

THE CONSTITUTION OF PAKISTAN 1973 AND FREEDOM OF SPEECH; USES AND ABUSES

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ABSTRACT

One of the most valuable rights that a person has is the freedom of speech and expression. People have the freedom to express their thoughts and ideas on what they believe ought to happen because of this right. The world's constitutions and international human rights treaties guarantee the right to freedom of speech and expression. The right to freedom of speech and expression is likewise protected under Article 19 of the Islamic Republic of Pakistan's 1973 Constitution, subject to certain limitations. These include the desire for the glory of Islam, Pakistan's integrity, security, or defence in whole or in part, cordial ties with other countries, public order, morality, or decency, as well as the conduct of or encouragement to commit crimes. The distinction between "right" and "restriction" is becoming less clear in Pakistan today. The basic right to freedom of speech and expression is typically misused, even in the face of explicit limits.

Keywords: The Constitution of Pakistan, 1973, Freedom of Speech, Pakistani constitution.

INTRODUCTION

There are many different angles or views from which to consider the right to freedom of speech and expression. One of these perspectives is quite optimistic and offers an incredible range of possibilities, including the essential existence of democracy and human dignity. In addition to allowing man to transmit information from generation to generation and learn from both success and failure to further advance humanity's evolutionary cycle, the right to freedom of speech and expression has also allowed for the transmission of knowledge.

Speech and expression go hand in hand since people frequently communicate through speech, whether it is verbally, in writing, or through other channels. The right to freedom of speech and expression has many beneficial features, but it also has many unsettling

and dangerous ones. Speech and expression go hand in hand, thus anybody may utilise their right to free speech to express their desire to change the status quo and their dissatisfaction with it.

What does the freedom of speech and expression entail? It is an essential idea that allows individuals the freedom to express their opinions in public. A comparable idea, but one that applies to the press, is freedom of the press. Since it is a fundamental human right, the freedom of speech and expression ought to be respected in all spheres of society. One's freedom of mind and belief is curtailed if one is permitted to think and believe but not to speak or share opinions with others.

The right to freedom of expression is guaranteed by international agreements, and national constitutions, including the 1973 Constitution of the Islamic

Republic of Pakistan. Nobody is allowed to have their privacy, honour, reputation, or other assets arbitrarily interfered with or attacked. Every person is entitled to legal defence against these kinds of intrusions or assaults. The freedom of speech and expression is predicated on the fundamental requirement that it encompass a range of opinions. Throughout history, the right to freedom of speech and expression has been contested and used, often with very successful outcomes. This privilege has been questioned on several occasions in a variety of ways; it has not been limited to any one historical period. No one has ever asked if this right should exist at all; the question is whether or not there should be restrictions. Freedom of speech and expression is under increasing scrutiny in this day and age. A person's right to freedom of speech and expression permits them to say anything they want while limiting certain functions, access, and priority.

Methodology:

The researchers have used secondary data published in the form of print and electronic media. The data has been analysed qualitatively to reach a conclusion and put forward recommendations.

Literature Review:

Freedom of speech is a cornerstone of democratic societies, essential for the exchange of ideas, the pursuit of truth, and the advancement of knowledge. It encompasses the right to express opinions, beliefs, and viewpoints without fear of censorship or retaliation from the government or other individuals or entities. This fundamental right not only protects popular and uncontroversial speech but also shields unpopular or dissenting voices, recognizing that progress often arises from challenging the status quo. In a free society, individuals can openly criticize government policies, engage in political discourse, and advocate for social change without facing persecution. The ability to express oneself freely fosters a vibrant marketplace of ideas, where diverse perspectives can be explored, debated, and refined. Through this process, society can identify and address its problems, promote tolerance and understanding, and strive towards greater justice and equality.

However, freedom of speech is not without limitations. It does not protect speech that directly incites violence, constitutes harassment, or infringes on the rights of others. Balancing the right to free

expression with the need to prevent harm and maintain social order is a complex task that requires careful consideration and ongoing dialogue.

In conclusion, freedom of speech is a fundamental human right that underpins democracy and social progress. It empowers individuals to participate in public discourse, challenge authority, and contribute to the collective well-being of society. Protecting and upholding this right is essential for ensuring a free, open, and democratic society.

The concept of freedom of speech has evolved over centuries and is deeply rooted in the history of human civilization. While the modern understanding of freedom of speech has its origins in Western thought, similar ideas can be found in various cultures and traditions around the world.

