis use of personal information.

²⁷Milton R. Konvitz, "Privacy and the Law: A Philosophical Prelude," *Law and Contemporary Problems* 31 (1966): 272–281.

²⁸Paul Voigt and Axel von dem Bussche, *The EU General Data Protection Regulation (GDPR): A Practical Guide*, 1st ed. (Cham: Springer International Publishing, 2017), 10-5555.

In general Elections of 2018²⁹, countless National Identification Cards were found from drains which were disposed after their misuse/ fake vote casting. These examples show that sharing personal information for the sake of obtaining National Identification and other compulsory documents are used illegally and bring a risk to privacy of a person. Here comes the point to ponder that if a document may be misused to this extent, how much havoc social media as a tool may create by intruding the privacy of its users where all information, pictures, videos and sometimes financial matters are available.

As it has been stated earlier those European countries including United States (US) & China took privacy as sensitive subject far before and a case under title *Katz Vs United States*, 1967³⁰, relating to privacy concern was decided in United States.

1.3.1 Katz vs. United States

The matter arouses on a suspicion that Katz passed gambling information to a client through public phone booth, which was tapped by an agent. On the basis of those recordings got by agent attained from surveillance, Katz was charged for illegal information spread to other states i.e. Los Angeles and Miami. Taking support of the Fourth Amendment, Katz went for appeal and court granted certiorari.

The Supreme Court of United States (US) stated that, privacy³¹, being part of Fourth Amendment secured a person's privacy in all capacities whether it is on media, papers, house or any public place which is confine and mean to be erected for privacy maintenance. Therefore, the phone used by Katz was a public phone installed in a booth meant for the privacy of individual making calls. On this ground, the taps made

²⁹"Ballot papers found in Karachi, again," The Newspaper's Staff Reporter, Dawn, August 3, 2018.

³⁰Schneider, Harvey A. "Katz v. United States: The Untold Story." *McGeorge L. Rev.* 40 (2009): 13.

³¹Edmund W. Kitch, "Katz v. United States: The Limits of the Fourth Amendment," *The Supreme Court Review* 1968 (1968): 133-152.

by Federal agent became nullified and conviction was annulled.

1.4 Privacy as International Subject of Concern; an Overview

Like other countries and Europe, United Kingdom (UK) adopted privacy law but similar to China where privacy of the users comes in second place and the hegemony of the state over internet comes first. China despite being developed country is very conservative when it comes to social media and do not allow any privacy to its users as all the Internet Service Providers (ISPs) are bound to give their monthly record to the state for counter supervision so that any conspiracy against state may be crushed at roots. North Korea is more rigid in the sphere of social media and internet as whole. There is no concept of privacy on social media in North Korea and no access to global internet as well. North Korea has developed their own setup of Intranet which only encompasses and only that authorized content is shown on social media applications which is authorized and allowed by the regime in a restricted way.

Though it helps to nip many evils in the bud and help reduce privacy concerns but also suppress the fundamental rights of the people. In United Kingdom³², privacy cases are granted value on the basis of community and security basis. These elements are more relevant than protection of privacy. Taking view of Indian Constitution³³, we see that they have even not recognized and incorporated privacy as a right in their Constitution so far as a separate and full fledged law but they annex and apply this law along with right to life and liberty. In such circumstances, privacy as right has become more sensitive right to be protected and preserved as world has become global village

³²1. Adam Warren, "Right to privacy? The protection of personal data in UK public organisations," *New Library World* 103, no. 11/12 (2002): 446-456.

³³1. Kush Kalra, "Right to privacy under Indian constitution," (2020): 38-45.

in presence of gadgets like mobile phones, drones and multiple social media platforms.

1.5 Necessity and Recognition of Privacy as Right in the Era of Social Media

Virtual innovations have made data vitality an easier task than ever. Many countries in the world irrespective of their progress and literacy rate have given privacy an eye and initiated steps to protect it as right.

Pakistan, as discussed above, has also initiated protection of privacy in Constitution in limited³⁴ spectrum but at state level, a major breach and invasion in privacy is made still. A recent development from security point of view is made in Pakistan and Lahore has made first Safe City with installation of almost 8000 cameras on different locations that could capture the road users. Due to their ability of intelligence, those cameras could recognize face, vehicle number and their ownership details. These cameras not only recognize faces but also that data remains save for long and could help trace any future activity of the road user i.e. their travel history etc. Whereas, Punjab Safe Cities Authorities (PSCA)³⁵ claim to protect privacy of people under Data and Privacy Protection Procedure (DP3) launched by them. Chapter III, sub section IV of the procedure states that:

“Presence of cameras and sensors in Punjab shall be publicly shared in order to maintain deterrence and privacy rights of public to the best possible extent without compromising requirement of the law enforcement agencies and PSCA.”

³⁴1. "Right of Privacy: The Lacuna in Pakistan and Indian Legal Framework," Pakistan Languages and Humanities Review 5, no. 2 (July-December 2021): 460-471.

³⁵Punjab Safe Cities Authority, "Privacy Policy," Punjab Safe Cities Authority, March 2021, <https://psca.gop.pk/wp-content/uploads/2021/03/PrivacyPolicyDP3.pdf>.

This provision shows that data could be re-shared for the sake of deterrence and here it shall be kept in view that these cameras are monitored by private companies who handle and manage back up of the data which place it in vulnerable hands and surety of privacy does not fulfil in spirit. When it comes to public places and beside any Safe City Concept, now days, almost every shopkeeper in up graded shopping malls and open markets have installed cameras without any government permission which also gather personal data of people and because it is consent less from customers or public side hence tantamount to privacy invasion in public place.

No legal binding hinder installation of private cameras on entities or private person. Absence of privacy protection in Constitution of Pakistan 1973 has brought this right in a vulnerable space but law is always strong enough to protect rights. Hence, Supreme Court may take Suo Motu action under article 184 (3)³⁶ of the Constitution of Pakistan which states that:

“For the Court to have original jurisdiction on an issue, it first needs to be of public importance. That issue must involve a violation of fundamental rights that are enshrined within the first chapter of the second part of the Pakistani Constitution.”

Rapidly increasing population of Closed-Circuit Television (CCTV) indicates that an early acknowledgment of privacy as right in public place shall be made without any further delay and illegal and without prior permission of government, any camera installations resulting invasion in privacy of an individual at public place, shall be made liable to punishment and swift legislation shall be introduced by amending Pakistan Penal Code 1860 (PPC)³⁷.

³⁶M. K. Jamshed, "Has the Suo Motu Undermined the Democratic Process," Manzil Pakistan, accessed January 29, 2023, <https://manzilpakistan.org/pdf/Suo-Motu.pdf>.

³⁷Pakistan Penal Code (Act XLV of 1860), October 6, 1860.

1.6 Social Media and Required Legal Bindings

As the dynamics of the world are making shifts regularly, therefore, the term of “Privacy” has extended its arms to the world of social media which in current era hold a crucial existence as medium of contact, spreading information in all aspects from sports to politics and city news to international shifts. Examining the other angle, we come across a negative³⁸ impact witnessing blackmailing, extortion, leaking private stuff and sometimes bringing devastation to one’s social status by mean of trolling and producing memes where privacy is intruded.

Privacy rights are termed as those legal human rights which allow individuals to publish and create data on social media along with safety of financial information, personal identity, religious association and social privacy on telecommunication networks. This concept basically deal with the protection and realization of existing rights which may be right to privacy and freedom of expression in respect of social media, more specifically, the Internet.

Several countries around the globe have recognized access to internet³⁹ as right and numerous laws have been regarded relevant to this right. These rights list long from privacy protection, data protection, and right of staying anonymous, Intellectual property rights, minor’s safety rights, freedom of expression, right to be forgotten, right to multilingualism, consumer rights, and capacity building.

The right to speak one’s mind is a hallmark of free societies and in Pakistan it has long been treasured contrary to other societies/states. However, it is not an

³⁸Such, Jose M., and Natalia Criado. "Multiparty privacy in social media." *Communications of the ACM* 61, no. 8 (2018): 74-81.

³⁹A.F. Westin, *Privacy and Freedom* (London: The Bodley Head, 1967).

unfettered right. Civilized societies have legal safeguards to protect those who may be vulnerable. One person's abuse of their right to freedom of expression can have a chilling effect on others, leaving them bearing social damages. Social media provides citizens with an unprecedented ability to share their views but maintenance of privacy has not been yet given a border line adequately.

Freedom of expression on social media is welcomed and progressed world intend to strengthen it. However, the digital public square has become a medium to exploit the reputation of people by mean of trolling, memes and leaking personal videos, which often leads to suicide cases or honour killing. Lack of censorship programme to discourage and amplify certain types of content over others is direly needed. The netizens on social media are often guided by their commercial and political interests rather than the rights and wellbeing of their users. The benefits of freedom⁴⁰ of expression must not be curtailed by mean of any reforms but reputation and integrities must not be put at stake by mean of any social media platform by any mean. A charter for protection of privacy right may be introduced in order to stop intruding in personal life.

According to an editorial in the journal *La Civiltà Cattolica*⁴¹ Internet is universally a public good supposed to be respectful toward rights of others. Cyber authorities should hold netizens and content creators to strict frames where content is clearly illegal or media ethics are not observed. Protective measures are also required to bridle child pornographic websites. The legislation is required to be of such nature that may apply full force of the law to bring down the perpetrators urgently. Content which is legal but may be objectionable should be addressed through regulation of the

⁴⁰A.F. Westin, *Privacy and Freedom* (London: The Bodley Head, 1967).

⁴¹1. "La Civiltà Cattolica," accessed July 10, 2024, <https://www.laciviltacattolica.com/la-civiltacattolica/>.

design of platforms, digital citizenship education, and competition regulation.

This approach would be more effective, as well as better to protect freedom of expression. Social media platforms do not simply provide users with a neutral means of communicating with one another but bestow them some limitations too, the way they are designed, shapes what users see, what they say, and how they interact all gives impact on social world. Posting material which spoil or exploit the reputation of one or posts of outrageous content, content whose reach is then amplified by platforms' algorithms may cause endless social media war.

Law is active for the offline /online activities, cyber terrorism and child pornography ⁴²but there is an awful silence when we need to say about right to privacy on social media. The implementation of above-mentioned laws demands a proper frame of law for social media users maintaining the privacy where required. In scenario where, individuals are exploited for financial gains⁴³ in return of provision of privacy on social media, which is their basic human right, a code of social media conduct for secure internet surfing is direly needed.

1.7 Role of Social Media; Pandemic & Privacy Invasion

As the world grapples with the corona virus disease (COVID-19) pandemic⁴⁴, it is witnessing first-hand how cyber world helped to confront the threat and keep people connected. Supercomputers analyze thousands of drug compounds to identify candidates for treatments and vaccines. E-

⁴²1. "Technology and Its Impact on Child Pornography Laws," Shazam Kianpour & Associates, accessed July 10, 2024, <https://www.shazamlaw.com/articles/technology-and-its-impact-on-child-pornography-laws/>.

⁴³Pew Research Center, "5 Leading Concerns About the Future of Digital Life," accessed July 10, 2024, <https://www.pewresearch.org/internet/2019/10/28/5-leading-concerns-about-the-future-of-digital-life/>.

⁴⁴Digital Freedom Fund, "Why COVID-19 is a Crisis for Digital Rights," April 29, 2020.

commerce platforms prioritize household staples and medical supplies, while videoconferencing platforms enable education and economic activity to continue.

At the same time, the technological challenge posed by COVID-19⁴⁵ has been tremendous. While accurate data and information related to the disease are fundamental for an effective response, social media have been misused to spread dangerous information and fuel discrimination, xenophobia and racism. Cyber-attacks on the World Health Organization⁴⁶, hospitals and laboratories endanger lives and jeopardize potential advances in responding to and preventing the virus.

A balance is required to be maintained between the uses of technology and tracing applications to combat the spread of the virus and the safeguard privacy of individual's social rights. As more people are online, new vulnerabilities arise. According to an estimate, the potential cost of world-wide data breaches⁴⁷ will be more than \$5 trillion by 2024 which may include invasion of privacy.

1.8 Conclusion

Among other fundamental rights, privacy stands with more distinction as its de-stability could raise the storm of imbalance in all spheres of societal peace especially in the age of social media. The liberty of personal space of an individual is

⁴⁵1. Jaffar Abbas, Dake Wang, ZhaohuiSu, and ArashZiapour, "The Role of Social Media in the Advent of COVID-19 Pandemic: Crisis Management, Mental Health Challenges and Implications," Risk Management and Healthcare Policy (2021): 1917-1932.

⁴⁶World Health Organization, "WHO Reports Fivefold Increase in Cyber Attacks, Urges Vigilance," April 23, 2020,

⁴⁷Emmanuel Marseille, "The Rapid Growth of Data Breaches in Today's Society" (master's thesis, Utica College, 2020).

protected by right of privacy. The protection to these rights is ensured by state under a settled legal frame i.e. Constitution.

Despite being crucial basic right, it has not been completely covered under Constitution of Pakistan 1973. Privacy is a web of rights as it is annexed with right to speech, life and liberty. In India, though privacy is not identified specifically as right but in a verdict of court, it has been protected along with right to life, human dignity and liberty. Hence it could be observed that privacy as right has extreme potential to impact other rights if it is not properly maintained and applied.

Though basic fundamental rights like right to life, liberty and speech along with privacy have been protected under treaties and bills i.e. Universal Declaration of Human Rights (UDHR, 1689) but being legally not binding, the declaration does not impose any liability on states to incorporate privacy in their set of rights under their relevant constitution and but being flexible subject and owing ability to absorb innovations, privacy may be treated and incorporated as right in Constitutions.

The recent addition to the subject that needs an attention is privacy as human right and with focus on privacy protection on social media specifically in context of this research. Privacy includes the right to be protected from interference and intrusion with the liberty to associate freely with whom you want to, to be able to control that who could see or use information about you on social media. Since the civilization of human kind, rights have been evolving to reach current state.

