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Freedom of the Press and National Security: The Legal Dilemma

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Abstract

The ongoing tug of war on the freedom of the press and national security has always been a complicated legal and moral challenge in a democratic society. The role of press freedom is generally perceived to be an essential component of transparency, accountability, and participation by citizens but governments always use the guise of national security to impose outrageous limits on information flow. Pakistan has a constitutional safeguarding expression in Article 19, and the right to information in Article 19 enabling a more potent attempt to access national information. Combined with the policing that is entrusted to the regulatory bodies such as PEMRA and Pakistan Telecommunication Authority, these have formed an untidy space within which freedom of the press is regularly trifled with. This discussion provides an overview of the constitutional and legal framework of Pakistan, analyzes the actions of the Pakistani state and judicial reaction and compares the international experience in terms of finding ways of balancing press and security. The paper concludes with a recommendation on how to preserve the interests of national security in the country as well as media freedom as a democratic nation.

Keywords: Press freedom; national security; censorship; Article 19; Pakistan; judicial oversight; media ethics.

1. Introduction

This is the basic concept of the press freedom which is widely accepted as a foundation of democracy practice. It ensures that the citizens are able to access information, enhance accountability among the citizens and strengthen the civil society by creating an informed debate. Non-Governmental organizations across the global platform have unveiled corruption, abuse of human rights, and bad governance thus magnifying democratic principles. However, the freedom of the press is not absolute, governments often use the issue of national security as an excuse to control the actions of the media recording terrorism, subversion or internal upheaval. The dichotomy between press freedom and security seems to be the utmost in the countries where democracy is weaker or with military exceptionalism.

The Constitution of Pakistan (1973) in Article 19 safeguards the freedom of speech though it is subject to reasonable restriction in the name of national security, law and order or decency. Even though this clause was meant to create a balance, it has been the clause which has been widely interpreted and allowed the various administrations to censor, suspend the license or even prosecute journalists under the guise of protecting the state interests. The Right to Information introduced by the Eight Amendment, specifically Article 19 2010 19-A (2010) allegedly gave rights to the journalists and civil society. However, bureaucracy, discretionary powers, security-based exemption have held it in check, leading to the weakened press by conflicting legislations, loose regulation of the same and political influence.¹

Broadcast and digital media have a lot of control by various regulatory bodies, such as the Pakistan Telecommunication Authority (PTA) and the Pakistan Electronic Media Regulatory Authority (PEMRA). PEMRA can issue, suspend or withdraw television and radio stations, whereas the 2016 PECA gives the government the power over the internet platform, allowing sites or posts in social-media to be removed as hostile to national security.² Critics are worried that this kind of powers, which are used without subjective criteria or because of judicial protection, foster self-censorship and undermine the watchdog role of the press.

The Pakistani press freedom history follows the cyclical trend of freedom and suppression. Under the civilian governments the media experienced a level of freedom, which revealed the lack of efficiency and social inequities in the governments. The reporting was sanitized under military regimes through censorship, intimidation and propaganda, highlighting how press freedom can be easily suppressed by the executive.³ The harassment of the journalists, restrictive laws and selective enforcement of the laws continue to give the international organizations low ratings on the press-freedom index on Pakistan.⁴

The recent scholarship highlights the need to use proportionality and judicial safeguards to balance media freedom and national security. As an example, Hashmi, Javed and Saleem examine the problem of procedural inefficiencies in the Pakistani legal system and find out how institutional and constitutional inefficiencies are perpetually eroded by discretionary legal enforcement and institutional weaknesses. They emphasize in their work the essential role the clear and responsible mechanisms play in avoiding the

¹ Pakistan and Pakistan National Assembly, *The Constitution of the Islamic Republic of Pakistan* (Manager of Publications 1973).

² Waseem Ahmad and others, 'Critical Analysis of The Recent Legislation and Initiatives to Curb Fake News and Disinformation in Pakistan: Challenges and Way Forward'.

³ Zainab Shah, 'MEDIA CENSORSHIP AND FREEDOM OF EXPRESSION IN HYBRID REGIMES: A CRITICAL ANALYSIS' (2024) 5 Global Media and Social Sciences Research Journal 23.

