

## FREE SPEECH AND HUMAN RIGHTS IN PAKISTAN: A MEDIA LAW PERSPECTIVE

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### ABSTRACT

*This research aims to improve Pakistan's present derailing state of freedom of speech. The study employs qualitative surveys and interviews to understand the dominant dynamics of free speech from diverse stakeholders. The survey, conducted in two provinces of Pakistan—Punjab, and Sindh, people have been given the right of freedom of expression but with certain limitations, i.e., "the greatness of Islam, law, and order, and national security." Many individuals, especially minorities, journalists, and human rights campaigners, are subjected to these restrictions. Exploitation seems clear in many cases, such as missing people and targeted murders. A detailed analysis revealed a pressing need to clarify ambiguity in several Constitutional articles to minimize exploitation. Furthermore, a thorough definition of freedom of speech must be established and disseminated to the general public not to misinterpret or disrespect other people's beliefs, views, and ideas.*

**Keywords:** Fundamental Human Rights, Media, Law, Freedom of speech, Freedom of expression, Pakistan, Army, Judiciary, Blasphemy, Constitution.

### 1. INTRODUCTION

Freedom of speech is commonly regarded as a cornerstone of human rights, and it is guarded by various regional and international treaties, charters, and frameworks (De Varennes, 2021). Mainly, freedom of speech and expression guarantees that people will be able to participate in the functioning of democracy successfully. Freedom of speech in a democratic society helps policymakers understand the strength of contrasting perspectives and encourages acceptance of such viewpoints (Lakier, 2020).

Democratic governments confront certain hurdles in today's globe regarding freedom of speech. In a community with many different opinions, faiths, and beliefs, the most challenging duty is to find a balance between freedom of expression and upholding law and order, peace, and security. In most of the liberal democracies in the globe, such as the United States, freedom of speech and expression is limited. These constraints are found in our own experience, which leads us to believe that total freedom of speech does not exist. Uncontrolled media freedom inevitably results in chaos and anarchy (Orazani, et al., 2020). Because every democracy has some mechanism that limits freedom of speech, though, it is usually not recognized as an intrinsic right. According to an article in the *Stanford Encyclopedia of Philosophy*, freedom of speech is limited when it clashes with other principles or rights, and may have legal, social, or both repercussions (Knox, 2020).

Like other democracies, the constitution of Pakistan guarantees freedom of speech subject to religious and national security restrictions. The aim of this research is to examine the present state and developing trends in Pakistani freedom of speech.

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## 2. RESEARCH METHODOLOGY

Qualitative survey data was collected from Rawalpindi, Lahore, Multan, and Faisalabad districts in Punjab and Karachi, Hyderabad, Jamshoro, and Sukkur districts in Sindh between November–December 2021. Data was collected keeping in view the risk factor, rural/urban demographics, and multi-ethnic and multi-religious components of these locations to allow for more cross-cultural juxtaposition. The chosen districts of Punjab are recognized to have recorded the most blasphemy cases. It's worth noting that, as Pakistan's blasphemy legislation is often misused, particular ties to violations of freedom of speech may be identified (Khan, et al., 2018).

According to the survey, Lahore has the most blasphemy instances, with 101 recorded cases, followed by Multan and Faisalabad with 81 and 20, respectively. In the state of Sindh, 97 blasphemy cases were registered in Karachi (Khan, et al., 2018). In reaction to an anti-Islam film produced in the United States, dozens of men led by Muslim clerics assembled in a Hindu Goth (village) on the peripheries of Karachi in 2012. Protesters assaulted the Sri Krishna Ram temple, destroying holy manuscripts and assaulting the site's custodian (Dawn, 2012). Rinkle Kumari, a Hindu girl from Sukkur, was abducted, forcefully converted to Islam, and then married to a Muslim man against her will, according to legend (Sohail, 2012).

Key Informant Interviews (KIIs) and Focus Group Discussions (FGDs) were conducted to provide a comprehensive picture of freedom of speech in Punjab and Sindh. Fifty-six interviews were conducted, approximately seven from each district, and three FGDs sessions were organized, about four from each district. A combination of KIIs and FGDs helps get rich data and gives internal and external validity to the results.

