

PNA STUDY GUIDE



FORMUN 2019

TOPIC A

CENSORSHIP IN SHOWBIZ & FUTURE OF THEATER IN PAKISTAN

FREEDOM OF EXPRESSION

The situation regarding freedom of expression, both within offline and online spaces, is becoming increasingly life threatening in Pakistan. The right to freedom of opinion and expression is guaranteed under Article 19 of the Constitution of Pakistan, which is subject to a set of limitations. These include "restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, commission of, or incitement to an offense". A set of subjective and vague terminology in this Article makes it arbitrary and open to interpretation. Also the limitations such as "...glory of Islam or the integrity, security or defense of Pakistan, friendly relations with foreign states, decency or morality or in relation to contempt of court" are restrictions that do not meet the criteria provided in the ICCPR. Regarding online expression, PECA 2016 chalks out comprehensive guidelines for the state to criminalise political and religious dissent. Section 10 focuses on cyber-terrorism, Section 20 pertains to offences against the dignity of a natural person and Section 37 looks into 'unlawful' online content. These guidelines sanction unnecessary powers to administrative authorities to stamp down online content and initiate legal action against the accused. These provisions under PECA suggest heightened punishments of up to 14 years imprisonment and fines up to 50 million rupees or both. Moreover, stifling online expression through criminal courts proceedings in defamation cases is a harsh response. Article 20 of PECA in offences of defamation in online spaces suggests up to three years imprisonment or up to 10 million rupees fine, or both. PECA contains several terms that are vague and can be misinterpreted and used unlawfully against anyone. It does not contain any procedural safeguards (prior to censorship as well as in appeal) against surveillance activities carried out by intelligence agencies, nor does it contain the grounds on which an authority has to consider making use of its powers. The government also uses the Anti-Terrorism Act, 1997 to criminalise online speech. There are documented cases where the state tried the accused under section 11-W of the Anti-Terrorism Act for sharing 'objectionable' material on Facebook. Anti-terrorism courts meted out a thirteen year imprisonment sentence to Rizwan Haider and Saqlain Haider, both belonging to Shia sect, for sharing 'objectionable' posts. Since the start of 2017, Pakistan has been witnessing a planned crackdown against social media activists, political workers and bloggers. The high handedness on human rights movement has manifested a rampant culture of impunity. Abduction of four bloggers namely Waqas Goraya, Asim Saeed, Ahmed Raza Naseer and Salman Haider are a few examples of this. After their release, these bloggers adversely suffered an online smear campaign that associated them with controversial and religiously sensitive content on social media pages. Cases of forced disappearances are not reported, and those missing have not returned. Pakistan's record in providing safety to activists, journalists, and civil society members who have been critical of the policies and growing religious radicalization is far from encouraging. A large number of such individuals have been routinely censored, intimidated, been

under constant surveillance and attacked in the past. This has inevitably contributed to the narrowing of spaces for peaceful expression, debate, protest, and the exercise of civil liberties. More recently, the government ordered the Federal Investigation Agency (FIA) to take action against social media activists who were criticising military. Subsequently, FIA prepared a list of 200 social media users, summoned them, and confiscated their devices for forensic analyses. This crackdown corroborates the fears that the PECA 2016 is being used to silence political dissent.

PRESS FREEDOM

Press freedom is guaranteed under Article 19 of the Constitution, which is subject to a set of limitations which do not correspond to the guidelines provided under ICCPR. (See section Freedom of Expression). Print and electronic media in Pakistan are being regularized by state-owned regulators Press Council of Pakistan (PCP) and Pakistan Electronic Media Regulatory Authority (PEMRA) established under PCP Ordinance 2002 and PEMRA Ordinance 2002. In August 2015, PEMRA formulated a media code of conduct, which is enforced on privately owned electronic media across the country. However, most observers noted that media professionalism and ethics would be more robust if it originated from self-regulatory codes by an independent media itself. In reality, media regulators such as PEMRA and PCP are functioning as non-autonomous subordinates of the Ministry of Information and Broadcasting. The government has not ensured that the mandates of media regulators remain autonomous. In PECA 2016, sections 3, 4, 5, 6, 7 and 8 have been introduced, which are potential threats to investigative forms of journalism as they not only restrict access to critical but public interest information or intelligence in digital forms, but also criminalize such forms of access. However, the government has recently passed the Public Interest Disclosure Bill (whistleblowers protection law) in the National Assembly, which will become law after its passage from the Senate.