⁴ Javed Rashid and others, *Freedom of Speech and Expression in Pakistan* (Al-Qamar 2024).

arbitrary limitation of press liberties. Their findings are referred to once, and other references appear throughout the study as they take them out of the external scholarly and legal materials.

In this paper, we are going to discuss such a complicated legal, institutional, and ethical environment under which press freedom in Pakistan is realized, to discuss how state security and journalistic independence interact, and to offer some recommendations based on the domestic and international experience. This paper aims to shed light on the long-term legal quandary in the conflict between freedom of the press and national security through a thorough analysis of the provisions in the Constitution, existing regulatory frameworks, judicial rulings, and a comparative discussion on best practice.

2. Pakistan Constitutional and Legal Framework

The law used to regulate press freedom in Pakistan is based on the Constitution and supported by a row of statutory acts. The libertarian-national security dilemma is complicated as it depends on historical, political, and institutional conditions.

2.1 Constitutional Provisions

Article 19 of the Constitution provides freedom of speech and expression, which clearly contains the freedom of the press. But it allows reasonable limitations in the name of Islam, integrity of Pakistan, state security, intercourse with other countries, public order, decency or morality. The very scope and generally ill-defined character of these restrictions have given the state significant latitude in controlling the activity of media. This is a historical provision that has been utilized to pre-empt censorship, censor a journalist and stave off critical reporting, especially around a time of political instability or military rule.⁵

Article 19-A in the Eighteenth amendment (2010) has put in place the right to know about information that is of the public. This was to improve transparency, strengthen journalists and also enable civic participation. Real practice has however been hampered by bureaucratic delays, the discretionary rejection of requests on the basis of security and the absence of enforcement procedures. Although the provision is in tandem with the global best practices in fostering access to information, it has had a dull effect due to institutional flaws and biased application by the authorities.⁶

2.2 Statutory Instruments

Broadcast media regulation in Pakistan follows the first or foremost statutory framework of PEMRA ordinance 2002. PEMRA has the power to grant licenses, censor content and withdraw or cancel licenses when material contravenes the morality of the people or endangers the national identity. Although the above mission is to encourage responsible journalism, the wide discretion that the PEMRA has been given has led to political notched application in certain instances. International body reports have reported that fines and suspension of coverage of regulatory issues have been imposed by the PEMRA concerning coverage which is critical of government policies or military activity and this raises the conflict between regulatory oversight and freedom of the press.⁷

The digital platform to which the regulatory hand has been firmly clamped, is now the Prevention of Electronic Crimes Act (PECA) 2016, which covers websites as well as social media. PECA criminalizes content

⁵ Pakistan and Pakistan National Assembly, *The Constitution of the Islamic Republic of Pakistan* (Manager of Publications 1973).

⁶ Muhammad Ali and Muhammad Osama Shafiq, 'Redefining Right to Information, Federalism and Decentralization Mechanism in Pakistan: Post 18th Amendment Perspective' (2016) 14 Journal of Mass Communication Department, Dept of Mass Communication, University of Karachi.

⁷ Daniyal Shoukat, 'Pakistan Electronic Media Regulatory Authority (PEMRA): Overview and Regulatory Framework' [2025] Available at SSRN 5250364.

available online and which is considered harmful to the national security, the inner peace, or decency. Critics of the law opine that the loose nature of the provisions of the law is a breeding ground of abuse opportunities, which have encouraged self-censorship of journalists and online commentators. Removal measures (takedowns of news websites, social media accounts, etc.) are frequently being employed in the name of the security, in reality, the definition of harm is vague, and is becoming subjective.⁸

2.3 Judicial Interpretations

The courts are also of critical importance in the determination of the extent of press freedom in Pakistan. Courts have at times stepped to enforce media freedom, although have remained subservient to executive fact-finding on national security. In *Benazir Bhutto v. Federation of Pakistan* The Supreme Court through Federation of Pakistan emphasized the significance of free press and speech in the governance by democratizing them. On the other hand, courts have supported executive limitations in situations of counter-terrorism activities or state emergencies, and such a tendency of judicial deference in security-related issues has been in place.⁹

