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Freedom of Speech in Pakistan: Legal Perspectives and Challenges

¹Anbreen Begum

Ph.D. Scholar Pakistan Study Centre, University of Peshawar Khyber Pakhtunkhwa, Pakistan
click4am@gmail.com

²Dr. Khan Faqir

Assistant Professor, Pakistan Study Centre, University of Peshawar Khyber Pakhtunkhwa Pakistan
khan.ps@uop.edu.pk

Abstract

Freedom of speech is a cornerstone of democratic societies, fostering dialogue, accountability, and progress. In Pakistan, this fundamental right is constitutionally guaranteed but remains constrained by various legal, political, and societal factors. This paper aims to critically analyze the challenges to freedom of speech in Pakistan, focusing on the interplay between restrictive laws, political control, and social conservatism. The study identifies the objectives of exploring the legal framework governing free expression, examining political influences on media independence, and understanding societal pressures that promote self-censorship. The findings reveal significant challenges to free speech in Pakistan. Laws such as the Prevention of Electronic Crimes Act (PECA) and blasphemy laws are frequently misused to suppress dissenting voices, especially in politically sensitive or controversial cases. Political interference in media operations, coupled with state pressure on journalists and outlets, restricts independent reporting. Moreover, entrenched social conservatism and cultural taboos further suppress open discourse, creating an environment where self-censorship becomes the norm. This study highlights the intricate interconnection of these challenges, offering a comprehensive understanding of the barriers to freedom of speech in Pakistan.

Key Words: Dynamics, Freedom of speech, challenges, Legal framework, Pakistan

Introduction

Freedom of speech is widely recognized as a cornerstone of democratic societies, enabling individuals to express opinions, share ideas, and hold governments accountable. Historically, the

concept of free speech has evolved alongside the development of democracy, with philosophers such as John Stuart Mill emphasizing its importance for personal development and societal progress (Mill, 1859). In the contemporary era, freedom of speech is enshrined in international human rights instruments, including Article 19 of the Universal Declaration of Human Rights. Despite its universal recognition, the practical implementation of this right vary significantly across regions and political contexts. (United Nations, 1948)

In Pakistan, the body of research on freedom of speech is growing but remains limited in certain aspects. Existing studies have examined the impact of legal restrictions, such as the Prevention of Electronic Crimes Act (PECA), on digital expression (Khan & Ullah, 2020). Research has also explored the pressures faced by journalists, including physical threats and economic challenges, which hinder their ability to report freely (Ali, 2019). However, these studies often focus on specific aspects of the issue, such as media freedom, without providing a comprehensive analysis of the interplay between legal, political, and social factors. Despite the valuable contributions of existing research, significant gaps remain in the understanding of freedom of speech in Pakistan. First, there is a lack of integrated studies that examine the combined effects of legal, political, and cultural challenges on free expression. Second, limited attention has been paid to the role of digital platforms in shaping the discourse on freedom of speech, particularly in the context of emerging technologies and cyber laws. Third, while case studies of journalists and media outlets are available, there is insufficient focus on the experiences of ordinary citizens, activists, and marginalized communities in exercising their right to free speech.

This research aims to fill these gaps by providing a holistic analysis of the challenges to freedom of speech in Pakistan, incorporating diverse perspectives and addressing the dynamic interplay of various factors.

The importance of Freedom of Speech

Freedom of speech serves as the lifeblood of democracy, fostering transparency, accountability, and citizen participation. It empowers individuals to voice concerns, critique policies, and engage in public discourse, thereby strengthening governance and societal cohesion (Habermas, 1989). In the absence of free speech, democratic institutions risk becoming stagnant, as dissent

and innovation are stifled. Moreover, a free and independent media, a key pillar of freedom of speech, plays a crucial role in exposing corruption and promoting informed decision-making among citizens (Sen, 1999).