ACCESS TO INFORMATION

As a result of the 18th amendment, Article 19-A was included in the Constitution guaranteeing the right to information in all matters of public importance subject to regulations and 'reasonable restrictions' imposed by the law. However, guidelines for these 'reasonable restrictions' are missing in the Constitution leaving space for legislative bodies to introduce interpretations and limitations of their own choice to restrict this right. Since the passage of the 18th amendment, the federal government has not made progress on finalizing legislation on the Right to Information Act (RTI). Observers note this Act, if passed, is possibly the best tool to ensure better accountability in government institutions. However, Khyber-Pakhtunkhwa and Punjab governments have already enacted two impressive laws in their respective provinces. Like the federal government, Baluchistan province has yet to replace its outdated RTI laws with the new ones. Sindh assembly has also passed a new bill called Sindh Transparency and Right to Information Bill 2016, which is still pending for approval from the governor of the province.

PRIVACY AND DIGITAL SURVEILLANCE

Under global human rights law, any interference with the right to privacy can only be justified if it is in accordance with the law, has a legitimate objective and is conducted in a manner that is necessary and proportionate. Rapid advances in technology have posed significant challenges to the right to privacy, yet governments are required to protect and promote this right in the digital age. Article 14, Clause 1 of the Constitution of Pakistan provides for the inviolability of the privacy of the home, subject to law.

However, the Constitution does not expressly protect privacy of communications, digital or otherwise. Moreover, Article 14 does not provide any limitations for laws that restrict the right to privacy to ensure that they are not arbitrary and comply with the principles of necessity and proportionality. PECA 2016 also legitimizes the state's activities to snoop into digital communications of the citizens, retain personal data for up to one-year and share it with foreign governments and agencies. PECA 2016 poses a serious threat to the right to privacy as it permits the PTA and the designated investigation agency to access traffic data of telecommunication subscribers and confiscate data and devices without prior warrants from the court under Section 31. Moreover, Section 35 permits decryption of information, making it impossible for persons to be anonymous. Phone calls are routinely tapped, which was admitted by the state intelligence agencies before the Supreme Court in 2015, when they stated that they were monitoring over 7,000 phone lines every month. In addition, the government has implemented a mass digital surveillance programme under the guise of securing Islamabad. Over 1,800 high-powered cameras have been installed all over Islamabad. These high-definition cameras are technologically advanced and their facial recognition feature links to National Database and Registration Authority (NADRA). Punjab, Khyber-Pakhtunkhwa and Sindh governments have also unveiled their plans to install CCTV cameras in their respective jurisdictions.

CENSORSHIP

PTA continues to block over 80,000 websites on grounds of morality and obscenity. Another 200,000 links containing 'objectionable' content remains inaccessible in Pakistani cyberspace. In January 2016, PTA on the directions of the Supreme Court also instructed the internet service providers (ISPs) to block 400,000 'objectionable' websites at domain level. However, ISPs reported back that blocking at such a mass scale would be costly. However, all the websites marked to be blocked were not containing the above-mentioned content. Pakistani government also frequently requests Facebook, Twitter and Google to restrict or remove what they deem to be 'objectionable content' in Pakistan. According to the Facebook transparency report, for the first six months of 2016, it received 719 requests from Pakistani authorities requiring data related to criminal cases, as well as information on 1,029 user accounts. PTA also made 280 requests to Facebook to retain information, while 363 user account data was requested to be preserved for official criminal investigations for 90 days. Facebook also received 25 requests to restrict objectionable and allegedly blasphemous content under the local laws. Between January to June 2014, Facebook restricted 1,773 pieces of content in Pakistan under local blasphemy laws and prohibition of criticism on the state. Pakistan also made a total of 9 removal requests from Twitter between January and June 2016. On March 27, 2017, the Interior Ministry informed the Islamabad High Court while hearing a case related to online blasphemous content that Facebook removed 85% of 'objectionable' material requested by the government of Pakistan. YouTube remained blocked in Pakistan between September 2012 and January 2016 due to release of a movie trailer, 'Innocence of Muslims'. However, Ministry of Information Technology and Telecommunication (MoITT) claimed that YouTube agreed with the government of Pakistan to entertain content blocking and removal requests from Pakistan cyberspace. Google has since launched a country specific version of YouTube. The new homepage contains content that is curated specifically for Pakistani users that they would see by default when they access YouTube from within Pakistan.