To reach this definition, the concept of privacy right has significantly evolved with an influence of artificial intelligence, cultural boundaries, societal practices, legal evolutions and more importantly virtual progression. As privacy became more relevant and sensitive topic as least protected right, many articles and research papers

regarding social media, its vulnerabilities, damages out of its unlimited use and legal boundaries have been published. Still there is a corner remained less discussed when “Social media” is a concern and a wide spectrum where privacy is invaded and vulnerable. Human rights are those basic rights ⁴⁸and freedoms that belong to every person in the world since inception until death which could be taken away and may be restricted in special circumstances. These basic rights are based on shared values like dignity, protection from intrusion in privacy, fairness, equality, respect and independence which are protected by law. In Pakistan, human rights are protected by the Constitution⁴⁹ of Islamic republic of Pakistan 1973. Hence, privacy shall be placed among other fundamental rights covering all aspects of privacy right to shield human and world from upcoming social media storm.

⁴⁸Brian Christopher Jones, "Is Social Media a Human Right?" SSRN, December 5, 2014.

⁴⁹ Constitution of Pakistan 1973

CHAPTER 2

SOCIAL MEDIA; AN INTERSECTION TO RIGHT OF PRIVACY AND FREEDOM OF SPEECH

2.1 Introduction

Human rights in the age of social media are a crucial topic to be discussed in the era of internet. If we desire to elaborate social media rights, we find its definition by Black's Law dictionary⁵⁰ as; "Any cell phone or internet-based tools and applications that are used to share and distribute information may be termed as social media".

Social networking is consuming huge part of our time and we put our trust on aliens like a blind at the cost of our privacy while using social media. The question here arises that how issues are resolved if they occur on the medium of social media?

The nut becomes hard to crack when it comes to exploration of identity of social media⁵¹ user with anonymous ID, as it's a complicated process to trace the user and involve substantial energy of the organizations to reach the roots. Even there is no formula for common man to trace who is using Twitter, Face book or messenger. In the age of social media, fidelity could not be expected from social media applications in terms of privacy as many of the applications require 24/7 location access, access to your personal data⁵² and other information stored on cellular devices, laptops on any other gadget.

⁵⁰Henry Campbell Black, Law Dictionary (St. Paul, MN: West Publishing Company, 1910).

⁵¹1. Council of Europe, Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, European Treaty Series No. 108 (Strasbourg, 1982).

⁵²1. M. Evans, "The Data-Informed Marketing Model and Its Social Responsibility," in The Glass Consumer: Life in a Surveillance Society, ed. S. Lacey (National Consumer Council, 2005), 99–132.

On one side, social media is helping the people across the globe to come near, to eliminate factor of alienisms, to exchange culture, views, expanding businesses but the other side of coin shows that while we are in contact with any stranger and are exchanging information on general course, the user on other side succeed to retrieve personal information like pictures, family issues, religious affiliations and sometimes sensitive financial information which lead to havoc for the victim.⁵³

World of social media is direly needing protection of privacy of the users⁵⁴. Social media applications like YouTube, Face book, Twitter and Instagram are the medium of invasion in privacy and exploitation but beside this, built-in features of the gadgets may not be ignored. All the cellular phones have built-in cameras which are constantly monitored. In a public gathering, you may be depicted in any snap or video without your consent which may be uploaded on the social media. Sometimes a simple picture or video may cause damages to the depicted character depending upon societal alliance in terms of cultural and moral values and sometimes religious affiliations may define intensity of the outcome which is abuse of right to speech.

Case Noor Muqaddam and Kohistan scandal are sufficient where in prior case, right of speech was used by the public on social media regarding victim's choice of relationship, social boundaries ad character values which brought trauma to the family of the victim. Moreover, personal details and picture were shared on social media platforms without consent of the family, media coverage and personal questions were bombarded and answers were forced which proved abuse of right of speech once again. latter incident; women were killed in the name of honor for dancing with

⁵³ Ben CF Choi, Zhenhui Jiang, Bo Xiao, and Sung S. Kim, "Embarrassing Exposures in Online Social Networks: An Integrated Perspective of Privacy Invasion and Relationship Bonding," *Information Systems Research* 26, no. 4 (2015): 675-694.

⁵⁴Michael Erbschloe and John Vacca, *Net Privacy: A Guide to Developing and Implementing an Ironclad eBusiness Plan* (New York: McGraw-Hill, 2001).

strangers in marriage ceremony as a result of unwanted social media portrayal may be taken as example.

Thus, invasion in privacy is a multifold subject which may cause damages from extreme to minimal level depending on other contributing factors. Invasion in privacy⁵⁵ on public places and in gathering is a common thing happening now days and there is no specific formula or legal binding to stop someone to use their phone in public place as they own and possess all rights of their belongings complicating aversion of privacy invasion.

2.2 Access to Social media as Right; an International Perspective

In order to be claimed as access to social media as right, a proper definition may be defined, mentioning its extent and consequences. As it is stated before that social media is an inter active web technology hosted by third party⁵⁶ for multiple purposes including texting, sharing, promotion and networking. But the question is whether access to or usage of social media is a human right?⁵⁷In today's era, the answer is yes as the world has become global village and social media is not a tool rather a big spectrum which is used as communication platform, earning spectrum and cover multiple aspects from politics to economy now a days.

Everything from learning to earning is based on social media applications and in many countries like United States of America (USA), China and Japan; they have been monetized and tagged as legal platform of earning and spreading information.

⁵⁵Susan D. Warren and Louis D. Brandeis, "The Right to Privacy," in Adam Carlyle Breckenridge, ed., *The Right to Privacy*, 133–153 (Lincoln: University of Nebraska Press, 1970).

⁵⁶Vance Packard, *The Hidden Persuaders* (Middlesex: Penguin Books, 1964).

⁵⁷Brian Christopher Jones, "Is Social Media a Human Right? Exploring the Scope of Internet Rights," *International Journal of Constitutional Law Blog* (2014).

Even on some applications like Instagram and Twitter, a general account made by a common person is entitled to achieve validation or authenticity mark after fulfilling specific benchmark of eligibility so that public will take everything shared from such accounts as genuine and fact based.

We find many conventions and treaties on human rights like The Universal Declaration of Human Rights (UDHR)⁵⁸, The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)⁵⁹ and Convention on rights of persons with disability (CRPD).

2.2.1 Case Law of Turkeya

In 2014, Twitter was blocked in Turkey now Turkeya, after an attack on privacy of Prime Minister⁶⁰. This impediment from social media for the whole Turkey was declared on the basis of a court order which was favoured by Tayyip Erdoğan, the Prime Minister. Those blockages were made in the local election round in Turkey. Though a state shall have right to rule the virtual world including social media applications specifically or internet overall but it should happen in defined circumstances. As peace stability, economic well-being and political durability are the subjects of core important and unless they are not at stake due to any social media campaign or have any threat from internet overall, they should not be banned.

As mentioned above, in Turkeya, this ban took place at the time of franchise which is purely a matter of public interest and to restrict the public from knowing the credibility of the candidate and result of the franchise is unlawful infringement of

⁵⁸Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. GAOR, 3rd Sess., pt. I, U.N. Doc. A/810, at 71 (1948), <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

⁵⁹Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 2016.

⁶⁰"Turkey's Erdogan says control over social media platforms imperative," Reuters, January 15, 2021, <https://www.reuters.com/article/turkey-twitter-int-idUSKBN29O0CM>.

rights. Twitter is blamed for blowing corruption allegations on the Government of Tayyip Erdoğan which are considered as invasion in privacy by Prime Minister and the whole Republic is supposed to bear the ramification. So, the new dimension of privacy invasion relating to public figures surfaced and interrupted access of internet to common man. Therefore, restricting access to internet was an abuse of power by the regime also depriving the public from right to speech and protest after this illegal step.

2.2.2 Case of North Korea

Control of internet is purely in the hand of regime in North Korea⁶¹ and every click remains under strict surveillance of the command. As mentioned earlier, that many countries have admitted internet access as right but case of North Korea is totally flipped. In North Korea, only government officials are allowed to internet that too during office hours and under high end restriction. The government of North Korea has developed their own internet named as “Kwang Myong” which is actually a local intranet⁶² and disconnected from global internet. People of North Korea could not connect to world using that “personally build intranet” and only government allowed websites and content could be reached. As virtual network access is commonly used in other parts of the world in case of no or weak internet signals, the case is totally otherwise in North Korea where it is a heinous crime and sometimes punished with life imprisonment in case of violation. Hence, without any threat to peace, economy and political de stability, North Korea has controlled internet and no one may

⁶¹ Kyungmin Ko, Heejin Lee, and Seungkwon Jang, "The Internet Dilemma and Control Policy: Political and Economic Implications of the Internet in North Korea," *The Korean Journal of Defense Analysis* 21, no. 3 (2009): 279-295.

⁶² Cheng Chen, Kyungmin Ko, and Ji-Yong Lee, "North Korea's Internet Strategy and Its Political Implications," *The Pacific Review* 23, no. 5 (2010): 649-670.

claim it as a matter of right. Hence, this oppression has deprived people of their basic right which is affecting multiple other rights like right to information and opinion. Absence of any constitutional provision to safeguard right to access internet is also affecting right to speech and ultimately rigid policies of government are damaging the basic rights of people in many folds.

2.2.3 Case of China

Unlike other developed countries, despite being economically and literacy wise developed country, China is not allowing independent access to internet⁶³ to its people. Though people have easy access but that is restricted and commanded to the extent that it could be termed as “imprisoned internet” also infringing the right to speech as one may not give opinion about political matters of the state when they do have choice to elect their representatives but could not complain their flaws if they are not delivering to people in appropriate way.

In China, internet has special attention of government in terms of heavily investing budget to control it and take all Internet Service Providers (ISPs) under their control to extract data, control searching and restrict websites access. Under new development, government installed “firewall” to the internet of the country to allow the access to their desired platforms and websites and not otherwise. This system allows the government to stop access to Face Book, Twitter and Google⁶⁴ as well as per state’s desire and remove content which could destabilize political regime. All the internet service providers (ISPs) are bound to

⁶³ Silvia Tăbușcă, "The Internet Access as a Fundamental Right," *Journal of Information Systems and Operations Management* 4, no. 2 (2010): 206-212.

⁶⁴ Richard Cullen and Pinky D.W. Choy, "The Internet in China," *Columbia Journal of Asian Law* 13 (1999): 99.

report the government for the activities carried on internet to have a counter check and snub any suspicious activity or arousal of conspiracy threatening the regime. Beside this all, no legal or constitutional support is available for the citizens to allow courts or legal intervention to claim independent and free access to internet as their right.

2.3 Protection of Privacy and Freedom of Speech in Social Media Era

Social media is giving multi-dimensional benefits like political updates, business information, economic analysis of the state, earning from different methods like posting videos, doing podcast featuring high profile personalities and much more to human kind but also causing an apprehension⁶⁵ to the basic human rights such as deprivation from right to speech (as mentioned above the cases of Turkey, China and North Korea), privacy invasion connecting it to freedom of association and freedom of mobilization⁶⁶.

As the roots of social media have gone deep into the lives of human, it is not inexact to claim protection of privacy on social media as human right. Trending application of social media includes You Tube, Face book, Twitter, Wikipedia and dribble. Beside all these mediums, a non-internet-based data i.e. SMS or telecom messaging is also included in social media which contribute invasion in privacy by mean of leaking data like videos via Multi Media Message Service (MMS).

Generally, it is said that social media is a public platform but technically, internet and social media are surfed by public but controlled and commanded by tech

⁶⁵Kenneth Roth, "The Dangerous Rise of Populism: Global Attacks on Human Rights Values," *Journal of International Affairs* (2017): 79-84.

⁶⁶Amandha Rohr Lopes, "The Impact of Social Media on Social Movements: The New Opportunity and Mobilizing Structure," *Journal of Political Science Research* 4, no. 1 (2014): 1-23.

companies where rights are disrupted by third party intervention. These tech companies hold the personal data of the users on main server without their permission and provide it later to business companies for business gains. We have a common example of receiving promotion messages from different brands and companies even if we have not requested them to share or visited them to buy anything. For example, if someone is planning to buy clothes and their mobile is placed nearby, it automatically catches the data and sends it to main server of the tech companies. As soon as you start scrolling You Tube, Instagram or Face Book, you will start receiving advertisement of clothing brands. This clearly depicts that; tech companies are hidden criminals in stealing personal information without user's consent. On most of the websites, cookies permission is necessary in order to proceed further on the website.

Social media accrues many rights from right of privacy, civil rights,⁶⁷ to Intellectual property rights. Recognizing access to social media services as a human right inherently connects it to several other rights, such as freedom of expression, freedom of information, freedom of association, and the protection of privacy. For instance, COVID-19⁶⁸ shifted the medium of earning for the whole world and now days, many social media platforms are giving chances to earn and many adopted means which require sneaking into personal information of others e.g. roasting videos, mimics and memes reels. In such situation, disruption of Internet services or denial of access to social media on the ground of privacy invasion or bullying may not be termed as infringement of any right including right of freedom of profession and expression/opinion.

⁶⁷Willow S. Jacobson and Shannon Howle Tufts, "To Post or Not to Post: Employee Rights and Social Media," *Review of Public Personnel Administration* 33, no. 1 (2013): 84-107.

⁶⁸Jaffar Abbas, Dake Wang, ZhaohuiSu, and ArashZiapour, "The Role of Social Media in the Advent of COVID-19 Pandemic: Crisis Management, Mental Health Challenges and Implications," *Risk Management and Healthcare Policy* 14 (2021): 1917.