In Pakistan's democratic framework, the importance of freedom of speech cannot be overstated. The country's turbulent political history, marked by periods of military rule and civil unrest, underscores the need for robust mechanisms to safeguard this fundamental right. As Pakistan continues its journey toward democratic consolidation, ensuring freedom of speech remains essential for achieving political stability and socio-economic development. The challenges to freedom of speech in Pakistan are multifaceted, involving political, legal, and social dimensions. The media industry, a significant vehicle for free speech, faces numerous pressures, including censorship, economic constraints, and threats to journalists. Simultaneously, the rise of digital platforms has created new opportunities and challenges for free expression, as social media users frequently encounter online harassment and government surveillance (Khan & Ullah, 2020).

In recent years, the enactment of laws such as the Prevention of Electronic Crimes Act (PECA) has raised concerns about their potential misuse to curb dissent (Human Rights Watch, 2021). These developments make it imperative to analyze the current state of freedom of speech in Pakistan, identify underlying challenges, and propose actionable solutions.

The Legal Framework for Freedom of Speech in Pakistan

The concept of freedom of speech in Pakistan has undergone significant evolution since the country's independence in 1947. Initially, the nascent state inherited colonial-era laws that prioritized state control over civil liberties, including the Press and Publications Ordinance, which restricted media freedom (Rahman, 2012). Post-independence, the political leadership recognized the importance of free expression as a democratic ideal, but this commitment often wavered during periods of political instability.

The decades following independence saw repeated curtailments of free speech, particularly during military regimes. The imposition of martial law under General Ayub Khan (1958–1969) marked a significant setback, as press censorship and the suspension of fundamental rights

became common (Ziring, 1997). Similarly, the military governments of General Zia-ul-Haq (1977–1988) and General Pervez Musharraf (1999–2008) introduced stringent media regulations and cracked down on dissent under the guise of maintaining public order and national security (Human Rights Watch, 2021).

In the democratic periods that followed, freedom of speech faced challenges from both state and non-state actors. While civilian governments expanded media platforms and passed reforms, they also utilized repressive laws to silence critics. This duality highlights the tension between democratic aspirations and entrenched authoritarian practices in Pakistan's governance framework.

Freedom of speech in Pakistan is enshrined in Article 19 of the Constitution of 1973, which states:

"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, the integrity, security or defence of Pakistan, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offence." (Article 19 of the 1973 Constitution of Pakistan)

While the constitutional provision acknowledges free speech as a fundamental right, the numerous conditions attached have allowed successive governments to impose restrictions.

The Pakistan Penal Code (PPC) Contains provisions such as Sections 295-A and 298, which criminalize speech deemed blasphemous or offensive to religious sentiments (Rahman, 2010). While aimed at preserving communal harmony, these laws are often criticized for misuse against minorities and dissenters.

The Maintenance of Public Order Ordinance (MPO), 1960 frequently used to detain individuals engaging in political dissent or organizing protests under the pretext of maintaining public order (HRCP, 2023). These laws reflect the broader legal and institutional environment in which freedom of speech operates, often prioritizing state interests over individual rights.

Regulatory bodies such as the Pakistan Electronic Media Regulatory Authority (PEMRA) play a crucial role in overseeing the electronic media landscape. PEMRA is tasked with issuing licenses, regulating content, and ensuring compliance with broadcast standards. However, PEMRA's regulatory practices have often been criticized for being overly restrictive and politically motivated. Media outlets that air content critical of the government or address sensitive issues such as military operations, religious extremism, or human rights abuses frequently face fines, suspensions, or outright bans. This regulatory environment fosters a culture of self-censorship among media organizations, as they navigate the delicate balance between editorial independence and regulatory compliance.

The Prevention of Electronic Crimes Act (PECA), 2016 introduced to regulate digital content and address cybercrimes, PECA has been criticized for vague provisions that enable censorship and the targeting of activists and journalists (Human Rights Watch, 2021).

The judiciary in Pakistan has played a pivotal but inconsistent role in shaping the contours of freedom of speech. In some instances, the courts have acted as defenders of constitutional rights, striking down arbitrary actions and protecting journalists and activists. For example, in the landmark case of *Benazir Bhutto v. Federation of Pakistan* (1988), the Supreme Court emphasized the importance of freedom of the press as a cornerstone of democracy (*Benazir Bhutto v. Federation of Pakistan*, 1988).