In each district, seven key informant interviews were performed with stakeholders. Officials from important institutions of the country, for example, the police, courts, and administration, were among them. It also featured pressure organizations, for example, media, personnel from development sector personnel, activists from civil society, and academicians, who keep a close check on the government. Finally, religious leaders such as pastors, maulvis, and pundits were questioned to provide an insider's perspective. When sensitive groups, for example, the Ahmadi community, are challenging to approach, well-known persons are chosen for interviews under this category. The said interviews lasted 40 to 120 minutes and were semi-structured.

Aside from KIIs, three focus groups were held in each district to gather social and community opinions from a more significant number of residents. The number of persons that took part ranged from 8 to 15 people. The groups didn't have any age limit; however, most of the participants were between the ages of 18 and 70. Focus groups are more flexible in their structure, allowing for comparing viewpoints within and across communities. Data from these focus groups is critical for fine-tuning key informant interviews since the key informant may back up any questions raised by the members.

## 3. REVIEW OF LITERATURE

All inhabitants of Pakistan are granted freedom of expression under Article 19 of the 1973 Constitution, albeit there are pre-determined restrictions, for example, the "glory of Islam," "law and order," and "national security" (see, Ahmad, & Malik, 2020; Saleem, Y., Raman, M., Adeeb, H., & Akram, I., 2021; Mahmood, S., & Khanam, M., 2021). Anti-blasphemy and voting legislation subjugated religious minorities, who were imperiled to these limitations (Wolf, 2020).

General Zia's dictatorship encouraged religion sponsored by the state, which fueled extremist beliefs (see, Kalin, & Siddiqui, 2014; Yousaf & Wakhu, 2020; Jan, F., Ashraf, S. I., & Shah, S. F. A., 2021). Freedom of expression encompasses the right to speak and select and acknowledge one's religion, exercise free political rights, have free access to information, and be free of hate speech (Mondal, 2016). However, these rights are scarcely guaranteed under the current theocratic-political legislative context. Clergy and other authorities regularly abuse the immunity afforded by free speech rights to encourage hate speech, accuse minorities and other Muslims of blasphemy, and suppress information based on "national security" (Mondal, 2016).

Melissen (2005) believes that freedom of speech is under restrictions in a nation like Pakistan, and there is little opportunity to create individual viewpoints; the country has a mob intellect that precisely unwelcome creative and innovative ideas. Likewise, according to Uddin (2011), regulations are vital in managing one's right to free expression since they allow for impunity for powerful offenders

while penalizing nonviolent speakers. To conclude, religious intolerance is ineffective and may lead to more significant turmoil and unrest in society.

Blasphemy murders are often the result of local folk taking matters into their own hands and attacking the alleged culprit. After the allegation that Christians had dishonored the Holy Quran, eight Christians were murdered, 18 were wounded in the hamlet of Gojra in 2009, and two churches and 75 homes were burned (Bluth, 2019). The execution of certain notable persons who called for reforming blasphemy laws exemplifies the seriousness of suppressing freedom of speech (see, Holzapfel, 2014; Bokhari, 2021; Ahmed, I., 2020). Two of the most heinous instances of such human rights breaches are the assassinations of "Punjab Governor Salman Taseer and Union Minister for Minority Affairs Shahbaz Bhatti" (Polymenopoulou, & Rehman, 2013; Sabat, Shoaib, & Qadar, 2020; Aleem, N., Ansari, N., & Habib, F., 2020). Additionally, forcible conversions of Hindu and Christian females are relatively common. Every month, roughly 25 Hindu females are estimated to convert to Islam (Polymenopoulou, & Rehman, 2013.). Efforts are being made to eliminate forced conversions, with the Sindh Assembly overwhelmingly passed a law to stop forced marriages (Husain, 2017; Hussain, G., 2021). Suleman (2020) notes that unrestricted freedom of speech is not always a desirable right since it invariably leads to misunderstanding. Content protected by freedom of expression should be limited and regulated to prevent it from being used to incite, misrepresent, profane, or hate speech, among other things. Furthermore, although Pakistani journalists are free to criticize the government, the military, intelligence agencies, lawmakers, and courts continue to suppress the country's media (Shah, 2014; Hussain, S., 2020; Yousafzai, D. M., Khan, A., & Mehro, M., 2021). According to some reports, attacks on journalists in Pakistan are accelerating, and Pakistan is a dangerous country for journalists (Human Rights Watch, 2021; Asian News International, 2020).

