

THE LAW ON TELEVISION COVERAGE OF SENSITIVE CONTENT IN PAKISTAN: A LEGAL INSIGHT

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Abstract

In Pakistan the war on terrorism has been fought at two fronts: the battleground and in media. In this case, television coverage of violence, conflict and religious matters becomes highly sensitive and media generated sensationalism, hype and ill-scrutinized use of User Generated Content (UGC) may lead to public panic and undermine security interests of the state. The diverse religious and ethnic sensibilities of Pakistanis make it incumbent on the media, especially the private sector, to play its role in promoting peace and harmony in the society and provide information that caters to public's right to information while keeping in view legal and ethical requirements of acceptable television news content. This article seeks to address the content compliance issues associated with private television news from a regulatory perspective; a thorough scrutiny of the content delivered by Pakistan's private TV Channels does not compromise either public's right to information or the freedom of media.

Keywords: Security, Media, Coverage, Sensationalism, Conflict, Violence, UGC.

Introduction

Pakistan has faced the severe brunt of being a front-line ally in the War on Terror and has long been a target of terrorist attacks. A series of suicide bombings in public and militarized areas have been telecasted as breaking news, especially by private TV Channels and media houses. Security operations were conducted to hunt down the terrorists, which were widely covered by private television channels, and at times live coverage of such operations possibly exposed the strategy of security

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agencies to the terrorists. Reporting such conflict and violence became a source of sensationalized content for the private, commercially-driven media.

Sensationalism, exaggeration and hyped media content created panic and distress in the public by portraying for them their possible vulnerability. This sensationalism became a norm in reporting all types of news -- especially news related to conflicts. On the other hand, with advanced cameras in mobile phones, there is a growing trend of capturing incidents and quickly sharing on social media or directly sending them to television channels. Such User Generated Content (UGC) is frequently aired by television channels to outpace their competitors in telecasting the breaking-news which effects their relative rating.

The private television sector in Pakistan is regulated by the Pakistan Electronic Media Regulatory Authority (PEMRA), established in 2002,¹ which mandates, inter alia, improving the standard of information. PEMRA has a set of rules, regulations and a code of conduct to regulate private sector broadcasting: television and radio. Regulating the private television industry includes regulation of the content produced and aired by private TV channels. The Electronic Media (Programmes and Advertisements) Code, 2015² (PEMRA Code, 2015) is the latest regulatory development, which provides some fundamental principles and standards for acceptable content. The present research will analyze, in a comparative manner, the practices followed by private news channels in the light of this PEMRA Code, 2015.

Previously, some studies have been conducted on the negative role played by private TV channels. These sources highlight how media played into the hands of terrorists by providing sensational coverage and footage of events during the Taliban conflict.³ Also there have been studies regarding conflict coverage and how it should be conducted by the journalists.⁴ Literature on journalism in Pakistan also explores ethics of conflict

¹ It was established under Pakistan Electronic Media Regulatory Authority Ordinance, 2002 (XIII of 2002).

² Schedule A to Pakistan Electronic Media Regulatory Authority Rules, 2009, and issued pursuant to Rules 2(1)f) and 15(1) vide SRO No. 1(2)/2012-PEMRA-COC dated August 19, 2015.

³ Syed Adnan Haider, "A Critical Study of How Taliban Capitalize on Electronic Media Sensationalism in Pakistan," *Journal of Mass Communication and Journalism*, 6 (2016) <https://www.omicsonline.org/open-access/a-critical-study-of-how-the-taliban-capitalize-on-electronic-mediasensationalism-in-pakistan-2165-7912-1000292.php?aid=72453>.

