

## FREEDOM OF SPEECH VS. CENSORSHIP: STRIKING A DELICATE BALANCE

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### **Abstract:**

*The battle between freedom of speech and censorship rages on, like two mighty forces locked in an eternal tug of war. On the one hand, the right to free speech is praised as a cornerstone of democracy since it allows for the expression of many viewpoints and promotes societal advancement while censorship, on the other hand, is viewed as a necessary action to safeguard the public interest and uphold harmony. Researchers have observed an increase in restrictions on the freedom of speech in Pakistan during the previous Universal Periodic Review Cycle. Striking a delicate balance between these two fundamental concepts is essential in navigating the complexities of our ever-evolving world. By achieving this balance, we may promote a society in which opinions are valued, the truth is sought, and peace reigns. Through this research, we will explore the present state of freedom of speech and censorship in Pakistan and the mechanism of achieving this balance, particularly in the context of journalism, media and technology.*

### **Key Words:**

*Freedom of Speech, Article 19, Media, Censorship, the Constitution of Pakistan, National Security, hate speech*

### **INTRODUCTION:**

Freedom of speech is one of the most respected constitutional rights in many countries, including Pakistan, where it is enshrined as a basic right under Article 19 of the Constitution of Islamic Republic of Pakistan, 1973. Words matter, words hurt, words kill but this should not stop someone to raise their voices against oppression as according to Gorge Orwell, if liberty means anything at all, it means the right to tell people what they do not want to hear. Not having right to freedom of expression means all other rights provided by the constitution are meaningless. To exemplify, consider that someone violates your right to liberty or imprisons you without cause and you are powerless to speak out against it, what good is that right then? The ongoing discussion of these delicate topics shows how relevant this subject is in today's democratic nations. Humans have a natural desire to communicate their ideas to other people, and this urge has laid the groundwork for human rights as the right to express one's opinion is generally viewed as a moral as well as a legal right.

### **Understanding the Right to Free Speech:**

Although freedom of expression is considered a fundamental right, there are some political and cultural restrictions that can either keep things peaceful or lead to further conflict.<sup>1</sup> Being able to freely express oneself through spoken words, written works, visual arts, or any other kind of communication is referred to as freedom of speech and expression. In today's liberal democracies, it is frequently viewed as a fundamental idea.<sup>2</sup> The press serves as the state's fourth pillar. In a republican system, liberty of speech certainly permits leaders to fully grasp the significance of varied perspectives, but it promotes tolerance of such various views. In numerous international agreements and legal frameworks, such as the Universal Declaration of Human Rights (UDHR) and the First Amendment to the United States Constitution, freedom of speech is recognized as one of the most valuable constitutional rights. Pakistan is one of these countries, with Article 19 of the Constitution enshrining this right as a fundamental freedom. It is the pillar of democratic society, allowing people to express their ideas freely without worrying about retaliation from the state or

being persecuted. It allows citizens to engage in open discussions, criticize the government, and participate in decision-making processes. It is a system for ensuring that people hold their leaders accountable. Having a voice encourages innovation and creativity. It enables people to communicate their distinctive thoughts and viewpoints, which can result in advancements in the arts, sciences, and technology. In order to speak out against injustice, prejudice, and oppression, it gives marginalized communities more power; hence it is essential in promoting human rights.<sup>3</sup>

#### **The Conception of Censorship:**

Any expression that might endanger the state's order is formally controlled and suppressed through censorship. In the past, censorship has been employed to keep tab on public morals, to manage public perception, and to stifle opposition. It limits what people are allowed to speak, write, hear, read, or see. The first censorship office was founded in Rome in 443 BC, marking the beginning of governmental censorship. China passed its first censorship law in 300 AD. Prior to the release, government censors traditionally review newspapers, periodicals, books, news broadcasts, and movies to remove any dubious material.<sup>4</sup> Censorship can happen in a number of ways. It can happen before the work is made accessible to the general public, for example, when a publisher declines to publish a book, a studio declines a screenplay, or a gallery declines to accept an exhibit because certain people find the subject matter to be contentious or unpleasant. A book may be removed from a library or bookstore because some individuals find its content offensive as an example of post-publication censorship.<sup>5</sup>