While Articles 19 and 19a of the Pakistani constitution provide freedom of speech and access to information, Jamil (2019) claims that there is no specific legislation governing the freedom of expression on the internet and it exerts influence in Pakistan. However, Pakistan Telecommunications Authority's (PTA) Acts and Ordinances cover online content. Jamil (2019) also investigates the issue of profanity pushed by foreign sources and the Pakistani government's reaction to it (e.g., YouTube ban). The writer says that since blasphemous and indecent information cannot be removed from the internet, banning the whole website may not be the appropriate approach. Suing the content's writers, disregarding such comments and material on the Internet, building filters, and so on are all alternatives for dealing with such difficulties (Jamil, 2019). Since 2015, the "Pakistan Electronic Media Regulatory Authority (PEMRA)" has established a governing code of conduct that hinders journalists from discoursing specific issues during the live broadcast (Ashraf & Shabir, 2015). Security operations, hostage situations, terrorist assaults, religious hate speech, and so on are common examples. It is created to safeguard national security, according to the regulations.

In contrast, Neier (2020) says that although there is a lot of criticism on media and freedom of expression, most of the things that media portray are based on facts contrary to common belief. He noted that much of the information presented by the media is factual and not made up. People are constantly afraid of being assaulted by terrorists, political groups, or even the military if they voice their political, religious, or human rights opinions. Due to this anxiety, he believes that the Pakistani community has become "intellectually corrupt, ethically stupid, and religiously intolerant" (Neier, 2020). He is convinced that it is critical that the grooming of society's intellect ensures the liberty to convey one's thoughts and voice with no fear of retaliation (Neier, 2020).

Moreover, the newly enacted "Cyber-crime Bill (Prevention of Electronic Crimes Act, 2016)" both by the National Assembly and the Senate raises new concerns about Pakistan's freedom of speech, which runs counter to the constitutionally guaranteed right. The authority to order the removal or barring of access to any intelligence information through any information system if it is required for the grandeur of Islam, the safety, security, or defense of Pakistan or any portion of it, under Article 31 of the foreign act or order, public order or morals, or public morals, or connection with the contempt of court, or the commission or instigation of a crime.

Legal provisions provide a variety of grounds for online limitations. They may be used to prohibit any article from being published in newspapers, online media, or social media based on this criticism (Duffy, 2014). The bill's opponents call it "draconian," claiming that it undermines civil freedoms and emphasizes the straitlaced faith instead of actual crimes (Jamil, 2020). According to Baloch (2016), this measure would stop the free interchange of thoughts and expression in the virtual realm.

To prevent this, he suggests changing the legislation to address people's freedom of speech and other core human rights without being criminalized.

#### **4. FINDINGS OF THE STUDY**

Respondents in both provinces had comparable understandings and definitions of freedom of speech to the "Universal Declaration of Human Rights" idea. Under the declaration, freedom of speech is the right of every person to have an opinion without interference and seek, receive, and transmit information and ideas via any medium and across all borders. Similarly, respondents defined freedom of speech as the right to choose/express their political, religious, and social affiliations/opinions, as well as their freedom of access to information. On the other hand, the supporters of freedom of expression associate it with a view on topics of public concern and the practice and preaching of religion. In contrast, opponents associate it with hate speech, words, and expressions containing defamatory material.

Respondents have identified some structural and cultural obstacles as impeding the right to freedom of speech throughout the nation. According to specific human rights campaigners, some individuals were not allowed to freely talk about certain topics such as religion, information seeking beyond geographical borders, and national security problems since they are prohibited by law. The survey respondents noted the current role of prominent people accountable for Pakistan's inability to implement freedom of speech adequately. These are described in more detail below.

##### **4.1. Bureaucracy/government**

When it comes to information control, the government plays a key role. Despite the right to information guarantee in the constitution (Article 19A3), the public's access to information is severely constrained. The absence of statistical data on significant socioeconomic issues is one major gap in this respect. The last population census was conducted in 2017, and no serious attempts have been made to begin a new one since then. All budgetary allocation of the resource is founded on the censuses from 4 years ago and other databases and polls that do not provide the whole picture. As a result, all of the planning is reduced to guessing.