⁴ Bashir Ahmed Tahir, *Practical Guide: Tips for Conflict Reporting* (Islamabad: Intermedia, 2009) <https://docplayer.net/52740066-Practical-guide-tips-for-conflict-reporting-bashir-ahmed-tahir.html>.

coverage, especially in the context of war on terrorism.⁵ Issues like sensationalism, coverage of conflict, violence and religious issues, lack of professionalism etc. were studied in the context of journalism and the challenges they pose to Pakistani media in the 21st century.⁶ It appears, however, such literature is mostly biased in terms of journalistic, social or political contexts it deals with.

International sources relate sensationalism with yellow journalism, and explain how sensational reporting contributes to creating media hype for commercial and political interests.⁷ Some studies identify how sensationalism affects the perception of religious minorities in a country, raising questions on the reliability of news media.⁸ In international media, use of UGC is a new phenomenon in the present century which has been studied in various disciplines raising concerns over legality and reliability of its use.⁹ Journalistic research reveals the volume of UGC in television news.¹⁰ In view of regulatory concerns, the United Nations Educational, Scientific and Cultural Organization (UNESCO) has also published guidelines on regulation of UGC,¹¹ and relatively recent literature stresses the need for regulating it.¹²

Currently available literature on the issue has not investigated the case of private news channels in Pakistan from a regulatory perspective. It is a

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- ⁵ Pakistan Press Foundation, "Ethics in Conflict Coverage," (Discussion paper, Pakistan Press Foundation in collaboration with Pakistan Coalition for Ethical Journalism), Islamabad (2014).
 - ⁶ Abida Eijaz et al., "Challenges and Options for Pakistani Media in the 21st Century," *Journal of Political Studies* 21 (2014) 243-257.
 - ⁷ Jessica E. Jackson, "Sensationalism in the Newsroom: Its Yellow Beginnings, the Nineteenth Century Legal Transformation, and the Current Seizure of the American Press," *Notre Dame Journal of Law, Ethics & Public Policy* 19 (2014): 789-816.
 - ⁸ Ali Parvin, "Sensationalism in Media: Perspective of Non-Muslim Malaysians towards Reliability of Media Content," *International Journal of Social Sciences and Humanities Research* 4 (2016): 547-556.
 - ⁹ Terry Flet et al., "User-generated content and the Future of Public Broadcasting: A Case Study of Special Broadcasting Service," (paper presented at the conference of Centre for Media and Communications Law, University of Melbourne, Melbourne, Australia, 20-21 November 2008).
 - ¹⁰ Claire Wardle et al., *Amateur Footage: A Global Study of User-Generated Content in TV and Online-News Output* (Columbia: Columbia Journalism School, 2014), http://towcenter.org/wp-content/uploads/2014/04/80458_Tow-Center-Report-WEB.pdf, (accessed October 18, 2018)
 - ¹¹ Martin Scott, *Guidelines for Broadcasters on Promoting User-generated Content and Media and Information Literacy* (London: Commonwealth Broadcasting Association, 2009).
 - ¹² Turner Hopkins, *Report for Ofcom: The Value of User-Generated Content* (2013), https://www.ofcom.org.uk/data/assets/pdf_file/0016/32146/content.pdf

fact that private television channels sensationalize news, use UGC, and cover conflict and violence in a way that makes the public panic. Therefore, the question that arises is whether there are any standards regulating these issues, and if there are any, how efficiently they address the problem? This study is significant as it provides a legal perspective over the issue, when compared to earlier studies that have discussed the issue from psychological, journalistic, social and political aspects.

In order to conduct research in a productive manner, doctrinal and qualitative research methodology has been applied -- the former is helpful in analyzing the existing legal sources like PEMRA legislation, whereas the latter assists in exploring the current phenomenon of news content in the private television industry in Pakistan. Application of both helps in evaluating the content issues and gauging the efficiency of the present PEMRA Code, 2015.

Analyzing the Telecast of Peace Sensitive Issues by Private TV Channels

The analysis given below has been done on the basis of categorization of issues telecasted by private TV Channels, which are sensitive regarding peace and order in the society i.e. such issues, reporting on which is counter-productive for social order, public's sense of freedom and thus, peace. The list includes sensationalism; reporting incidents of violence such as killings, crime, accidents etc.; telecasting details of operations against terrorists; user generated content promotion; and religiously biased content.