In other hotbed cases, the restricting and supportive aspects of judicial intervention are portrayed. For instance, in *Shehla Zia v. WAPDA*, The Court pointed to the right of citizens to access information that concerns the interest of the people with the formation of precedents that can be applied to freedom of press (WAPDA (PLD 1994 SC 693). Nevertheless, judicial decisions that followed after have usually ruled in favor of security over transparency, due to the conservative measures of the judiciary whenever matters pertaining to national security are invoked, the Court emphasized citizens' rights to access information affecting public interest, setting precedents relevant to press freedom. But later judgments have tended to give precedence to security over transparency as the judiciary is cautious to take recourse to national security when the issue is raised.¹⁰

2.4 Analysis of Legal Framework

There are tensions exhibited in the constitutional and statutory framework of Pakistan. On paper, the freedom of the press is protected by the constitution, which has been backed up by the legislature protecting responsible journalism. Practically, though, ambiguous limitations, selective application, and a systematic history of executive and military penetration have developed a context in which the freedom of the press is often undermined.

The regulatory apparatus especially PEMRA and PECA is indicative of a dual role; to ensure the promotion of media professionalism, as well as safeguarding the national security. The absence of well spelt out procedural checks and balances and external checks and balances enhances the chances of arbitrary action. Without proportionality tests, lack of transparency in guidelines and judicial review, legal provisions exist, supposed to balance the interests of freedom and security, can be turned into control instruments, according to scholars.¹¹

⁸ Ihtaram Ul Haq and Shah Muhammad Zarkoon, 'Cyber Stalking: A Critical Analysis of Prevention of Electronic Crimes Act-2016 and Its Effectiveness in Combating Cyber Crimes, A Perspective from Pakistan' [2023] Pakistan's Multidisciplinary Journal for Arts & Science 43.

⁹ Barakat Ali and Hafiz Aziz-ur-Rehman, 'Public Interest Litigation in Pakistan: Islamic Constitutional Manifestation.' (2019) 39 Pakistan Journal of Social Sciences (PJSS).

¹⁰ Barakat Ali and Hafiz Aziz-ur-Rehman, 'Public Interest Litigation in Pakistan: Islamic Constitutional Manifestation.' (2019) 39 Pakistan Journal of Social Sciences (PJSS).

¹¹ Abida Eijaz, 'Impact of New Media on Dynamics of Pakistan Politics' (2013) 20 J. Pol. Stud. 113.

On a comparative note, it can be argued that by reorganizing the legal framework in Pakistan and aligning it with the international best practice, including legal constraints, proportionality and independent check balances, the resulting overactive interference of the state can be reduced and the constitutional promise of freedom of press can be fulfilled.

3. National Security vs. Press Freedom: Global Perspectives

This is not the only nation facing the challenge of balancing the freedom of press against national security. The comparative law systems provide the understanding of how democratic societies are trying to balance these competing interests and protect transparency, accountability, and the right of the people to know.

3.1 United States

In America, the first amendment assures the liberty of expression and the media. The courts have always stressed that the limitations on publishing should be subject to strict conditions. The Supreme Court, in the famous Pentagon Paper case (*New York Times Co. v. United States*, 1971), made an exception and found that prior restraint may only be used in extraordinary situations, which publication is a direct, immediate, and irreparable threat to national security.¹²

This principle explains the high evidentiary amount on the restricting of media activity. Later decisions have supported the fact that any appearance of national security on the part of the government should be strictly confined, and that the courts should act as fundamental adjudicators in the freedom of the press. As it has been shown in the US model, giving clarity to the law, keeping proportionality and judicial control plays significant roles in avoiding the misuse of security claims to further curb dissent.

3.2 United Kingdom

The UK achievements of balancing press freedom and security using statutory tools which include the Official Secrets Act 1989 and counter-terrorism laws. Although the state has a right to restrict the report made by the media in favor of security, the courts use the measure of proportionality and necessity, so restrictions are as minimal as possible and explained by actual threats.¹³

As it is the case of *Guardian Newspapers Ltd. Vs. UK*, where it was emphasized that prior restraints or blanket restrictions amount to infringement of press freedom unless it can be proven that there is a threat to security that is imminent. The UK experience underlines the importance of clear procedure protection and review in case security is used to curb information on reporting.