- i. **Ancient Greece and Rome:** The ancient Greeks, particularly in Athens, valued free expression and public debate. Philosophers like Socrates advocated for open inquiry and dialogue, although he was ultimately sentenced to death for allegedly corrupting the youth and challenging the established order. In the Roman Republic, there was a degree of freedom of speech, allowing citizens to criticize the government and engage in political discourse, although this was not without limits.
- ii. **Medieval Europe:** During the Middle Ages, freedom of speech was often restricted by religious and political authorities. The Catholic Church exerted significant control over intellectual and cultural life, leading to censorship and persecution of dissenting voices. However, the rise of universities and the spread of literacy helped pave the way for greater intellectual freedom and the exchange of ideas.
- iii. **The Enlightenment:** The Enlightenment period of the 17th and 18th centuries saw a resurgence of interest in individual rights and freedoms. Thinkers like John Locke and Voltaire championed the right to free expression as a fundamental human right essential for the progress of society. Their ideas laid the groundwork for modern democratic principles and constitutional protections for freedom of speech.
- iv. **American Revolution:** The United States played a pivotal role in codifying freedom of speech into law. The First Amendment to the

U.S. Constitution, ratified in 1791, prohibits the government from making laws that abridge the freedom of speech or the press. This landmark legislation set a precedent for protecting individual liberties and became a model for other democratic nations around the world.

- v. **19th and 20th Centuries:** Throughout the 19th and 20th centuries, the struggle for freedom of speech continued as societies grappled with issues of censorship, propaganda, and the expansion of media technologies. Landmark court cases, such as *Schenck v. United States* (1919) and *New York Times Co. v. Sullivan* (1964), helped shape the legal framework for interpreting and safeguarding freedom of speech in the United States.
- vi. **Globalization and Digital Age:** In the modern era, advancements in technology and the rise of the internet have transformed the landscape of free speech. While digital platforms have provided unprecedented opportunities for individuals to express themselves, they have also presented new challenges, including issues of online harassment, disinformation, and the concentration of media ownership.

Throughout history, the concept of freedom of speech has been a constant battleground, reflecting evolving societal norms, political ideologies, and technological advancements. Despite the challenges and controversies it has faced, freedom of speech remains a fundamental pillar of democracy and human rights, essential for fostering open dialogue, promoting tolerance, and advancing social progress.

Fundamental Rights and Freedom of Speech:

- i. **Individual security:** According to the Constitution of Pakistan, 1973 (2012), Article 10A, no one may be deprived of their life or liberty unless authorised by law.
- ii. **Arrest and detention safeguards:** Article 10 states that no one who is arrested may be held in prison without first being notified of the reasons for their arrest and without being allowed to speak with and be represented by a lawyer of their choosing.
- iii. **Right to a fair trial:** Under Article 10A, a person has the right to a fair trial and due process when it comes to the assessment of his civil rights and responsibilities as well as when he is facing criminal charges.

- iv. **Prohibition of slavery, forced labour, and human trafficking:** Slavery is non-existent and illegal, and no legislation may allow or assist its entrance into Pakistan in any way according to Article 11. Human trafficking and forced labour in any form are also forbidden.
- v. **Protection from retroactive punishment:** Article 12 states that no law may punish someone for an act or omission that was not illegal at the time of the act or omission, or for an offence that carries a penalty that is higher than or different from the one that was specified by law at the time the offence was committed.
- vi. **Protection from self-incrimination and double jeopardy:** Article 13 states that no one may face criminal charges or penalty for the same offence more than once, nor may they be forced to testify against themselves when they are suspected of a crime.
- vii. **Inviolability of human dignity:** According to Article 14, a person's dignity and their right to privacy at home are untouchable. No one may be tortured to obtain evidence.
- viii. **Freedom of movement:** Subject to any lawfully imposed reasonable limits serving the public interest, every citizen of Pakistan is entitled to stay, travel freely across the country, and settle down anywhere they want (Article 15).
- ix. **Freedom of assembly:** Subject to any reasonable limits established by law in the interest of public order, every citizen shall have the right to congregate peacefully and without weapons (Article 16).
- x. **Freedom of association:** Every citizen is entitled to organise unions or groups, subject to any justifiable legal limitations imposed for the sake of Pakistan's sovereignty or integrity, public order, or morality (Article 17). Every person who is not employed by Pakistan will be entitled to create or join a political party, subject to any justifiable limitations imposed by the law in the interest of Pakistan's integrity or sovereignty. All political parties are required by law to disclose the source of their funding.
- xi. **Freedom of trade, business, or profession:** Every citizen has the right to engage in any legal trade or business, subject to any