On the one hand, most respondents (80%) feel that the government lacks the competence to reveal all information to create a transparent society. On the other hand, others contend that giving the public access to information is counterproductive since "controlling the uninformed is simpler." The government cannot afford to provide all information since it would entail revealing the levels of corruption in each government agency. As specified by a top official with the "Right to Information Commission of Pakistan," one of the most challenging tasks they have in implementing the right to information is government institutions' refusal to provide information since it exposes them to inquiries and accountability (Pakistan Information Commission, 2020). According to the source, in terms of government affairs, Pakistan has a culture of secrecy rather than openness; as a result, accepting the RTI law's application by public entities is tough. Under a new article, the Right to Information Commission Punjab received over 400 complaints during the first four months of 2014 against the personnel from the Government of Punjab who was unable to deliver facts and figures to the residents under the "Punjab Transparency and Right to Information Act (RTI) 2013."

The government controls the free flow of discourse and discussion on specific matters, according to freedom of speech among the media, civil society, and the ordinary people, except in national security cases, the constitution seems to provide total freedom of speech and expression. To avoid criticism and abuse of its actions, the government, particularly civil employees and the bureaucracy, strives to regulate the content of the media. For example, journalists often fear that if they publish news stories concerning official corruption or abuse of power, they may face pressure and threats from government officials. When private news networks broadcast an anti-government rally, police have often attacked them, damaging their property and harassing journalists. You may also watch any anti-government talk program, which occurs when the administration attempts to avoid being probed for corruption or power abuse (Bashir et al., 2020).

Nonetheless, the government believed to exert a more evident limitation on the operations of human rights NGOs, particularly in the Southern part of Punjab province. Human rights advocates and members of many Non-Governmental organizations (NGOs) have blamed the government for being hostile to NGOs and civil society organizations. When it comes to authorizing the activities of non-governmental organizations, the government is relatively cautious. It has stiffened executive necessities by enacting time-consuming regulatory processes, which, despite completion, do not always result in

groups receiving licenses to organize their functions and proceedings (Rehbinder, & Stewart, 2020). One explanation for this might be that NGOs are wary of government efforts, resulting in a schism between the two sectors. Furthermore, experts think that the government wants to investigate and monitor the operations of non-governmental organizations (NGOs) because it feels that some of them are working for foreign agendas considering recent law and order concerns and terrorist incidents. Consequently, the government places a high value on the activities of NGOs.

There is a clear divide between the government, non-governmental organizations (NGOs), and civil society. Only when both entities have similar goals can a good partnership be formed. Governments or governing parties may consider themselves the reliable voice of the people in a highly divided political environment, whereas NGOs may perceive themselves as their adversaries (Enyed, 2016). Furthermore, NGOs' reliance on foreign money suggests that foreign interests influence their motivations.

#### **4.2 Member Parliaments**

Parliamentarians perform a critical role as decision-makers with legislative power, particularly when they directly impact the broader population. Their positions in different law-making organizations, such as the provincial legislature, give them significant sway over the situation of human rights in their province and the obligation of supervising and representing their people on a larger scale. On the other hand, the public has a usually poor impression of how this authority is utilized in practice. Parliamentarians were accused of entangling themselves in a blame game over the condition of circumstances, blaming past administrations accountable for the dire situation while doing nothing to ameliorate it on their own.

Furthermore, instead of investing in its people, the government prioritizes national security and military spending. The administration's priorities have been further skewed by the current security situation, economic crisis, political instability, the height of terrorism, tensions with neighboring India and Afghanistan, a counterterrorism partnership with the US, and an expanding nuclear arsenal, and a long history of regional violence (Epstein, & Kronstadt, 2011). Several district-level respondents said that government spokespersons/MPs don't intentionally participate in public education and advocacy because the educated and informed become strong, leaving the ruling elite helpless. An apprised society reduces the likelihood of depleting national resources, posing a danger to the status quo. As a result, government investment priorities reveal a lack of political will to protect human rights, particularly freedom of speech (Shue, 2020).

