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# A Critical Analysis of Freedom of Press in India, China, and Pakistan

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## ABSTRACT

*Freedom of press is indispensable for development of free dialogue and democracy. Each and every person should have a right to speak and an absolute freedom of press unless the restriction is reasonable. Press freedom is celebrated in some of the Asian nations like South Korea and Japan. However, the majority of the Asian nations are still in the developing stages to provide a complete freedom of press. In this paper, the authors have highlighted the situation of freedom of press in three major Asian countries and how the respective governments are misusing their powers to clampdown the same. A brief history of the freedom of press in Asia is discussed. The authors have attempted to explain the sorrowful conditions of the journalists in these Asian Countries. Further, several factual cases have been cited to show the current grief of the journalists who speak up against the administration and the atrocities towards them. Also, the authors have explained the importance of dissent in a society and how it becomes a crucial factor for growth and development of the citizens and hence the country as a whole. The authors have given several suggestions which may help in improving the freedom of press for three different scenarios in these respective nations. The paper ends with a conclusion of the analysis done by the authors.*

*Keywords: Journalism, dissent, transparency, freedom, expression.*

## I. INTRODUCTION

*‘Every man has a right to express his opinion in whichever manner he pleases; to forbid this would be a violation of freedom of press.’<sup>3</sup>*

Freedom of press is requisite for development of free dialogue and democracy. Freedom of press can tackle major problems of the society such as gender discrimination, general misconceptions, obscure governance, etc. Article 19 of the Universal Declaration of Human Rights (hereinafter UDHR) declares that there should be freedom of expression and opinion

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<sup>3</sup> Sir William Blackstone, Commentaries on the Laws of England in Four Books, (JB Lippincott Co., Vol. II, 1753).

to each and every person. It says that people should have a freedom of opinion without any interference and also to impart information and ideas through any kind of media.<sup>4</sup> Inspired by the UDHR, the International Covenant on Civil and Political Rights (hereinafter ICCPR) also adopted the freedom of expression through media and communication as a fundamental right.<sup>5</sup>

The idea of a free press is prevalent throughout the world and it is high time that the world sheds spotlight upon the freedom of journalism in the Asian countries such as Japan, India, Pakistan, China and the Middle Eastern countries. In the recent years, we have seen that the Asian countries' rankings in the Freedom of Press Index have been falling drastically year by year. Middle Eastern countries like Saudi Arabia, Syria, Yemen, Iran, etc. have not been following international norms related to the freedom of expression and thought. These countries are heading towards an authoritarian state like the ancient times. China has always been a secretive state when it comes to atrocities towards its citizens, especially its critical journalists. Even a secular country like India has not been following the principles of free speech and journalism. Recent judgments from the apex court of India show how the state is trying to silence the dissenting speech throughout the country, especially in parts of Jammu and Kashmir. History shows the importance of a tolerant government in order to achieve collective development. Development comes with the ability to take criticism and dissent. History has shown us that if free speech and free press are silenced, then the country is destined to become a chaotic anarchy due to revolutions against the government.

## **II. HISTORY OF FREEDOM OF PRESS**

Freedom of Press has been recognized around the world since the beginning of the modern era of industrialization. Sweden is known to be the first country to adopt the freedom of press as a fundamental right through the Swedish Freedom of Press Act, 1766.<sup>6</sup> The United States of America (USA) is said to have one of the most vocal and active journalism throughout history. The Constitution of the USA also specifically provides its citizens with the freedom of press.<sup>7</sup>

While the League of Nations lasted, it provided with the freedom of speech and expression but not specifically the freedom of press or media. Later in the year 1948, the UDHR specifically provided with the freedom to receive and impart information through any media

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<sup>4</sup> Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A (III) (UDHR) art 19.

<sup>5</sup> International Covenant on Civil and Political Rights (adopted 16 Dec. 1966, entered into force 23 Mar. 1976) 999 UNTS 171 (ICCPR) art 19.

<sup>6</sup> Swed. Freedom of Press Act (1766).

<sup>7</sup> *Near v. Minnesota*, 283 U.S 697 (1931).

and regardless of frontiers.<sup>8</sup> The ICCPR also gives freedom of information through media of choice and in any form such as in writing, oral or print.<sup>9</sup>

Asia has always struggled with the implementation of this freedom. *Brij Bhushan & Ors. v. State of Delhi*<sup>10</sup> is one of the first cases that dealt with the question of freedom of speech and expression in independent India. In this case, the court opined that the freedom of speech and expression is a fundamental right of an Indian citizen under Article 19(1) (a) of the Indian Constitution. To protect press freedom in India, a Press Council was formed under the Press Council Act, 1978. The purpose of the Press Council Act is to 'preserve the freedom of press and to maintain and improve the standards of newspapers and news agencies in India.'<sup>11</sup>

There have always been adverse conditions for journalists in the Islamic theocracies in the Eastern part of Asia. Initially, Pakistan was run by military force. Independent Pakistan introduced the West Pakistan Press and Publication Ordinance under which not only the editors and publishers but also the retailers and sellers of an objectionable publication could be arrested.<sup>12</sup> This ordinance was a failure since the literacy rate of Pakistan was so low that the people did not pay much attention to newspapers and its regulations. In the present day, it continues to be governed by the Constitution based on Islamic Law. The latest authority that regulates Pakistan's media is the Ordinance of 2002<sup>13</sup> which is only suppressing the electronic media.