Conversely, the judiciary has also upheld restrictions on free speech, particularly in cases involving national security or religious sentiments. The courts have often deferred to the executive, citing the state's prerogative to maintain order and uphold Islamic values. This ambivalence underscores the challenges of balancing individual freedoms with broader societal concerns in a politically polarized environment.

The judiciary's role is further complicated by the influence of political pressures and public opinion, which can undermine its independence. Nevertheless, recent decisions, such as the 2020 ruling on social media regulations, indicate a growing awareness among judges of the need to safeguard free expression in the digital age (Supreme Court of Pakistan, 2020).

This historical and legal context highlights the complex interplay of political, legal, and cultural forces that shape the landscape of freedom of speech in Pakistan. The following sections will delve deeper into the current challenges and implications for democratic governance.

Key Challenges to the Freedom of Speech in Pakistan

1) Political Challenges

Censorship, government crackdowns, and the misuse of laws present significant political challenges to freedom of speech in Pakistan. The government has a history of employing censorship as a tool to suppress critical media coverage, especially when political narratives or state actions are scrutinized. For instance, various media outlets have been silenced or pressured through indirect means, such as withholding advertisements or legal threats, for their coverage of government shortcomings (Khan, 2021). Additionally, state-sponsored crackdowns on media personnel, particularly journalists and social media activists, create an atmosphere of fear. Reports indicate that many journalists in Pakistan face harassment, intimidation, and physical violence when they attempt to criticize government policies or expose corruption (Ali & Zaman, 2020). This, in turn, leads to self-censorship, where media outlets choose to avoid controversial topics to protect their staff and avoid government retribution (Shah, 2019). The government also frequently invokes laws such as the Anti-Terrorism Act and the Prevention of Electronic Crimes Act (PECA) to target individuals whose speech is deemed threatening to national security or public order (Shah, 2019). These laws, while ostensibly created to protect against extremism and cybercrime, have been misused to target political dissidents, human rights activists, and journalists (Haider, 2022).

2) Legal Barriers

The legal framework in Pakistan contains ambiguities and restrictive provisions that hinder the exercise of free speech. While the Constitution of Pakistan guarantees freedom of speech under Article 19, this right is qualified by several provisions that restrict its exercise under the pretext of national security, public order, or morality (Zaman, 2021). The issue lies in the broad and vague language used in these legal provisions, which makes them subject to interpretation by authorities. For example, Pakistan's blasphemy laws, often criticized for their misuse, are

particularly detrimental to free expression. Individuals who express dissenting views regarding religious matters risk facing charges under these laws, leading to severe legal consequences, including the death penalty (Khan, 2021). Additionally, sedition laws, such as those inherited from colonial times, have been frequently invoked to charge individuals with promoting hostility against the state or undermining its authority (Haider, 2022). These laws, alongside provisions in the Pakistan Penal Code, offer limited protection to freedom of expression, especially when speech is critical of the government or ruling institutions (Zaman, 2021). The result is a legal landscape that is often hostile to free speech, as it allows authorities to suppress any expression deemed contrary to the interests of the state or public morality (Ali & Zaman, 2020).

3) Social and Cultural Obstacles

Social and cultural obstacles are among the most pervasive challenges to freedom of speech in Pakistan, particularly in the context of deeply ingrained traditions and societal norms. In Pakistan, certain topics, including religious discourse, gender equality, and political opinions, are heavily influenced by taboos, which suppress open discussion and debate. These taboos are particularly potent in rural areas, where traditional values strongly govern people's behavior and interactions (Khan & Zaman, 2021). As a result, individuals—especially women, religious minorities, and marginalized groups—are deterred from publicly voicing their opinions, fearing both social stigma and physical harm (Ahmed, 2019). Intolerance toward dissent is further fueled by Pakistan's ideological divide, with individuals from opposing political or religious backgrounds being routinely targeted for their beliefs (Jamil, 2021). For instance, activists and intellectuals often face harassment or threats for questioning prevailing power structures, thereby discouraging critical discourse (Ali, 2020). Additionally, the rise of online hate speech and cyberbullying has contributed to the atmosphere of fear, where individuals, particularly young people, refrain from expressing their views online due to the potential for reputational damage or even physical attacks (Jamil, 2021). This societal pressure and cultural intolerance create an environment where self-censorship becomes the norm, and the exercise of free speech is severely limited.