REPORTED CASES OF INTERNET CENSORSHIP AND SURVEILLANCE

Censorship in Pakistan has been one of the biggest stumbling blocks in the way of ensuring swift, open and uninterrupted access to the Internet. Multiple factors have been restricting the access and associated rights, including enabling right of the freedom of expression in online spaces.

CENSORSHIP OF EROTIC EXPRESSION

Since enactment of PECA in 2016, the government has become more empowered to block online expression, and remove/filter digital content under the broad and subjective provisions related to "objectionable content". In recent months, dozens of cases of blocking and censoring content have been reported on account of obscenity, blasphemy, piecing criticism or political dissent against the government and military policies, matters related to national security, etc. In the pretext of blasphemy, Pakistan placed a blanket ban on Youtube in September 2012, which was restored after three and a half years after reaching an agreement between the government of Pakistan and Google that the latter will entertain future requests to block objectionable content. In March 2016, PTA submitted a report in the Supreme Court stating that access to at least 84,000 websites and pages have been restricted in Pakistan on account of salacious content. The report further informed the court that another list containing 400,000 links was also handed over to ISPs for blocking at domain level. PTCL informed that it had blocked 200,000 links. However, PTA also expressed its inability to complete this task because it was an expensive exercise for ISPs. 'Deviant Art' is another online networking space for 'artists and art enthusiasts' aimed to promote liberation of creative expression. The platform is actively being used by Pakistani artists and graphic designers to publish their artistic expression. Bytes for All intermittently receives complaints from Deviant Art's Pakistani subscribers regarding its inaccessibility inside Pakistan. In March 2014, it was first reported by Anime Artists of Pakistan that the website was blocked in Pakistan. However, it remained accessible until recently when Bytes for All received another complaint from a Karachi based user. After several weeks of being blocked, it is now accessible again in Pakistan.

CENSORSHIP OF POLITICAL DISSENT

The more concerning is the fact, the government has arbitrarily been blocking websites and blogs who would express political dissent online. 'Khabaristan Times' was an online portal until January 25, 2017, who produced regular blogs on major national developments in satirical style. Sources privy to PTA confirmed to Bytes for All that they blocked the website for unspecified objectionable content. Admins of Khabaristan Times's Facebook page on January 30 updated its readers that their website was blocked by the authorities without serving any notice and giving chance to respond to the allegations. 'The Baloch Hal' is another example of crushing political dissent of an ethnicity in Pakistan by the State. PTA blocked the website in 2010 and the ban still continues. This portal was the first online English language newspaper of Baluchistan province, which was founded in November 2009. Because of its liberal point of view and touching upon the sensitive conflict related issues in Baluchistan, PTA put it offline. Subsequently, the editor-in-chief of the Baloch Hal, Malik Siraj Akbar allegedly received life threats from the government and intelligence agencies, forcing him to live in exile in the United States. In April 2015, PTA also blocked a political forum Siasat.PK, which has a known antigovernment stance. Siasat.pk is a famous platform where people express their criticism against the government. The case was reported in Pakistani media and after receiving public pressure, the government restored the forum. Currently, there has been an ongoing crackdown against politico-religious dissent expressed on social media, which enjoys the patronage of the State. A mass censorship campaign is being pushed through a multi-actor approach where the ministry of interior, ministry of information technology and telecommunication,

federal investigation agency, PTA and Islamabad High Court (IHC) are on the driving seat. The State has taken a strict stance against online blasphemy and criticism on Pakistan military. A petition against online blasphemy and alleged involvement of four bloggers for expressing hate against Islam and military was registered in IHC. The court ordered the concerned departments to take stringent measures for protecting the sanctity of Islam and prophet Muhammad (PBUH). PTA, PEMRA and PCP ran a coordinated media campaign warning public to limit their expression according to Article 19, whereby any expression against "integrity of Islam" and "national security" is unlawful. PTA also sent text messages (SMS) to mobile users urging them to complain against those involved in production and circulation of blasphemy or anti-military content online. PTA also wrote to the Facebook and Twitter to remove accounts and anti-Islam content from their platforms. Consequently, the Facebook and Twitter pages Mochi, Bhensa and Roshni were blocked which were managed by four bloggers who went missing in January 2017.