Sensationalism

In the context of television journalism, sensationalism refers to an intentional presentation of news stories in a provoking, shocking and exciting way that may compromise accuracy, rights of privacy or given facts to convey a story subjectively and by blowing it out of proportion, for attracting maximum viewership. Sensationalism seeks to paint events in a way that induces the viewers to take sides. The origin of sensationalism dates back to sixteenth century when the print media emerged.¹³ In the nineteenth century American press, sensationalism was noted to have contributed to the Spanish-American War.¹⁴ In 1890, it was advocated by some US jurists that there was need for introducing new tort against

¹³ Syed Adnan Haider, "A Critical Study of How Taliban Capitalize on Electronic Media Sensationalism in Pakistan," 292.

¹⁴ Role of US press in the Spanish-American War has been subject of research and there is credible evidence that some newspapers did sensationalize its reporting on Cuba that was one of the driving factor for armed conflict between America and Spain.

emerging sensational media.¹⁵ This can be termed as the first era of sensationalism in media, precisely the print media.

Sensationalism went a level ahead with the advent of electronic media: radio, television, and now the internet. A growing number of television channels owned by corporate businesses have saturated the present day media markets. The media products have become consumption products, where each product has its shelf-life. The growing competition has brought in sensationalism for increased consumption to survive in a competitive market. Pakistani viewers are a victim of this sensational reporting. It is believed that sensationalism sells better and would help attract more viewership as compared to telecast of real-time issues related to development.¹⁶

Unfortunately, the PEMRA legislation has neither defined sensationalism, nor has provided any rules, despite growing public complaints against increasingly sensational coverage. At best, it can be assumed, that the present PEMRA Code deals indirectly with the issue in certain provisions like prohibition on broadcasting statements of banned outfits.¹⁷ However, given the magnitude of this issue, proper regulation is needed to curb it in the public interest.

Sensationalism, in the present age of complex electronic media, is not an expressly articulated subject in current media regulatory codes. For example, even UK Ofcom Broadcasting Code,¹⁸ Malaysian Code¹⁹ and Australian Code²⁰ do not define sensationalism, and neither provide any provisions on how to control it. It is important to note that sensationalism might be good at times, when used positively and without maneuvering, a tool for public awareness on important social and economic issues. Well-articulated regulations on this subject can specify on what type of issues require a sensational approach, on conditions of accuracy, fairness and protection of privacy.

Justification for devising legislation on sensationalism is necessitated by a number of eye-opening incidents for the legislature and policy makers. Case of Arnold Schwarzenegger,²¹ former Governor of

¹⁵ Samuel D. Warren and Louis D. Brandeis, "The Right to Privacy," *Harvard Law Review* 4, (1890): 193

¹⁶ Syed Adnan Haider, "A Critical Study of How Taliban Capitalize on Electronic Media Sensationalism in Pakistan," 292.

¹⁷ PEMRA Code, Section 3(3).

¹⁸ The UK Ofcom Broadcasting Code, 2017.

¹⁹ The Malaysian Communications and Multimedia Content Code, <https://www.mcmc.gov.my/skmmgovmy/files/attachments/ContentCode.pdf> (accessed on August 26, 2018)

²⁰ Australian Commercial Television Industry Code of Practice, 2015.

²¹ Arnold Schwarzenegger, film star turned politician, ran for gubernatorial election in California. At the climax of political campaign, just days before the elections on October 2, 2003 a media organization, *Los Angeles Times*

California in USA is a befitting example of how sensationalism can be used for political ends. In Pakistan, during the last one and half decades, news segments, current affairs programmes and coverage on terrorism, heinous crimes, violence, tragedies and child abuse were highly sensational, which not only lowered public sensitivity but also created a panic and terror in public life.