### III. POSITION IN INDIA

*Freedom of the press is a precious privilege that no country can forego.*

- **Mahatma Gandhi**

One would fathom that India being one of the largest democratic countries, where freedom of speech and expression is entrenched in the Indian constitution, the rights given to the press and journalists would be protected. However, going by the figures it can easily be construed that often this freedom seems to be only on papers. There have been various landmark judgments given by the highest court of the land citing the importance of freedom of the press. However, different tactics have been used by the ruling parties to suppress such rights. Recently, India has been ranked 142 out of 180 countries in the World Press Freedom Index.

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<sup>8</sup> Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A (III) (UDHR) art 19.

<sup>9</sup> International Covenant on Civil and Political Rights (adopted 16 Dec. 1966, entered into force 23 Mar. 1976) 999 UNTS 171 (ICCPR) art 19.

<sup>10</sup> *Brij Bhushan & Ors. v. State of Delhi*, A.I.R. 1950 S.C. 129 (India).

<sup>11</sup> *Harbhajan Singh v. Press Council of India and Ors.*, A.I.R. 2002 S.C. 1351 (India).

<sup>12</sup> The West Pakistan Press and Publications Ordinance, 1963 (Pakistan).

<sup>13</sup> Pakistan Electronic Media Regulatory Authority Ordinance, 2002 (Pakistan).

These statistics clearly indicate the amount of freedom enjoyed by the press while reporting. It is also pertinent to mention here that in 2015, Reporters Sans Frontiers reported that India is 'Asia's deadliest country for media personnel, ahead of both Pakistan and Afghanistan.'

International Federation of Journalists in 2016 reported that 122 journalists have been killed worldwide and five of them were in India.<sup>14</sup> International news safety in its report stated- 'Six of the 2016 casualties came from a country supposedly at peace, India, where investigative journalists are increasingly being targeted by those who wish to silence the messenger.'

One of the dreadful cases is of Jagendra Singh. He was an independent journalist and was investigating the land grabs and illegal extraction of minerals. He accused the local minister of being involved with illegal sand mining. He posted several social media posts regarding the same. He was killed because of burn injuries and he made a dying declaration in which he accused a police officer of dousing him in petrol and setting him on fire. Some days ago, before his death, he posted in a social media saying 'Ram Murti Singh Verma can have me killed. At this time politicians, thugs, and police, all are after me. Writing the truth is weighing heavily on my life.' Verma is a member of the Samajwadi Party which was the ruling party at that time. After the said tragedy journalist was reported saying 'Why did they have to burn me? If the minister and his people had something against me, they could have hit me and beaten me instead of pouring kerosene over me and burning me.'<sup>15</sup> However, the case was closed later and his sacrifice went in vain. Take the famous case of Gauri Lankesh, a prominent journalist, an activist who was known to be a critic of Right-wing Hindu extremism was killed by assailants in 2017.

Now there has been a little shift from using violence to adopting lawful ways to gag journalists and media. Draconian laws like defamation, sedition, and unlawful activities (prevention) act are being used to put a gun under journalists' heads. Before we delve further, we need to understand the constitutional provisions and landmark cases protecting the said right.<sup>16</sup>

### **(A) Freedom of Press in Indian Constitution**

Article 19(1) (a) of the Indian Constitution confers the freedom of speech and expression subject to the reasonable restrictions mentioned in Article 19(2). Time and again Indian

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<sup>14</sup> In 2016, 122 journalists were killed globally, 5 in India, THE INDIAN EXPRESS (Jan. 1, 2017, 10:28 AM), <http://indianexpress.com/article/india/in-2016-122-journalists-killed-globally-5-in-india-4454010/>.

<sup>15</sup> Suhasini Raj, *Indian Journalist Who Linked Official to Graft Dies*, THE NEW YORK TIMES (June 11, 2015), <https://www.nytimes.com/2015/06/12/world/asia/indian-journalist-who-linked-official-to-graft-dies.html>.