- requirements that may be set down by law (Article 18).
- xii. **Freedom of speech:** Every citizen is entitled to freedom of speech and expression, as well as freedom of the press, subject to any reasonable limitations imposed by the law in the interest of public order, decency or morality, friendly relations with foreign states, the glory of Islam, the integrity, security, or defence of Pakistan or any part of it, or regarding contempt of court, the commission of or incitement to an offence (Article 19).
- xiii. **Right to information:** Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law (Article 19A).
- xiv. **Freedom to profess religion and to oversee religious institutions:** Every citizen has the right to proclaim, practise, and spread their religion, subject to the law, public order, and morality. Additionally, every religious denomination and every sect within it has the right to create, uphold, and oversee its religious institutions (Article 20).
- xv. **Protection from taxation for religious reasons:** According to Article 21, no one may be forced to pay a special tax whose earnings are intended to support the practice of any religion other than his own.
- xvi. **Religious safety precautions for educational institutions:** No student at any educational institution shall be forced to follow religious teaching, participate in religious rituals, or attend religious services if these activities are connected to a religion other than his own. No community must be discriminated against by any religious institution when exemptions or concessions for relaxation are granted (Article 22).
- xvii. **Property provisions:** Subject to the constitution and any reasonable limitations established by legislation in the public interest, every citizen of Pakistan is entitled to acquire, own, and dispose of property in any part of the country (Article 23).
- xviii. **Protection of property rights:** According to Article 24, no one may be forcibly stripped of their property unless they comply with the law. According to the source, property cannot be seized or acquired forcibly unless it serves a public purpose and is authorised by law. This legal authority must also specify the principles governing compensation determination and distribution, as well as the amount of compensation that must be paid.
- xix. **Citizenship equality:** According to Article 25, every citizen is entitled to equal protection under the law and is treated equally before it. Sex-based discrimination is prohibited. Nothing in this article prohibits the state from enacting unique legislation to safeguard women and children.
- xx. **Right to education:** Following Article 25A, the state is required to offer all children between the ages of five and sixteen free and obligatory education.
- xxi. **Non-discrimination concerning entry to public areas:** According to Article 26, there cannot be any discrimination against any citizen based solely on their race, religion, caste, sex, place of birth, or place of residence when it comes to entry to public entertainment or resorts that are not exclusively used for religious purposes.
- xxii. **Protection from discrimination in services:** Article 27 states that no citizen who is otherwise eligible for a position in the Pakistani government may face discrimination in that regard based only on their race, religion, caste, sex, location of residence, or place of birth.
- xxiii. **Preservation of language, script, and culture:** Any segment of citizens with a distinct language, script, or culture shall have the right to preserve and promote the same and, subject to law, establish institutions for that purpose (Article 28). Urdu is Pakistan's national language and arrangements shall be made for its being used for official and other purposes within fifteen years of the commencing day (Article 251).
- Grounds of Restriction on Freedom of Speech:**
- i. **The glory of Islam:** Since Islam is the foundation of Pakistan's existence, no individual in Pakistan must be allowed to exercise their right to free speech or expression following the precepts and established tenets of Islam. Additionally, no one may use the pretext of press or media freedom to publish anything that subtly or

overtly disparages Islam, its values, or what it stands for (Munir, 1996, p. 356). In short, no one is allowed, in the garb of freedom of speech or expression to do or say anything which may tend to belittle and tarnish the name and glory of Islam (ibid.).

The 1973 Pakistani Constitution's Article 19 provides freedom of speech, expression, and the press, subject to reasonable legal constraints for the advancement of Islam's prestige (Mahmood & Shaukat, 1996, p. 144). Thus, a citizen requesting independence under Article 19 is obligated to uphold and defend Islam's glory (Mahmood, 2010, p. 310).

ii. **Integrity, Security or Defence of Pakistan:** Any portion of Pakistan shall be considered secure when referring to the phrase "Security of Pakistan" (Munir, 1996, p. 356). Since freedom of speech and expression is a fundamental component of a democratic society, people who uphold and value this freedom cannot complain about its limitations when the State, in which they reside, is in danger of being overthrown by an outside force or an internal uprising that could destroy their ability to exercise their rights. (ibid.).

The security of the State is the most sacred and the most important duty of the State (Mahmood & Shaukat, 1996, p. 147). Anything that threatens the State's very survival has to be stopped as soon as possible and therefore, where anything is said or otherwise expressed that endangers the liberty of the State, the protection given by Article 19, Constitution of Pakistan, 1973 cannot be availed of (ibid.). "Every inch of the territory of the State being more valuable than the liberty of speech and expression enjoyed by any of its citizens, such liberty cannot on any social, moral, legal or political ground be used as "democratic" means of liquidating the State that has bestowed that liberty" (Mahmood, 2010, p. 313).

iii. **Friendly Relations with Foreign States:** This exception to the freedom of speech does not itself punish speeches calculated prejudicially to affect Pakistan's relations with foreign States (Munir, 1996, p. 358). In the absence of any law punishing such speeches, they are, though prohibited, not punishable (ibid.). People who behave or are going to act

in a way that is detrimental to Pakistan's external relations may have their mobility restricted by the Security of Pakistan, 1952 (Mahmood, 2010, p. 314).

International law acknowledges the idea that states are accountable for the actions of individuals under their control in their interactions with other states (Munir, 1996, p. 359). Any malicious publication against a friendly State may harm good relations between the countries. Consequently, under Article 19 of the Pakistani Constitution of 1973, legislation that criminalises publishing libel or engaging in hostile propaganda against a friendly State or a foreign dignitary shall remain enforceable (ibid.).

iv. **Public Order:** As previously mentioned, utterances that are likely to disrupt the peace in the public sphere are not protected by the First Amendment. Accordingly, section 153-A of the Pakistan Penal Code may appropriately penalise statements that incite animosity between social classes. Similarly, statements that are penalised under section 295-A of the Pakistan Penal Code for purposefully and maliciously insulting the religious beliefs of any class would not be protected by the constitution (ibid.).