2.4 Privacy Invasion and Rigorously Frail Social Media Boundaries

Rights are of different nature⁶⁹, from Natural, Moral and Legal Rights where Legal Rights encompasses fundamental rights. Fundamental rights are extended by mean of constitution of the state or government, and abuse of those fundamental rights lead to accountability of the citizens. For instance, one blows derogatory remarks about religion of anyone will be dealt under the law of land, if one is not paying his employee for the services rendered, he may be called by the court and will be bound to pay and all this activity will bring a bad name to that organization as well. If someone employ a minor for domestic chores, would be liable to punishment under law of the land for the charge of child labor. Unlike real world, social media do not encompass the circle which are awarding the rights and accountability⁷⁰ of culprits/mis users could not be seen parallel. In case of abuse of rights by mean of privacy invasion, bullying, harassment, posting personal videos or pictures, leaking personal information without the permission of that individual and floating indecent remarks about someone.

A very prominent case of Kohistan scandal which caught attention of the whole nation is also an example of social media outrage and negative portrayal leading to privacy invasion and taking life of weak subject i.e. women belonging to conservative part of Pakistani society. According to the facts of the case, private video of some adult male and women doing cultural dance from a marriage ceremony were uploaded on social media. The victim's consent was not taken before this upload which drove damage to reputation and social status of the victim's family and their

⁶⁹Gary S. Goodpaster, "The Constitution and Fundamental Rights," *Arizona Law Review* 15 (1973): 479.

⁷⁰Fayyaz Yaseen Bhidal, "Social Accountability in Pakistan: Challenges, Gaps, Opportunities and the Way Forward," *International Journal of Scientific and Research Publications* 3, no. 6 (2013).

modesty and ultimately those women were killed in the name of honor and inviting bad name to the respect of their family. The issue becomes more hyped because outcomes are it different when a person/individual is misbehaved, exploited or abused in confined place where victim and culprit are present and when the same is done publicly which bring more shame, embarrassment and humiliation.

Specifically talking about social media, there is no universally agreed code of conduct to be opted for smooth and invasion less social media spectrum like Universal Declaration of Human Rights (UDHR)⁷¹, but companies managing the websites have their own boundaries to work in and letting the user do the activities to those specified extents. For the sake of instance, if a user tries to put on vulgar stuff, indecent pictures, (obscene) videos or phrases attacking someone's personality, shaking the religious association of an individual will not be accountable by any tech authorities regulating the applications and managing the servers.

Talking to the crucial and sensitive type of right termed as "right to privacy"⁷² which means a safety and assurance from being intrude and exploited in personal capacity, is a matter of huge trouble. Many of the information when shared via medium of social media are saved on the servers of the service providers. Suppose, a user buys any stuff online and insert information of debit/credit card and the security pin, they are readable by the decoders and are saved on the main server of the provider, hence there is no composed privacy protection⁷³ available to the users of social media and internet. In the sphere of social media applications, if someone put

⁷¹Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. GAOR, 3rd Sess., pt. I, U.N. Doc. A/810, at 71 (1948), <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

⁷²Jed Rubinfeld, "The Right of Privacy," Harvard Law Review (1989): 737-807.

⁷³Dominick J. Mingione, "Wide Right: How ISP Immunity and Current Laws Are Off the Mark in Protecting the Modern Athlete on Social Media," Pace Intellectual Property, Sports & Entertainment Law Forum 5 (2015): 32.

on their photographs or videos on their own account setting it to the status of “to be seen by public”, have no protection towards their data in context whether it could only be seen by public or may further be used? Anyone may take screenshot, copy the images, save them or share their links without the consent of the main user or owner of the account.

These in-capabilities of the social media services make them insecure to use fearlessly. In real world, rights differ from state to state as per the constitution which is based on settled cultures, religion, moral values and customs, but social media has no border⁷⁴, no customs, no moral boundaries and no specification of right or wrong. Hence anyone may transgress the boundaries and may play felony. Social media has not erected any wall which limits the users from uploading or sharing unethical content. Contrary, vulgar, insulting, personality damaging and felonious content receive more attention and get more reach which help gain monetary benefits to tech companies and to the content creators as well.

Social media is free from borders and this feature help spread of information, news and even a simple post so fast and quick that anyone may know what is happening in the other corner of the world while sitting across continents which bring havoc to privacy at larger scale. Alongside large-scale privacy invasion, come the challenges of spread of misinformation, complexities of navigating different cultural norms, customs and regulations which sometimes raise a hue to the peace of the society. It is due to difference of religion, priorities, customs and cultural diversities which set the moral values and their grounds. It is possible that doing prayer with music is a rule in one religion and an act of humility in other but social media being borderless medium do not portray it appropriately which give rise to mimics and

⁷⁴Thomas Pogge, "Real World Justice," *The Journal of Ethics* 9, no. 1 (2005): 29-53.

negative opinions from other users on social media and ultimately bring undue intervention into beliefs of others and causing invasion in individual's religious beliefs etc.

Presence of websites⁷⁵ that gives hand of favor to criminal activities are also playing vital role in depriving the actual user from access to social media and Internet due to apprehension of being exploited by mean of secret information gain on social media through cache memory or cookies. Social media has provided people a free hand to opine and float their brain on internet relating to anything and anyone. As social media has provided a help to people to connect to each other, same like some social media platforms including few websites like dark web and not evil has facilitated criminal minds. Among these websites have few on top i.e. dark web, Not Evil, Torch, Ahmia and duck go.

In the brutal murder case of Noor Muqaddam, the privacy of the victim and her family was also put at stake due to misuse and boundary free social media. This case is an ample example of privacy invasion as her personal communication with the culprit, relationship status, beliefs and family details were shared on media and an open public opinion on social media regarding her status of modesty was also discussed on social media very freely. Beside this, sharing of personal pictures and life details of the victim and public criticism for victim for being into supposed living-in relationship with the culprit also brought mental trauma and invaded dignity and personal choices of the victim and family as well. After this case, not only a brutal murder surfaced the headlines of the papers but also came a boundary free social media where common public became judge of the crime and lack of control supported

⁷⁵Lev Topor, "Dark and Deep Webs - Liberty or Abuse," *International Journal of Cyber Warfare and Terrorism* 9, no. 2 (2019): 1-14.

sharing of victim's details at a large scale without any consequences. In America, social media realm is tried to be controlled by the law⁷⁶ and few of the under given laws are introduced:

- ✓ Americans with Disability Act
- ✓ Communication Decency Act
- ✓ Computer Fraud and Abuse Act
- ✓ Copyright Act
- ✓ Children's Online Privacy Protection Act
- ✓ Electronic Communication Privacy Act

Privacy of the users shall be assured by linking every activity on personal accounts subject to account owner's permission by two-step verification and a way out to protect the personal data on main servers of the companies shall also be made. State to state Treaties may be signed to protect the social media sovereignty of the states as well. Unless a codified universal social media charter with consequential attributes are not specified across borders, absolute specification of rights and responsibilities of the social media users may not be made. Therefore, legislation is direly needed to protect privacy of social media surfers.

⁷⁶Elyse Yates and Sherri Greenberg, "Social Media, Legislation and Bringing the Public Inside," in Proceedings of the 15th Annual International Conference on Digital Government Research, 2014, pp. 314-315.

2.5 Right to Speech for Privacy Invaders via Social Media; a Case Study of Pakistan

Social media has attraction for its users because it has many choices in its lap from Instagram, You Tube, Twitter, Snap Chat, TikTok and Face book. Social media surfaced as an intensifying tool in all affairs from capturing pictures, sending messages, video calling, live streaming, podcast to political affairs, trolling, cyber bullying, memes making, indication of domestic violence and child pornography. By start of 2022, one third portion of the total population was observed as active social media user i.e.31.5%. The top-notch social media medium used is You Tube.

The rising number of users is because people around the globe are earning by mean of these social media apps. These apps are their business boosters and have provided financial protection to people when pandemic clogged the commerce badly. Talking about people connectivity to social media platforms in Pakistan, a chunk of public uses Twitter which hold reput of extending political news as all political parties maintain their social media accounts to maintain quick connectivity with public but other mediums may be termed as socializing apps, business boosters or entertainment perspective may be associated to them.⁷⁷

In order of comparison, we come to know that electronic media has to go through multiple formalities to be fulfilled in order to open the channel and a list of do's and don'ts is also compulsory to be observed under different legislations out of which one is Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance 2002⁷⁸, whereas on social media, an International server needs few step authentication

⁷⁷ Isaac Swila, "Sharing the News: The Role of Social Media in News Diffusion and Audience Building in Media Houses in Kenya" (2022).

⁷⁸Pakistan Electronic Media Regulatory Authority. "Ordinance 2002." Accessed July 10, 2024.

via E-mail or Google accounts and users are all set free to upload the stuff on their channels. You Tube and other social media apps also have policies for users e.g. prohibition of uploading porn stuff and copyright disclaimers⁷⁹ but they are much easier than conventional media norms. Users of social media are at liberty of being identical or hidden. Besides multiple misuses of social media, privacy invasion, personality shaming and stealing of personal information without consent may not be over ruled.

Trolling, privacy troubles, exploitation, gaining ransom by blackmailing and sabotage of political system are the fears associated with social media but here comes a debate, whether social media access should be granted to a person who has committed privacy invasion, personality trolling or stole personal information causing irreparable loss? Before arguing access of social media as right to privacy invaders and trollers, let us take a view of social media usage pattern in Pakistan. Sources confirm that number of social media users in Pakistan match the number of developed countries users despite having low literacy rate and low economy/ Gross Domestic Product (GDP).

Table 1: Social media usage pattern in Pakistan

Sr.No	Social Media Apps	Users
1	Facebook	8million
2	Twitter	1.9million
3	LinkedIn	1.2million
4	Google+	64,000
5	Pin interest	115,000

Source: Japan International Corporation Agency (JICA) Report, 2013

https://pemra.gov.pk/uploads/legal/Ordinance_2002.pdf.

⁷⁹Louis Plissonneau, Ernst Biersack, and Parikshit Juluri. "Analyzing the Impact of YouTube Delivery Policies on User Experience." In 2012 24th International Teletraffic Congress (ITC 24), IEEE, 2012, pp. 1-8.

Table 2: Age groups % using Face book in Pakistan

Sr.No	Age	Percentage
1	18-24	50%
2	25-34	25%

Source: Japan International Corporation Agency (JICA) Report, 2013

Table 3: Gender Inclination to Social media in Pakistan

S. No	Gender	Usage %
1	Female	31%
2	Male	69%

Source: Japan International Corporation Agency (JICA) Report, 2013

According to SAARC ⁸⁰ranking, Pakistan holds second highest Internet users. Access to cheap cellular phones and attractive advertisements by cellular and tech companies with mouthwatering offers are appealing for the teenagers and female segments especially which is causing a big increase to internet users in Pakistan. Conventional society of Pakistan did not embrace Face book the day it was launched in Pakistan but now including Face book all social media forums are platform for all irrespective of generation, age, race and identity even organizations, political parties, business entities and entrepreneur have joined this realm but female segment especially the one living in far flung areas and villages are deprived of it.

Every usage may have different motive but in case of Pakistan, we have many arguments to not allow access to social media as right to privacy invaders. For the sake of argument, we may look at the case of Dr. Amir Liaquat. The trollster named Yasir Shami⁸¹ has been convicted according to Civil Law for the defamation of the deceased but not refrained from using social media handle which raise a wave in the ocean of extending social media world that whether trolling, cyber harassment, cyber :

⁸⁰Khalid Usman and Zhiying Liu, "Innovation Index Framework to Measure the Innovation Capacity and Efficiency of SAARC Countries," European Journal of Social Sciences 46, no. 3 (2015): 325-338.

⁸¹ Yasir Shami faces arrest warrants on late Dr. Aamir Liaquat Hussain case, Bol News, May 9, 2024.

bringing few years of imprisonment and no bar from access to social media in future? Should there not be any legal implication over abuse of right to speech? The said culprit Yasir Shami, is also a part of news channel running on You Tube, and his viral content was believed which also raise question on the credibility of social media news. In above mentioned case of Dr. Amir Liaquat, ill-use of right is done by a citizen for whom they should be treated according to law and this is the way enlightened nation does.

In Pakistan, an Act namely Pakistan Electronic Crimes Act, 2016 (PECA) has been passed in 2022 to treat crimes like defamation, sexual exploitation, using identity information without permission with harsh penalties. Pakistan Electronic Crimes Act, 2016 (PECA)⁸² also curb the freedom of expression to combat “fake news” activity. But a lifetime ban shall be imposed on such users from access to social media to curb the activity of spreading fake news more efficiently. Fake news is described by a media expert Martina Chapman as:

“There are three elements to fake news; ‘Mistrust, misinformation and manipulation”.

In era of technology and fast-moving world, people do not tend to research and check the authenticity of any news or information and believe what they see. There is no authenticity of the date of origin of fake news initiation and spread but as soon it started and floated, it got a rise like a wave in the ocean. Such news is shared in virtual world but affect real world and humans. Different fake news has different impacts on societies and people and the intensity may also vary. In conservative societies and less independent societies in terms of gender, fake news may even cause

⁸²Eesha Arshad Khan, "The Prevention of Electronic Crimes Act 2016: An Analysis," LUMS Law Journal 5 (2018): 117.

“honor killing” as happened in Pakistan. In a case popularly known as “Kohistan Case”, four girls were killed in the name of honor where someone uploaded a video on social media in which some bachelor girls were dancing with their male relatives on a wedding ceremony. The video uploaded on social media went viral as girls were dancing with their male friends in intimate assembly.

2.6 CONCLUSION

Social media is not only an evolution which has its effects in cyber world but its arms are extending and giving both positive and negative effects on personal, social, financial and ethical aspects of human life. The important nook of the social media, which is direly required to be addressed, is protection of privacy in the age of social media where practice of one’s right to expression, opinion and speech could invade the individuality and dignity of others. World of social media is direly needing protection of privacy of the users.