<sup>16</sup> Vidhi Thaker & Prastut Dalvi, *Shooting the messenger: Restraint on Free Press in India*, THE LEAFLET (May 3, 2020), <https://theleaflet.in/shooting-the-messenger-restraint-on-free-press-in-india/>.

courts have categorically stated the importance of freedom of the press in their landmark judgments. In the landmark case of *Romesh Thapar v. State of Madras*,<sup>17</sup> Patanjali Shastri J. observed ‘freedom of speech and of press laid at the foundation of all democratic organization, for without free political discussion no public education, so essential for the proper functioning of the proper government is possible.’ Whenever there has been an attempt to limit the number of pages of a newspaper or to regulate the size or price of the paper the same has been struck down by the courts and cases like *Sakal Papers v. Union of India*<sup>18</sup> and *Bennett Coleman v. Union of India*<sup>19</sup> are evidence of the same.

In the case of *Express Newspapers v. Union of India*<sup>20</sup> Supreme Court made it clear that freedom of the press is an intrinsic part of freedom of speech and expression which is guaranteed under Article 19(1) (a) of the Indian constitution.

### **(B) The infamous case of Anuradha Bhasin v. Union of India<sup>21</sup>**

#### **1. Background of the Case**

Jammu and Kashmir have been the issue of dispute between India and Pakistan ever since India gained its Independence and land got divided between India and Pakistan. On August 5<sup>th</sup>, 2019 India revoked the special status to Jammu and Kashmir, as given in Article 370 of the Indian Constitution. Detention of some of the known leaders, restrictions in movements, and internet shutdown were some of the repercussions that took place after the government stripped down the special status.

#### **2. Writ Petition by Anuradha Bhasin**

Bhasin who is the editor of Kashmir Times Srinagar edition filed a writ petition, citing her grievances that because of the internet shutdown she was unable to publish her newspaper since August 6<sup>th</sup>. Concerning the freedom of the press Supreme Court stated- ‘In the view of these facts, and considering that the aforesaid Petitioner has now resumed publication, we do not deem it fit to indulge more in the issue than to state that responsible governments are required to respect the freedom of the press at all times. Journalists are to be accommodated in reporting and there is no justification for allowing a sword of Damocles to hang over the press indefinitely.’

Court also observed that restrictions on the freedom of expression should not only be

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<sup>17</sup> *Romesh Thapar v. State of Madras*, A.I.R. 1950 S.C. 124 (India).

<sup>18</sup> *Sakal Papers v. Union of India*, A.I.R. 1962 S.C. 305 (India).

<sup>19</sup> *Bennett Coleman v. Union of India*, A.I.R. 1973 S.C. 106 (India).

<sup>20</sup> *Express Newspapers v. Union of India*, A.I.R. 1986 S.C. 872 (India).

<sup>21</sup> *Anuradha Bhasin v. Union of India*, A.I.R. 2020 S.C. 1308 (India).

reasonable but also proportionate. Through this judgment judiciary once again made it clear that our freedom of speech and expression is fundamental and is sacred, the same cannot be taken away by the government in the name of ‘public good’.

### **(C) Legal and Illegal Ways of Muzzling Press Freedom**

The Committee to Protect Journalists (CPJ) released the 2018 Global Impunity Index ranking of ‘states with the worst records of prosecuting the killers of journalists’. It defined murder as ‘a deliberate attack against a specific journalist in relation to the victim’s work.’ India was 14<sup>th</sup> on the list. As per the CPJ database, the situation of India's Journalists has become worse in 2018. Five prominent journalists were killed in 2018.

Navin Nischal of Dainik Bhaskar who was reporting on child marriage was run over by an SUV along with another reporter Vijay Singh. Sandeep Sharma of News World, who was working on illegal sand mining and police corruption, ran over by the truck while he was riding his motorcycle. This incident took place just the day after the death of Navin Nischal. Rising Kashmir editor, Shujaat Bukhari was killed by two militants in Kashmir. Achyuta Nanda Sahu who was the cameraperson of Doordarshan and was also a part of a joint search team of police and CRPF was killed in a Naxal attack. Chandan Tiwari, who was a journalist working in the Hindi newspaper in Jharkhand was beaten to death for reporting the loophole in government schemes. All these killings took place a year after the famous killing of Gauri Lankesh took place. It seems that shooting the messenger has been a modus operandi of the perpetrators, simply because the news covered by these journalists were against them or accused them of something.<sup>22</sup>

In order to clampdown the freedom of the press and journalists, the government has also been using legal means. This encompasses arresting journalists and putting various charges on media houses like defamation, UAPA, sedition, and many others to gag them. International Press Institute (IPI) which is the global network of editors, media executives, and journalists for press freedom, has issued a statement saying that the Indian Government is resorting to various tactics in order to prevent the media from criticizing the government.