4) Economic Factors

Economic challenges significantly hinder the ability of independent media outlets and journalists to operate freely in Pakistan. While the media is supposed to serve as a check on government power and an avenue for diverse opinions, economic pressures often undermine its independence. Media outlets, particularly those critical of government policies or political elites, face financial difficulties due to limited access to advertising revenue, particularly when state-controlled advertising is withdrawn or directed toward government-friendly media (Raza & Khan, 2020). This reliance on advertisement revenue creates a situation where media organizations may be reluctant to criticize the government or other influential entities, fearing economic retaliation (Shah, 2019). Furthermore, the growing influence of corporate sponsorship over media content often results in a corporate-driven agenda that prioritizes profitability over journalistic integrity, limiting the scope of free expression (Khan, 2021). Journalists, particularly those reporting on sensitive issues like corruption or human rights violations, often face personal and professional economic repercussions, such as termination from their jobs, lack of opportunities, or even blacklisting by media organizations that are unwilling to take risks (Ali & Zaman, 2020). In some cases, journalists are offered financial incentives to write biased stories, which can erode journalistic standards and perpetuate a distorted view of the political landscape (Raza & Khan, 2020). Additionally, the precarious employment conditions for journalists in Pakistan, where many work on short-term contracts without adequate protection, make it difficult for them to pursue investigative reporting without fear of losing their livelihoods (Ali & Zaman, 2020). These economic factors exacerbate the climate of self-censorship, where the pursuit of truth is often sacrificed for financial survival, thereby limiting the role of media in promoting public discourse and holding those in power accountable.

The key challenges discussed above underscore broader societal trends in Pakistan, particularly the increasing authoritarianism and the diminishing space for free speech. The crackdown on media houses like Geo TV and the persecution of journalists faced by the media and individual journalists who expose government wrongdoings. These cases reflect an alarming trend where critical voices, especially those challenging powerful institutions, are silenced through both legal and extrajudicial means (Zaman, 2021). The use of laws like the Prevention of Electronic Crimes Act (PECA) to target journalists and activists, combined with the economic pressures faced by media outlets, has created a precarious environment for independent journalism (Shah, 2019).

Moreover, the lives of human rights defenders such as Asma Jahangir and those advocating for freedom of expression is increasingly at risk. The trend toward intolerance and hostility toward dissent is a reflection of deeper cultural and societal divisions, where minority groups and human rights defenders often face persecution for their views (Jamil, 2021). These trends suggest that the right to free speech in Pakistan is not only under threat from the state but is also challenged by social and cultural forces that stifle open debate and the free exchange of ideas.

Discussion and Analysis

A) Critical Analysis of the existing framework

The legal framework in Pakistan, while ostensibly designed to protect individual rights, often becomes a tool for suppression. Laws like the Prevention of Electronic Crimes Act (PECA) have been used to criminalize critical speech, particularly that which targets the government or powerful institutions. This legal repression is not just a matter of written statutes but is facilitated by a political environment where the state often utilizes legal tools to silence opposition.

Politically, the government's control over media and its efforts to stifle dissenting voices contribute to a climate of fear and self-censorship. Media houses, particularly those critical of the ruling establishment, face both economic pressures and direct crackdowns, often leading to media blackouts or forced compliance with government narratives. The political actors, including the military, exercise significant influence over media outlets, further limiting the scope for open and critical discussion.