Instead of guaranteeing full freedom of speech or expression, Article 19 of the Pakistani Constitution of 1973 contemplates reasonable limits that cannot be interpreted in a way that, rather than stifling harm, promotes or accelerates trouble (Mahmood & Shaukat, 1996, p. 149). When it determines that the public peace is in jeopardy, the State is authorised to take preventative measures (p. 154). Public safety, tranquillity, and serenity are associated with public order. In contrast to national upheavals like a revolution, civil unrest, or war that compromise state security, it is the lack of disorder including violations of local importance (p. 155).

v. **Morality or Decency:** Another restriction on the freedom of speech and expression is that it does not apply to publications or statements that are debauchorous or immoral (Munir, 1996, p. 361). The morality referred to in Article 19, Constitution of Pakistan, 1973 is not an ad-hoc morality, for instance, the morality of prohibition law forbidding the

drinking of liquor by people (Mahmood & Shaukat, 1996, p. 150). Hence, a provision in such law punishing people for commending an intoxicant will be void as an uncalled-for restriction on the freedom of expression which is not justified by any demands of morality or decency (ibid.).

The word used in English Common law to express this exception is "obscenity" but the scope of our constitutional restriction is much wider, as all laws enacted in the interest of decency or morality will receive protection (Mahmood, 2010, p. 314). Since morality and decency are dynamic concepts, they have evolved throughout a society's social and ethical history, both inside and across communities. As a result, inquiries concerning these topics have to be made in the context of currently-held beliefs (ibid.).

vi. **Contempt of Court:** The principle that no one shall obstruct or interfere with the law's orderly administration by speech or writing places restrictions on the right to freedom of speech and expression. However, not every statement made or piece of writing directed at a judge is considered contempt of court; rather, it only refers to those that are intended to undermine the authority of a court or its judge or to obstruct or interfere with the administration of justice or the courts' legitimate business (p. 315).

In considering libellous matters (case of charge of contempt of Court) certain principles are followed by the Court. One is that matter which is in its nature defamatory is presumed to be false until the contrary is shown to be the truth. Another principle is that in construing the matter alleged to be defamatory, no mitigation of its natural meaning by construction is permissible. The words must be given their full, natural and ordinary meaning as a reasonable man of ordinary prudence would be likely to understand them (ibid.).

vii. **Commission of or Incitement to an Offence:** "Any act or omission made punishable by any law for the time being in force" is the definition of "offence" given by the General Clauses Act, 1897 (p. 316). This prohibition is based on the idea that a person's right to free speech and expression does not include

encouraging someone to commit an infraction, regardless matter how serious or not, or whether the offence is cognizable or not. If the Court determines that a limitation is reasonably required to avoid incitement to crime, the Legislature may impose restrictions on the freedom of speech and expression (ibid.).

It should be apparent to everybody that the right to free speech and expression does not grant an unrestricted, uncontrolled right or a broad licence to encourage others to commit crimes (Munir, 1996, p. 367). Undoubtedly, inciting violent crimes would often jeopardise state security and seriously disrupt public order. According to the Pakistani Constitution of 1973, Article 19, any restrictions on such incitement would be entirely appropriate. No one has the right to encourage someone else to do something illegal or punishable by law. A simple suggestion to evade paying taxes does not always qualify as an "incitement to an offence" (ibid.).

International Law and Freedom of Speech:

i. **Universal Declaration of Human Rights and Freedom of Speech:** Everyone has the right to freedom of speech, which includes the ability to hold beliefs without hindrance and the ability to look for, accept, and share ideas and information across all media and geographical boundaries (UDHR, 2023, Article 19).

ii. **European Convention on Human Rights and Freedom of Speech:** Everybody is entitled to the freedom of speech. This right should encompass the freedom to express one's beliefs, as well as the freedom to receive and disseminate information and ideas across national boundaries and without interference from the government. States may nonetheless need licences for radio, television, and movie businesses despite this provision (Article 10, ECHR, 2023).

Due to the duties and responsibilities that accompany the exercise of these freedoms, it may be subject to formalities, conditions, restrictions, or penalties that are mandated by law and essential to a democratic society, national security, territorial integrity, or public safety, disorder or crime prevention, health or moral

protection, reputational or other rights protection, keeping confidential information private, or upholding the authority and impartiality of the judiciary. (ibid.).

- iii. **International covenant on civil and political rights:** Everyone is entitled to the unhindered expression of their thoughts. Everyone has the right to freedom of expression, which includes the ability to search for, receive, and share ideas and information of any type with others, across all boundaries, verbally, in writing or print, via the arts, or through any other medium of his choosing.