#### **4.2. Print and Social Media**

In today's Pakistan, the media is often seen as having a significant impact on social and political debates. According to respondents, all types of media (print, electronic, and social) substantially influence the country's human rights condition. The nature of the impact, however, remained a point of contention. According to a high number of respondents, the media has aided in raising awareness of the overall human rights situation. There is now a better awareness of the many infractions and how to respond to them. This, in some ways, enhances their access to information, opportunities, and justice.

Furthermore, the media functions as a pressure group on law enforcement authorities to publicize human rights crimes (Sial 2009). While many people see the media as sticking up for people's rights and giving balanced coverage, others believe the media is in a commercial race for ratings and, as a result, often abuses freedom of speech to mock certain groups and individuals to generate dramatic headlines. Furthermore, some political leaders have formed relationships with media outlets to escape media criticism and resistance. The media seems prejudiced since statements from Muslim academics are broadcast not just on religious programs but also on entertainment shows. Political bias is also seen on certain television stations, which favor powerful figures in the news while ignoring their negative aspects and condemning their dissidents (Levitskaya, & Fedorov, 2020). The media was also chastised for instilling a culture of violence, abuse, and immorality in the public realm. Several interviewees said that media material is very inappropriate. For example, when it comes to violence against women, it fosters victimhood rather than empowerment. People often criticize the reporting style used by news organizations. Journalists were accused of spreading the news without comprehensive investigation and verification. The media has the authority to effect change; nonetheless, its influence is seen negatively, particularly by minorities.

Many respondents said that the media's hands were constrained to exercising their fundamental right to freedom of speech. When the media is influenced by offenders (owing to money, political clout,

etc.), it fabricates and distorts news that may negatively affect the subjects. Media company owners' political and social ties, particularly with news organizations, may sometimes disseminate highly biased information and stories. Some respondents said that powerful political parties, the military, significant business people, and even foreign organizations (countries or groupings of nations) pressure the owner to broadcast a particular point of view on a topic. The primary purpose of contentious matters is sometimes to increase viewing for financial benefit.

Ahmed (2012) addresses the necessity of having the freedom to express oneself to alter society's status quo. He says that in a nation like Pakistan, where freedom of speech is prohibited, individual perspectives have no place; instead, the country has a mob mentality, which leaves no room for new ideas. He thinks that the country's extreme ideology must be countered by cultivating an intellectual counter-narrative.

#### **4.3. Military Establishments**

The military and intelligence services are likewise seen as having a stranglehold on the rights to freedom of speech and access to information (Aslam, 2020). The firms violated their "unlawful" conduct, according to survey respondents, by restricting any debate in the media or any other forum for the sake of national security. When confronted with criticism, they engender dread and horror among the populace. According to some respondents, military and intelligence organizations are two players that influence individuals; nevertheless, many others were unwilling to speak out in this respect, indicating a fear factor among them. There is no single model that can describe the extent of their effect. The military's participation in writing Pakistan's constitution has been criticized for encouraging radicalism and prejudice (Brown, 2020). The military is claimed to employ the constitutional provision of limits to preserve the national interest as the most exploited clause to maintain comprehensive regulation on the country's communal responsiveness (Harman, 2015). Furthermore, military meddling is widely seen as unlawful, violating human rights, and a "ploy by the military to enhance its authority and control" on the country's matters (Human Rights Watch, 2010).

No one can criticize the military's actions or activities since it is regarded as one of the most respectable organizations. Several people questioned the army for the killings of human rights activists and journalists and the disappearance of hundreds more (Neier, 2020). To instill fear in anyone who dares to speak out against its acts and powers. The ones who spoke out against the army had vanished, especially in Sindh province, perhaps out of fear; the media has been deafeningly silent.

#### **4.4. Influence from abroad**

Influences from foreign countries significantly affect the country's power dynamics (Usman, & Makhdam, 2021). This power has been exercised via a robust network of opposing foreign alliances that employ a variety of national actors to carry out their goals. Some may utilize religious beliefs to incite rebellion and unrest, while others may exploit international policies to obtain advantages concerning politics and economic situations. Many respondents, for example, linked the inclusion of discriminatory material in the curriculum to the Afghan conflict. They said it was done to instill jihadist attitudes in the kids. Some questioned the financing origins of various NGOs and religious schools, implying that direct foreign participation may be possible. According to several respondents, the geographical location of Pakistan and its position as a nuclear-powered country are the primary causes of foreign meddling in the nation. A respondent relates:

If you isolate the role of religion in statecraft, you'll find that it's the driving force behind human rights violations, notably freedom of speech. And this was put to good use in politics via careful preparation. It was completely unrestricted. It was implemented as part of foreign policy objectives.

