

No freedom of expression in Pakistan

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Freedom of expression is today at its lowest in the history of Pakistan. In fact, the Pakistani people have never enjoyed freedom of expression. During the last decade or so, various governments have claimed that they have given freedom of expression to the media. This is not borne out by the number of journalists that have been killed or tortured, or who have struggled as victims of unemployment due to working to the dictates of their conscience rather than the self-censorship the government and media houses would like to see. A point of confusion is the comparison of freedom of expression with the freedom of the media houses. The two are actually completely different and far distant from each other.

In fact, much of the self-censorship comes from the media houses themselves, as they do not wish to draw the ire of the government, judiciary, the armed forces, and particularly, the Muslim fundamentalists. The voices that really need to be heard, those of the peasant farmers and industrial labourers, are sadly ignored and silenced by the media, whose sole purpose is to gain advertising revenue. It is no secret that the media houses are 'driven' by the armed forces through their Inter Services Public Relations office. The armed forces and the judiciary-its poodle- neither of which have ever served the nation, have both been given the status of a sacred cow by the media. The fact that the media houses seldom allow any real criticism of the military or religious extremists is proof that freedom of expression does not exist.

The restriction on the freedom of expression may be dated back to the very creation of the country. Pakistan was created on 14 August 1947, and the father of the nation gave his inaugural speech three days earlier on August 11. It is interesting to note that the speech of the Governor General-to-be, Mr. Jinnah, was itself censored. The censored parts were purely secular in nature, with Mr. Jinnah saying, "You are free; you are free to go to your temples, you are free to go to your mosques or to any other place of worship in this State of Pakistan. You may belong to any religion or caste or creed that has nothing to do with the business of the State." He further said,

Now I think we should keep that in front of us as our ideal, and you will find that in course of time Hindus would cease to be Hindus and Muslims would cease to be Muslims, not in the religious sense, because that is the personal faith of each individual, but in the political sense as citizens of the State.

Two years after the creation of Pakistan, a resolution entitled the 'Objective Resolution of Pakistan' was passed, which declared that sovereignty lay with Allah. This later became part of the constitution and denied the people the right to democracy and created guidelines on the restrictions for the freedom of expression and the freedom to practice the religion of your choice. The country was declared a theocratic society where only Islam can prevail. A clear demarcation was made between the majority and the minority, with all rights recognized for Muslims and no rights for those who were not Muslim. The concept of equality for various sections of the society was supposed to be determined on this basis.

Again, through the 1973 constitution, which was the first time anything was passed unanimously, the state took the responsibility to decide who is Muslim and who is not by making the fourth amendment in the constitution, where the Ahmadis were declared as non-Muslim. This amendment further encouraged pressure groups such as the Muslim

fundamentalists, to take the responsibility of declaring who were Muslims and who non Muslims.

Although the Objective Resolution was initially part of the constitution's preamble, during the military regime of General Zia ul Haq it was incorporated into the constitution itself. Limited minority rights given in the original Objective Resolution were also deleted. General Zia made three famous laws, the Blasphemy laws, by inserting clause B and C, Qisas and Diyat, through which the evidence from women is denied and the Hadd ordinance. So the rights of women and religious minority groups were denied.

This has resulted in self censorship of the media as the rules and regulations concerning the Blasphemy laws are not being adhered to: while the law stipulates that the arresting and investigating officer must be of the rank of Superintendent of Police, in fact people are being arrested by the mob, and if they are lucky, handed over alive to any police officer present.

The media is extremely careful about what they say regarding the religious extremists as they can expect no protection or support from the authorities or judiciary. This was evident in the cases of the assassinations of the governor of Punjab, Mr. Taseer and the Federal Minister on Religious Minorities, Mr. Bhatti where the perpetrators of the violence have either gone unpunished or are being treated as heroes. Even lawyers, meant to be protectors of the law, came out in support of the assassins, blaming the victims for blasphemy.

Although Pakistan's Blasphemy Law is not the subject of this particular article, I mention it because it has a direct effect on the freedom of expression: while the constitution of Pakistan guarantees freedom of religion, the actual situation in the country is very different, and any media person or company speaking out in support of the minorities soon faces attacks ranging from hate speech to physical violence, and even death.