#### **Discussion:**

There is a history of media censorship in Pakistan, with allegations of journalists enduring threats, harassment, and violence. Journalists frequently practice self-censorship out of fear of repercussions. During times of upheaval, the government has implemented periodic internet shutdowns, blocking access to news and the freedom of speech. Pakistan has long been seen as a dangerous country for the journalists. Attacks on reporters and other media workers have been a source of worry, with multiple reports of violence and even death.<sup>6</sup> It is needless to mention that PEMRA controls electronic media and has the ability to give directives on unacceptable content. Censorship sometimes provides safeguards but if unchecked, it badly creates an impact on our fundamental rights of freedom guaranteed in Article-19 and 19-A. As per the Right to Information (RTI) statute, individuals are limited in their ability to raise inquiries about topics that may affect them.<sup>7</sup> Under the scope of such laws, citizens may face the death penalty for purposeful or inadvertent violations. Incessant efforts for the approval of the RTI law were made but it was found that it omitted a number of topics related to liberty of speech. Obviously, you are unable to interfere with the state-related matters which aren't helpful to citizens.<sup>8</sup> There is an immense need for a check on censorships that curtail freedom of speech as George Washington once said:

*'If the freedom of speech is taken away then dumb and silent we may be led, like sheep to the slaughter.'*<sup>9</sup>

#### **State Censorship:**

It is vital to highlight that the country's past has been turbulent, with brief durations of representative governments. Despite assertions that freedom of press is the hallmark of a democratic society, the Pakistani media remains bound by stringent regulations. Censorship of the press in Pakistan is not novel. It is cited that the late president Muhammad Zia-ul-Haq's era from 1978 to 1988 was an example of heavy and overt media censorship. Around that point, any news that was thought inappropriate was deleted from the newspapers and to keep the readers conscious about the existing censorship, the reporters used to keep the spots where news had been suppressed blank instead of replacing it with other news.<sup>10</sup> Under General Pervez Musharraf's dictatorship (1999-2008), media owned by business organizations developed, but press freedom stayed constrained.<sup>11</sup> Presently, PEMRA has subsequently restricted several publications and reporters. The use of social networks and electronic media has had a significant impact on journalistic independence in Pakistan. Since these sites allow bloggers and media organizations to reach a greater audience, the government may also monitor and restrict online content.<sup>12</sup>

#### **Unambiguous Right to Speech in Pakistan:**



The people of Pakistan have a strong and unambiguous right to liberty of assembly under the 1973 Constitution. Every citizen retains the right to freedom of opinion and journalism, except to whatever justifiable restrictions, declares Article 19 of the Constitution.<sup>13</sup> Even the progressive or liberal parts of the society are typically the most frequently targeted for suppression. Advocacy for liberty of expression does not imply not challenging hate mongering; rather, it means criticizing and rejecting its misinformation without intervention from the businesses who govern online platforms.

#### **Clashes between Freedom of Speech and Censorship:**

The use of censor and freedom of expression are both essential notions that frequently conflict in society because they symbolize competing goals and ideals. These disputes can occur in a variety of circumstances and have serious consequences for a republic, individual liberties, and community values. Individuals have the freedom to express their thoughts, even if these are insulting or nasty, according to the proponents of free speech.<sup>14</sup> The term censorship supporters believe that because hate speech may hurt those who are marginalized and instigate violence, it is vital to limit such speech in order to safeguard those who are disadvantaged. Authorities frequently censor material for national security reasons, such as confidential papers or sensitive military activities. Critics claim that this kind of censorship might be used to conceal governmental wrongdoing and restrict people's access to the data required for responsibility as well as informed decision-making processes. Both Twitter and Face book, for example, have the difficulty of filtering material but safeguarding free expression. Critics contend that such websites occasionally overreach by restricting information that is deemed provocative or culturally biased, impeding on users' freedom of speech.<sup>15</sup> Literary, cinematic, and visual arts works frequently stretch lines and question society's standards. Restrictions may be implemented to safeguard public morality or to avoid harmful information, but artists contend that it may restrict originality and inhibits investigation of vital societal topics.

Scholars in academia rely on academic freedom to do research and share their opinions without influence from others. Suppression occurs when organizations or administration seek to suppress politically sensitive findings from studies or perspectives.<sup>16</sup> These individuals occasionally leak sensitive or private material in order to bring attention to state or business misconduct. Although this may be considered liberty of speech, it frequently competes with the government's attempts to safeguard classified data. There are laws and regulations in place to limit the circulation of explicit information that is considered improper. Some critics say that such limits are subjective and may violate people's basic rights.<sup>17</sup>

To protect consumers, governments may impose restrictions on commercial speech, but corporations may argue that this violates their right to advertise their products. The regulation of political campaign advertisements and disinformation presents difficulties in balancing free speech with the requirement to ensure election integrity.<sup>18</sup> It is a continuing challenge to strike the correct balance among permitting political dialogue and limiting the dissemination of incorrect or deceptive data. These battles among free expression and censorship emphasizes the issue's complexities and the necessity to strike an agreement that protects people's liberties while also addressing valid concerns like public safety, national security, and unity in society. In modern countries, the continuing argument remains to impact the legal and ethical limitations of liberty of speech.