CENSORSHIP OF RELIGIOUS EXPRESSION

The pretext of "objectionable content" in Pakistan is overbroad and subjective. Like opposition to political dissent, religious expression of faith-based minorities is censored. Ahmadiyya, Qadiani or Lahori Group is the most persecuted community of the country, who were declared non-Muslim through 2nd Amendment in the Constitution of Pakistan in 1974. Since then, Ahmadiyya have been pushed toward the periphery of the society. The Pakistan Penal Code (PPC) criminalizes their religious expression in public. Similar to physical spaces, their religious expression in online spaces in Pakistan is also banned. In July 2012, PTA blocked Ahmadiyya website, 'Al-Islam', which is still inaccessible. Similarly, their other websites including official website of 'Ahmadiyya Anjuman Isha'at-e-Islam Lahore' and 'The Persecution of Ahmadiyya Community' are also blocked.

USE OF INTRUSIVE FINFISHER AND HACKING TEAM SOLUTIONS

The government has been using intrusive technology such as FinFisher that surveils private communications. FinFisher offers different intrusive modules that silently sit in the recipient's digital devices and enable remote surveillance such as keylogging, webcam/microphone access, and password collection. In addition, Pakistan contacted HackingTeam to acquire a similar type of intrusion malware suites. Punjab government's initiative binds all hotels in Lahore to share guests' data including foreigners with the city police. Hotel Eye software is introduced which is attached with crime database in their control room. Pakistan lacks in legislative framework that would protect data of citizens. In the absence of safeguards, such as judicial oversight, state institutions have been carrying out surveillance on digital communications of individuals, groups and organisations. There is increasing concern that local law enforcement agencies (LEAs) and intelligence agencies have the ability to access into a range of devices to capture data, encrypted or otherwise. Following guidelines set out by the government, courts and ministry of information technology, PTA and multiple law enforcement agencies are able to conduct online surveillance and lawfully intercept and monitor data. The state appears to be using the 2002 Electronic Transaction Ordinance, the Investigation for Fair Trial Act 2013 and the Pakistan

Telecommunications (Re-organization) Act 1996 to collect privileged communication and conduct broad surveillance.

Censorship appears to be increasingly gripping Pakistani media as journalists, watchdogs, and media organizations blame attempts by the country's powerful military to silence critics and prevent the coverage of protests that criticize its policies and actions. This week, several leading newspapers either refused to publish articles on the Pashtuns' protests or deleted stories they had already published. Organized under the Pashtun Tahafuz Movement (PTM) or Pashtun Protection Movement, members of Pakistan's second-largest ethnic group have rallied to demand security and rights.

This month, Geo TV -- Pakistan's leading television news channel -- was prevented from reaching audiences through cable networks. On April 16, a provincial court ordered a government regulator to ensure that "anti-judiciary" speeches of former Pakistani Prime Minister Nawaz Sharif and his daughter Maryam Nawaz were prevented from being aired on television. The two have campaigned against the military's attempted to micromanage politics in the country. Murtaza Solangi, a senior Pakistani journalist and television talk show host, says the ongoing attempts to muzzle the press are magnified by endemic self-censorship, wherein most of the country's print and electronic media actively avoid covering sensitive issues. "[The censorship is prompted by] insecurity of the military establishment determined to get a positive outcome of [their liking] in the next polls," he told RFE/RL's Gandhara website on April 17. "[This is why] banning Geo TV is also a message to all and sundry to fall in line and sign the dotted line."

Mosharraf Zaidi, a columnist and commentator, has complained that a leading English-language daily, The News, turned down his oped for the first time in 10 years. The piece about PTM advised Islamabad that "the last thing Pakistan should be doing is to deny Pakistanis the opportunity to express solidarity with fellow citizens." The News is published by the Jang group, which also owns Geo. "This unnecessary muzzling of debate is not healthy," he wrote on Twitter. "Strong nations cultivate robust debate. Weak ones fear it."