Social media platforms/ applications are the medium of invasion in privacy and exploitation but beside this, built-in features of the gadgets may not be ignored which need full access to contacts, location, gallery and other social media surfing/ activities of the user. It could be easily noticed that whatever we do communicate with our contacts via Short Messaging Service (SMS) is saved on main servers and relevant posts, videos and reels are recommended to the user without any specific search which clearly depict that everyone using social media is under constant and illegal surveillance of Internet Service Providers (ISPs). Sometimes personal data or information of users is leaked or doped and bring huge damages to the victim on social media and social life as well. Case of Dr. Amir Liaquat Husain & Aroob Jatoi are the recent and dreadful examples of it but privacy invaders have not been banned

or eradicated to use social media. Moreover, at national and international level, privacy of the users has not only been invaded by person to person but also by states, service providers, businesses and regimes. Social media has become more a political place than a medium of communication and entertainment. Where there arose the need to snub privacy invasion that corner remained untouched and services blockage by regimes led to snatching of freedom to speech rather protecting the rights.

CHAPTER 3

FUTURE OF POLITICIZED SOCIAL MEDIA: NATIONAL AND INTERNATIONAL SCENARIO

3.1 Introduction

In current era, social media and Internet have become crucial in all spheres of life. Taking a tour of North Africa⁸³, we see that live streaming, podcast, videos sharing, tweets and posts played vital role in multiple dimensions. Social media has got this much hype in current world as it is considered a borderless medium with flexible mean of connectivity and raising voice across the globe. Besides its popularity, social media has also been influenced by political regimes and interfered to the extent that today, social media is a politically arrested platform. The word “politicized” is defined in Mariam Webster dictionary⁸⁴ as:

“To give a political tone or character”.

Therefore, politicized social media may be referred to a medium that has severe interference and command of political regimes (explained on next pages) to use social media for their favor and keep people aloof from information relating to state affairs which in general is a right of public to know.

Therefore, it is no wrong to say that today social media is a politicized platform. Propounded medium of social media and internet has faced suppression by

⁸³Farid Shirazi, "Social Media and the Social Movements in the Middle East and North Africa: A Critical Discourse Analysis," Information Technology & People (2013).

⁸⁴ Merriam-Webster, s.v. "Politicize," Merriam-Webster.com Dictionary, accessed August 17, 2024, <https://www.merriam-webster.com/dictionary/politicize>.

governments where it came as threat to the regimes. To curb political opposition⁸⁵, to gain required outcome of franchise, to hide political affairs from public, government take steps like website blocking, filtering, content manipulation, blocking social media accounts, imprisonment of bloggers, confinement of accustomed users, coercive measures on Service Providers and website domain handlers to remove content. Blockage of social media by state/government in sensitive times under different motives denotes an ample proof of growing popularity⁸⁶ and absorption of platforms like Face book, You Tube, Twitter and LinkedIn in people to gain political information specially. According to a study, public faced temporary or permanent closure or dismissal by governments in 12 countries inclusive of Tunisia and Egypt⁸⁷ where political demonstrations were heavily based on social media. Public was forced to plight by arrests of social media influencers, pod casters and live streamers to discourage opposition of government. Besides suspension of social media services another way to hold monopoly on Internet is to confiscate the control of social media and internet by the state/government.

In Egypt, even talk shows⁸⁸ were relatively forced to be banned and pressurized by regimes for they use to invite institution's head and ask them question over mal functioning of the portfolio they were holding. Summarizing, we may say that media started accountability of the officials and many interviews like interview of Yasir Arafat were also presented which showed exact bone of contention in Pan-Arab conflicts.

These interventions are made with a planning; specific points are targeted

⁸⁵Jeffrey Gottfried and Elisa Shearer, "News Use across Social Media Platforms 2016" (2019).

⁸⁶Elisa Shearer and Jeffrey Gottfried, "News Use across Social Media Platforms 2017" (2017).

⁸⁷Naomi Sakr, "Social Media, Television Talk Shows, and Political Change in Egypt," *Television & New Media* 14, no. 4 (2013): 322-337.

⁸⁸ Maria Adib Doss, "Talk Shows in Egypt," 2020, vol. 37, no. 2.

where services of internet are required to be slowed down e.g. newspaper offices, public places where Wi-Fi is accessible, motels and restaurants as happened in Bahrain. Year 2011 proved no-peace year for Bahrain due to series of events led by Shia-Suni opposition. The root cause of these protests was Arab Spring⁸⁹ which was also a series of anti-government protests and gained intensity due to internet blockage indirectly confiscating the people's right to information. The government of Bahrain tried to hinder the protest with the help of forces and made multiple arrests which led to in prison death of many protestors out of which Zakariya Rashid Hassan Al- Ashri was the first who died in cell due to torture. He was alleged of part of protest against state and reach the people to make them realize that blockage of internet in such situation by state, is an illegitimate act and that people have right to protest. Summarizing, he made people aware of politicized internet world and condemned it.

In countries like China, Burma⁹⁰, Thailand, Iran⁹¹ and Qatar⁹², programs shared on social media and traditional media were intrigued by government by installing fabricated speakers on the mike. Service providers and Web servers in China⁹³ were forced to deform the search results to astray the users and hinder them to reach their desired website. Furthering the bars, government in many countries also extended cuffs to the social media bloggers and inflicted them physical punishments in result of raising voice against government. In order to confiscate the powers of

⁸⁹ Gadi Wolfsfeld, Elad Segev, and Tamir Sheafer, "Social Media and the Arab Spring: Politics Comes First," *The International Journal of Press/Politics* 18, no. 2 (2013): 115–137.

⁹⁰ Martin Jelsma, Tom Kramer, and Pietje Vervest, eds., *Trouble in the Triangle: Opium and Conflict in Burma* (Chiang Mai, Thailand: Silkworm Books, 2005).

⁹¹ Babak Rahimi, "The Agonistic Social Media: Cyberspace in the Formation of Dissent and Consolidation of State Power in Postelection Iran," *The Communication Review* 14, no. 3 (2011): 158–178.

⁹² Zahera Harb, "Arab Revolutions and the Social Media Effect," *M/C Journal* 14, no. 2 (2011).

⁹³ Lawrence M. Hinman, "Esse Est Indicatio in Google: Ethical and Political Issues in Search Engines," *The International Review of Information Ethics* 3 (2005): 19–25.

social media users, British⁹⁴ government was working to get complete control of social media to avoid future tussle. Though these future plans were not turned into reality because of public protest considering the step a bar on freedom of the public in term of virtual freedom. Currently, Pakistan is also suffering the “Social media” arrest⁹⁵ phase and news regarding arrest and missing of social media influencers comes to ears on and off.

3.2 Future of Privacy with Weak Legal Bindings of Social Media

Social media currently is almost a lawless world as erected legal bindings are so vulnerable. Though, in many countries people faced arrests, physical punishments alongside termination of internet services, blockage of websites, slowed internet and deformation of search engine results but they were all the result of political outrage as mentioned earlier. No individual so far has been barred permanently or temporarily from surfing social media where the issue of trolling, bullying and cyber harassment was observed. Before discussing future of social media rights, let us take a glimpse of International social media and internet interventions by the states and their results.

As mentioned earlier, an atmosphere, which is intervened by political authorities to rule the space and carry the things as per their desire, may be termed as politicized. This study shows different case laws, doctrines and scenarios of politicized social media rights.

⁹⁴J. Ignacio Criado, Rodrigo Sandoval-Almazan, and J. Ramon Gil-Garcia, "Government Innovation through Social Media," *Government Information Quarterly* 30, no. 4 (2013): 319-326.

⁹⁵Committee to Protect Journalists, "Pakistani Journalists Jameel Farooqui and Ilyas Samoo Arrested; Farooqui Remains in Detention," last modified August 2022, <https://cpj.org/2022/08/pakistani-journalists-jameel-farooqui-and-ilyas-samoo-arrested-farooqui-remains-in-detention/#:~:text=In%20Farooqui's%20case%2C%20authorities%20arrested,according%20to%20those%20news%20reports.>

3.2.1 Doctrine of Margin of Appreciation

In first place, it is crucial to understand “doctrine of margin of appreciation”. The doctrine of margin of appreciation was developed in a judgment of Strasburg court to ban publication of a syllabus book in United Kingdom on the plea that book contains ill moral content, stated compact and solid theory:

- ✓ Freedom of expression is fundamental for erection of a democratic state to allow the country develop and grow
- ✓ Freedom of information is too necessary to ideas which earn favor and are not offensive and to those which are offensive in nature and traumatize and jolt any specific segment of population, there is rule of law

In his judgment, court declared that unprejudiced, flexible and progressive society hold all above characteristics. While shielding “morality”, the judgment license solid proclamation under Article 10.2 ECHR⁹⁶ states that:

“Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers”.

No unanimous moral law in Europe is prevalent that settle common norms, cultures and values. These attributes are different in all regions depending on their customs and traditions hence it is more effective for local authorities to settle “dos” & “don’ts” and to see if bar on freedoms like freedom of expression and freedom of

⁹⁶ Equality and Human Rights Commission, "Article 10: Freedom of Expression," Equality and Human Rights Commission, accessed August 27, 2024, <https://www.equalityhumanrights.com/human-rights/human-rights-act/article-10-freedom-expression>.

Information is adequate and just to maintain peace in society. Thus, Court contemplates that Article 10.2 gives a “Margin of Appreciation”⁹⁷. Ago this judgment doctrine of margin of appreciation is applied to whole of ECHR.

As court proclamation denotes that societies have their own cultures, norms and traditions which bring difference in definition of “morality” in different regions and societies, therefore it is the wish and whim of the specific society to allow or ban publication of any specific book or any other material depending on the standards of their morality.

The “doctrine of margin of appreciation”⁹⁸ gives freedom to draw differentiation at national level regarding privacy, gender discrimination, hate speeches and defamation. As we are discussing the major problem of invasion in privacy globally, it is elaborated further.

3.2.2 Case of Strasbourg Court

While inventing doctrine of margin of appreciation, court of Strasbourg admitted that following are the basic fundamental right to be enjoyed by a citizen living in a state carrying its business under rule of law and a democratic one.

- ✓ Freedom of expression
- ✓ Freedom of connectivity/communication
- ✓ Freedom of association
- ✓ Freedom of assembly

⁹⁷Jonathan Andrew, "A Marginal Doctrine and Strasbourg's Power of Appreciation: Free Expression and the Discourse of the European Court of Human Rights," SSRN 2007990 (2008).

⁹⁸Ignacio De La Rasilla Del Moral, "The increasingly marginal appreciation of the margin-of-appreciation doctrine," German Law Journal 7, no. 6 (2006): 611-623.

It was also said that Government may place restrictions on fundamental rights of the citizens in exceptional cases and the court of Strasbourg⁹⁹ has decided to apply the same in the world of social media rights and the experiment was declared “legal”. Imposition of restriction was considered to be “valid” only if they would be:

- ✓ Law based fulfilling the requirement of legitimacy and clarity
- ✓ Provide legitimate purpose
- ✓ There should be doctrine of necessity
- ✓ Availability of effective remedy

Contrary, to the above mentioned four categories, restrictions over social media have been seen as stated in next pages (Case of Turkeya). It is pertinent to mention here that regimes have associated peace with politics in such an aesthetic way that it creates a state of confusion sometimes. While talking about social media, it has been seen that protocols mention in doctrine of margin of appreciation are lest bothered to be observed and social media is ruled by political authorities for their illegitimate and personal political benefits confiscating fundamental rights of public including right to speech and freedom to information as well. Authorities control over usage of social media is important to be curtailed and following steps may be taken to curtail unlawful control of authorities over social media and invading privacy of the users by accumulating their personal details by commanding Internet Service Provider (ISP) companies for political gains:

- ✓ Independent Regulatory Authority may be constituted to ensure firmly

⁹⁹CharalambosAnthopoulos and Christina M. Akrivopoulou, "The ECHR in the role of a European Constitutional Court? Reflections on the ECHR judgment Vallianatos and others versus Greece (7 November 2013)," International Journal of Human Rights and Constitutional Studies 3, no. 3 (2015): 285-296.

binding rules over protection of data and no authority shall be allowed to access public data over social media for political gains specifically. To constitute strong grounds, The General Data Protection Regulation (GDPR) in the European Union may be taken as example which sets rigorous rules on how personal data should be handled, giving users more control over their information.

- ✓ Check & Control may be introduced to the regulatory authority managing and protecting public data from exploitation or misuse so that all Internet Service Providers (ISPs) may be taken into account and no political or other authoritative control may harm the privacy of the social media users.
- ✓ Transparency is the key element in whole process. The authority assigned the task to protect the privacy of public data shall be given power to curb the undue influence or coercion in order to maintain the data secure. It could only be possible where serving people are given reasonable remuneration for their services so that element of bribe may be eliminated and inter authority accountability is carried on purely merit basis.
- ✓ Policy checks on data collection by social media applications and websites may be taken into account to educate the users and display clear and explicit conditions to collect data from users end to avoid privacy invasion by Internet Service Providers (ISPs) on behalf of any other authority i.e. political and vice versa.
- ✓ End to End Encryption and data collection limits may also help prevent

invasion of privacy by refraining social media platforms to detect constant location tracking, contacts information and searching history of the users.

3.2.3 The Reykjavik Declaration 2009

Under said declaration¹⁰⁰, smooth functioning of social media rights was vested with the concerned official portfolio i.e. Ministers of Media and Communication so that application of rights of individuals in social media world may be applied.

In said declaration, reliance to stimulate the application of rights of internet users was dependent on the Internet Service Providers (ISPs) and private companies providing optical services, technical resources like root servers and data preservations as well which would ultimately remain under Government control including Intelligence Offices for defense purposes but on other hand could marginalize a special segment of society by using that private information against them. Beyond all the discussion, the declaration of Reykjavik has not definitely designated that access to Internet with protection of privacy is a fundamental right of a citizen¹⁰¹ but hit around pressing hard the notion of “Positive Obligation” from state side which means that state should take steps to make access to internet convenient, ensure privacy of citizens and monopoly of Internet Service Providers should also be curtailed which does hinder the political intervention as well.