#### **Conventional Social Media Platforms:**

Presently media coverage is seen as a critical influenced factor in Pakistan's political and social dialogue. According to those surveyed, media in all of its manifestations (print, electronic, and social) has a significant impact on the state of civil rights in Pakistan.<sup>19</sup> The exact type of the impact, however, remains uncertain. A high proportion of those surveyed thanked the media for raising consciousness about the general state of human rights.<sup>20</sup> Citizens are becoming more knowledgeable about the types of infractions that occur and the ways of seeking assistance in such cases. To some extent, this has improved their access to knowledge, opportunity, and fairness.<sup>21</sup>



Furthermore, by exposing civil rights violations, media acts as an entity that exerts pressure on regulatory institutions to act.<sup>22</sup> While a lot of folks contend that the press supports for those in need and provides impartial reporting, others have pointed at how the media outlets appear to be in an advertising race for ratings, and in that determination, they frequently abuse free speech to mock specific organizations and people in order to create sensational news. Furthermore, certain politicians form agreements with media outlets to prevent scrutiny by media and protest. Political prejudice is also seen on certain cable networks, which support powerful players in journalism while suppressing the negative aspects of these leaders and criticizing those who challenge them. The news media was also chastised for fostering an environment of abuse, violence, and immoral beliefs. A lot of people said that media material is very disrespectful. In the context of assault towards women, for example, it fosters victimization rather than empowerment. Themes in our dramas include polygamy, extramarital affairs, and women getting smacked and bashed up, flirting, female victimization, and so on. These concerns have been emphasized since they are simply marketed. Many also criticized the type of reportage provided by media organizations. They chastised journalists for publishing news without doing rigorous inquiry and validation. The media has the ability to operate as a shift agency; nonetheless, its influence has been noted to be extremely adverse, particularly for minorities.<sup>23</sup>

On the other hand a lot of citizens said that the media's hands were constrained in terms of the fundamental right of speech. When the press is influenced by culprits (for reasons of cash, power in politics, etc.), it generates and alters tales that have a negative impact on the individuals in question. Political and social ties of media group owners, particularly news organizations may at times result in the transmission of extremely biased news. A few participants suggested that powerful political party, the military, large corporations, and sometimes foreign entities (countries or groupings of nations) put pressure on the person who owns to broadcast a certain point of view on an issue. Quite often, the main purpose of controversial matters is to garner audience for financial gain.<sup>24</sup> A study highlights the relevance of freedom of expression in changing the present status norm of society. It believes that in a nation like that of Pakistan, where the right to thought is restricted, there is no chance for opinions to start forming; rather, the society has a mass of communal mindsets that allow not enough space for unique viewpoints. A nation's extreme ideology must be neutralized through the creation of an academic counter-narrative.<sup>25</sup>

#### **Censorship and Print Media:**

How much fundamental safeguards may be, Pakistan has a number of regulations that may be applied to restrict freedom of expression in the print media. The rules have the potential to be used to punish reporters and publishers who criticize authorities.

*'Whenever you come across an empty spot in the paper wherein what you wrote ought to have done, it's extremely terrifying, it recalls you of the traditional restrictions we once experienced throughout armed dictatorships.'*<sup>26</sup>

Dawn, the country's leading English-speaking daily, experienced massive monetary damages in June 2016 as its circulation was curtailed following the publication of disclosures of covert military briefings. Censorship against dissenting voices is not limited to the media. Attempts to stop programs regarding police brutality in Karachi were also made.<sup>27</sup>