On April 15, three columns about the PTM disappeared from the website of The News. Farah Zia, an editor in charge of The News On Sunday section, which printed the articles, told BBC Urdu that her organization's management ordered her to take down the articles. "Our articles were widely publicized on social media on Sunday," she said. "But then I received a message from our management to remove them."

On April 14, Babar Sattar, an Islamabad-based lawyer and commentator, said The News turned down his weekly column, which discussed the PTM protests. "Media is banned from mentioning PTM. Geo and Jang are shut down and ordered not to touch sensitive topics," he wrote on Twitter.

Pakistani media reported that on April 17, the country's top Supreme Court judge asked Sharif and his daughter to appear before him in a case involving their "anti-judiciary speeches." The order followed a directive by a provincial high court in the eastern province of Punjab on April 16 that ordered the Pakistan Electronic Media Regulatory Authority, a government media watchdog, to monitor electronic media outlets for anti-judiciary speeches by the two leaders.

Pakistan's Supreme Court disqualified Sharif in July 2017 on corruption allegations. In a statement on April 16, journalists and activists expressed serious concern about suppression of freedom of expression, rights-based movements, and dissent.

"The representatives of civil society and media took serious exception to the ongoing reign of repression against a section of media, rights-based movements, and those who are critical of an extended role of non-elected institutions," their joint statement noted. "They cautioned against fascist designs, authoritarian machinations, and unconstitutional manipulations by autocratic and extremist forces to scuttle fundamental civil, human, and social rights, usurp rule of law, and hijack overall democratic processes and political transition," the statement added. Pakistan's military denies being behind the media clampdown. It also denies the PTM's allegations that it is involved in extrajudicial killings, enforced disappearances, and other grave rights abuses.

In an apparent reference to the PTM on April 12, army chief Qamar Javed Bajwa said 'engineered protests' would not be allowed. In a speech on April 14, he hinted that the military viewed the movement's protests and its media coverage as a hybrid war. "Our enemies know they cannot beat us fair and square and have thus subjected us to a cruel, evil, and protracted hybrid war," he said. "They are trying to weaken our resolve by weakening us from within."

Solangi, however, says the expanding media censorship is turning Pakistan into an authoritarian state similar to Egypt, ruled by military strongman President Abdel Fattah El Sisi. He says the growing censorship is likely to overshadow the parliamentary elections slotted for this year. "Banning channels, stopping articles from getting published, and stopping speeches of political leaders [from broadcasting] will ensure that the next elections will be neither fair nor free," he said.

FILM CENSORSHIP IN PAKISTAN

The Pakistani Constitution limits **Censorship in Pakistan**, but allows "reasonable restrictions in the interests of the sovereignty and integrity of Pakistan or public order or morality". Press freedom in Pakistan is limited by official censorship that restricts critical reporting and by the high level of violence against journalists. The armed forces, the judiciary, and religion are topics that frequently attract the government's attention.

Central Board of Film Censors

For other uses, see CBFC.

The **Central Board of Film Censors (CBFC)** is the regulatory body and censorship board of Pakistan. The CBFC is governed by the Motion Picture Ordinance, 1979 and rules made there under. The prime statutory function of the CBFC is censorship of films. With its Head office at Islamabad headed by the Chairman, has two branches at Lahore and Karachi. The CBFC examines the films in the light of the Censorship Code provided by the Federal Government.

Main functions

The main function of the Central Board of Film Censors is to examine suitability of films for public exhibition or otherwise under the guidelines provided by the Federal Government in the shape of film censorship code. Producers of locally produced films have the option to apply for Censorship of their films to any of the office of the Board at Islamabad, Lahore and Karachi whereas imported films are examined by the Board only at Islamabad. Films belonging to Foreign Missions are also examined at Islamabad.

The Motion Pictures Ordinance, 1979 and the rules made there under focus upon the broad policy framework and administrative procedures for the certification of films for public exhibition. The film censorship code covers all the important aspects of society and lays down the guiding principles for film making in Pakistan. To make the film industry abide by the code for censorship, strict policy measures are adopted from time to time and, while certifying films, every effort is made to ensure that no scene, dance or dialogue gets through which is derogatory to the accepted moral standards of the society.