3.3 European Union

EU upholds press freedom stated in the European Convention on Human Rights (ECHR) in Article 11, but it does not tolerate the limitation unless necessary and in proportion, and cautioned by law. In *Handyside v. The European Court of Human Rights* in the year 1976, *United Kingdom (1976)* accepted freedom of expression to information or ideas that can shock or offend or disturb, though the limitation must comply with a legitimate aim and proportionality test.¹⁴

The EU framework can serve as a good example to be emulated by Pakistan especially the judicial review and proportionality assessment as means of checks against baseless restriction of operations in the name of national security.

¹² David A Anderson, 'The Promises of *New York Times v. Sullivan*' (2015) 20 *Roger Williams UL Rev.* 1.

¹³ Rachael Craufurd Smith and Yolande Stolte, 'The Case of the UK' [2010] Background information report 446.

¹⁴ Paul Lemmens, 'The Universality of Human Rights: A European Perspective', *Can We Still Afford Human Rights?* (Edward Elgar Publishing 2020).

3.4 India

The Constitution of India implements freedom of speech and expression in Article 19(1)(a), although this is subject to reasonable restrictions, which are necessary to protect the sovereignty, security, public order, or even decency. Indian Supreme Court has come up with a nexus test to establish whether the restriction of the speech is based on security reasons and in this case there must be clear and proximate relationship between the speech and the threat posed.¹⁵

That such a policy reveals the possibility of particularity of statutory language and judicial review checking the abuse of broad security provisions and freedom of press is not to be sacrificed in an abstract promise of security.

3.5 Canada

The freedom of expression in Canada is safeguarded by the Charter of rights and freedoms, Canada, in Section 2(b). Restrictions have to meet the Oakes test, and should be prescribed by law, which has to have a compelling purpose, and must be reasonable in relation to the harm avoided. This proportionality model provides a systematic approach to the wariness and media freedom writers, considering legal accuracy and responsibility.

3.6 Lessons for Pakistan

Comparative experience points to some of the main principles applicable in Pakistan:

1. **Transparency in laws:** Do not use the provisions of national security or even state order as a free rein to misuse.
2. **Proportionality and necessity:** Proportionality and necessity All limitations should be grounded, well-focused, and appropriate to the threat.
3. **Judicial oversight:** Courts ought to be compelled to examine restrictions and give constitutional assurances.
4. **Transparency and procedural safeguards:** Regulatory institutions should act unbiasedly, and eliminate access by an appeal mechanism and social control.

Such a combination of guidelines will help eliminate most of the structural shortcomings that have cropped up in the institutional set up in place in Pakistan. What empirical research carried out in the country has shown, and what the systematic investigation by Hashmi, Javed and Saleem has shown, is that the lack of limitation on discretionary authority and the lack of checks and balances undermine the effectiveness of security provided to the constitution, and therefore the comparative experience should be treasured in terms of informing national reform.¹⁶

4. The experience in Pakistan Censorship, Propaganda and Judicial Responses

The struggle to balance the idea of press freedom and the issue of national security in Pakistan is based on an old historical legacy and still develops. Although the Constitution and the statutory laws provide a written protection of the journalists, in many instances the practical implementation of these laws is restricted due to political, military, and bureaucratic pressures. This part evaluates the censorship mechanisms, proliferation of state-controlled narratives and judicial interventions that all influence the freedom of media in Pakistan.

¹⁵ OF India, *The Constitution of India* (Manager of Publications Delhi 1949).

¹⁶ Saqib Javed, Muhammad Ahsan Iqbal and Hafiz Abdul Rehman Saleem, 'A Critical Analysis on Causes and Effects of Baseless Adjournments in Pakistan' (2023) 11 Pakistan Journal of Humanities and Social Sciences 2358.

