



## Freedom of Expression and the Law in Pakistan

Ali Raza<sup>1</sup>, Muhammad Rashid<sup>2</sup>, Muhammad Sanan Ghias Subhani<sup>3</sup>, Khalil Ahmed<sup>4</sup>

1. Visiting Lecturer, Dr. Allama Iqbal College, Government College University (GCU), Lahore
2. The University of Lahore
3. The University of Lahore
4. The University of Lahore

DOI: <https://doi.org/10.71145/rjsp.v3i4.505>

### Abstract

Freedom of expression is a cornerstone of democratic governance and an essential component of human dignity. In Pakistan, this right is constitutionally guaranteed under Article 19 of the Constitution but is subject to multiple legal, political, and social restrictions. This study examines the scope of freedom of expression within Pakistan's legal framework by analyzing constitutional provisions, statutory laws, and judicial interpretations. Using doctrinal legal analysis, the research evaluates how domestic laws regulate speech and whether these regulations align with international human rights standards. The findings reveal that while Pakistan formally recognizes freedom of expression, vague statutory language, broad discretionary powers, and inconsistent judicial application significantly constrain its practical enjoyment. The study concludes that clearer legal standards and proportional judicial scrutiny are necessary to ensure meaningful protection of expressive freedoms.

**Keywords:** Freedom of Expression; Constitution of Pakistan; Article 19; Media Law; Cyber Laws; Human Rights

### Introduction

Freedom of expression plays a vital role in ensuring democratic participation, transparency, and accountability. It allows individuals to express opinions, disseminate information, and challenge authority without fear of retaliation (Dworkin, 1996). In Pakistan, freedom of expression is constitutionally recognized under Article 19 of the Constitution of 1973; however, this right is not absolute and is subject to "reasonable restrictions" imposed by law. The constitutional framework reflects a balancing act between individual liberty and collective interests such as national security, public order, morality, and the glory of Islam (Constitution of Pakistan, 1973). Over time, this balance has tilted towards regulation rather than protection, particularly through penal laws, media regulations, and cybercrime legislation. International human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), to which Pakistan is a party, require restrictions on expression to be lawful, necessary, and proportionate (UN Human Rights Committee, 2011). This article explores whether Pakistan's legal regime meets these standards.

## **Methodology**

This study adopts a doctrinal legal research methodology combined with qualitative analytical techniques to investigate the scope, limitations, and practical application of freedom of expression in Pakistan.

The methodology is structured as follows:

### **Research Design**

The study is primarily qualitative and analytical in nature, focusing on the legal and regulatory framework governing freedom of expression. It examines constitutional provisions, statutory instruments, judicial interpretations, and international human rights standards. The research design aims to provide a comprehensive understanding of the legal landscape, identify gaps between law and practice, and propose recommendations for reform.

### **Data Sources**

#### **Primary Sources**

Constitution of Pakistan (1973): Articles 19, 19A, 20, and other relevant provisions forming the foundation of expressive rights.

Statutory Laws: Key statutes including the Pakistan Penal Code (PPC), Prevention of Electronic Crimes Act (PECA) 2016, and PEMRA Ordinance, which impose limitations on expression.

Judicial Decisions: Landmark rulings from the Supreme Court, High Courts, and lower courts in cases involving freedom of expression, blasphemy laws, cybercrime, media regulation, and civil liberties.

#### **Secondary Sources**

Academic books and peer-reviewed journals on constitutional law, media law, and human rights (e.g., Dworkin, 1996; Knight, 2014).

Reports and publications from international human rights organizations such as Amnesty International (2022) and Human Rights Watch (2020).

Comparative studies of freedom of expression in other jurisdictions to contextualize Pakistan's approach.

### **Data Collection Procedure**

The research employed documentary analysis as the primary technique. Legal texts, court judgments, and policy documents were systematically collected from official sources, legal databases, and government websites. Secondary literature was gathered using academic databases such as JSTOR, Hein Online, and Google Scholar. Each document was evaluated for relevance, authenticity, and reliability.

**Data Analysis**

The study applies doctrinal analysis, which involves interpreting legal texts and judicial decisions to understand the scope, limitations, and practical application of freedom of expression. The following analytical approaches were used:

Content Analysis: Statutes, constitutional provisions, and case law were examined to identify themes, limitations, and legal inconsistencies.

Comparative Analysis: Pakistan’s legal framework was compared with international human rights standards, particularly the International Covenant on Civil and Political Rights (ICCPR) and European Court of Human Rights principles.

Descriptive Analysis: Tables and figures were used to summarize the frequency, scope, and impact of statutory restrictions and judicial decisions.

**Ethical Considerations**

The study relies entirely on publicly available legal documents and secondary literature, ensuring that no human subjects are directly involved. Sources were accurately cited to maintain academic integrity, and sensitive issues, such as blasphemy and security-related restrictions, were treated with objectivity and neutrality to avoid bias.