Tragedies, Accidents, Crimes and Acts of Terrorism²²

Apart from journalism ethics, the regulation also puts some restrictions on reporting accidents, crimes and violence. The purpose of regulating such coverage is to protect the viewers from panic and distress, and not to infringe upon the victims' privacy. The PEMRA Code devised certain standards for coverage of unfortunate events. For reporting on crimes and violence, the licensee is to ensure that such reporting does not portray the crime or violence as a heroic act or in a glamorous manner.²³ As a fundamental principle of the Code, it is prohibited to air programme content that encourages, condones or justifies criminal activities, terrorism or disorder.²⁴ Victims' suffering and gory scenes of bloodshed and close-ups of the injured or killed should not be shown on the screen.²⁵ Even in case of reporting such tragedies, the licensee is required to exercise caution and give appropriate warning²⁶ so the viewers can make an informed decision. The broadcaster is to ensure that coverage of natural calamities, accidents or acts of terrorism do not disrupt activities of those involved in rescuing the victims.²⁷

From a regulatory perspective, the most sensitive aspect of reporting journalism is covering sex crimes, like rape and sexual violence, where the victims find themselves highly vulnerable. Their traumatic

published a sensational story alleging Arnold had been groping women in the past and had even attempted to remove his colleague's clothing on each encounter in the lift. The story, tactically mentioned 'rape' as a question: *Did he rape...?* No. But as a matter of fact, he was scandalized. Arnold, despite these allegations, won the elections but did not take the matter to the court. However, this campaign due to its timing and based on later investigations was not less than politically motivated. Reference, Gary Cohn, et al., "*Women Say, Schwarzenegger Groped, Humiliated Them*," *The Los Angeles Times*, October 2, 2003, <http://articles.latimes.com/2003/oct/02/local/me-women2>(accessed October 5, 2018)

²² Terrorism is defined under Section 6 of the Anti-Terrorism Act, 1997. The definition is quite exhaustive which enumerates actions that amount to terrorism.

²³ PEMRA Code, Section 8(1).

²⁴ Ibid., Section 3(1)(h).

²⁵ Ibid., Section 8(3).

²⁶ Ibid., Section 8(2).

²⁷ Ibid., Section 8(4).

condition requires legal protection for them and their families' identity. It becomes rather sensitive if the victim of sexual offence is a minor. Different regulatory codes tend to provide rules restricting broadcasters from revealing not only minor victims' identity but also that of witnesses and even of the offender.²⁸ PEMRA Code also seems to employ a very restrictive approach by requiring 'extreme caution' in dealing with content involving rape or sex offences.²⁹ It prohibits revealing victim or victim's family unless it is expressly permitted by them. In case of minor victim, such permission will be given by legal guardian of such minor.³⁰ Re-enactment of any sex crimes is prohibited by the Code³¹ irrespective of whether the victim is an adult or a minor.

On the coverage of violence, the main principle is to restrict the violent content to a minimum level. Violence may take place in more or less rigorous forms. The regulation may allow presentation of a crime story where, to convey the theme, violence would be allowed to a certain extent. Ofcom Code, in this regard, provides principle of 'context' as an exception to prohibition of depicting violent content on television -- that is, presentation of violence must be justified by the context.³² The Code defines 'context' in a non-restrictive manner by including editorial justification, programme timing, reaction of viewers who may be exposed to the content suddenly, the nature of content before and after the subject programme, the offensive impact of airing the violent portion in a programme, viewers expectations, the extent allowable for broadcasting the content by informing the viewers etc. This is equally applicable in case of both information and entertainment content. The Malaysian Code allows portrayal of violence in a restricted way by providing specific rules on violent content in news and analytical programmes. It is identical with the Ofcom Code in terms of an editorial aspect, use of cautionary approach and alerting the viewers on the nature of content in advance.³³

PEMRA Code, 2015 restricts portrayal of violence in broadcast of information content; however, like other concepts in the Code, the subject of violence has not been dealt with in considerable detail. Overall, the provisions of the Code on reporting, analyzing and documenting on violence, accidents, tragedies, crimes and acts of terrorism need to be revisited. The PEMRA Code, like the Malaysian Code,³⁴ needs to deal with the concept of permitted portrayal of violence and its justification. Further the Code calls for inclusion of the psychological form of violence in the

²⁸ Ofcom Code, Rule 1.8.