The institute also mentioned certain incidents, for instance of Dhaval Patel. He is the owner and editor of ‘Face of Nation’ which is Gujarat’s news portal, he was charged with S.124A of IPC which deals with sedition. The reason for the charge was that he wrote an article ‘Possibility of leadership change in Gujarat’ because of the increase in the number of

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<sup>22</sup> Bansari Kamdar, *Journalism in India: A Dangerous Pursuit?*, THE DIPLOMAT (Oct. 31, 2018), <https://thediplomat.com/2018/11/journalism-in-india-a-dangerous-pursuit/>.

coronavirus cases in Gujarat. Similarly, Mahendra Singh Manral who is Indian Express Correspondent wrote an article ‘Tablighi FIR: Police probe indicates Saad audio clip was doctored.’ The same audio clip was the basis of filing an FIR against the said person for allegedly spreading COVID-19 in Delhi. As a result, Maanral was told by police that either he should join the probe the very next day or face action under the charge of Section 174 of IPC (Non-attendance in obedience to an order from public servant). Condemning the said actions Editors Guild of India urged the government to stop using a legal tool to harass the press. The guild in a statement said, ‘This appears to be a little more than fishing expedition to try and extract the journalist’s source and thus warn other reporters.’<sup>23</sup>

#### **(D) What can be Done?**

- Freedom of press and journalists is a very crucial aspect of any nation and especially of India because here freedom of speech and expression is the fundamental right of people and the state must protect it. Getting killed or arrested on a false charge should be the last thing on any journalist's mind and there is an urgent need to get rid of this impediment to let media and journalists doing their job. There is a need that a thorough and unbiased investigation should be done for the killings of journalists and preliminary inquiry should be done before filing any case against media houses or journalists to see if the same is not the result of any political vendetta or personal grievances. In-depth investigation of the journalist's murders is imperative to bring justice to victims who were attacked by these perpetrators. For instance, in the case of Gauri Lankesh, three years have been passed and there is no substantial progress made in the case. The court has not even framed the charges let alone trial. Her family has urged to set up a fast-track court to expedite the completion of the trial but nothing has been done.

- Another thing that demands change is journalists and media houses receiving threats from various people. It is the responsibility of the government to ensure the safety of our journalists. In the case of Jagendra Singh, he posted on social media, few days before his death that- ‘*Ram Murti Singh Verma can have me killed. At this time politicians, thugs, and police, all are after me. Writing the truth is weighing heavily on my life.*’ Still, nothing was done to put the perpetrators behind bars.

- Several committees should be set up by the government to scrutinize the ways that could help us in improving the situation. For example, in May, this year the ruling party set up a committee of senior officials that will work on improving India's rank in the World Press

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<sup>23</sup> India increasing abuse of laws to harass journalists, INTERNATIONAL PRESS INSTITUTE (May 15, 2020), <https://ipi.media/india-increasing-abuse-of-laws-to-harass-journalists/>.

Freedom Index. The same will be headed by the principal director of the press Information Bureau and will consist of officials from ministries of Information and Broadcasting, External affairs, and some of the journalists whose names would be approved by the government. This index monitoring cell would put in a place a mechanism through which states will be required to appoint nodal officers who in turn would give regular reports about the conditions of journalists and complaints by media houses.<sup>24</sup> Committees like this should be set up more often to address the grievances of journalists and media houses. Apart from this, all the recommendations made by them should be taken seriously and be properly implemented.

- India should improve on the standards set up by the World Press Freedom Index like- the transparent flow of information, the safety of journalists, media's independence. Every detail should be on a public forum in order to maintain transparency of information flow.

#### **IV. FREEDOM OF PRESS IN CHINA: A RIGHT OR PRIVILEGE?**

China is known for its strict control over media and subversion of journalists trying to challenge the authoritarian rule. China has been ranked 177<sup>th</sup> in the 2020 World Press Freedom Index.<sup>25</sup> The rank unravels the fact that how seriously press freedom is taken in China. Amidst government regulations, sanctions and stringent laws journalists hardly enjoy their basic rights. There have been innumerable instances where journalists and media houses were asked to take down some article or any piece of news that is criticizing the ruling communist party in any possible way. People living in China do not have access to several news sites like BBC, The New York Times because of something known as the 'Great Firewall of China'.<sup>26</sup> As the name suggests, the great firewall of china is used for implementing stringent laws of censorship. It decides what can be seen by people on the internet and prevents them from accessing the outside world. This is the main reason why Google is no more in China. Google China was a subsidiary of Google that abode to oppressive rules of censorship. However, considering people's right to have access to information, Google started providing an uncensored Hong Kong version of Google's search engine. Consequently, access to information through Google became inaccessible for people

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<sup>24</sup> Vasudha Venugopal, *Government Panel Begins Work on Moving up India's Press Freedom Index*, ECONOMIC TIMES (May 7, 2020), <https://economictimes.indiatimes.com/news/politics-and-nation/government-panel-begins-work-on-moving-up-indias-press-freedom-index/articleshow/75605658.cms>.