#### **Journalism and Censorship:**

News reporting, freedom of speech, and censorship are all intertwined ideas that play important roles in developing an open society. Journalism is the practice of obtaining, analyzing, and presenting data to the general public via different media platforms such as newspapers, radio, television, and the web. Journalism's fundamental objective is to present the public with reliable and fair knowledge, allowing individuals to make educated decisions about themselves and the globe around them. The ideals of responsible journalism include transparency, equity, objectiveness, and openness.<sup>28</sup> While liberty of expression is an essential human right which enables people to express themselves without being afraid of censure or penalty from the governing body or other governmental entities. This right is included in a number of national charters as well as international human rights treaties. The Right of expression is critical for a healthy democracy

because it promotes discussions and the interchange of opinions, while the clampdown or limitation of information, ideas, or speech by an administration, organization, or power is referred to as censorship. Control can take several forms, notably limits established by the authorities, censorship by media outlets themselves, and threats by powerful groups. Censorship can serve a variety of purposes, including promoting the stability of society, defending national security, ethics in society, advancing the purposes of powerful individuals or groups. In the recent past, various governments have utilized the legislation against media persons.<sup>29</sup> Likewise several attempts had been made to stop the journalists to perform their duties as Hamid Mir, a renowned anchor and journalist was attacked.<sup>30</sup>

#### **Exploited Censorship:**

Censorship can be used by governments to repress political opposition, restrict opposing voices, or keep control. Censoring critical media, shutting websites, or arresting activists and journalists are all examples of this. It can be used to alter public opinion during votes. Government may restrict material that might hurt the ruling party or increase propaganda to sway voters. These limitations have frequently been used against many categories of individuals, including reporters, civil rights advocates and minorities. Owing to this abuse, increase in the number of attacks and attempts to murders have been found.<sup>31</sup> Following the latest suspension of some of the country's largest news networks, many people may be wondering what the Pakistani constitution says regarding freedom of speech and censorship.

#### **Recently in Pakistan:**

- Pakistan's authorities stopped the popular social media app TikTok in October 2020, claiming worries over the company's content. This decision was criticized for restricting free expression and information access.
- Pakistan's Prevention of Electronic Crimes Act (PECA) has been chastised for its potential to be abused in order to suppress internet information and target activists and journalists who are critical of the government.<sup>32</sup>
- In Pakistan, there have been instances of harassment, threats, and violence on journalists. Journalists who have been critical of the government have suffered intimidation and coercion, leading to self-censorship in media reportage.
- Pressure on media companies, financial constraints, regulatory actions, and interference with editorial freedom have all been imposed.

Incessant threats and attacks on journalists are sheer violation of the freedom of expression and the question arises, what role legal system of Pakistan can play in finding the balance between the censorship and the right to free opinion?<sup>33</sup>

However the right to express and the right to get information are guaranteed rights but they are limited to maintain a delicate balance.<sup>34</sup> In a Democratic society, exploitation always creates troubles but transparency and accountability can correct this evil as making censorship decisions open and subject to external scrutiny can aid in the prevention of misuse. Strengthening independent media is critical to support media outlets and journalists who can uncover instances of abused censorship.<sup>35</sup> Legal Reforms can result in reassessing and modifying censorship laws to prevent abuse and align them with democratic objectives. Promoting digital literacy and ability to think critically can assist individuals in distinguishing reliable data from disinformation or propaganda. Global cooperation that promotes worldwide collaboration to handle cross-border concerns associated to censorship is the need of the hour.

#### **Differences and Interaction:**

Media is frequently seen as a crucial element of a healthy democracy. It checks the authority of the government by ensuring that citizens are well informed about the issues in hand. The cornerstone of journalism is liberty of expression, which allows journalists to express their opinions with no fear of retaliation. Prohibition, on the other hand, can be employed to control the distribution of data, thereby limiting the press's capacity to perform its democratic duty. Balancing liberty of expression with repression is a perennial struggle for nations. Although liberty of speech permits a wide spectrum of phrase, journalists have ethical obligation to offer factual and reliable data.



Censorship, on the other hand, may be justifiable when the spread of the false data endangers public safety or national security. The difficulty, however, is making the distinction between legitimate censorship and censorship meant to stifle protest or mislead the public's sentiments. Sabeen Mahmud, a well-known Pakistani civil rights campaigner, was shot fatally and assassinated by two men in the Pakistani city of Karachi.<sup>36</sup>

The ratio among journalism, free expression, and regulation varies greatly between countries. Some countries have robust freedom of the press and safeguard free expression, while others have tight licensing regulations that impede investigative autonomy. These variances represent humanity's political, cultural, and historical settings. The World Wide Web and social networks have complicated the argument. Though they enable free expression and citizen journalism, they also facilitate the spread of disinformation and propagation of hatred. Lawmakers and technology corporations are grappling with how to combat dangerous information while protecting free expression. In a democracy where reporting, free expression, and censorship are all interconnected, finding the correct proportions for safeguarding liberty of speech, guaranteeing competent journalism, and dealing with valid concerns that may result in restriction is a continuing task that needs extensive thought and adherence to the principles of democracy.<sup>37</sup>