²⁹ PEMRA Code, Section 8(5).

³⁰ *Ibid.*, Section 8(6).

³¹ *Ibid.*, Section 9(2).

³² Ofcom Code, Section Two, Rule 2.3.

³³ Malaysian Code, Section 4.3(i)(d).

³⁴ *Ibid.*, Section 4.

classification of violence. The subject of violence in today's television reporting is not avoidable, as the public has right to get information on things happening around, yet at the same time, public should be protected from the harms of displaying violent content on television. Therefore, the PEMRA Code requires an update of its provisions on violence by including certain principles from journalism ethics.

Security Operations against Terrorists

Conflict coverage is a complex issue for both reporting ethics and regulation. It is important to define what does conflict coverage mean. In simpler terms it is coverage of any ongoing conflict of any kind, violent or non-violent, between groups or individuals or between state and non-state actors. Conflict journalism defines conflict as an open clash between two individuals or groups.³⁵ It may be internal or external. Irrespective of its type, parties to the conflict always try to get sympathy of the media or to influence it so to use it for propaganda purposes, by getting media to propagate their side's narrative. In the particular case where state and non-state actors are involved in a conflict, the media can play the responsible role of a peace driver. The second dimension of conflict reporting is access to the conflict area and the conduct of media crew in the field while collecting material for reporting. The regulation ensures that certain basic principles are followed by the media while covering a conflict.

Reporting conflict in Pakistani media had specific dimensions during the war against terrorism, especially in relation to private televisions, when the internal law and order situation deteriorated due to conflict in tribal areas bordering Afghanistan, causing a wave of terrorist activities in other major cities. During that time, there was a trend in the media of hunting for sensational and breaking-news, undermining the security operations of law enforcement agencies. This situation triggered incorporation of conflict coverage related provisions in the present PEMRA Code which specifically restricts broadcasting of any information linked with an ongoing security operation, or related to the victims of any acts of terrorism, except with the permission of the particular law enforcement agency.³⁶ The same restriction is applicable in case of coverage³⁷ of such operations.³⁸ Entry of television channels' reporters, camera-men or other

³⁵ Bashir, *Conflict Reporting* (Definitions of Conflict, 1.1).

³⁶ PEMRA, Section 8(7).d

³⁷ This restriction seems to have inspired from a real incident in Lahore city, where some terrorists attached Sri Lankan cricket team. The coverage of terrorists firing and running away from the scene, and anti-terrorism operations was broadcast by a local television. This was seen as a threat to compromise any future operations in a similar situation if the television channels would continue to cover such events

³⁸ PEMRA Code, Section 8(8).

support staff into a conflict zone and reporting on activities there is also allowed only with the permission from concerned security agency,³⁹ and the broadcaster is obligated to train its crew and equip them with necessary gear required to be used in a conflict zone.⁴⁰

Television channels are required by the PEMRA Code to not broadcast any speculations that may negatively affect such operations.⁴¹ Also the licensee is prohibited from giving voice to any banned organizations and their spokespersons who are, or have been involved in terrorist activities. Statements of such organizations and individuals shall not be aired, except in circumstances where it is in the public interest to expose their agenda, cruelty and abuse of religion. Even in that case, the broadcaster will not glamorize, support or show it like a heroic activity.⁴²

Other codes like Ofcom and Malaysian do not deal with this subject in explicit details. For example, the Malaysian Code deals with the concept of reporting on violence, and gives certain general principles and guidelines only.⁴³ In the Ofcom Code too, there are no specific provisions on conflict coverage and reporting on terrorism. The Ofcom standards are also related to coverage of violence.⁴⁴ Conflict and violence are not synonymous to each other, as violence is one of the manifestations of conflict.⁴⁵ Hence, it cannot be expressly assumed that the above codes have specifically provided any standards on conflict reporting. The reason for PEMRA having such basic standards is the special circumstances in Pakistan's context where war on terror in the immediate neighbourhood had an immediate effect on law and order both within the country.