There are certain obligations and responsibilities associated with exercising the rights outlined in this article. As a result, it may be subject to some limitations, but these would only be mandated by law and required to safeguard others' rights or reputations, national security, public order (order public), public health, or morality (OHCHR, 2023, Article 19)

Major Constitutions and Freedom of Speech:

- i. **Constitution of the UK and Freedom of Speech:** Similar to other liberties, the right to free speech or expression is limited in the UK by legislation and common law (Chaudhry, 1996, p.178). Even in cases when the right to free speech is protected by the Constitution, one may wonder what exactly this freedom entails (p. 179).

There may be disagreements on the appropriateness of restricting the right to free speech to accomplish other goals, such as shielding the youth from corruption or averting public disturbance, even while everyone acknowledges the significance of this right. Depending on the reasons behind the importance that people place on freedom of expression, one might infer the appropriateness of such constraints (p. 180). Others would like to contend that censorship hinders society's ability to find the truth on hot-button issues. Others could view the freedom of speech, writing, and reading as a component of every person's moral autonomy (The UK Constitution, 2015).

Treason, sedition, official secrets, incitement to racial hate, contempt of court or Parliament, and instigation to mutiny or disaffection among the military forces and police are

among the restrictions on the right to free speech. Defamation, seditious libel in civil and criminal contexts, blasphemy, obscenity, and the implementation of these legal prohibitions on newspapers, wireless networks, television, and theatres are the remaining restrictions (ibid.).

- ii. **Constitution of USA and Freedom of Speech:** The United States of America Constitution's first amendment stipulates that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right to the people peaceably to assemble, and to petition the Government for a redress of grievances" (Butt, 2018, p. 169).

Numerous nations have designated one religion as the recognised official church and provided financial assistance to it. The establishment of established churches or any kind of support for them is prohibited under this amendment. It has been understood to prohibit government support for or endorsement of religious beliefs. Furthermore, legislation restricting speech, religion, or the press, or prohibiting peaceful meetings of people, may not be passed by Congress. Congress might not be able to stop citizens from requesting assistance from the government to stop unjust treatment (Smith, 2023).

There are restrictions on every right this amendment protects. For instance, the government is not required to sanction every religious activity to uphold the freedom of religion. Some Mormons held the view in the 1800s that a man had a religious obligation to take many wives. The Supreme Court decided that Mormons had to abide by the laws prohibiting that behaviour (ibid.).

- iii. **Constitution of India and Freedom of Speech:** Every Indian citizen is entitled to the following: the freedom of speech and expression; the right to peaceful assemblies without the use of force; the right to organise associations or unions; the freedom to travel around the country at will; the right to live and settle anywhere in India; and the right to engage in any kind of occupation, trade, or business (Constitution of India, 2023, Article 19).

Unless it can be supported by the limitation clause, every restriction on the right to free speech and expression is first unlawful. This section gives the State the authority to restrict free expression only for a few predetermined reasons. If a restrictive statute is not logically demonstrated to be related to any of these predetermined grounds, it is to be deemed void (Basu, 2006, p. 193).

The national interest and the interest of society, which is just the public interest under another name, cannot take precedence over the right to freedom of speech and expression. The Indian Constitution places limitations on the right to free speech and expression for a variety of reasons, including public order, decency or morality, security of the State, friendly relations with foreign states, contempt of court, defamation, or incitement to commit an offence (ibid.).

Pakistan Electronic Media Regulatory Authority (PEMRA):

- i. **Establishment of PEMRA:** An ordinance to control electronic media in Pakistan is the Pakistan Electronic Media Regulatory Authority Ordinance, 2002, as revised by the Pakistan Electronic Media Regulatory Authority (Amendment) Act, 2007 (Pemra Ordinance, 2002).
- ii. **Functions of PEMRA:** The formation and operation of all private broadcast media and distribution services in Pakistan that are intended for worldwide, national, provincial, district, local, or special target audiences are facilitated and regulated by PEMRA (ibid.).
- iii. **The mandate of PEMRA:** Raising the bar for entertainment, education, and information (ibid.).

Increase the selection of news, current events, religious knowledge, art, culture, science, technology, economic development, social sector issues, music, sports, theatre, and other topics of public and national interest that Pakistanis can choose from in the media (ibid.).

Improve public access to mass media at the local and community levels to aid in the transfer of authority and responsibility to the grassroots (ibid.).

To guarantee responsibility, openness, and sound governance, maximise the unrestricted exchange of data (ibid.).

Findings and Discussion:

Use of Freedom of Speech: The government is not allowed to arbitrarily or needlessly interfere with someone's right to free expression or their own opinions. Every person has the right to criticise the federal government for endorsing their strange, shunned beliefs that could offend those around them (Benefits Of, n. d.; Menzner & Traunmüller, 2023).