Socially, Pakistan's deeply embedded cultural and religious norms play a critical role in restricting free speech. There is widespread societal intolerance toward criticism on politics, and national identity, which discourages individuals from expressing dissenting views. This social pressure creates a chilling effect, where people are reluctant to speak out for fear of social ostracism, harassment, or even violence.

The intersection of these factors – legal restrictions, political control, and social intolerance – creates a deeply challenging environment for free speech in Pakistan. The result is a society

where the freedom to express dissenting opinions is not only legally constrained but also socially discouraged, leading to widespread self-censorship and a lack of open debate.

B) Comparison with Global Trends in Freedom of Speech

When comparing Pakistan's situation to global trends, several similarities and differences emerge. Globally, there is an increasing trend of governments using digital platforms and legal frameworks to restrict free speech, particularly in authoritarian regimes. The use of laws to suppress online criticism is a trend that extends beyond Pakistan, with many countries employing similar measures to control digital expression. Governments used laws such as PECA to target journalists and activists and used technology as a tool to monitor and suppress dissent.

In countries like India and Bangladesh, while freedom of speech is also contested, the legal framework is comparatively more robust in protecting journalistic freedom and individual expression. In comparison to Western democracies, where free speech is more constitutionally protected, Pakistan's legal and political environment is more restrictive, especially for those who challenge state narratives.

The trend of growing authoritarianism seen globally is also evident in Pakistan, where political elites and state actors suppress dissent through both legal measures and extrajudicial actions. While Western democracies continue to debate the limits of free speech, especially regarding hate speech and disinformation, Pakistan's situation often involves more direct forms of repression, including the threat of violence and imprisonment for those who challenge the government.

Conclusion

This study examined the challenges to freedom of speech in Pakistan, focusing on the legal, political, and social barriers that inhibit open and free expression. The key findings reveal that these challenges are deeply interwoven and require a multi-faceted approach to address. Laws such as the Prevention of Electronic Crimes Act (PECA) and the blasphemy laws are frequently used to curtail free speech, particularly when it involves criticizing the government. Politically,

the influence of the state and military over the media creates a stifling environment for independent journalism, with many media outlets facing direct censorship, self-censorship, and threats of violence. The study also found that the legal, political, and social factors affecting free speech in Pakistan are not isolated but rather interact in complex ways, reinforcing each other and creating a restrictive environment for open discourse. The government's political control over the media, coupled with cultural intolerance towards dissent, creates a climate of fear, leading to widespread self-censorship among journalists, activists, and ordinary citizens.

Recommendations

Based on the findings, several policy recommendations are put forward to improve the situation of freedom of speech in Pakistan:

1. **Reform Legal Frameworks:** A critical step is to revise the legal frameworks that restrict freedom of speech, particularly laws like PECA and the blasphemy laws. These laws should be reformed to prevent misuse by state actors and ensure that individuals are not persecuted for expressing dissenting opinions. Legal protections for journalists and activists need to be strengthened to provide greater safeguards against harassment and violence.
2. **Enhance Media Independence:** There is a need to create a more independent media environment where journalists can operate without fear of retribution. This could involve establishing stronger institutional protections for the press, ensuring media outlets are free from political interference, and creating mechanisms to hold powerful actors accountable for infringing on media freedoms.
3. **Promote a Culture of Tolerance and Dialogue:** The cultural and societal barriers to free speech can be addressed through public education campaigns that promote tolerance for diverse viewpoints. Encouraging open dialogue on sensitive topics, including religion, politics, and gender, can help reduce social intolerance and create a more inclusive public sphere.

4. **Strengthen Civil Society and Public Awareness:** Civil society organizations play a crucial role in advocating for free speech and human rights. Supporting these organizations and raising public awareness about the importance of free expression can help foster a more open society where citizens are encouraged to engage in free and constructive debates.
5. **International Cooperation and Accountability:** Pakistan should work with international human rights organizations to align its legal and political frameworks with global standards of free speech. This cooperation could also involve the sharing of best practices and ensuring that Pakistan is held accountable for any violations of free speech under international law.

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