4.1 Censorship and Regulatory Supervision

Pakistan Electronic Media Regulatory Authority (PEMRA) is the main regulator that controls broadcast media. PEMRA has performed its powers since its inception in 2002 to license channels, censor content and suspend or revoke licenses of material thought to be harmful to national security, civil order or decency. The international organizations, including the Freedom House and Reporters Without Borders, have noted that at times, PEMRA has restricted its freedom in cases that are of political temperature say during a protest or even reporting about critical military activities.¹⁷

The Prevention of Electronic Crimes Act (PECA) 2016 gives similar power to these online areas, where the government has the right to block Internet sites or content or to punish journalists in regard to the security points of the Act which is broadly defined. Opponents of this broad discretion contend that it encourages self-censorship, especially regarding counter-terrorism, military, or corruption by the government. Consequently, journalists tend to avoid covering off issues that could lead to fines or the suspension of quantification of license as well as criminal prosecution thus damaging the role of media as watchdog.¹⁸

4.2 State-Influenced Narratives and Propaganda

Pakistan is also another country where media freedom is limited by the existence of state-based narratives. Historical reviews show that the media reporting of military actions, counter-terrorism operations and politically sensitive incidents would often be presented in a manner that supports governmental views. In others the media involves journalists who are reported on duress, intimidated, which establishes a two-fold media system one that apparently is not confined by rules, but which is operationally constrained by regulatory and political factors.¹⁹

When the nation is in the state of crisis or unstable political processes, government messaging takes the preeminent role over the rest of them, and critical investigative reporting is repressed. These practices raise serious ethical issues and destroy faith and trust of the masses on media institutions hence undermining the democratic role of journalism.

4.3 Judicial Responses and Case Law

Judiciary has sometimes acted as a check and balance protecting the rights of the press as well as enforcing constitutional rights. Notable cases include:

- **Shehla Zia v. WAPDA (PLD 1994 SC 693)**: The main issue in the case was grounded on environmental rights, but what the Supreme Court highlighted is the right of citizens to the knowledge that impacted the common good, which is relevant to the transparency of the media.²⁰
- **Benazir Bhutto v. Federation of Pakistan (PLD 1988 SC 416)**: The Court underlined free speech and press in the democratic governance, yet it had its minimum role in the cases related direct censorship.

Although such measures exist, it has often been the case that judicial deference to executive assertions of national security has shipped substantive protection of journalists in the face of these assertions. Courts are

¹⁷ Muhammad Adnan, 'A Double-Edged Sword? The Role of Mobile Media in Press Freedom in Pakistan' [2025] Mobile Media & Communication 20501579251343754.

¹⁸ Chen Yongmei and Jamil Afzal, 'Impact of Enactment of 'the Prevention of Electronic Crimes Act, 2016' as Legal Support in Pakistan' (2023) 3 Academy of Education and Social Sciences Review 203.

¹⁹ Shabbir Hussain, 'Critical Academic Junctures between Political Communication and Peace Journalism in Pakistan.' (2015) 10 Global Media Journal: Mediterranean Edition.

²⁰ Hareem Hilal, 'TRIPARTITE DIVISION OF THE HUMAN RIGHTS OBLIGATIONS OF THE STATE IN RELATION TO THE RIGHT TO HEALTH' (2022) 4 Pakistan Journal of Social Research 315.

found to give more importantly security factors especially when dealing with counter-terrorism and political disturbances hence the inability to come up with a balance between guaranteed provisions in the constitution and what is deemed a security threat to the state.²¹

4.4 Empirical Evidence and Reports

The international reports give a quantitative aspect to the analysis:

- **Freedom House 2024** Pakistan has been rated as Partly Free, because of the consistent attempts to curb the independence of media outlets such as harassment, censorship, and legal prosecutions of journalists.²²
- **Reporters Without Borders (RSF) 2024** In the 2024 Reporters Without Borders (RSF) 150/180 ranking of 150 countries on press freedom, Pakistan is ranked 150/180 with instances of arbitrary arrest and intimidation of the online media.

These statistics shed light into the reality implications of regulatory power, judicial indulgence in security assertions and political intrusion which have cured press freedom irrespective of constitutional provisions.