#### **4.5. The rise of Religious Intolerance in society**

In many human rights crises, the private interests of the public, in addition to all of these designated actors and stakeholders, play a vital role. A person may, for example, sue someone for blasphemy owing to a constitutional weakness. Due to the deceptive nature of the investigative process, vested interests might exploit constitutional provisions to enhance their interests rather than punishing people who commit blasphemy properly. When one person's blasphemy destroyed the whole Christian community in the Badami Bagh episode in Lahore, it was subsequently uncovered that the owners of adjoining companies wanted to take the site on which the Christian home was constructed. The mob assault is thought to have been a planned eviction, although this has not been verified (Rehman, 2013).

Similarly, Professor Khalid Mehmood, an Associate Professor, and Mashal Khan, a university student, were assassinated in Bahawalpur and Mardan, because of blasphemy. According to the pollsters, he was suspended because of professional competitiveness, not because he had committed the blasphemy allegation. This highlights the dangers of constitutional uncertainty, which may be used for personal, economic, and political gain (Uddin, 2015). While the 2004 amendment mandated that blasphemy charges be filed and investigated against senior police personnel (superintendent or above), its efficiency has been questioned. Most of the time, these top officials do not want to become engaged in these matters, and when they do, they face societal pressures (Uddin, 2015).

Religious extremism is endangering Sindh, which was formerly famed for its variety, religious calm, and Sufi culture, according to over 90% of respondents (a diverse branch of Islam). A study conducted by the Singh Religious Conflict Study in 2015 reveals that separatist violence and violent extremism are increasing in the said province (Yusuf & Hasan, 2015). However, several respondents believed that rather than extreme groups, the culture of intolerance had been "transported by foreign civilizations." These 'outside' components were identified as Baluchistan migrants. Pashtun migrants were blamed in Karachi for spreading religious intolerance among the Christian minority. Even when certain authorities speak about reforming the blasphemy legislation, they are assassinated, indicating the magnitude of the restriction of freedom of speech (Saiya, 2017).

Due to military actions in Punjab and Khyber Pakhtunkhwa, it was learned that numerous madrasas relocated to Sindh. As a result of this transformation, the clergy are now able to exercise influence over various communities around the province. In poverty-stricken Sindh, madrasas were welcomed since they provided free education, food, and housing to their pupils. Moreover, the said groups provide residents with services such as drinking water filters and the construction of mosques. However, some of the individuals questioned said flatly that majority of the organizations had ties to foreign foes or extremist groups. Several interviewees emphasized the significant give-and-take relationship between religious leaders and government.

## **5. CONCLUSIONS**

Despite the Constitution's guarantee, there exist limits on freedom of speech in Pakistan. Several circumstances and individuals influence the present condition of things in terms of freedom of speech. It is mainly controlled by censorship, restrictive laws, harassment/assassination of journalists, human rights activists, and others who express their views. Crackdowns on religious minorities and the suppression of free thinking and religious opinion are examples of such techniques.

Though regulations are crucial in managing the ability to express oneself, they also enable strong offenders to operate with impunity while the peaceful sector of society is punished. The law must be interpreted impartially and equitably. On the one hand, governmental entities must follow the law, and on the other, they must face public disapproval and societal reactions. Furthermore, since freedom of speech is a fundamental human right, it must be enjoyed in its entirety. Yet, this liberty must be exercised inside the specified bounds.

Pakistani culture has evolved from a relatively tolerant to an intolerant one. Another element that has led to increased bigotry and intolerance in society is education and curriculum. Criminalizing religious bigotry is unproductive and might lead to even more discontent and unpredictability. In this respect, the media, civil society, religious groups, and academics are responsible for monitoring hate literature and statements that incite hatred and prejudice based on race, ethnicity, or religion.

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