User-Generated Content (UGC)

User-Generated Content can be defined as videos and photographs made by those who are neither journalists by profession, nor are affiliated with any media houses,⁴⁶ that is, anybody from general public recording such content for the purposes of broadcasting through television channels.⁴⁷ UNESCO refers to UGC as citizen journalism.⁴⁸ With increasing

³⁹ Ibid., Section 8(10) and 8(12).

⁴⁰ Ibid., Section 8(13).

⁴¹ Ibid., Section 8(11).

⁴² Ibid., Section 3(3).

⁴³ Malaysian Code, Section 4 and 3.12 more specifically.

⁴⁴ Ofcom Code, Section One, Rule 1.11 and 1.12

⁴⁵ Peter du Toit, *Conflict Sensitive Reporting: A Toolbox for Journalists* (South Africa: Sol Plaatje Institute of Media Leadership, Rhodes University), 8.

⁴⁶ Claire, *Amateur Footage*, 10.

⁴⁷ Sophia Drakopoulou, *User Generate Content. An Exploration and Analysis of the Temporal Qualities and Elements Of Authenticity And Immediacy in UGC* (London: Middlesex University, 2011), <https://core.ac.uk/download/pdf/17301870.pdf>.

⁴⁸ Martin, *UNESCO Guidelines on*, 10.

use of camera-phones and internet, UGC has developed as a source of information for television journalism. Undeniably television broadcasters are using UGC frequently and especially in covering places which are going through civil war or internal conflicts.

A recent example of the use of UGC by international media is the coverage of Syrian civil war, where people from Aleppo and other affected areas were sharing photographs and videos on social media, which were then used by internet sites and TV channels frequently in their news bulletins. Overall, events in the Syrian war were widely reported through UGC.⁴⁹ Despite this, there is a lack of regulation on how the UGC should be used and what are the restrictions that may apply on airing such content, though UNESCO has come up with guidelines on regulation of this new subject.⁵⁰ A report for Ofcom also suggests there is need to regulate UGC.⁵¹

Private TV channels in Pakistan also use UGC in their news reporting and current affairs. Massive use of social media on camera phones has increased production of UGC, which is ultimately being used by the news channels. However, there are no rules or guidelines in PEMRA legislation on how a news channel should use such content. UGC in Pakistan comes from users who are neither professionals nor aware of the journalism ethics. At the same time, it has become the *de facto* source for news channels, which is an unavoidable phenomenon. UGC requires special editorial scrutiny before being aired. There have been numerous examples where UGC led to suo moto actions by the Supreme Court of Pakistan.

Recently, the Supreme Court of Pakistan fined a member-elect of Sindh Provincial Assembly after a UGC footage of him assaulting a person in a traffic brawl was aired by TV channels and went viral on social media sites. Taking suo-moto action, the Supreme Court (SC) slapped him with a fine of three million Pakistani Rupee, to be deposited in the dam fund.⁵² Another example was a video showing Taliban flogging a woman in Swat; investigation was launched following the SC's suo moto action. However, it was later discovered by the Interior Ministry that the video was fake. Surprisingly, however, the apex court did not fix responsibility on those involved in airing the fake video that threatened to tarnish the country's image.⁵³

It is, therefore, required to regulate the use of UGC on private TV channels and to provide rules for special editorial supervision followed by

⁴⁹ Claire, *Amateur Footage*, 13.