A person who has the right to free speech is more accountable, trustworthy, open, and aware of their responsibilities. Furthermore, freedom of expression promotes social development. However, to guarantee that everyone has the right to free expression, the state needs to take action against organisations that propagate divisive ideologies (Graber, 2023).

The ability to voice opinions without fear of retaliation or condemnation is another reason why the government should support free speech. People can then fight for what they think is right and question the laws and regulations. People with such inspiration are typically at the forefront of economic progress (Mansfield, 2023).

The advantages of freedom of expression are quite evident. For example, exchanging ideas may boost productivity at work and strengthen social bonds. Despite the obvious advantages of free speech, many organisations may misuse this right (Saad, 2023).

Although it is not a good idea to impose restrictions on the right to free speech, regulations should be established by the government to guarantee that everyone has the opportunity to voice their opinions without facing discrimination, particularly when such laws are implemented by the federal government. Additionally, it safeguards your informational and expressive rights in times of warlike situations (Menzner & Traunmüller, 2023).

Freedom of speech serves a multitude of purposes in society, each contributing to the robustness of democratic governance, individual growth, and societal progress:

- i. **Political Expression:** It allows individuals to voice their opinions on political matters, including government policies, elections, and public officials. This enables citizens to participate actively in the democratic process,

hold leaders accountable, and advocate for change.

- ii. **Intellectual Exchange:** Freedom of speech fosters intellectual curiosity and the exchange of ideas. It enables scholars, scientists, artists, and thinkers to share knowledge, challenge prevailing beliefs, and explore new frontiers of thought, leading to innovation and progress in various fields.
- iii. **Social Critique:** It provides a platform for critique and dissent, allowing individuals to challenge social norms, cultural practices, and injustices. By facilitating open dialogue and debate, freedom of speech promotes social awareness, encourages empathy, and drives social change.
- iv. **Artistic Expression:** Artists, writers, musicians, and creators use freedom of speech to express themselves creatively and convey their perspectives on life, society, and the human experience. This artistic freedom enriches culture, sparks creativity, and encourages diverse forms of expression.
- v. **Personal Development:** Freedom of speech empowers individuals to articulate their thoughts, feelings, and identities openly. This fosters self-confidence, self-expression, and personal growth, enabling individuals to develop their voices and assert their autonomy in society.
- vi. **Information Access:** It ensures access to diverse sources of information and opinions, allowing individuals to make informed decisions and participate fully in civic life. This access to information is vital for a well-functioning democracy, as it enables citizens to stay informed, engage in public discourse, and exercise their rights responsibly.
- vii. **Conflict Resolution:** Freedom of speech provides a peaceful outlet for resolving conflicts and grievances. By allowing individuals to express their concerns and grievances openly, it can facilitate dialogue, reconciliation, and the peaceful resolution of disputes, reducing tensions and promoting social cohesion.

Overall, freedom of speech plays a critical role in promoting democracy, fostering individual liberty, and advancing social progress. It empowers individuals to participate actively in society, contribute to public discourse, and

shape the future of their communities and nations.

Uses of Freedom of Speech in Pakistan:

Certainly! Freedom of speech in Pakistan has been a topic of significant discussion and contention due to various social, political, and legal factors. Here are some examples illustrating the diverse uses of freedom of speech in Pakistan:

- i. **Media Criticism and Political Commentary:** Pakistani journalists and media outlets frequently exercise freedom of speech to critique government policies, political leaders, and societal issues. Newspapers, television channels, and online platforms often feature opinion pieces, editorials, and talk shows where journalists and analysts express their views on various topics, including governance, corruption, human rights, and foreign relations.
- ii. **Social Activism and Advocacy:** Civil society organizations, activists, and individuals utilize freedom of speech to advocate for various causes and raise awareness about social injustices. This includes campaigns for women's rights, minority rights, labor rights, environmental protection, and education reform. Social media platforms have become instrumental in amplifying voices and mobilizing support for such causes.
- iii. **Artistic Expression:** Artists, writers, poets, and filmmakers exercise freedom of speech through their creative works, often exploring sensitive or controversial subjects. Pakistani literature, cinema, music, and visual arts serve as mediums for reflecting on cultural identity, historical narratives, religious beliefs, and societal norms. However, artists sometimes face censorship or backlash from conservative groups or authorities for pushing boundaries or challenging traditional values.
- iv. **Political Dissent and Protest:** Freedom of speech allows individuals and political parties to express dissent, organize protests, and participate in public demonstrations against government policies or actions. Opposition parties often utilize rallies, marches, and public speeches to criticize the ruling party, demand accountability, and advocate for

political change. However, political dissent sometimes leads to arrests, harassment, or violence, especially during periods of heightened political tension or authoritarian rule.