¹⁰⁰Arctic Council, "REYKJAVÍK DECLARATION 2004 On the occasion of the 4th Ministerial Meeting of the Arctic Council" (2004).

¹⁰¹William H. Dutton, Freedom of Connection, Freedom of Expression: The Changing Legal and Regulatory Ecology Shaping the Internet (UNESCO, 2011).

3.2.4 The Growing Proposition of Internet Polity

Council of Europe narrated some principles under Reykjavik Declaration¹⁰² and the Global Network Initiative Principles stating that independent media (including social media) is the key of successful society, undue interference shall be eliminated, Internet Service Providers (ISPs) and social media service providers' i.e. applications like Face Book, You Tube and Instagram should promote preference of fundamental values stressing greatly on "Beneficial Obligations" of authority and liability of Internet Providers and Technology providing companies to protect rights of activist carrying online activities and of the common users as well.

It is pertinent to mention here that no guideline for application of these rules is given by Council of Europe enabling the authorities to put the decision in process of application. Two advocacies pointed the freedom of expression and right of information of the people regarding social media and privacy under Reykjavik Declaration given by Council of Europe and Report of Frank La Rue¹⁰³. The Frank La Rue particularly tackle the defiance in context of individual right of extending information, receive information and access to internet basically.

3.2.5 Internet Law and Turkeya

Internet censorship became active in Turkeya¹⁰⁴ in 2007 with approval of Internet censorship Law. The objective was protection of families and children from pornographic material. Government assigned nine categories and the content falling under any one of those categories was subject to blockage. A group of nine members

¹⁰²Media Division, Conference Ministers Media, June 2, 2009.

¹⁰³Frank La Rue, "Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression" (2011).

¹⁰⁴Mustafa Akgül and MelihKırlıdoğ, "Internet censorship in Turkey," Internet Policy Review 4, no. 2 (2015): 1-22.

selected from Grand National assembly were designated to execute the task. Under this check system, thousands of websites were blocked. Under new Internet Law, many famous websites including YouTube¹⁰⁵ has been blocked which proved that state was just interested in personal benefits and not to prevent social media crimes which could better portrayed in the case mentioned ahead which depict a clear intervention of political regime in excess of social media for personal gains. Being public figure and office bearer, politicians are not subject to privacy in multiple contexts like sharing their assets, education, authorities and use of those authorities and powers. But in political interventions, public kept aloof from knowing these things and invading their right to information and transparency.

3.2.6 Cengiz vs. Turkeya

As Turkish Government took step to hinder the public from reaching social media Websites i.e. You Tube, Civil Society of the state approached European Court of Human Rights¹⁰⁶ to raise their voice over violation of their fundamental right which were violated and hindered them from spreading and receiving information by medium of Internet and social media. The court agreed to the stance that social media platform like YouTube is crucial for the public in order to exchange, receive and spread information. Shortly, it was termed as citizen's Journalism. Back in 2008, a video was shared on internet portraying shameful content about National hero and revolutionist Kemal Ataturk¹⁰⁷ which led to a ban on You Tube wholly instead of removal of the disrespectful content. It seemed as Government wanted to smoothen

¹⁰⁵ÇiğdemBozdağ, "Turkey: Coping with Internet Censorship," in Edited by Ramon Lobato (2016), 130.

¹⁰⁶Dirk Voorhoof, "European Court of Human Rights: Cengiz and others v. Turkey," IRIS (English Ed. Online) 2 (2016): 1-1.

¹⁰⁷SheenaghPietrobruno, "YouTube and the social archiving of intangible heritage," New Media & Society 15, no. 8 (2013): 1259-1276.

the pave to build hegemony over Internet & social media and this publication¹⁰⁸ gave them a reason to suppress the right of public.

Amid this decision, civil society knocked the door of Court but their appeal was dismissed by the Turkish Court stating that they have prayed beyond law i.e. right to access to Internet and social media. Majority of the complainants were Law Professors who opted stance that blockage of this site is causing trouble too their educational activities and hindering them from accessing information relating to their field as well as there is vested interest of a large groups of publics. This went on till 2010 when other orders were passed by Ankara Court of Turkeya which led an appeal¹⁰⁹ to the European Court of Human Rights.

As the matter was taken to the European Court of Human Rights for settlement, the said court passed a judgment in 2015¹¹⁰. While declaring the judgement, the court kept in view the point whether blockage of You Tube brings a damage or violation to the rights of the social media users under ECHR? During examination of the facts presented in the court, the court found this step of Turkish Government a violation of right of users which was granted under European Convention on Human Rights (ECHR). A prominent feature of ECHR's judgement was "status of applicant". The court was of the opinion that before applying for redress to the court, the applicant must fulfil the status of a victim. He should be the one who is aggrieved of the act to which he is complaining as violation of right. As the applicant was professor by profession and was frequent user of You Tube,

¹⁰⁸Jonathan S. Withers, "YouTube and Music: Competing Expressions of Turkish Nationalist Sentiment in the Virtual Sphere" (PhD diss., University of Pittsburgh, 2010).

¹⁰⁹Gergely Gosztanyi, "The European Court of Human Rights: Internet Access as a Means of Receiving and Imparting Information and Ideas," ICJ 6 (2020): 134.

¹¹⁰Dirk Voorhoof, "European Court of Human Rights: Cengiz and others v. Turkey," IRIS (English Ed. Online) 2 (2016): 1-1.

therefore court considered his status as “victim” ¹¹¹because he required this medium for transmission of his lectures and also used it for acquiring and gaining educational expertise which was affected by this blockage.

As it has been mentioned earlier that Turkish Government also banned some music websites¹¹²therefore while deciding the case of Cengiz vs. Turkeya, court maintained a difference from Akdeniz ¹¹³vs. Turkey case. The point of difference between both cases arose when court mentioned that in Akdeniz case music could be accessed by other means and blockage of music does not bring damage to public at large, whereas, in this case, closure of social media website like YouTube¹¹⁴ brings a big damage and suffering to different segments of the society and You Tube is inaccessible by any other means if blocked once.

3.3 Role of Social Media Applications in Protection of Privacy

Big population of Pakistan ovulate major number of social media users chocking traffic on Internet¹¹⁵. Approximately 74% of the whole population of the country own mobile phone and out of this percentage, almost 23% do internet surfing. The major surfing on internet in Pakistan is done on social media applications which are reflected in below given chart.

¹¹¹Eddie Bruce-Jones, review of Cengiz Barskanmaz, *Recht und Rassismus: Das menschenrechtliche Verbot der Diskriminierung aufgrund der Rasse* [Law and Racism: The Human Rights Prohibition of Racial Discrimination], *International Journal of Constitutional Law* (2021).

¹¹²Louise Ellison and Yaman Akdeniz, "Cyber-stalking: the Regulation of Harassment on the Internet," *Criminal Law Review* 29 (1998): 29-48.

¹¹³Yaman Akdeniz, "Governance of pornography and child pornography on the global Internet: a multi-layered approach," in *Law and the Internet: Regulating Cyberspace* (1997): 223-241.

¹¹⁴Yaman Akdeniz, "To block or not to block: European approaches to content regulation, and implications for freedom of expression," *Computer Law & Security Review* 26, no. 3 (2010): 260-272.

¹¹⁵ Ashfaq Hussain and Ghulam Shabir, "Use of Social Media for Information Discovery and Delivery Among Information Professionals in Pakistan," *Information Discovery and Delivery* 49, no. 1 (2021): 1-15.

Table 4: Number of Users on Different Social Media Applications

Application name	Number of users
Facebook	32 million
Twitter	31 million
Blogspot	30 million

Global Social Media Statistics Report, 2024

Despite such huge number of users of internet in the country, still a question is under debate, whether social media ensure safety to privacy? To answer the question, we will have to revisit the world's shift on internet. For a segment of population, the existence and dependence over internet may be meaningless or a frivolous activity but for many it became an earning tool especially for house wives and pandemic victims of COVID-19¹¹⁶.

Shift of huge number of people on social media to use them as earning resource, but there is no limit on skills that could be applied for earning via these social media applications. One may post roasting videos relating to specific person or persons to get their channel monetized on You Tube. The victim has no room to seek relief against any trolling against them on such mediums. This social media application has double standards as they do allow reporting any video under the category of spam or sexually violent content and on the other hand, they welcome and viral such videos encouraging such content which target and damage reputation and self-respect of other users and monetize such accounts if reach the minimum standard i.e. obtaining views, comments, subscribers and watching hours.

¹¹⁶ Noah Yarrow, Eema Masood, and Rythia Afkar, Estimates of COVID-19 Impacts on Learning and Earning in Indonesia: How to Turn the Tide (2020).

3.4 Political Intervention; Legal Frame and Privacy on Social Media in Pakistan

As mentioned earlier that many countries across the globe are facing political intervention with regard to social media and internet as whole also. Pakistan also falls in category of those countries where social media is politicized. In current development, the whole country faced breakdown of internet which brought big loss to many industries doing their business online and a major segment of population depending on internet as freelancer or their earnings, bagged big financial loss. All this happened due to installation of “fire wall”¹¹⁷ on internet from state following the foot step of China to control and command the social media completely and oppress the right to access internet and freedom of speech of the citizens. Trembling world of social media is already facing many storms and political intervention is suffocating the zone more densely.

In Pakistan, several laws address privacy invasion on social media, aiming to protect individuals' personal information and combat online harassment. Pakistan Electronic Crime Act (PECA) 2016 is one which try to provide protection against unauthorized access to information systems or data, criminalize cyber stalking, including the use of information and communication technologies to harass, intimidate, or threaten individuals and covers offenses related to the unauthorized capturing and sharing of intimate images or videos, protecting individuals from privacy breaches and blackmail. Beside this, Prevention of Electronic Crimes Rules, 2018 provide procedures for the implementation of Prevention of Electronic Crime Act (PECA)¹¹⁸, including mechanisms for reporting and investigating cybercrimes, and guidelines which are very difficult for the complainant to practice in order to

¹¹⁷ Beenish Javed, "Slow Internet in Pakistan Causes DW Anger," August 28, 2024.

¹¹⁸ Government of Pakistan, The Prevention of Electronic Crimes Act, 2016 (Islamabad: 2016).

achieve justice and stop trolling or cyber bullying.

Protocols of such cases require evidence of the incident which is hard to find from its roots. Moreover, fake accounts with no identity¹¹⁹ are used to viral such content which have fake locations even through Virtual Private Networks (VPNs). To control such incidents, punishments should be heinous to stop and eradicate crime permanently but in case of privacy invasion, trolling, cyber bullying leading to heinous damages, punishment is same i.e. three years punishment and fine which shows seriousness of social media privacy as subject of concern for the law makers despite having a case like Kohistan scandal where honor killing took place due to a video of girls dancing in a marriage ceremony alleged to have illicit relationship with male counter parts as shown in the video.

3.5 Content Impediment on Social Media; Protection to Privacy or Safeguard to Political Intervention

As stated earlier that freedom of speech and expression is given under the umbrella of Article 19 of the Constitution of Pakistan which would now be curbed on social media as fire walls installation has given complete control of censorship to state specifically in terms of political opinion. The freedom of speech is required to be further elaborated and explained that to what extent a citizen has right to express their opinion. When it comes to political debate on social media, the subject also need to be addressed in the capacity whether political analysis, debates of think tanks and publicly opine political affiliations falls under the right to speech, opinion and affiliation?

¹¹⁹O. M. Ruebhausen and O. G. Brim Jr., "Privacy and Behavioral Research," Columbia Law Review 65 (1965): 1184–1211.

In terms of generic use of social media, roasting videos, trolling and leaking personal details i.e. pictures and videos comes under freedom of opinion and freedom of speech? Besides this move, it is also required to sensitize¹²⁰, monitor and watch those internet users which have access to Virtual Private Networks (VPNs)¹²¹ which help users to hide their identity as well as locations if their actions are bringing damage to peace of the state. Beside this, content which include hate speech, incite sexual exploitation, instigate racism, fake information or mis information, and graphic violence shall be banned. Many scams backed by fake advertisement are causing financial losses to less educated and naïve people through social media where they are given attraction of cash prizes, valuable vehicles and other stuff by transferring some amount to other accounts in the name of lucky draw or registration may be banned on social media and on internet as whole. Many cases of kidnapping and ransom demand have also been witnessed where fake advertisements were uploaded and victims were called on a remote location to receive the product bought. Honey trap is also an important aspect which is used as tool over social media. Therefore, applications like voice changer may be eliminated/ removed from access of social media users being downloaded and used.

In contemporary, religion is also exploited through social media to take personal revenge and a case of Jaranwala Church Attack¹²² which took place in September, 2023 is an adequate example of it. In this incident, both parties belonging to Christianity had personal grudges over extra marital affair of Raja Amir with wife of Parvaiz Masih where Pervaiz hired a killer to shot Raja dead and attempt failed. To

¹²⁰Zubair Nabi, "The Anatomy of Web Censorship in Pakistan," in 3rd USENIX Workshop on Free and Open Communications on the Internet (FOCI 13) (2013).

¹²¹Arif Hussain Nadaf, "Digital Dissent and Censorship in the Kashmir Conflict," in Platforms, Protests, and the Challenge of Networked Democracy (2020), 293-312.

¹²² Bilal Ahmad Tantary, "Jaranwala Church Attacks: Another Example of the Misuse of Blasphemy Laws in Pakistan," The Diplomat, September 6, 2023.

take revenge, he then blamed him of blasphemy which turned out as flimsy religious outrage and burn of church two days later Independence Day in 2023. Social media portrayed it as a case of blasphemy and people floated their own opinion, judgments, news and views as per their understandings. It is therefore necessary to impede such content and censorship parameters for social media users may be formulated to allow peaceful and positive use of the social media.