While examining films, the CBFC eliminates public exhibition of a film or any part thereof which is likely to.

- I. Impair accepted moral standards and social value by glorification of vice or crime.
- II. Give offence to any section of the public or injured the feelings of any class of persons.
- III. Hurt national sentiments.
- IV. Contains dialogues, songs, speeches, dances, jokes or gesture which are obviously vulgar obscene or indecent.
- V. Undermines Islam. or
- VI. Ridicules, disparages or attacks any religious sect caste and creed.

Members Central Board of Film Censors of Pakistan (CBFC)

Federal Government of Pakistan vide Notification no's No.F.76 (2)/2012-SO (CBFC)dated.12/10/2012 & No.F.14-2/2014-CBFC dated. 05/03/2015 constituted the Board with immediate effect and till further orders.

A) EX-OFFICIO MEMBER. 1# Mr. Mobashir Hasan, Chairman. 2# Mr. Adnan Akram Bajwa, V.Chairman.

B) OFFICIAL MEMBERS.

1. Mr. Muhammad Tahir Hassan, Director, Secretary Office, Ministry of Information and Broadcasting, Islamabad
2. Brig (R) Shuja Hasan Khurazmi, Director General Inter Services Intelligence, Islamabad.
3. Brig. Anwaar Ahmed, Director Inter Services Public Relation (ISPR)Rawalpindi.
4. Dr. Javed Laghari, Federal Ministry/Chairperson, HEC, Islamabad.
5. Mr. Sultan Azam Taimuri, DIG, Headquarters, Islamabad.
6. Mr. Muhammad Farooq, DG, Operation, PEMRA, Headquarter, Islamabad.
7. Mr. Hammad Ghaznavi, Deputy Managing Director, PTV, HQ, Islamabad.
8. Dr. Arslan Hyder, Deputy Director, Ministry of National Health Services Regulations & Coordination, Coordinator Prime Minister's National Health Insurance Program, Islamabad.

C) MEMBERS OF CIVIL SOCIETY.

1. Mr. Iftikhar Durani.
2. Mr. Nadeem Akhter, Advocate.
3. Mr. Waris Baig.
4. Mrs. Rehana Pervaiz.
5. Mrs. Akhter Haque.
6. Ms. Quatrina Hosain.
7. Mr. Jalal Hyder.
8. Hafiz Tahir Khalil.
9. Mr. Tariq Mehmood Khan.
10. Mr. Mussadaq Ahad Shah.
11. Ms. Safina Syma Khar.
12. Mr. Shuja ur Rehman Malik.
13. Mr. Hamid Mir.

CBFC Chairmen

1. Anwar Hussain (1963–72)
2. Aslam Siddiqui (1972–73)
3. Jalalud Din (1973)
4. Syed Abid Ali (1973–74)
5. MMH Peerzada (1974–76)
6. Syed Sajjad Haider Jillani (1976–77)
7. Anwar Abbas Ansari (1977–82)
8. Dr. Safdar Mahmood (1982–86)
9. Brigadier(R) Abdur Rasheed (1986–88)
10. Syed Sajjad Haider Jillani (1988–94)
11. Jamal Khan Jomezai (1994–96)
12. Malik Yasrab (1996–98)
13. Malik Mohammad Rafique (1998)
14. Prince Abbas Khan (2001–03)
15. Ziauddin (2003–06)
16. Ejaz Illahi Paracha (2006)
17. Azfar Shafquat (2006–08)
18. Barrister Malik Shahnawaz Noon (2008–2012)
19. Muhammad Ashraf Gondal (2012–2013)
20. Dr. Raja Mustafa Hyder [Additional Charge of Chairman] (2013) [Charge Expired due to the change of MINISTRY].
21. Mr. Mobashir Hasan (2014 to date).

EXAMPLE OF LEGISLATION

The provincial government of Khyber Pakhtunkhwa has introduced a bill in the assembly for effective control and regulation of the exhibition of films, CDs, videos, stage dramas and shows by means of cinematographs, cable networks or any electronic media in the province.

The legislation called the Khyber Pakhtunkhwa Censorship of Motion Pictures (Films, CDs, Stage Dramas and Shows) Bill 2015 after passage from the provincial assembly would be extended to the whole of the province and come into force at once.