<sup>25</sup> *Two years after Liu Xiaobo's death China Remains the Largest Prison of Journalists in the World*, REPORTERS WITHOUT BORDERS (July 12, 2019), <https://rsf.org/en/news/two-years-after-liu-xiaobos-death-china-remains-largest-prison-journalists-world>.

<sup>26</sup> Bill Ide & Joyce Huang, *Press Freedom Continues to Face Setbacks in China*, VOA (May 3, 2019), <https://www.voanews.com/east-asia-pacific/press-freedom-continues-face-setbacks-china>.

living in China. As a result, Google had to shut its operations in China as it was becoming counterproductive.<sup>27</sup>

China controls most of the media outlets in the country which allow officials to dictate over the information passed on people. In 2017, regulations were passed to make it mandatory for online content providers to get a license from the government, and this led to online censorship. The restrictions are not limited to domestic journalists; even international journalists face restrictions and other problems like visa issuance or renewals for reporting so called 'objectionable content'. US media and other social media sites are blocked in China and people are not allowed to express their own opinions.

Article 35 of China's Constitution says – 'Citizens of the People's Republic of China enjoy the freedom of speech, of the press, of assembling, of association, of the procession and demonstration.' But, it seems all these rights are only on paper. A report released by the Committee to Protect Journalists at the end of 2019 revealed that 48 journalists were in prison.<sup>28</sup> The term which is used in the constitution that is highly misused by officials and emboldens their action of nationwide censorship and detaining journalists is 'disturbing social order'. The said term creates ambiguity and officials use this for justifying their reasons for gagging journalists and media houses. China's draconian ways of controlling news and information, censorship, detaining journalists are some of the ways that are being emulated by other Asian countries as well.

#### **(A) Life of Journalists in China**

As per Reporters without borders, China has detained the largest no. of journalists as compared to other parts of the world. Liu Xiaobo, who was awarded Press Freedom Award as well as the Nobel Peace Prize, was imprisoned for 11 years because he pleaded for peaceful political reforms and enforcement of press freedom in an online published manifesto. Unfortunately, he died because of untreated liver cancer while he was in detention.

Same year Yang Tongyan who is a Chinese writer and blogger died for the same reason while he was in detention. Officials did not allow treatment to both of them and let them die. The story does not end here, several other journalists are in life-threatening conditions and people are afraid that they too will not be given treatment while in detention and the same might

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<sup>27</sup> Kaveh Waddell, *Why Google Quit China—and Why It's Heading Back*, THE ATLANTIC (Jan. 19, 2016), <https://www.theatlantic.com/technology/archive/2016/01/why-google-quit-china-and-why-its-heading-back/424482/>.

<sup>28</sup> *One Country, One Censor: How China Undermines Media Freedom in Hong Kong and Taiwan*, COMMITTEE TO PROTECT JOURNALIST (Dec. 16, 2019), <https://cpj.org/reports/2019/12/one-country-one-censor-china-hong-kong-taiwan-press-freedom/#>.

result in their deaths.<sup>29</sup> The same coercion is followed by Chinese journalists living abroad; China harasses them by detaining their family members.<sup>30</sup>

The situation is even worse for independent journalists. An independent blogger, Chen Jieren was detained after he dared to write articles accusing party officials of the corruption. Since Mr. Xi has taken control there is a total censorship era. He has categorically made it clear that loving, protecting and serving the party is one of the main missions of news media. This statement tells a lot about the freedom given to journalists in China. They hardly have their own breathing space for reporting something against the ruling party. The government is making people watch and hear whatever suits them and is favorable to their interests. There has been several times when US President Donald Trump and leaders of other countries have criticized China for restricting its freedom of the press but citizens hardly have any access to such kind of news.<sup>31</sup> This has resulted in many young journalists giving up their jobs. Mr. Lin who is one of the journalists exited journalism. In a post he said- ‘All these years, people like us have seen our articles killed and our voices silenced, and we have started to get used to it. We started to make compromises and to censor ourselves.’

### **(B) Clampdown of Uighur Community and Their Freedom to Speak**

Uighur is a Turkic speaking minority in China's Xinjiang province. They belong to the Sunni Muslim community which is one of the ethnic minorities in China. Xinjiang was not always a part of China, it was an autonomous region and in the 18<sup>th</sup> Century, it became a part of China. Subsequently, separatists groups were formed and people started demanding their autonomy and independence. The main reason was people of the Uighur community saw China as colonial power trying to suppress their religion, political rights and at the same time exploited their region's natural resources.

Chinese officials have revised their legislation which permits them the use of training and education centers which would be used to combat religious extremism. However, the same is being used as internment camps. According to government officials, these people have been detained and they cannot be freed unless officials themselves let them out. As per the U.S. Government report, Chinese authorities have detained 800,000 people, who belong to the

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<sup>29</sup> *Two Years after Liu Xiaobo's Death China Remains the Largest Prison of Journalists in the World*, REPORTERS WITHOUT BORDERS (July 12, 2019), <https://rsf.org/en/news/two-years-after-liu-xiaobos-death-china-remains-largest-prison-journalists-world>.