The Blasphemy Law has been made a killer. If any person is accused of blasphemy, particularly on the charges of defiling the name of the last prophet (PBUH), he has to face the death penalty from the law or state, and if not, then fundamentalists will murder him. In a case of two Christians who were sentenced on section 295 B of the Blasphemy Law, they were released by high court Justice Arif Bhatti as they were illiterate scavengers. After their release they left Pakistan but the Justice was murdered for releasing the blasphemers.

One session court judge had to leave the country when he gave the death sentence to the killer of the former Governor of Punjab. Fundamentalists announced that he was liable to be killed because he had given punishment to the hero of Islam. The Governor of Punjab was murdered because he used his right of freedom of expression in support of one Asia Bibi, who was sentenced on blasphemy charges.

In fact, freedom of expression is also limited by the constitution, which declares the Ahmadis as non-Muslim. The constitution on one hand thus declares the freedom to practice the religion of your choice, but on the other hand places the Ahmadis in a position that leaves them open to attack by the fundamentalists. Any media house coming out in their support or criticizing the fundamentalists, are liable to the same degree of violence as the Ahmadis themselves.

The media is also suppressed by the military when they attempt to report on the nexus between the armed forces and the militant jihadists. One report noted that during 2006 about ten journalists were kidnapped by security forces apparently belonging to military secret services, while performing their professional duties. The report also revealed that the very few journalists based in tribal areas in Balochistan are caught in the crossfire between security forces, jihadist militants and tribal chiefs fighting each other to control the area.

Another area which is strictly forbidden to journalists is reporting on the corruption of the politicians, the military and the judiciary. These institutions have become sacred cows, untouchable by anyone other than their own hierarchy. Any journalists brave enough to highlight this corruption are liable to face the same fate as Mr. Taseer and others.

Often the freedom of expression is restricted on the pretext of vulgarity, morality and obscenity, three items that have never been clearly defined in the law or by any court. This does not deter the authorities however, or those with vested interests and the media houses, from promptly making use of these to enforce self censorship.

In an attempt to define these issues, the Pakistan Electronic Media Authority called for a consultative conference to discuss them. However, no one turned up so they have arranged another conference for later this month. It is hoped that by mutual consent they will be able to put forward proposals to the apex court of the land.

Therefore, it can be seen that through the country's constitution and laws, there are many restrictions on the freedom of expression and freedom of media. The "Official Secret Act of 1923" is still operative. Anything which the state thinks is prejudicial to the interest of the state or against the state is to be tried under this act. Classified matters cannot be published or even spoken of. The Safety and Telegraph Acts are also used for curbing the right of freedom of expression. The Newspapers, Periodicals and News Agencies Ordinance 2002 is still in force, according to which no periodical or newspaper can be printed unless given permission by the ministry of information. This is a clear violation of article 19 of the ICCPR, as well as the constitution of Pakistan. PEMRA is a regulatory body which gives out licenses for the production of any type of electronic channel; permission for this has to be taken from the government. It is not like Europe or the USA, where any person or organization can make their own radio or TV channel.

After military rule ended in 1985, pressure groups and fundamentalists took on the state's role to implement their own rules, as well as its tactics of coercion and intimidation. The role of the government has thus been reduced to a minimum.

Contempt of court is another method of restricting freedom of expression. While the government says there is no law regarding contempt of court, the Supreme Court relies on the Contempt of Court Ordinance of 2004 to minimize freedom of expression, particularly when it comes to the decisions of the court.

There is a draft law on freedom of information in circulation, but it can be termed as mere lip service to show that something is being done. It does not define who will decide what is secret and what is not. Contrary to global practices, the government has kept everything secret until it is declared to be made public. The data collection and maintenance mechanisms are very poor in Pakistan.

The draft law allows the government and its agencies to classify anything they want to be exempt from being made public, without explanation as to why they are doing so. The procedure to declare something secret has not been revealed. And the big question, is who exactly is authorized to declare anything secret?

The constitution declares quite clearly that Pakistan is an Islamic country. Therefore, quite simply there is no freedom of expression as the country is run purely on a religious basis.