- v. **Legal Advocacy and Judicial Activism:** Lawyers, activists, and NGOs use freedom of speech to engage in legal advocacy and challenge human rights violations, unconstitutional laws, and judicial decisions. Public interest litigation plays a crucial role in holding authorities accountable, protecting individual rights, and promoting the rule of law. Pakistan's judiciary, including the Supreme Court, has at times demonstrated judicial activism by taking suo motu notice of significant public interest cases, thereby addressing issues raised through freedom of speech.
- vi. **Religious Discourse and Debate:** Freedom of speech encompasses the right to discuss and debate religious beliefs, practices, and interpretations. In Pakistan, where religion holds significant cultural and political importance, individuals and religious scholars engage in theological discussions, critique religious institutions, and express diverse religious perspectives. However, blasphemy laws, which restrict speech deemed offensive to Islam or religious sentiments, have been controversial and have led to persecution and violence against religious minorities and dissenting voices.

These examples highlight the multifaceted nature of freedom of speech in Pakistan, encompassing a wide range of expressions and activities across various domains of public life. While individuals and groups exercise this right to promote democracy, human rights, and social progress, they also contend with legal restrictions, societal pressures, and political challenges that shape the boundaries of free speech in the country.

Abuse of Freedom of Speech: Among our liberties, the right to free expression is arguably the most frequently misused (Grogan, 2005). Morally destructors are accepted and safeguarded, while religious liberties are seen with contempt and efforts to repress religious people are gathering steam (Saad, 2023).

The rights to free speech and expression do not grant someone the ability to act in ways that are harmful to

society at large. People who struggle with appropriate self-behaviour must be restrained (Cover, 2023).

Although the freedom of expression allows us to voice our opinions, it does not grant us the right to denigrate and mistreat others. Respect and restraint are necessary for some things. Sadly, though, there will always be those arguing that they have the freedom to do as they like (Keck, 2023).

The severe act of fostering discord and humiliation globally was the publication of derogatory caricatures of the Prophet Muhammad in the Danish newspaper *Jyllands Posten*, which were later repeated by numerous newspapers in France, Germany, Italy, Spain, Switzerland, Holland, Hungary, Norway, and the Czech Republic (Hassan, 2006).

The publication of derogatory cartoons depicting a prophet from one of the main world faiths might pose a severe threat to East-West ties, particularly at a time when religious fanaticism and intolerance are already big worldwide issues (Rahman, 2023).

Journalists are required to uphold certain ethical and behavioural norms in every free society in which they produce news and artwork. Freedom of expression always has its boundaries, no matter where it is practised—in the West or the East. Deliberately insulting people, communities, or groups is unacceptable in any free society (Steinhoff, 2023).

Regretfully, the world has often witnessed instances of vile minds passing off offensive and shameful views as those of academics, authors, and journalists. While freedom of speech is a vital democratic principle, it can also be susceptible to abuse in various ways:

- i. **Hate Speech:** Some individuals may use freedom of speech to disseminate hate speech, targeting marginalized groups based on characteristics such as race, religion, ethnicity, gender, or sexual orientation. This can lead to discrimination, violence, and the marginalization of vulnerable communities.
- ii. **Incitement to Violence:** Speech that directly incites violence or poses a credible threat to public safety is not protected under freedom of speech. However, some individuals may exploit this right to encourage violence or harm against others, risking public safety and undermining social cohesion.

- iii. **Disinformation and Misinformation:** Freedom of speech allows individuals to express opinions and beliefs, but it also opens the door to the spread of disinformation and misinformation. Deliberate dissemination of false or misleading information can deceive the public, undermine trust in institutions, and erode the foundations of democracy.
- iv. **Cyberbullying and Online Harassment:** The anonymity and reach of online platforms have enabled individuals to engage in cyberbullying and harassment, using freedom of speech as a guise for harmful behaviour. This can have severe consequences for victims, including psychological trauma, social isolation, and even suicide.
- v. **Defamation and Libel:** While freedom of speech protects the expression of opinions, it does not shield individuals from accountability for spreading false information that damages someone's reputation. Defamation and libel laws aim to strike a balance between protecting free expression and preventing the unjust harm caused by false statements.
- vi. **Obscenity and Pornography:** While some forms of expression, including artistic or literary works, may contain explicit content protected by freedom of speech, there are limitations regarding obscenity and pornography, particularly concerning minors or non-consenting individuals. Balancing freedom of expression with societal standards of decency and public welfare is a complex issue.
- vii. **Abuse of Power:** Governments or powerful entities may suppress dissenting voices or manipulate public discourse to maintain their authority or further their interests. This can include censorship, propaganda, or the silencing of journalists, activists, and political opponents, undermining the principles of democracy and human rights.

Addressing these abuses requires a nuanced approach that balances the protection of free speech with the prevention of harm and the promotion of a healthy public discourse. This may involve implementing regulations, fostering media literacy, promoting digital citizenship, and upholding the rule of law to safeguard freedom

of speech while mitigating its negative consequences.