⁵⁰ Martin, *UNESCO Guidelines on UGC*, 10.

⁵¹ Turner, *Report for Ofcom*.

⁵² "CJP's Rs.3 million Imran Shah Fine Destined for Dam Fund," *The Express Tribune*, September 1st, 2018, <https://tribune.com.pk/-story/1792783/1-ptis-imran-shah-fined-rs3-million-cjp-assaulting-citizen/>

⁵³ "Video of Swat Woman being Whipped was Fake, SC told," *The Express Tribune*, January 16, 2016, <https://tribune.com.pk/-story/1028332/lashing-of-woman-swat-flogging-video-was-fake-ministry-tells-sc/>

sanctions in the PEMRA Code. This is important because the moment UGC is used by a professional news organization, it is no more in the non-professional hands of those who generated it, but in the hands of media-houses which must bear responsibility for what they display or broadcast.

Religious Content

Religious content on television always gets a good number of viewers. However, such content, if not handled with caution, may offend the viewers due to inaccurate or biased content, thus acting as a contributor to religious extremism. Regulating the broadcast of religious content, specifically in a state like Pakistan, is a vital need if religious and sectarian hatred is to be curbed and religious harmony is to be promoted instead.⁵⁴ For overcoming disharmony based on an individual or group's beliefs, the religious sensitivities of other communities must be respected. In a country where the official religion of the state is constitutionally specified, it is even more important to regulate this subject.

While the PEMRA Code does not provide a separate section on religious content like the Malaysian Code, there are certain provisions scattered in the Code which are related to it. As a fundamental principle, the code prohibits the broadcast of any content against Islamic values;⁵⁵ however, unlike the Malaysian Code,⁵⁶ PEMRA does not expressly prohibit propagation of any religion other than Islam. While Malaysian Code reiterates Islam as the state religion, the PEMRA Code does not re-assert this, perhaps on the presumption that this is already provided in the Constitution of Pakistan.⁵⁷

In order to protect religious freedom, the Code prohibits broadcast of derogatory or offensive religious content.⁵⁸ This is identical with the provisions of the Malaysian Code ensuring protection of religious freedom⁵⁹ and prohibiting any attack on other communities that may disrupt religious harmony.⁶⁰ PEMRA Code further provides on promotion of religious and inter-faith harmony by requiring the licensee not to broadcast any content that may create bias, disharmony or hatred among different sects and communities⁶¹ -- just like relevant provisions of the Malaysian Code.⁶²

Keeping in view the sensitivities of different religious groups, the licensee is obliged under PEMRA Code to ensure that the information

⁵⁴ UNESCO Guidelines, 50.

⁵⁵ PEMRA Code, Section 3(1)(a).

⁵⁶ Malaysian Code, Section 3.15.

⁵⁷ Constitution, Article 2.

⁵⁸ PEMRA Code, Section 3(1)(d).

⁵⁹ Malaysian Code, Section 3.12.

⁶⁰ Ibid, Section 3.13.

⁶¹ PEMRA Code, Section 10(1).

⁶² Malaysian Code, Section 3.16.

regarding beliefs and practices of all religious communities be provided in an accurate manner.⁶³ For ensuring the accuracy of Islamic religious content, the Malaysian Code requires approval from the concerned and appropriate religious authorities; the broadcaster must do the same even for religious content related to other religious communities.⁶⁴ PEMRA Code employs expressions like sect or sectarian in the context of sectarian tension and violence which has been a continuous trend since the nineties. The Code borrows the term 'sectarian' from the Anti-Terrorism Act, 1997. The Act defines 'sectarian' as "pertaining to, devoted to, peculiar to, or one which promotes the interest of a religious sect, or sects, in a bigoted or prejudicial manner."⁶⁵ Hence, broadcast of religious content that has sectarian attitude is prohibited by the Code in the public interest of inter-sectarian harmony.⁶⁶ It is relevant to mention here that Pakistan has blasphemy law in place,⁶⁷ which the PEMRA Code does not refer to. Also it is not defined in the Code what may constitute blasphemous content for a television broadcast.