#### **Finding the Balance:**

The balance among unchecked censorship and free expression is a recurrent and troubling concern in democratic societies. Finding the correct balance is critical since it requires protecting both individual liberty and the overall well-being of society. The appropriate equilibrium amongst liberty of expression and censorship is difficult but vital. A few concepts might help manage this careful balance.<sup>38</sup>

#### **Powerful Laws:**

Strong statutory framework like legislation and rules ought to explicitly state the limits of free expression and censorship, guaranteeing accountability as well as openness.

#### **Context Matters:**

Freedom of expression is frequently viewed as a pillar of democratic nations. It enables people to voice their views, engage in political debate, and hold those in power responsible. Without it, democracy risks becoming suffocated and totalitarian. The correct balance between censorship and free expression is situation dependent. What is acceptable in one society or setting is not always acceptable in another. Cultural and societal standards must be considered while developing laws and regulations.

#### **Proportionality and Accountability:**

Censorship methods should be commensurate to the harm being avoided. Censorship that is overly broad or overbearing can violate basic rights and impede genuine expression. Censorship choices should be public and overseen. This helps to prevent abuse of power and ensures that limits are imposed in a reasonable and equitable manner.

#### **Checked Censorship:**

Filtering tactics should be appropriate for minimizing repercussions to free expression. To avoid the misuse of authority and to defend against excessive influence, filtering judgments should be overseen by unbiased organizations. Involving people in conversations regarding filtering choices can assist in guaranteeing they are in accordance with social norms and ideals.<sup>39</sup>

#### **Strong Civil Society:**

Furthermore promoting a healthy civil society and media literacy can help people distinguish between genuine and untrustworthy sources of information, minimizing the need for censorship as a counter-measure against misinformation. In democratic countries, the balance between censorship and free expression should be a continual matter of debate and discussion. To confront new issues and innovations, laws and regulations must develop. In actuality, balancing censorship and free expression is a hard and multifaceted subject. It necessitates careful examination of free expression principles as well as the need to safeguard persons and society from damage. Finding this balance is an ongoing challenge that calls for awareness and adaptability in the face of shifting social norms and technological advancements.<sup>40</sup>



### Conclusion:

Liberty of expression and censorship are two important characteristics of current culture that are sometimes at odds. While free speech is an essential component of democracy, censorship may be required to protect people and society from damage. To strike a delicate balance between these opposing objectives, clear legal frameworks, proportionality, independent scrutiny, and continual public discourse are required. It is a continuing struggle that reflects the changing character of our society and the intricate interaction of private liberties and collective welfare. Overall, restriction represents an ancient practice that is still used in almost every corner of the world. Regardless of assertions to the contrary, particularly a highly prosperous or genuine republic has an extended tradition of repression. So, even if every opportunity of freedom of expression is given, restrictions may still exist. However the assertions incorporate restrictions to the freedom, whether they are in the US or Pakistani constitutions, the UDHR, or the ICCPR. Restrictions have always existed and will continue to exist. The media is becoming increasingly important with every new day, and it would be utterly foolish for the government to allow it to operate unchecked. The result is not to say that nations ought to exercise complete control regarding the material. Instead, an objective entity, such as the legal system, should supervise press coverage in order to defend the world's ethical codes, national interests, and the liberty of the individuals throughout its jurisdiction.

Though regulations are necessary in managing the ability to express oneself, they also provide strong violators impunity while penalizing the peaceful sector of society. The explication of the law must be unbiased and equitable. On the one hand, the governmental bodies must follow the laws while on the other; they must face public disapproval and societal responses. Furthermore, because the liberty of speech is a fundamental human right, it should be utilized fully, however, the freedom ought to be limited in some way. Pakistani culture has evolved from a relatively tolerant to an intolerant one throughout time. An additional factor that has led to increased bigotry and prejudice across cultures is schooling and curricula. Criminalizing hate crimes based on religion is ineffective and may lead to even greater instability and chaos.

In this regard, the press, religious organizations, civil society, and academics must act as watchdogs over hateful publications and statements that incite hatred and prejudice based on ethnicity, race or faith.

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