Abuses of Freedom of Speech in Pakistan:

Certainly, abuses of freedom of speech in Pakistan can manifest in various forms, often stemming from social, political, and legal factors. Here are some examples illustrating the abuse of freedom of speech in the country:

- i. **Hate Speech and Incitement to Violence:** Some individuals and groups misuse freedom of speech to propagate hate speech targeting religious, ethnic, or sectarian communities. Extremist organizations, religious leaders, and political entities often exploit platforms such as public rallies, social media, and religious gatherings to spread incendiary rhetoric, incite violence, and promote intolerance. This contributes to communal tensions, sectarian violence, and the marginalization of minority groups.
- ii. **Censorship and Press Restrictions:** Despite constitutional guarantees of freedom of the press, Pakistani journalists and media outlets frequently face censorship, intimidation, and harassment from state authorities, political parties, and powerful interest groups. Government agencies exert control over media content through regulations, censorship laws, and advertising revenue manipulation, inhibiting critical journalism and the dissemination of independent viewpoints. Journalists, bloggers, and social media users risk arrest, abduction, or violence for reporting on sensitive issues, exposing corruption, or criticizing state policies.
- iii. **Blasphemy Allegations and Persecution:** Pakistan's blasphemy laws, which criminalize speech deemed derogatory to Islam or the Prophet Muhammad, are frequently abused to target religious minorities, dissenting voices, and individuals with personal vendettas. False blasphemy accusations often result in mob violence, extrajudicial killings, and miscarriages of justice. The mere allegation of blasphemy can lead to vigilante attacks, social ostracism, and legal persecution, chilling freedom of expression and promoting self-

ensorship among writers, activists, and religious minorities.

iv. **Online Censorship and Surveillance:** The digital space in Pakistan is subject to government censorship, surveillance, and cyber-attacks targeting dissidents, journalists, and human rights defenders. The Prevention of Electronic Crimes Act (PECA) grants authorities broad powers to censor online content, monitor internet activity, and prosecute individuals for online criticism of the state or religious authorities. Social media platforms, including Facebook, Twitter, and YouTube, comply with government requests to remove or restrict content deemed offensive or blasphemous, stifling online discourse and limiting freedom of expression.

v. **Judicial Harassment and Legal Intimidation:** The judiciary in Pakistan has been criticized for its role in suppressing freedom of speech through judicial harassment, arbitrary arrests, and selective application of laws. Activists, lawyers, and journalists advocating for human rights, democratic reforms, or government accountability often face legal intimidation, defamation lawsuits, or contempt of court charges. Judicial activism, including the use of suo-motu notices to target critics or political opponents, undermines judicial independence and restricts the space for dissenting voices within the legal system.

These examples illustrate how freedom of speech in Pakistan is frequently abused and undermined by various actors, including state institutions, extremist groups, and societal forces. Addressing these challenges requires concerted efforts to uphold constitutional freedoms, strengthen democratic institutions, and promote a culture of tolerance, pluralism, and respect for human rights.

Conclusions:

Based on the findings, the following is concluded:

- i. The study's findings demonstrate the thoroughness and elaboration of Article 19 of the Islamic Republic of Pakistan's 1973 Constitution. It does, however, impose some limitations on the freedom of speech and expression.
- ii. The limitations outlined in Article 19 about the promotion of Islamic glory, the integrity,

security, and defence of Pakistan or any portion of it, amicable relations with other countries, public order, morality, and decency, as well as the prevention of court contempt and the commission of or incitement to commit crimes.

iii. In reality, no nation has an unrestricted right to freedom of speech and expression; instead, such rights are frequently limited to limitations. The right to freedom of speech and expression is subject to limitations, including those about blasphemy, criminal and civil seditious activities, defamation, libel, obscenity, slander, treason, and other offences, according to the interpretation of Article 19 of the Pakistani Constitution of 1973.

iv. The purpose of laws is to shield citizens from harm caused by other people. Nevertheless, they are misunderstood to accomplish evil goals. Similar to how the right to free speech and expression is abused, this also applies.

v. With support from high-quality education, the Pakistani people will eventually learn how to properly use their right to free speech and expression. The sooner we put in place tangible measures, the sooner we will see the times when exercising one's right to free speech and expression serves the interests of the state.

Recommendations:

Based on the conclusions, the following is recommended:

- i. When it comes to how the right to freedom of speech and expression is used, the legislation should clearly define and expound on the press's role.
- ii. To enable the wise exercise of the right to freedom of speech and expression, the State shall organise and host workshops and seminars regularly.
- iii. To prevent dishonest and prejudiced methods, professionals and experts should make use of their right to freedom of speech and expression.
- iv. To close the gaps between PEMRA and media stakeholders, an unbiased committee made up of representatives from the government, opposition, and media should be established.

- v. Offenders who disregard the fundamentals of the right to freedom of speech and expression ought to be named and given severe penalties.
- vi. To combat misconceptions and rumours in the State, the administration should conduct appropriate media briefings and information exchange.
- vii. To mitigate the bad international perception of the Islamic Republic of Pakistan and lessen its influence at home, communication should be established with international media outlets.

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