4.5 Analysis

The situation in Pakistan is no exception: the constitutional guarantees are to be followed, along with the regulatory overcapacity and power, which offer a restricted media space. The conflict between freedom of the press and national security is further enhanced by vague statutory regulations, weak procedural protections and inconsistent judicial adjudication. It is argued in Section 3 that comparative research may support the independence of the press by adopting more precise understandings of the term national security, proportionality procedures, and mechanisms to check government authorities.

5. Legal Dilemmas and Ethical Considerations

A legal and ethical dilemma persists as long as there is a legal question about the balancing between press freedom and national security. The governments have a justifiable responsibility of safeguarding citizens and ensuring the order of the people but a heavy-handed approach to excessive interference with the media may diminish the democratic responsibility, transparency and the right to information by the citizens. The tension arising is exemplified by the situation in Pakistan whereby the constitution has guaranteed there will be a broad discretion in regulation, and in the permanent appeal to national security to prevent reporting.

5.1 Proportionality and Necessity

There must be a proportional relationship between the crime and the penalty and the penalty must be necessary. The international human rights law provides that any restriction to the freedom of expression should be justified, none discriminatory and proportionate. The United Nations Human Rights Committee also asserts that any form of restriction should be confined and reasonable and terms that can be expressed only in cases where a publication causes a real and apparent danger to security.²³

The legal framework that is practiced in Pakistan has, however, no serious mechanism in assessing the proportionality. The discretion will frequently be broadly given by the agencies like the PEMRA and the stipulations of PECA, which assess the threats in a discriminating manner. This means that, journalists might be fined and have their licenses suspended or even become criminals as a result of covering sensitive matters despite the fact that the interest of the people is high. Such comparative restraints as the Oakes test, adopted

²¹ *ibid.*

²² Reporters Without Borders, 'World Press Freedom Index'.

²³ David Kaye and Azin Tadjini, 'Article 19—The Right to Freedom of Opinion and Expression', *The Universal Declaration of Human Rights* (Brill Nijhoff 2023).

in Canada, or part of proportionality as a principle to the European Convention on Human Rights can offer a means of having organized constraints to the reasonableness of such a restriction as maximizing transparency, neediness, and minimal interference with reporting of free press articles.²⁴

5.2 Ethical Considerations for Journalists

Journalistic ethics is a very crucial factor that balances the tension between security and reporting issues. Ethical journalism requires precision, consistency, and consciousness of potential damage particularly in reporting counter-terrorism, military deployment or politically sensitive occurrences. In Pakistan, journalists have their share of dilemmas of choice: publishing sensitive information will be in the favor of the populace but at the cost of legal or extralegal consequences on their part. Research shows that it is these pressures that tend to trigger self-censorship, reducing the diversity of voices and undermining the journalism of the media as a democratic system of checks and balances.²⁵

Responsible editorial judgement is the most crucial factor to consider. Though media organizations should avoid sensationalism and avoid any actions that could endanger lives, a shy approach which is caused by a fear of the possible sanctions of regulations cripples the same freedoms of the speech which journalism is intended to protect. Media literacy, legal literacy, and digital security structured training programmes will be required; they will enable journalists to work through the many dynamics associated with modern-day reporting without compromising the professionalism expected of them.

5.3 Misuse of National Security Claims

The issue with this is that a perceived need to suppress dissent and restrain political criticism, often based on the exploitation of national-security rhetoric as justification, is a recurring issue. The international scholarship has consistently noted that sovereign states will occasionally use the issue of security to censor critical reporting even when the issue does not have any foundation in actual threats.²⁶

The misuse of national security in Pakistan is possible due to the absence of specific statutory formulations and the flexibility in applying and enforcing PEMRA and PECA. Devoid of well-defined set of criteria, proportional assessment procedures, and external audit agencies, these assertions transform to an instrument of censorship that undermines democratic values and people to trust institutions. According to scholars, it will be possible to reduce these dangers significantly by implementing transparent procedural protection, and stringent review systems.