<sup>30</sup> *Testimony of Deputy Assistant Secretary Scott Busby Senate Foreign Relations Committee Sub Committee on East Asia, The Pacific, And International Cyber Security Policy*, (Dec. 4, 2018), [https://www.foreign.senate.gov/imo/media/doc/120418\\_Busby\\_Testimony.pdf](https://www.foreign.senate.gov/imo/media/doc/120418_Busby_Testimony.pdf).

<sup>31</sup> Javier C. Hernández, *We're Almost Extinct: China's Investigative Journalists Are Silenced Under Xi*, THE NEW YORK TIMES (July 12, 2019), <https://www.nytimes.com/2019/07/12/world/asia/china-journalists-crackdown.html>.

Muslim Community.<sup>32</sup> As per the report published by Human Rights Watch in 2018, 13 million Turkic Muslims have been detained arbitrarily and are being tortured.<sup>33</sup>

What makes this worse is that no media is allowed to enter the place or to interview people living inside it. Despite all such impediments, some journalists began speaking about mass internments, which China now calls it as ‘vocational education centers’.<sup>34</sup>

In 2019 a Uighur Human Rights NGO revealed that there are 58 journalists of the Xinjiang region that have been detained by China. Reporters without Borders asked China to release them immediately. The point that the researcher is trying to make is whenever there is a human rights violation, media and journalists play a very significant role. It is through the people living in the country and even outside to get aware of what is happening. In countries like China where people are getting detained for their religion and there is no legal avenue to get them out, it becomes very important for media to report the status quo. When the USA and other countries got a report through journalists about the things that are going on in the Xinjiang region, China changed the whole story and told the world that these people are not detainees but they being taught to prevent the so-called religious extremism.

### **(C) COVID-19 and Threat to Journalists and Press Freedom in China**

Many countries like China are using repressive measures to control press freedom in the garb of using their power for preventing dissemination of disinformation. In a report issued on World Press Freedom Day of this year, it was stated by International Press Institute that- ‘public health crisis has allowed governments to exercise control over the media on the pretext of preventing spread on disinformation.’ UN Secretary-General Antonio Guterres said in a statement- ‘As the pandemic spreads, it has also given rise to the second pandemic of misinformation, from harmful health advice to wild conspiracy theories. The press provides the antidote: verified, scientific, Fact-based news, and analysis.’<sup>35</sup>

In China, officials are misusing their powers to detain those who are questioning or criticizing the government's handling of the epidemic. Several media reports have revealed that China delayed in reporting about the Virus. Li Wenliang, who is the whistleblower of the

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<sup>32</sup> *Testimony of Deputy Assistant Secretary Scott Busby Senate Foreign Relations Committee Sub Committee On East Asia, The Pacific, And International Cyber Security Policy*, (Dec. 4, 2018), [https://www.foreign.senate.gov/imo/media/doc/120418\\_Busby\\_Testimony.pdf](https://www.foreign.senate.gov/imo/media/doc/120418_Busby_Testimony.pdf).

<sup>33</sup> *China: Events of 2018*, HUMAN RIGHTS WATCH, <https://www.hrw.org/world-report/2019/country-chapters/china-and-tibet>.

<sup>34</sup> *Testimony of Deputy Assistant Secretary Scott Busby Senate Foreign Relations Committee Sub Committee On East Asia, The Pacific, And International Cyber Security Policy*, (Dec. 4, 2018), [https://www.foreign.senate.gov/imo/media/doc/120418\\_Busby\\_Testimony.pdf](https://www.foreign.senate.gov/imo/media/doc/120418_Busby_Testimony.pdf).

<sup>35</sup> *Journalists Provide ‘Antidote’ to COVID-19 Misinformation UN Chief Says Ahead of World Press Freedom Day*, UN NEWS (May 1, 2020), <https://news.un.org/en/story/2020/05/1063012>.

epidemic, was reprimanded by the police for doing the same. Li shared certain posts on social media warning officials and people of the spreading of the SARS-like virus in the city. Ren Zhinqiang, who is a political commentator as well as a member of the Communist Party condemned the government for its response to the COVID 19 outbreak and was detained for the same. In an essay he mentioned about the shortcomings of the Chinese government in handling the Caronavirus outbreak, he also wrote that how the limits on free speech and silencing the whistleblower is just adding fuel to the fire.<sup>36</sup>

Cedric Alviani, director of Reporters without Borders (East Asia Office), stated ‘By knowing pursuing its policy of censorship and repression, despite its clear contribution to the spread of the virus, the Chinese regime shows that it has not learned from the crisis.’ He also asked Beijing to immediately release Ren Zhinqiang and other journalists and commentators in jail.