3.6 Impact of Boundary Free Social Media on Fundamental Rights

The horizon of social media has extended domains. It is not restricted to platform of expression, speech and opinion sharing. Basically, these rights are fundamental rights awarded under the Constitution of the state i.e. Pakistan. These fundamental rights may be culminated by the state in special case but social media has different pace. On social media, everyone has their say and opinion with no apprehension. Freedom to access information and right of opinion are few inter linked rights which may not be interrupted on social media as they may invite damages to the areas like education, health, political rights and many others but on other hand are purely contrary to right of privacy. Putting these rights in the sphere of compromise will not only damage basic and fundamental rights but also damage the quality of life a free citizen is supposed to enjoy.

It has been noticed during Covid-19 phase¹²³, that internet access became an inevitable tool to connect with the world and all the educational institutions¹²⁴ shifted to internet to ensure smooth flow of the studies and save the future of the generation. Amid these circumstances, if a privacy invader or cyber-criminal is put on a ban to

¹²³"IoT Applications to Fight Against COVID-19 Pandemic."

¹²⁴BebyMasitho Batubara, "The Problems of the World of Education in the Middle of the Covid-19 Pandemic," Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences 4, no. 1 (2021): 450-457.

access internet, it may affect education sector damaging multiple lives and their future. Whereas, Constitution of Pakistan 1973 says, obtaining education is fundamental right ¹²⁵of every citizen of state and internet restrictions compromise fundamental right. In this way, these are interwoven and may affect basic fundamental rights. Social media has profoundly impacted fundamental rights, here's an overview of its negative effects on key fundamental rights:

3.6.1 Impact on Right to Privacy

Social media platforms collect vast amounts of personal data¹²⁶, often without users' explicit consent, leading to privacy violations. Data breaches and misuse of personal information by third parties (e.g., Cambridge Analytica scandal) have raised significant privacy concerns. Moreover, influencers with small subscription and followers on social media have no protection of their content. Anyone may copy their content and post through their own channel or identity. There is no concept of “copy right” unless you have reached and met minimum standards of the social media platform in terms of followers, views and subscribers which also brings an invasion to right of privacy by stealing personal data and content.

3.6.2 Impact on Freedom of Expression

Content moderation policies can lead to censorship or the suppression of certain viewpoints. The spread of misinformation and hate speech can undermine healthy discourse and public safety. A newly emerging trend of Podcast¹²⁷ now a day on social media has allowed everyone to have control of mic, camera and content,

¹²⁵Mahboob Hussain and Rizwan Ullah Kokab, "Eighteenth Amendment in the Constitution of Pakistan: Success and Controversies," *Asian Social Science* 8, no. 1 (2012): 81.

¹²⁶M. Warner and M. Stone, *The Data Bank Society: Organizations, Computers and Social Freedom* (London: George Allen and Unwin Ltd., 1970).

¹²⁷ Anna Grett and Ronja Marlene Jakobs, "Digital Influences and Acceptance of the Emerging Medium, Podcast" (2021).

where analysis and discussions are carried out in a taunting way sometimes on cosmetic and aesthetic procedures done by social media influencers and actors, which invade privacy of subjects and bring body shaming as common thing to say. As medical or any other treatment taken and done by practitioner is purely private matter of the doctor and patient and could not be publicized without permission of the recipient of the treatment but the case is happening otherwise.

3.6.3 Impact on Right to No Discrimination/ Equality

Algorithms and targeting mechanisms can reinforce biases and lead to discriminatory practices in advertising and content delivery. Online harassment and cyber bullying disproportionately affect vulnerable groups, infringing their right to safety and dignity. We may easily find out social media content talking about transgender¹²⁸ authenticity if they are born transgender or converted which discriminate a human as well as invade their privacy in terms of discussing their core private problem publicly without their consent as a community. There is also a deprivation and discrimination in the world of social media where content is hidden and displayed under the condition of specific amount of payment or subscription which is not possible for all users to pay due to economic implications and sometimes non availability of banking facilities in all countries do not users allow to pay in other countries which heighten the discrimination in the world of social media.

3.6.4 Impact on Right to Security/ Protection

Social media can be used to spread extremist content and facilitate criminal activities, posing threat to security/ protection of individuals and societies. As

¹²⁸ Ellen Selkie, Victoria Adkins, Ellie Masters, Anita Bajpai, and Daniel Shumer, "Transgender Adolescents' Uses of Social Media for Social Support," *Journal of Adolescent Health* 66, no. 3 (2020): 275-280.

mentioned earlier, Jaranwala Blasphemy case¹²⁹, which not only brought religious extremism, threat to peace of the society and damage to public property but also put personal protection of the victim at stake. Whereas, the actual bone of contention was personal grudges of the parties involved. The psychological impact of online harassment and cyber bullying¹³⁰ can affect mental health and well-being along with sabotaged societal reputation damage. For example, if a blasphemous allegation is blown on someone especially on social media, people start chasing the person abused of the crime without knowing the fact and without trying to figure it out. The victim may be harassed and bullied in public place and people also try to find their residences and attack them which led to privacy invasion and infringed right of security as well.

3.7 Social Media; a Game of Boon or Bane

Social media is both a game of boon and bane. Talking about negative impacts of social media, the common one is privacy and security risk followed by other disadvantages. Mostly, websites demand “access to cookies”¹³¹ which compromise privacy of the user as information is often collected by this mean and used by social media companies, raising privacy concerns. Data breaches and misuse of personal information are common issues. Moreover, social media can be highly addictive, leading to excessive screen time and distraction from important tasks. It can negatively impact productivity, academic performance, and real-life social interactions. In addition to this social media can affect mental health. Excessive use of

¹²⁹ Bilal Ahmad Tantary, "Jaranwala Church Attacks: Another Example of the Misuse of Blasphemy Laws in Pakistan," *The Diplomat*, September 6, 2023.

¹³⁰ P. Duquenoy and V. Masurkar, "Surrounded by Intelligence," in *Risks and Challenges of the Network Society*, edited by P. Duquenoy, S. Fisher-Hübner, J. Holvast, and A. Zuccato, 121-134. Karlstad: Karlstad University Studies, 2004.

¹³¹ Janice C. Sipior, Burke T. Ward, and Ruben A. Mendoza, "Online Privacy Concerns Associated with Cookies, Flash Cookies, and Web Beacons," *Journal of Internet Commerce* 10, no. 1 (2011): 1–16.

social media can lead to anxiety, depression, and a sense of inadequacy due to comparison with others. Cyber bullying and online harassment are significant issues affecting mental well-being.

3.8 Puppet Accounts; an Easy Weapon for Political War & Personal Enmity on Social Media

Social media polarization¹³² has become a business now days for the users and regimes as well. Political parties use social media with fake/ puppet accounts to achieve desired publicity among public and erect a desired opinion as this turns out more fruitful in terms of result with low investment and grab more audience. Therefore, politicized social media is also used as weapon to achieve undue political motives. Beside political benefits, puppet accounts are also an easy tool among common public to take personal revenges and fulfil enmity by invading privacy via trolls and misinformation, social media experts are hired who do mis use hash tags to viral the content across the globe.

As there is no authentic system of verification on all social media platforms¹³³ except Instagram, therefore, cyber bullies easily hide themselves and keep on damaging the reputes of others staying anonymous. Virtual Private Network (VPNs)¹³⁴ is also trending among internet users in order to hide their locations and to locate them is a complex process. In innovation of such hideous methods, regimes and government are also responsible. In most of the countries, VPNs were invented when

¹³²Pedro Guerra, Wagner Meira Jr, Claire Cardie, and Robert Kleinberg, "A Measure of Polarization on Social Media Networks Based on Community Boundaries," in Proceedings of the International AAAI Conference on Web and Social Media, vol. 7, no. 1 (2013): 215-224.

¹³³Laurynas Šikšnys, Jeppe Rishede Thomsen, Simonas Šaltenis, and Man Lung Yiu, "Private and Flexible Proximity Detection in Mobile Social Networks," in 2010 Eleventh International Conference on Mobile Data Management, (2010): 75-84.

¹³⁴Deris Stiawan, Abdul Hanan Abdullah, and Mohd Yazid Idris, "The Trends of Intrusion Prevention System Network," in 2010 2nd International Conference on Education Technology and Computer, vol. 4 (2010): V4-217.

internet services were illegally banned by the state. Beside hash tags, harassment-based content is also sent to the reach of majority of viewers in short span of time by using bots which refer the content to social media users even if that is not in their history of “most watched content”. Moreover, with the help of bots, an automated process of posting, liking and sharing becomes active and the content keep on getting popularity.

3.9 Social Media; a War Zone & Strategies to Cope

Social media has become weapon¹³⁵ in today’s time and nothing may even be able to be imagined without intervention of social media and internet. Politically, social media is used now a day not only to run campaigns of political parties but also defaming the opponents by leaking details from their private and personal life. Ethical values are sabotaged without any hesitation, as social media is a boundary free entity in itself; this is why it is openly used to attack personally in order to achieve political motives.

Social media has so deeply penetrated in human life that a common user does not need to pass through traditional security checks and may share any information¹³⁶, facts, figures and pictures with their own banner and frames which owe them handsome earnings¹³⁷ as more clicks they get on their post which are commanding the trends. Under the cover of these soft edges, social media is used for negative motives too. A development in this phase has been seen where editing applications were used to cut the original face and set them on obscene bodies and porn pictures and

¹³⁵Amber Van der Graaf, Simon Otjes, and Anne Rasmussen, "Weapon of the Weak? The Social Media Landscape of Interest Groups," *European Journal of Communication* 31, no. 2 (2016): 120-135.

¹³⁶Nicole Matejic, *Social Media Rules of Engagement: Why Your Online Narrative Is the Best Weapon During a Crisis* (John Wiley & Sons, 2015).

¹³⁷Jarred Prier, "Commanding the Trend: Social Media as Information Warfare," in *Information Warfare in the Age of Cyber Conflict* (Routledge, 2020), 88-113.

uploaded on social media. Editing applications specifically emerging artificial intelligence has done so bad to this type of content creation that people cannot find difference between original and fake one.

Leaking personal information and mis guiding public with such deceptive content, cyber bullies achieve their target and sometime demand ransom for settling and removing the data or the victim has opportunity to reach designated institutions to remove this content and eliminate its spread which is a lengthy and time taking process. At state level, journalists and influencers have also become victim of “missing person” incident where they are demanded to upload the content which support political stance and coerced to praise state’s policy to brain wash public mind set regarding political thoughts and eligibility of specific political party. Artificial Intelligence has added fuel to the fire as dope videos and pictures are generated to defame and troll others. Public opinion and thoughts are manipulated¹³⁸ by mean of social media where reputa of a person may be damaged by putting false content. Today we may witness multiple social media victims¹³⁹ who were bullied and harassed in which recent addition is a leaked dope video of one of the female content creators.

In social media war, physical attacks are not done by the trollers and memers and in many cases the victim does not know who had bullied them and brutally damaged their reputation. Moreover, in order to gain publicity, people spread sensual and false information/ news¹⁴⁰ because social media also provides them an earning

¹³⁸Jarred Prier, "Commanding the Trend: Social Media as Information Warfare," in *Information Warfare in the Age of Cyber Conflict* (Routledge, 2020), 88-113.

¹³⁹Faye Mishna, Mona Khoury-Kassabri, TahanyGadalla, and Joanne Daciuk, "Risk Factors for Involvement in Cyber Bullying: Victims, Bullies and Bully–Victims," *Children and Youth Services Review* 34, no. 1 (2012): 63-70.

¹⁴⁰Brian G. Southwell, Emily A. Thorson, and Laura Sheble, eds., *Misinformation and Mass Audiences* (University of Texas Press, 2018).

hand on a prescribed limit of views and subscribers. Beside personal enmity, people in order to gain financial benefits, use social media negatively. With emerging modes of wars, social media war¹⁴¹ is getting more fame. Besides state's laws to eradicate privacy invasion, trolling and defamation on social media, social media platforms shall also construct a code of decency and ethics for the users and content creators including all websites. There should be penalization and authentic verification while creating and posting content so that wrong doers may easily be caught and tried. A need of separate courts for trying social media crimes may also help minimizing the crime. In order to fight social media wars and raise sensation, content creators set a plot similar to physical attacks of battle field.

These strategies may be piling information, manipulating trending hash-tag and targeting the subject to achieve the results. As it has been discussed earlier that social media has become a bridle less horse and to control them is a complicated process. The websites and applications which are also called dark websites¹⁴² have cyber routes which could not be traced because of Virtual Private Networks (VPNs). In order to combat these increasing social media attacks and spreading wars, companies who have launched these applications¹⁴³ are required to be taken into a designated frame of work¹⁴⁴ where they should made bound to verify the accounts of

¹⁴¹Williamson Murray and Peter R. Mansoor, eds., *Hybrid Warfare: Fighting Complex Opponents from the Ancient World to the Present* (Cambridge University Press, 2012).

¹⁴²Shahriar Sobhan, Timothy Williams, Md Jobair Hossain Faruk, Juan Rodriguez, MasruraTasnim, Edwin Mathew, Jack Wright, and Hossain Shahriar, "A Review of Dark Web: Trends and Future Directions," in 2022 IEEE 46th Annual Computers, Software, and Applications Conference (COMPSAC) (IEEE, 2022), 1780-1785.

¹⁴³Eric Jardine, "Online Content Moderation and the Dark Web: Policy Responses to Radicalizing Hate Speech and Malicious Content on the Darknet," *First Monday* (2019).

¹⁴⁴Scott H. Belshaw, "Investigating the New Criminal Neighborhood: The Need for Dark Web Education for Law Enforcement Personnel," *International Journal of Information Security and Cybercrime (IJISC)* 8, no. 2 (2019): 27-38.

the handler with any national documentation¹⁴⁵.

Access to these applications and platforms should be banned using VPNs so that hiding location may not become easy and possible for the cyber attackers¹⁴⁶ and bullies. While preparing these measures, it is mandatory to sensitize the users and common public to become active if they are victim of any attack online. The attackers become successful when the victim of online attack becomes passive and indulging into a sudden shock fail to provide information and reach the institutions¹⁴⁷ tackling the offence. To attack specific segment and person, cyber attackers use internet to collect information from victim's social media handles and then locate them from geo-tag and attack the target. In order to achieve the motive, attackers follow multiple approaches from deceiving, manipulating, confusing and defaming the victim via social media. They spread false information, use viral and top trending hash-tag with their content to nip the original and positive content and encourage their one.