5.4 Digital Threats and Emerging Challenges

The rise of the digital media introduces a new set of legal and ethical dilemmas. The social media networks, blogs, and online news portals give unprecedented space to independent reporting, but they are also the means of disseminating misinformation, disinformation, and advanced deep-fakes. Although PECA 2016 is meant to control dehumanizing digital publications, its expansive clauses have the affliction of censoring factual journalism. The conflict between the need to combat digital threats and the importance of the

²⁴ Paul G Murray, 'Section One of the Canadian Charter of Rights and Freedoms: An Examination at Two Levels of Interpretation' (1989) 21 Ottawa L. Rev. 631.

²⁵ Muhammad Atif Khan, 'The Mediatization of Politics in Pakistan: A Structural Analysis' (2009) 1 *Pakistaniaat: A Journal of Pakistan Studies* 30.

²⁶ Jekaterina Pusepa, 'The Principle of Freedom of Press in the Context of National Security: Case Studies of Investigative Journalism'.

freedom of press is the new dilemma that requires delicate policy interventions and specific training of journalists and regulators.²⁷

5.5 Toward a Balanced Approach

To maneuver around these dilemmas, a legal framework needs to be established to balance constitutional protection, proportion and ethical journalism. Potential measures include:

- Requiring any restriction of the media have proportionate consideration;
- The formation of regulatory independent review boards;
- To exclude an arbitrary use of the concept of national security, a clear definition of this concept and that of public order;
- Conducting education programmes which raise ethical and legal standards of journalists;
- The integration of world best practices in the spheres of proportionality, necessity and transparency.

The national-security interests need not override the democratic nature of the press that such instruments may maintain the safety of the people, as well as the liveliness of freedom of expression.

6. Recommendations and Policy Reforms

The current press-national security dilemma in Pakistan requires an all-inclusive combination of legal, institutional, and policy changes. A middle ground system should be able to protect the security interest of the state and the democratic role of the press so as to promote transparency, accountability and a sound debate by the people.

6.1 Clarifying Legal Definitions

Perhaps the main evidence of the failure of the regulation of media in Pakistan is the vague and broad legal terminology used in the legislation and the constitution. The terms of national security, public order and morality are prone to discretionary usage and, thus, their enforcement becomes easier through a capricious action. These concepts should be clearly spelled out and provided with specific criteria within which restrictions can be given the green light. This has been highlighted by the international precedents like the jurisprudence of the European Court of human rights and the Oakes test in Canada, which stresses on being concise and clear to limit arbitrariness.²⁸

With clear definitions, the regulatory authorities will minimize the chances of censorship being used in the political agenda and offer journalists an uncertain legal framework that will enhance trust in their business activities.

6.2 Proportionality and Judicial Oversight

The assessment of rationality and need of each media restriction should be included as a part of legal reforms. Authority should prove that any limit is specific to a threat and is necessary to deal with this or that threat and is the least restrictive possible. The courts are also instrumental in ensuring these protection mechanisms; the courts are in a position to scrutinize regulatory measures and eliminate excessively wide or unreasonable restraints. Past experiences such as in the case of the Pentagon Paper litigation in the United

²⁷ Chen Yongmei and Jamil Afzal, 'Impact of Enactment of 'the Prevention of Electronic Crimes Act, 2016' as Legal Support in Pakistan' (2023) 3 Academy of Education and Social Sciences Review 203.

²⁸ Alfred de Zayas and Áurea Roldán Martín, 'Freedom of Opinion and Freedom of Expression: Some Reflections on General Comment No. 34 of the UN Human Rights Committee' (2012) 59 Netherlands International Law Review 425.

States and proportionality rules in the European Union all show how independent judicial review can keep the executive in check without undermining the interests of national security.²⁹

6.3 Institutional Reforms for Regulatory Bodies

Institutional reforms are needed so that the regulatory authorities such as PEMRA and Pakistani Telecommunication Authority can operate independently and transparently:

- Board members are appointed by two parliamentary committees, a factor that reduces the effect of political influence.
- Issuing of annual reports explaining enforcement action.
- Institution of mechanisms of appeal and review that would enable media players to appeal against decisions taken by the regulators.