After being condemned by various international organizations china’s repressive laws and its inhumane actions against journalists is not even close to coming to an end. UN experts started a dialogue with China where the former expressed their concerns about cyber security laws which give officials unfettered rights for online censorship. They also mentioned how the same laws are restricting people's fundamental right to express their opinion including their views related to the outbreak of the virus. The experts urged China to abide by its international obligations that include International Covenant on Civil and Political Rights (ICCPR) as well as human rights law. However, China reacted just like it does every time, that is by rejecting all those criticisms and refused to accept that there is any human rights violation.<sup>37</sup>

#### **(D) What ought to be done?**

- The situation in China is worsening day by day and there is an urgent need that International organizations including the UN should take stringent steps to prevent China from muzzling the voice of journalists. Irrespective of the fact that several nations are being benefitted because of friendly relations with China, they should raise their voice against China because if not now then when? Trade and commercial benefits that countries receive from china inadvertently contribute to the lack of press freedom in China. Countries should at least be more vocal about the restrictions imposed in China and take some measures like to reduce investment, to discourage China from such acts.

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<sup>36</sup> Javier C. Hernández, *A Chinese Tycoon Denounced Xi Jinping, Now He Faces Prosecution*, THE NEW YORK TIMES (July 24, 2020), <https://www.nytimes.com/2020/07/24/world/asia/china-communist-party-ren-zhinqiang.html>.

<sup>37</sup> *UN Experts Call for Decisive Measures to Protect Fundamental Freedoms in China*, OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (June 26, 2020), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26006>.

- There should be strong diplomatic action against harassing or detaining Chinese journalists. Diplomats should continuously raise such concerns with their meeting with Chinese counterparts. Travel restrictions can also be imposed on officials involved in such cases. Apart from this, leaders or diplomats visiting China should try to communicate with the common public, media, and journalists to assess the situation.
- Nations should give refuge to journalists who might be tortured in China and refuse to extradite them unless China ensures that there will not be any kind of human rights violation against him/her.
- China should end online censorship to enable its citizens to access several websites that provide news as well as information regarding various topics like social, political, or anything related to the public interest.

## **V. FREEDOM OF PRESS IN PAKISTAN: A FREEDOM ONLY ON PAPER?**

The Constitution of Pakistan specifically provides with the freedom of press. Article 18 talks about the freedom of profession<sup>38</sup>, Article 19A talks about the right to information<sup>39</sup> and Article 19 says that every Pakistani citizen shall have the freedom of speech and expression. Additionally, the provision says that there shall be freedom of press.<sup>40</sup> This freedom is however, subjected to reasonable restrictions that may be imposed by law in the interest of the glory of Islam or the integrity, security or defense of Pakistan, its foreign relations, public order, contempt of court, and decency or morality.<sup>41</sup>

For decades, the media in Pakistan has been under the control of the Government. Freedom of press in Pakistan was worst hit during the reigns of then Prime Minister Nawaz Sharif and President Pervez Musharraf. On October 12, 1999, Musharraf unseated Nawaz Sharif in a military coup. He then tightened the surveillance over media to see that the content of publication is all in favour of the Government.<sup>42</sup>

Pakistan does not encourage any form of international media, including social media. In the year 2010, Facebook was banned throughout the country for a period of two weeks. The Government was of the opinion that Facebook had content that depicted Prophet Muhammad in a derogatory manner. Moreover, certain misleading drawings and pictures were surfaced on the social media platform and were considered as immoral and defamatory towards Islam.

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<sup>38</sup> PAKISTAN CONST. art. 18.

<sup>39</sup> PAKISTAN CONST. art. 19A.

<sup>40</sup> PAKISTAN CONST. art. 19.

<sup>41</sup> *id.*

<sup>42</sup> Kavita Menon, *Pakistan: The Press for Change*, THE UN REFUGEE AGENCY (Feb., 2000), <https://www.refworld.org/docid/47c567c423.html>.

This content was considered blasphemous by many Muslim Leaders of the country. The ban on Facebook was lifted only after the assurance by the Pakistan Telecommunication Authority (PTA) that such blasphemous content will no longer be available in Pakistan. There were several arguments made that such ban of social media would violate the freedom of speech and expression and the freedom of press of the people associated with the platform. It was argued that it was not a reasonable restriction by the state. The counter argument was that merely because a website has blasphemous content, it cannot be banned entirely. The content should be examined carefully and the immoral content should be removed. The media personnel in the Azad Kashmir in Pakistan have to obtain Government's permission to merely publish from the Kashmir Council as well as the Ministry of Kashmir Affairs.