They put obscene content relating to a peculiar person to defame them and damage their reputation so that a negative public opinion may obtain. Some social media platforms like YouTube have settled a benchmark for the content creators to achieve in order to get verification and monetization for their accounts. After getting verified, these accounts are sold out and used for negative activities.

¹⁴⁵Yizhi Liu, Fang Yu Lin, Zara Ahmad-Post, Mohammadreza Ebrahimi, Ning Zhang, James Lee Hu, Jingyu Xin, Weifeng Li, and Hsinchun Chen, "Identifying, Collecting, and Monitoring Personally Identifiable Information: From the Dark Web to the Surface Web," in 2020 IEEE International Conference on Intelligence and Security Informatics (ISI) (IEEE, 2020), 1-6.

¹⁴⁶Shubhdeep Kaur and Sukhchandan Randhawa, "Dark Web: A Web of Crimes," *Wireless Personal Communications* 112 (2020): 2131-2158.

¹⁴⁷SaibaNazah, Shamsul Huda, Jemal Abawajy, and Mohammad Mehedi Hassan, "Evolution of Dark Web Threat Analysis and Detection: A Systematic Approach," *IEEE Access* 8 (2020): 171796-171819.

3.10 CONCLUSION

We may say that in contemporary, social media in human life is indispensable. Globally, from North Africa to Costa Rica and to the remote villages of developing countries, social media is present in the form of live streaming, podcast, videos sharing, tweets and posts. Despite immense growth and development, social media has not got any adequate frame of rules regulating privacy protection in the medium of social world. Cyber bullying and harassment have not been bridled and delivering far much damages to societies.

Today, social media is not only a tool or weapon to take revenge of any social, ethnical, sexual or racist enmity but also a right curbing tool for the states. It is not wrong to say that social media has become a war zone for common person and political motives too. Political interventions blocking social media access and isolating public from facts of sensitive issues like franchise results and political shifts. Turkey, Tunisia and Egypt are examples where political demonstrations were heavily based on social media. Public was forced to plight by arrests of social media influencers, pod casters and live streamers to discourage opposition of government. Political interventions and boundary free usage of social media by common users have invited trouble to reputations and modesty of victims.

Moreover, allay factors like Internet Service Providers (ISPs) are also used to achieve political results and supports on social media by political regimes. Pakistan also suffered the phase of social media jam to cripple down the opposition party and attain popularity. In order to confiscate the powers of social media users at international level, British regime where monarchy is active, also tried to completely control social media but public protests made it impossible to implement but in

democratic state like Pakistan, the case is otherwise. Even public is not allowed to protest over undue political intervention in sphere of social media and recently fire wall installation has completely given command of social media in the hand of state which may be used to snub pure public opinion in political perspective in future.

CHAPTER 4

BALANCING THE RIGHT TO PRIVACY WITH FREEDOM OF SPEECH: LEGAL, ETHICAL, AND SOCIAL PERSPECTIVE

4.1 Introduction

According to Merriam Webster Dictionary¹⁴⁸, privacy is:

“Freedom from unauthorized intrusion is one's right to privacy.”

The protection of privacy and balancing it with the right to speech in the social media age is a complex issue not only in Pakistan but in other countries too where legal frames are not strong enough to cope social media issues adequately which requires a multifaceted approach involving robust legal frameworks, effective enforcement, public awareness, settled ethical boundaries in world of social media, and technological innovation.

As social media continues to evolve¹⁴⁹, so too must the strategies to safeguard right to privacy, right to speech, personal information which ensure a safe and secure online environment for all users. In the digital era, social media has become an integral part of our daily life, transforming how people communicate, share information, and engage with the world. Pakistan, with its rapidly growing internet user base (mentioned earlier in table no. 1-3), is no exception. However, this increased connectivity brought significant privacy challenges and hard to maintain balance between two crucial rights i.e. right to speech and right to privacy.

¹⁴⁸ Merriam-Webster.com Dictionary, s.v. "privacy," accessed September 1, 2024, <https://www.merriam-webster.com/dictionary/privacy>.

¹⁴⁹ F.H. Cate, *Privacy in the Information Age* (Brookings Institution Press, Washington, 1997).

This introduction explores the landscape of privacy protection with a balance to right to speech and its social, legal and ethical aspect in Pakistan amidst the burgeoning use of social media. Social media platforms like Face-book, Twitter, Instagram, and TikTok have seen exponential growth in Pakistan.

These platforms offer users a space to express themselves, connect with others, and consume information. However, the widespread use of these platforms has led to concerns about the privacy and security of personal information on vast scale. The basic privacy and freedom to speech concerns on social media in Pakistan include: data breaches, surveillance infringing on individual privacy, cyber bullying and harassment, hate speech and religious extremism to settle personal disputes.

4.2 Legal Status of Privacy Invasion in Pakistan

The superior courts of Pakistan have declared the acts of phone tapping and surveillance of social media communication as illegal¹⁵⁰ and contrary to the provision of Constitution of 1973's article 14(1). The court has opted stance that this invasion may put a risk to "life" of person and the term "life" has been briefed in Shehla Zia Case¹⁵¹ where government authorities were not allowed to put life of citizens in danger without their consent and could not install any power unit. Hence, legal status of even tapping phones of the people and tracing their locations is vague as it has been condemned by Apex court of the country but approved by the Cabinet which clearly shows that these approvals are backed by political motives.

In a prominent and well-known assassination case of Benazir Bhutto¹⁵², phones

¹⁵⁰""The Nation," August 9, 2023, "Phone Tapping: Legal or Illegal?"

¹⁵¹1. Shehla Zia v. Wapda, February 19, 2018.

¹⁵²"The Express Tribune," January 30, 2011, "Benazir Assassination: Cell Phone of Suspect Recovered."

of many bureaucrats, judges and officials were kept under monitoring and all calls and messages were recorded even their private communications with their families were also tapped. Upon matter in the court, the act of surveillance and tapping was declared illegal and immoral by the court. This case bestowed an opportunity to Supreme Court to set the custom of declaring such surveillance illegal which had no precedent over the matter.

4.3 Law Regarding Invasion in Privacy

As mentioned earlier, in Pakistan, privacy is inadequately defined in Constitution which does not encompass all the boundaries of privacy concerns while there is a legal framework in place to address privacy invasion on social media but unfortunately that is also insufficient to meet the needs. The implementation of these laws faces significant challenges due to lack of expertise, knowledge of digital up gradations and no training facilities to the dealing personnel. While implementing these laws, lack of awareness plays a pivotal role. Many users are unaware of their rights under these laws and the legal recourse available to them when their privacy is invaded on social media. Along with awareness issues, there is often a significant gap between the existence of laws and their effective enforcement. This is partly due to limited resources, lack of training, and expertise among law enforcement agencies.

Like other criminal activities, social media crimes also face jurisdictional Complications. The global nature of social media platforms complicates jurisdiction¹⁵³ and enforcement, especially when these platforms have their headquarters outside Pakistan. The problem keeps on going with technological sophistication. Rapid advancements in technology often outpace the regulatory and

¹⁵³ Yulia Razmetaeva, Hanna Ponomarova, and Iryna Bylya-Sabadash, "Jurisdictional Issues in the Digital Age," *Ius Humani, Revista de Derecho* 10 (2021): 167.

enforcement mechanisms in place. This makes it challenging for authorities to keep up with new forms of privacy invasion. The penalization is the key factor in whole process of any breach or invasion on social media spectrum. When it comes to Judicial process, the system is slow and cumbersome, which delays in the cases related to privacy invasion required to be resolved.

Some provisions of Pakistan Electronic Crime Act (PECA)¹⁵⁴, especially those related to content regulation, have been criticized for being vaguely defined and open to misuse for censorship or suppression of dissent. Article 14 (1), Constitution of 1973¹⁵⁵ enforced in Pakistan provide for the privacy but that is restricted to privacy of a home which does not cover the canvas of social media and internet world. According to law of the land i.e. Pakistan, PPC¹⁵⁶, Pakistan Penal Code 1860, provides under section 499 that:

“Anything which is true is publicly presented or disseminated is not defamation as it is to sensitize public and aware them.”

But sensitizing about character of a common person is not awareness rather it is defamation which is an earning source now a days on social media invading and intruding the privacy and personal life of many especially when the person is not involved I any activity that involve public dealing and bring any apprehension of any financial, moral or social damage. But no adequate protection to privacy for social media is available.

¹⁵⁴ Yasir Aleem, Muhammad Asif, and Muhammad Umair Ashraf, "The Prevention of Electronic Crimes Act 2016 and Shrinking Space for Online Expression in Pakistan," *Ilkogretim Online* 20, no. 2 (2021).

¹⁵⁵"Constitution III," January 26, 2019, <http://www.commonlii.org/pk/legis/const/1973/3.html#:~:text=14.,the%20purpose%20of%20extracting%20evidence.>

¹⁵⁶Pakistan Penal Code, "Chapter XVI, Of Kidnapping, Abduction, Slavery and Forced Labour," Sections 359-374 (1860).

We are swiftly heading toward the era of no privacy where everyone would be accessible and watchable at any time. As mentioned earlier, a step has been taken by the state in this regard by infusing fire wall¹⁵⁷ in the disseminated internet system of the country which would make regime more authoritative in social media world by controlling the virtual activities and snubbing the privacy and speech freedom of the users.

Developing virtual world of social media has flexed the arms of the surveillance agencies and in this respect; Pakistan telecommunication Act¹⁵⁸ has broadened their area of approach. It allows Federal institutions to access to calls, messages and location in order to carry out any surveillance and trace any suspect. Backed by cabinet's approval, these interventions and invasion in privacy have been declared legal.

4.4 Recognition of Right to Speech & Right to Privacy on Social Media in Pakistan

Constitution of Pakistan 1973 provides freedom of speech under article 19¹⁵⁹. The article states that:

“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.”

¹⁵⁷ Govt to Install 'Firewall' to Control Social Media," Dawn, June 11, 2024.

¹⁵⁸ "National Assembly of Pakistan," October 17, 1996, https://na.gov.pk/uploads/documents/1329727963_180.pdf.

¹⁵⁹ "Article 19: Freedom of Speech and Expression," Constitution of Pakistan, accessed September 2, 2024, <https://pakistanvoter.org/constitution-of-pakistan/>.

Freedom of expression or speech has long history of being snubbed in Pakistan more specifically under political conditions. Today, social media is the prey of government in the name of “censorship”¹⁶⁰ but media as whole has been victimized in this regard long ago. When it comes to right of speech/ expression, first lays the right to information. When right to information is awarded that tantamount to provision of authority to erect opinion over what you listen and express as freely as you received information and Pakistan has recognized right to information befittingly. As mentioned in article 19 of Constitution of Pakistan 1973, right of speech could be snatched or confiscated where there is apprehension to peace of the country i.e. Pakistan but today, whole social media is under control of state in the name of installation of fire walls to block unlawful content backed by Pakistan Electronic Crime Act, 2016 and no adequate explanation is given by the state in this regard. Whereas, state may request the authorities like Face Book, You Tube and Twitter to take down in case any material which is against Islam is published or disallow the functioning of applications in the country but the case is otherwise.

The state bans the services when citizens and influencers take dig at state’s policies or acts or any political mal functioning. It is pertinent to mention here that almost all the states of the world have borrowed basic rights like right to speech and privacy from Universal Declaration of Human Rights, 1948¹⁶¹ (UDHR) which in itself is not legally enforceable but when anything has been taken metaphorically from that document, it should be applied in true spirit.

¹⁶⁰ Abrish Nayyar, "Paradigm Shift," Freedom of Expression in Pakistan: A Complicated Relationship, October 15, 2022.

¹⁶¹ "Universal Declaration of Human Rights," United Nations, accessed September 2, 2024, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

4.5 Freedom of Speech and Censorship in Pakistan; an Interlinked Formation

Though free and independent media is the sign of an independent country whether its social media or media as whole but Pakistan despite being democratic state has never delivered independent social media. Censorship¹⁶² has been used as tool to snub right to speech. In recent years, social media has grabbed attention of government as recipient of censorship as it is getting more popularity and accessible to each and every one because of easy availability of mobile phone and cheap internet packages backed by social media applications.

The actual spirit of censorship¹⁶³ demands that any unethical, immoral, obscene, religiously instigating and politically anarchist material which does not belongs to reality, should be banned and help to maintain smooth functioning of the society but the practice is otherwise. While taking camouflage of censorship, objectionable material should be taken off from such platforms but states completely bar the access to social media applications in the name of protest and to preserve peace. In recent developments, many social media influencers have been arrested because floating political opinion on social media or for participating in election campaigns of political parties online. It is pertinent to mention here that censorship is discouraged in developed and democratic states but in Pakistan it is being opted and strengthened now in 21st century for political gains. In crux we may say that censorship is another camouflage to snub right to speech.

¹⁶² Kay Mathiesen, "Censorship and Access to Expression," in *The Handbook of Information and Computer Ethics*, ed. Kenneth E. Himma and Herman T. Tavani (Hoboken, NJ: John Wiley & Sons, 2008), 571-587.

¹⁶³ Helen Freshwater, "Towards a Redefinition of Censorship," in *Censorship & Cultural Regulation in the Modern Age*, ed. Beate Müller (Leiden: Brill, 2004), 217-237.

4.6 Freedom of Speech on Social Media in Contemporary

Social media and other services on servers are provided by Internet Service providers (ISPs)¹⁶⁴ which are private entities and are not legally bound to follow the bindings of any constitution in general but technically, they are bound to follow them in order to run their platforms and earn from it. Here become give and take deal between Internet Service Providers (ISPs) and states which compromise the rights of user i.e. right to free speech, information and privacy.