This kind of reforms encourages accountability, reduction of arbitrariness and an addition in the trust levels people will have on regulatory bodies.³⁰

6.4 Promoting Responsible Journalism and Ethics

Moral journalism cannot be underestimated in solving security-related dilemmas. The media organizations are to develop internal codes of conduct and provide training in key areas which include:

- National security reporting and counter-terror reporting;
- Digital literacy, responsible use of social media;
- PEMRA, PECA and constitutional awareness.

By so endeavoring, journalists would be authorized to engage in responsible reporting without exposing themselves to legal action, and allowing their society to trust them.³¹

6.5 Comparative and International Lessons

International practices, which seek a balance between the press freedom and the security considerations, will benefit a lot to Pakistan:

- America is the best example of the imperative of high threshold of prior restraint.
- European Union emphasizes the concepts of proportionality, necessity and judicial review as protection.
- Canada There is an organized loop of Oakes test to measure the restrictions on expression.
- India offers an example of nexus-based analysis that makes the restrictions Interrelated with threats to the security which could be identified.³²

Such a move can result in a more balanced, transparent and accountable domestic regulatory environment.

6.6 Enhancing Public Participation and Transparency

Freedom of press thrives when the civil society and the citizenry are involved in keeping a check on the regulation of the media. Transparency and accountability can be improved by strengthening freedom-of-information laws, empowering media regulators and stimulating press reports on censorship issues. These

²⁹ Erik Bleich and others, 'Diplomats in Robes: Judicial Career Paths and Free Speech Decision-Making at the European Court of Human Rights' (2021) 46 Law & Social Inquiry 1141.

³⁰ Sara Shagufta and Fahmida Riaz, '5 Feminist Literary Ethics and Censorship' [2022] Hidden histories of Pakistan: Censorship, literature, and secular nationalism in late colonial India 199.

³¹ Muhammad Atif Khan, 'The Mediatization of Politics in Pakistan: A Structural Analysis' (2009) 1 *Pakistaniaat: A Journal of Pakistan Studies* 30.

³² Kriti Bhatnagar and Stuti Lal, 'Internet Access and COVID-19: A Constitutional Argument to Right to Internet Access in India' (2022) 6 *International Journal of Health Science* 1833.

are the external controls to the regulatory authorities where there are security claims that do not use security claims as a blanket that can cover dissent.³³

Conclusion

The Pakistan case of dialectical freedom of the press and the state included a thorny protracted law paradox. Articles 19 and 19-A of the constitution give a strong base to free expression and information access, and are usually limited by broad statutes, discretionary power through regulations, as well as political or military interference. Although institutions like PEMRA and PECA are intended to maintain a sense of order and security, they often lead to self-censorship, discriminatory actions, and bureaucracy towards the practices of investigative reporting.

The comparative views of the United States, the United Kingdom, the European Union, India, and Canada indicate that the solution to the conflict over protecting security and media freedom lies in defining the legal measures to be taken, the degree of restrictions to be imposed, the judiciary and the establishment of methods to review these restrictions. The case of Pakistan highlights the need to incorporate these principles into the domestic law and practice to establish an environment in which journalists are free to exercise their freedom without jeopardizing the national security.

This balance is also complicated by ethical considerations. Reporters have to balance the two roles of performing journalism in the common good and protecting the public, being accurate and being considerate of the security interests. These challenges are enhanced by digital media and the emergence of new technologies, such as social platforms and AI-driven content, and require new regulatory approaches and professional advice.

The solution to this situation should be sustainable, and it involves a complex set of changes: the legal definition of it should be clear, and there should be proportional and transparent mechanisms of enforcement, strengthening judicial control, and encouraging ethical journalism. The civil society participation, civic accountability and institutional transparency is also necessary to maintain press freedom in a fast-moving media environment.

After all, the way ahead of Pakistan is the adoption of a legal and regulatory framework that will protect the press as a democratic checkpoint and at the same time ensure that the security interests of the state do not suffer. With the compromise of these competing priorities, the country will be able to strengthen its democratic institutions, promote trust in the citizens and guarantee the press plays its crucial role of influencing informed and participatory governance.

³³ ANNA CICALA, 'A Drained Democracy: The Clash between National Security and Freedom of Expression in Hong Kong'.