The media houses which publish content criticizing the Pakistani Government are threatened in various ways including death threats to the employees and their families. In order to avoid this, the media houses self-censor their news content before publishing it. The media houses fear losing Government advertisements as they are the highest revenue generators for them. According to the Committee to Protect Journalists (CPJ), an anti-terrorism court sentenced a journalist named Shabbir Siham to 22 years in prison and also fined him five lakh Pakistani Rupees on charges of criminal intimidation, defamation, acts of terrorism and absconding from the court. He was believed to uncover a scandal of a Minister. Later he said that he could not attend the court due to security concerns.<sup>43</sup>

#### **(A) How it Can be Improved?**

- Major censorship of the press started from the late 1990s during the tenure of then Prime Minister Nawaz Sharif and then continued under the ruling of President Pervez Musharraf.<sup>44</sup> After the 2002 Ordinance<sup>45</sup> to limit the press freedom, Pervez Musharraf's Government promoted Urdu media and discouraged English media and foreign journalists.<sup>46</sup>

Since Pakistan is under the limelight in the eyes of the world, Pakistan is under immense to make changes in its domestic laws relating to press freedom. Not only on paper but also practical execution needs to be transparent. This can happen only when international organizations like the United Nations, Reporters without Borders and the likes take charge

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<sup>43</sup> *Pakistani Journalist Appeals 22-Year Sentence on Terrorism, Defamation Charges*, COMMITTEE TO PROTECT JOURNALISTS (May 10, 2018), <https://cpj.org/2018/05/pakistani-journalist-appeals-22-year-sentence-on-t/>.

<sup>44</sup> Kavita Menon, *Pakistan: The Press for Change*, COMMITTEE TO PROTECT JOURNALISTS, <https://cpj.org/reports/2000/02/pakistan07feb00br/#oneup>.

<sup>45</sup> Pakistan Electronic Media Regulatory Authority Ordinance, 2002.

<sup>46</sup> Kavita Menon, *Pakistan: The Press for Change*, COMMITTEE TO PROTECT JOURNALISTS, <https://cpj.org/reports/2000/02/pakistan07feb00br/#oneup>.

and cover the stories in Pakistan and reveal it to the world. Organizations and the states should come together to shame the atrocities towards journalists in Pakistan for good. Foreign literature like English should be encouraged and people should take basic education which will improve the literacy rate of the country. The benefit of learning foreign languages is that the people can cover the news from around the world through foreign media channels such as BBC, CNN, Fox News, etc. and English newspapers. Sticking only to Urdu news media will restrict the scope of the news covered by the Government-favouring news agencies.

- Since the Constitution of Pakistan already provides with freedom of press,<sup>47</sup> the Pakistani media needs diversity in their personnel to adopt changes. This can be achieved by conducting journalist-exchange programmes between Pakistan and other liberal countries like the USA, Canada, Australia, etc. Moreover, initiatives like the Center for Excellence in Journalism (CEJ), conducted by the International Center for Journalists (ICFJ) should be encouraged. In CEJ, students from around Pakistan and also from South Asia are encouraged to participate for professional training and networking in journalism.<sup>48</sup> This will improve the ethical standards and reporting quality of the journalists.

## **VI. WAY FORWARD**

Freedom of the press is important for every country irrespective of the kind of governing system it follows. This freedom helps the citizens to stand up against their rulers, express their opinions about various issues; it keeps people informed about the current affairs, helps in bringing out the injustices done to people belonging to minority marginalized sections of the society and whatnot. Investigative journalism helps in bringing out the truth in front of the public. Every nation must unite against the draconian practices of governments which deny their citizens this basic right. It is tough to live in a world where people are being punished and harassed for criticizing their government. Felix Frankfurter once said– ‘Freedom of press is not an end in itself but a means to the end of achieving a free society’. Expressing your opinions and letting people know about the current events without the fear of being detained by officials or harassed by goons is the sine qua non of a free and liberal society. Freedom of press is not only about journalists’ rights but also correlated with the public’s right to information.

There should be a conducive legal environment. In other words, laws should not be misused to detain journalists or to impose penalties on media houses. Further, the nations should

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<sup>47</sup> PAKISTAN CONST. art. 19.

<sup>48</sup> *The Center for Excellence in Journalism*, INTERNATIONAL CENTER FOR JOURNALISTS, <https://www.icfj.org/our-work/center-excellence-journalism-cej>.

promote independent media so that any political party could not influence the same. In the World Press Freedom Index, Seychelles improved its ranking by taking some significant measures; self-censorship has reduced and people's opinions are given more importance. Asia has always struggled with the freedom of press. Particularly India, China and Pakistan, being the three major population bearers, need to cope up with the dynamicity of the press culture around the world, especially the European nations. However, the world has become a global village and due to checks and balances from one nation to other, India, China and Pakistan are heading in a better direction but with a very slow pace. These three nations can get rid of the social evils like corruption, false propaganda, racial discrimination and many more only when they will have an honest and transparent journalism. Dissent is the appliance for the prosperous evolution of a nation.

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