**Limitations**

The study is doctrinal and qualitative, lacking empirical surveys or interviews with stakeholders (e.g., journalists, lawyers, or policymakers).

Some judicial data may be incomplete due to limited availability of lower court decisions. The analysis is constrained to legal texts and reported cases, which may not fully capture the practical enforcement challenges on the ground.

**Results**

The analysis reveals that freedom of expression in Pakistan is subject to extensive legal regulation. The results are presented thematically through the following tables.

**Table 1: Constitutional Guarantees and Limitations on Expression**

Provision	Guarantee	Limitation
Article 19	Freedom of speech and expression	Reasonable restrictions
Article 19A	Right to information	Subject to regulation
Article 20	Religious expression	Public order and morality

**Description:**

Table 1 demonstrates that while the Constitution provides explicit guarantees for expression, each right is accompanied by broad limitation clauses. These limitations allow extensive legislative and executive discretion, often narrowing the practical scope of the right.

**Table 2: Major Statutory Restrictions on Freedom of Expression**

Law	Relevant Sections	Impact on Expression
Pakistan Penal Code	295-C, 153A	Criminalizes blasphemy and hate speech
PECA 2016	Sections 20, 21	Regulates online speech
PEMRA Ordinance	Various provisions	Controls electronic media content

**Description:**

Table 2 highlights key statutory instruments that restrict expression. The findings indicate that vague language in these laws enables selective enforcement, particularly against journalists, political critics, and online activists.

**Table 3: Judicial Trends in Freedom of Expression Cases**

Judicial Approach	Characteristics	Outcome
Rights-protective	Emphasis on constitutional liberty	Limited application
Security-focused	Deference to state interests	Frequent restriction
Procedural review	Focus on legality, not substance	Inconsistent protection

**Description:**

Table 3 reflects judicial inconsistency in free speech cases. Courts often priorities security and morality concerns over expressive freedoms, resulting in unpredictable jurisprudence.

**Discussion**

The results indicate a clear disconnect between constitutional ideals and legal practice in Pakistan. Although Article 19 recognizes freedom of expression as a fundamental right, its extensive qualifications have enabled restrictive legislation and administrative control. Similar concerns have been raised by international human rights bodies, which stress that vague restrictions undermine democratic discourse (Amnesty International, 2022).

The judiciary’s inconsistent application of proportionality further exacerbates the problem. Unlike European and international standards, where necessity and proportionality are rigorously assessed,

Pakistani courts often defer to legislative intent or executive discretion (UN Human Rights Committee, 2011). Digital expression has emerged as a particularly vulnerable area, with PECA 2016 expanding state oversight of online speech beyond internationally acceptable limits (Ahmed, 2021).

Overall, the findings suggest that meaningful protection of freedom of expression in Pakistan requires clearer legal definitions, judicial commitment to rights-based interpretation, and alignment with international human rights obligations.

## References

- Ahmed, R. (2021). "Digital Rights and Cybercrime Law in Pakistan." *Pakistan Law Review*, 18(1), 89–105.
- Ali, S. (2020). "Judicial Approaches to Free Speech: Comparative Perspectives." *Islamabad Law Journal*, 24(2), 77–98.
- Amnesty International (2022). "State of the World's Human Rights". Amnesty International.
- Bassiouni, M. C. (2017). *International Human Rights Law: Cases, Materials, Commentary*. Brill.
- Constitution of the Islamic Republic of Pakistan, 1973.
- Dworkin, R. (1996). *Freedom's Law: The Moral Reading of the American Constitution*. Harvard University Press.
- Farooq, U. (2018). *Media Regulation in South Asia*. Palgrave Macmillan.
- Human Rights Watch (2020). "World Report 2020: Pakistan". Human Rights Watch.
- Hussain, M. (2018). "Proportionality in Constitutional Law: A South Asian Perspective." *South Asian Legal Studies*, 5(1), 23–42.
- International Covenant on Civil and Political Rights (ICCPR), United Nations, 1966.
- Jalil, A. (2019). "Blasphemy Laws in Pakistan: A Critical Review." *Journal of Law and Human Rights*, 12(3), 45–68.
- Khan, T. (2021). "PEMRA and Press Freedom: Legal Challenges in Pakistan." *Journal of Media Law*, 10(4), 113–133.
- Knight, C. (2014). *Journalism and the Rights to Freedom of Expression*. Routledge.
- Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance, 2002.
- Pakistan Penal Code (PPC), 1860, Government of Pakistan.
- Prevention of Electronic Crimes Act (PECA), 2016, Government of Pakistan.
- Rahman, F. (2023). *Civil Liberties and Security in Constitutional States*. Oxford University Press.
- UN Human Rights Committee (2011). General Comment No. 34: Article 19 – Freedoms of Opinion and Expression.
- Winters, B. (2015). *Comparative Constitutional Law*. Cambridge University Press.
- Zafar, N. (2022). "Social Media and Freedom of Expression." *Cyber Law Quarterly*, 7(2), 55–74.