While going through social media platform like Instagram and You Tube, we come across categories of content which is not allowed to be posted on these applications but the standard of modesty are too weak that remarks on persons outlook, roasting, memes and mimics are allowed which are also offensive and bring humiliation and sense of lowness in recipient or subject. Even such accounts get more views and are monetized and become source of earning for content creators.

Therefore, categories made by social media platforms are not protecting any one or any right but providing an open zone to humiliate other using their right to speech and when it comes to states and politics, the users telling reality are blocked, harassed¹⁶⁵ and missed in order to hinder them from sharing truth of regime to common public in order to sensitize them and use their right to franchise in more prudent way in future.

¹⁶⁴ William B. Norton, "Internet Service Providers and Peering," in Proceedings of NANOG, vol. 19 (2001): 1-17.

¹⁶⁵ Brandi Lawless, "Can You Spot a Troll? Teaching Information Literacy through Conversations about Social Media Attacks," Communication Teacher 35, no. 1 (2021): 12-16.

4.7 Social Media in Legal, Social & Ethical Perspective

Virtual Age has brought miracle in communication medium along with ethical challenges. As Internet Service Providers (ISPs)¹⁶⁶, main servers and social platforms have access to user's data, therefore there comes apprehension as to how this data is used and stored which put right to privacy as well as right to security at risk in virtual world.

Ethical standards of the users are compromised when their information is stored¹⁶⁷, gathered and reserved at servers without their consent and sometimes forced consent like acceptance of cookies and fire wall services designated by social media applications. Among all issues raised and kicked by social media, ethical issues like privacy invasion, legal issues like defamation and use of copy right content and social issues like honor killing and rape have got hype in recent past.

Alongside privacy invasion, personal data collected by servers is also used for harassment and cyber bullying purposes. As mentioned earlier, case of Noor Muqaddam¹⁶⁸, where personal information of the victim was shared on the social media after brutal murder and social opinions and comments brought havoc to the mental health of the victim's family. Social media has become a race for its users in order to take it to the level of scrutiny, people use such incidents to propagate fake news with fake thumb nails and captions to get more clicks and views in order to make earning from their content and forget their ethical values and barriers of right and wrong to win the race and earn money.

¹⁶⁶ William B. Norton, "Internet Service Providers and Peering," in Proceedings of NANOG, vol. 19 (2001): 1-17.

¹⁶⁷ Jonathan Zittrain, "Internet Points of Control," in The Emergent Global Information Policy Regime (London: Palgrave Macmillan UK, 2003), 203–27.

¹⁶⁸ Naveed Akram and Musarat Yasmin, "Media Portrayal and Perpetuation of Rape Myths: A Systemic Functional Linguistics Analysis of Noor Mukaddam's Case in Pakistani Print Media," University of Chitral Journal of Linguistics and Literature 7, no. II (2023): 199–213.

Taking in account the legal issues on social media¹⁶⁹, we come to know that legal issues like defamation are common and such content may not be called off unless a long legal battle is carried and decided in courts. By that time mostly businesses faced huge financial loss and damage to its reputation. These defamations could be about anyone and in any context from person to business. It is very easy to carry and promote any negative campaign on social media to combat any business competitor now a day. Presence of viral hash tags help boost the reach of the content and other users copy the same as their motive is just to gain and no other values like ethical or moral are taken into consideration.

In matters, where no ethical and social values are present and followed, it is obvious that social turmoil will increase and de stabilizes the peace of the society. Social issues bring a crucial turbulence like honor killing. A well-known case of Qandeel Baloch murder is also an example of bridle free social media suppressing social boundaries to gain popularity. In this case, the victim got murdered by her brother in the name of honor due to social media interaction which according to his opinion was bringing shame and humiliation to the family.

As per facts, the victim, Qandeel Baloch's¹⁷⁰ original name was Fouzia and she hailed from Dera Ghazi Khan with poor literacy and financial background. In order to improve financial and social status of her family, she took advantage of social media while hiding her actual identity to save her family from any bad words. But boundary less social media users took dig at her background and shared her personal

¹⁶⁹ Kristen M. Lambert, Pauline Barry, and Gwen Stokes, "Risk Management and Legal Issues with the Use of Social Media in the Healthcare Setting," *Journal of Healthcare Risk Management* 31, no. 4 (2012): 41–47.

¹⁷⁰ Zainab B. Alam, "Do-it-Yourself Activism in Pakistan: The Fatal Celebrity of Qandeel Baloch," *Perspectives on Politics* 18, no. 1 (2020): 76–90.

details with the world which turned in brutal murder¹⁷¹ of the influencer that too from her blood relation. Having such heinous outcomes of boundary free social media where no legal, social and ethical values are observed, state has not taken any step to eliminate such bugs but keenly busy in ruling social media to take political benefits.

4.8 Social Media and Legal Frames; a National and International View

In order to promote civilized usage of social media, laws, rules and regulations are made but they are complex to be implemented and vulnerable due to weak and old judicial system. In European states, initiatives to tackle social media mishandlings have been taken. Institute of science and Technology in Luxemburg¹⁷² and South African Human Rights Commission, have come up with social media charter which draw a boundary for social media users and make them accountable if they commit a wrong while using social media.

The charter of social media helps to understand the meaning of social crimes including privacy invasion, pornography, and child abuse, dissemination of wrong information, uploading obscene content and promotion of violence by mean of sharing violent pictures. This charter denotes that future of human is associated with social media, internet and virtual innovations and they will keep going hand in hand, hence it is needed that human should be educated regarding positive and innovative use of internet and social media. Moreover, the charter holds the solutions for victim of social media attacks.

Moving to another example of social media charter as proposed by Institute of

¹⁷¹ Paul A. Wilson and Barbara Lewandowska-Tomaszczyk, "Real-World Consequences of Devirtualization from Online to Offline Spaces: The Role of Shame as a Resource in the Honor Killing of Qandeel Baloch," in *Shame 4.0: Investigating an Emotion in Digital Worlds and the Fourth Industrial Revolution* (2021): 455–74.

¹⁷² "Social Media Charter," January 30, 2011, <https://www.list.lu/en/media/social-media-charter/>.

science and Technology in Luxemburg¹⁷³, it is also desired to build a civilized empire in the world of social media and internet and sensitize the user of virtual world to make internet and social media a sweet cup of tea for all rather making it a stick of throne. It is in the good interest of human to and social media users across the globe to unanimously make a legal frame work within their country so that cyber-crimes, harassment, bullying and pornography may be discouraged.

Less developed and developing countries where literacy rate is low are more prone and at verge of being attacked and prey via social media and internet as there is no guidance and legal limits for the users and they may probably use it in more negative way. Chances of their brain wash and indulging into mal activities like pornography¹⁷⁴ and harassment are more than other countries which are under developed and have not built a legal frame for use of social media. In order to combat the problem of increasing social media abuse, privacy invasion and to provide safe social media environment to its users and ensure safety to all genders, Pakistan should also step forward like Institute of science and Technology in Luxemburg and South African Human Rights Commission to make a strong legal frame for social media users along with erection of separate courts and specific penal code of social media crimes with rigorous punishments and banning the surfer of privacy invasion for life time.

¹⁷³"Social Media Charter," Luxembourg Institute of Science and Technology, accessed July 10, 2024, <https://www.list.lu/en/media/social-media-charter/>.

¹⁷⁴ Mark McCormack and Liam Wignall, "Pornography, Social Media, and Sexuality," in *Handbook of Social Media Use: Online Relationships, Security, Privacy, and Society*, vol. 2 (Academic Press, 2024), 309–26.

4.9 CONCLUSION

As social media has developed and evolved, it has wrapped many sensitive aspects of human life into insecurity ranging from social values to legal and ethical values. In the world of social media and Internet polarization, the privacy of social media users is at stake. The progressing social media has intervened in personal, social, financial and ethical life of human and has woven a web in which personal information of social media users is stored and no access to personal gallery, contact lists and other information lead to stalled use of social media applications.

Beside this, special segment of the society i.e. youth today, irrespective of gender, share their personal videos and pictures on social media to gain fame and money which by the help of other tools like Artificial Intelligence (AI) are turned dope and used for blackmailing and extortion also. Social media platforms like Facebook, Twitter, Instagram, and TikTok have seen exponential growth in Pakistan but with a fragile and frail legal framework for cyber criminals it is becoming a threat for the future in ethical, social and legal aspect. The primary privacy concerns on social media in Pakistan include: data breaches, surveillance infringing on individual privacy, cyber bullying and harassment. Unfortunately, social media culprits are not awarded adequate punishments to avoid future misuse and crimes over social media and virtual world as whole but other boundaries are used to avail personal benefits usually from regimes like censorship which is discouraged in democratic states. States, despite settling adequate regulations for protection of privacy on social media are utilizing censorship as tool to snub right to speech which is not a healthy practice at all.

Privacy invasion has become an affair of “citizens and state case” where now

state is involved to protect their political motives and nip the natural opinion of public in order to achieve desired franchise and save their faces politically. Stated earlier that erection of fire wall from state in internet services has brought wave of tension among people whose livings are dependent on social media or internet as whole. This act has not only brought a gap between state and public but also damaged the economical nook of the country. In recent episode of fire wall erection, countless freelancers and online businesses faced severe financial loss due to interruption during system installation and there is probability that in future, this rigidity may build difficulties in online earnings as more complications like state-to-state relations and security concerns will arise.

Conclusion & Recommendations

Social media is not only a facilitating and easy earning tool but a lethal weapon that could cause injuries to emotions, reputation, and social status and in some cases cause suicide and murders in the name of honor which are irreparable losses for the victims. Though cyber world is gender less in terms of attack to privacy and invasion in privacy but attacks on vulnerable segment of the social media users i.e. women and children have made it more insecure and unsafe place for them. Women are more prone to be the prey of the social media bullies and attackers as societies have assigned different taboos to different genders and in Pakistan, modesty and family's reputation is associated with female. In a recent addition to the privacy invasion to females, a female content creator was targeted with dope obscene videos on social media using Artificial Intelligence. Such developments of social media applications and virtual applications is merely bringing disruption, peace de-stability, crimes increase and paving path for cyber bullies, blackmailers and extorters to deepen their claws in the zone of social media and invade privacy.

Cyber criminals have started using Artificial Intelligence as a big tool to make fake pictures and videos to demand extortion by blackmailing the victim. These issues are commonly not complained/ highlighted at any forum just to avoid shame towards female victim. In spectrum of invasion in privacy, this act is not only invasion in privacy but also immodest act that should be rigorously punishable. Today, social media or social world has attained status of virtual society which is completely a separate world with its own customs and norms. As it is said that human is a social animal, hence the animal behavior of human is obvious in social media's world which is impossible to be controlled without the help of proper legal frame which could be

upgraded and implemented swiftly. Multiple negative uses and criminal activities have been reported, traced and investigated which were carried out through social media including pornography, harassment, trolling, memes making, bullying and fake business handles.

In order to ensure proper provision of protection to privacy to all users in the era of social media, it is mandatory to overhaul the code of social media rights and erect special courts with up-to-date staff to handle the cases relating to social media crimes especially privacy invasion. Today, right to speech and right to access to information are directly linked with access to social media. In order to hinder and curtail privacy invasion, proper legal framework is required to be defined and made. To cope up the issues as raised in this research, following recommendations may be given: -

1. Taking a staunch round of social media practices shows that multiple rights of human are inter connected with social media. In most of the countries like German and Europe, companies regulating social media platforms are responsible to cripple the content which is obscene or unlawful. Though these companies are quick to remove such content but there is no defined boundary of unlawful content and if such matters are taken into courts, they take weeks and months to resolve the issue and reach the result. Moreover, these companies are unable to penalize the social media users putting such content but as a punishment they may only suspend such IDs which is of course a temporary and futile punishment because the users are free to make multiple IDs to surf social media and out content on it. It is therefore required that a unanimous code of social media ethics allowing freedom of

speech under human rights law and penalties may be settled by states to eradicate the evil at international level and service providing companies (ISPs) shall restrict ID formation of the culprit again unless ordered by the court.

2. To protect the privacy on social media, without confiscating basic fundamental rights i.e. right of speech and right of opinion, a step may be taken technically. A safety check on social media platforms may be introduced as a built-in feature to cope obscene and harassing content. All social media users shall be allowed a smooth and free usage of social media subject to observation of code of social media.
3. Having a huge number of social media users, Pakistan do not have any code of social media as a guiding manual for internet and social media users. It is inevitable for country like Pakistan to erect a code of social media with rigorous punishments in case of breach of code which should pave way for smooth and offence less sphere of social media as well as protect fundamental right of privacy of social media users in virtual sphere annexed with Constitutional fundamental rights. Though there are Acts like Pakistan Electronic Crime Act (PECA), 2016 but they have multiple loop holes which brings hurdles for the victim to prove the offence. Beside this, matters relating to social media crimes are dealt by Federal Investigation Agency (FIA) and tried in civil courts which both are already overburdened, short in strength of dealing officers and more importantly, lack updates knowledge and techniques of social media applications and internet overall.

4. Rigorous punishments should be settled under code of social media to cater increasing number of cyber-crimes as social media has become an easy hub for criminals to demand extortion and ransom. Even for this, they do not need to commit murder, kidnapping, theft or robbery. A simple dope video is sufficient to meet the ends. Moreover, future of human lies with social media. Hence building a code of social media will ensure safe, positive and secure usage of social media among all ages, genders and regions.
5. Awareness campaigns at National level shall be convene in order to educate people about hidden social media techniques like honey trapping and dope video recognition including cache memories and cookies permission to avoid a compromise on privacy.
6. Gateways for Virtual Private Networks (VPNs) shall be blocked for common users without authority's permission or license to avoid privacy invasion, trolling content, harassing videos, ethical scams i.e. ransom and extortion under influence of threat to leak personal videos and pictures, frauds and phishing cases.

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