For audio-visual religious discussions, PEMRA Code is comparable to the Malaysian Code since both share identical values: Islam is the official religion in both states, both have a Muslim majority along with other religious minorities, and both aim to regulate broadcast of religious content for promoting religious harmony. It is strange, however, that neither of the Codes define what a religious programme is. Ofcom Code defines a religious programme as one dealing with religious matters as a main subject or as its major portion.⁶⁸ Based on that, Ofcom Code approaches the subject by laying down principles and then provides detailed rules for explaining those principles.⁶⁹

Unlike the Malaysian and PEMRA codes, Ofcom does not seek to protect a state religion; instead it seeks to restrict propagation of any religious beliefs in disguise⁷⁰ or by inviting people on television to join a particular religion except in the case of special religious television.⁷¹ It prohibits content in a religious programme that degrades other religions or offends their followers by manipulating their religious sensitivities.⁷² The television broadcaster is required to act responsibly while claiming any individual to be having any extra-ordinary capabilities in the religious

⁶³ PEMRA Code, Section 10(2).

⁶⁴ Malaysian Code, Section 3.14.

⁶⁵ Anti-Terrorism Act, 1997, Section 2(u).

⁶⁶ PEMRA Code, Section 3(1)(d).

⁶⁷ Pakistan Penal Code 1860, Sections 298, 298A, 298B, 298C, 295, 295A, 295B and 295C.

⁶⁸ Ofcom Code, Section 4.1.

⁶⁹ *Ibid.*, Section Four.

⁷⁰ *Ibid.*, Rule 4.4.

⁷¹ *Ibid.*, Rule 4.4.

⁷² *Ibid.*, Rule 4.2 and 4.6.

context and must not air such content without a caution note for minors.⁷³ While the Code lacks orientation toward any particular religion, it seeks to protect the viewers from offensive or exploitative content.

Internationally, religious content regulation is more a matter of state policy and depends on whether there is a defined state religion in the relevant jurisdiction. Therefore, international guidelines on this do not have an impact until local legislature devises regulations depending on the role of religion in the country and to what extent it is debatable. In countries where the state religion has been declared or where the majority follows a particular religion, the regulation will have regard to these aspects; Pakistan and Malaysia are examples. In jurisdictions where it is otherwise like in the UK or Australia, the regulatory approach is different. However, the purpose in both cases is to ensure that exercise of right to freedom of expression, especially in religious matters, shall not offend religious susceptibilities of others.⁷⁴

Pakistan being an Islamic state, having a Muslim majority population associated with different schools of thought, is in dire need that the PEMRA code should have detailed rules based on some defined principles. The country has previously experienced sectarian violence and a lack of tolerance among different religious groups; sectarian harmony has to be ensured with well-articulated regulation that attempts to cut down on disharmony among different sects and minorities.

Conclusion

The PEMRA Code was hastily issued to comply with the directives of the Supreme Court of Pakistan. Given the volume and complexity of the electronic media industry in Pakistan, there is need to overhaul the Code in order to address the issues discussed in this article. Issues like sensationalism and UGC are not even the subject of the present Code. Other issues like coverage of conflict and violence require detailed regulatory guidelines keeping in view the history of last one and a half decade. On religious content in news, the Code does not provide any principles and rules on how religious content in informative programmes will be handled and how its accuracy and objectivity will be ensured by the broadcaster. The above issues are vital to peace building, and cultivating tranquility and harmony in the society, where media has an important role to play. A well-articulated regulatory code, devised in consultation with industry professionals, is the need of the hour.

⁷³ Ibid., Rule 4.7.

⁷⁴ UNESCO Guidelines, 50 (*Religious programmes*).