After the making this law, the government by notification in the official Gazette, will constitute a number of boards for the purpose of examining and certifying films, CDs, videos, stage dramas and shows, for public exhibition, and would declare the area in respect of which each such board would exercise its powers under the Act.

WHAT THEATERS SHOULD DO?

Amidst the economic crunch and political instability, options of recreation for Pakistanis seem to be constantly dwindling. With a non-existent local film industry and music concerts being a rarity in the country, theatres could have played a vital role if they had not deteriorated. Once a source of family-appropriate entertainment, Pakistani theatre now encompasses neglected halls featuring plays focusing on vulgarity.

A *Daily Express* survey shows that people are extremely nostalgic about the way theatre has declined in the country. According to one respondent, "Stage plays have always been a highlight of entertainment in Pakistan but the way it has declined in the past eight to 10 years is tragic."

Much aware of the reasons behind theatre's decline, people from various walks of life have something to suggest for the improvement of stage plays

1. Improvement of theatres demands a paradigm shift. It is an entire system that has to be rectified.
2. Marketing teams formulated for the improvement of theatres should play their role to eradicate vulgarity from plays.
3. Vulgar dialogues should not be allowed as a method to bring humour in plays.
4. Obscene dances should be banned to bring the gentry back to theatres.
5. Government should take immediate actions to revive high quality commercial theatre.
6. Only a few substantial steps by the marketing teams can change the overall attitude of people towards theatres.

7. Arts councils should have intervened when the stage plays started promoting indecent puns in the name of humour. But they did not take any action against what they called economic means of entertainment.

8. Senior actors have retired from theatres to further exacerbate the situation. They should make a comeback now.

9. As in the past, theatrical dramas should be designed to spread awareness among people through serious storylines but with humour to complement them at appropriate points.

10. Relevant authorities have to put their personal benefit aside if theatres in Pakistan are to be improved.

The offensive jokes and inappropriate dance sequences have kept many people away from commercial theatres. Several respondents hold the authorities responsible for this trend. "Just for their material gains, the relevant authorities let vulgarity penetrate into the roots of theatre. Had they been sincere with their work, theatres in Pakistani would not have worsened the way they have," said a respondent

Talking about people's limited options of recreation, another participant said, "People are already perplexed by the current situation in the country. The state of stage plays has only snatched another vital means of entertainment from them.

ISSUES TO BE DISCUSSED IN FORMUN 2019.

1. DEFINE CENSORSHIP
2. DESCRIBE SHOWBIZ INDUSTRY
3. ELABORATE THEATER & ITS TYPES
4. TYPES OF CENSORSHIPS
5. POLITICAL SITUATION OF PAKISTAN INCLUDING ALL SOCIAL, RELIGIOUS, ECONOMIC & CULTURAL FACTORS & NEED OF CENSORSHIP,
6. CENSORSHIP, FREEDOM OF EXPRESSION & ACCESS TO INFORMATION,
7. ISSUES IN IMPLEMENTATION OF LAWS,
8. CROSS BORDER PRODUCTION & CENSORSHIP
9. NEED FOR LEGISLATION?
10. KP ACT OF CENSORSHIP
11. STAGESHOWS & ITS CULTURE
12. ISSUES IN THE CURRENT CULTURE OF THEATER
13. PROPOSED SOLUTIONS TO ALL PROBLEMS AS DISCUSSED
14. WAYFORWARD TO FUTURE OF THEATER & FINE LEGISLATION AT FEDERAL LEVEL

NOTE: Come up with fine research otherwise park at your own risk.

WISH YOU GOOD LUCK

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TOPIC B

NAB COURTS AND ACCOUNTABILITY LAWS IN PAKISTAN

The National Accountability Bureau is Pakistan's apex anti-corruption organization. It is charged with the responsibility of elimination of corruption through a holistic approach of awareness, prevention and enforcement. It operates under the National Accountability Ordinance-1999. With its headquarter at Islamabad, it has seven regional offices at Karachi, Lahore, Peshawar, Quetta, Rawalpindi, Multan and Sukkur. It takes cognizance of all offences falling within the National Accountability Ordinance (NAO).

For the initial three years, the focus of its functions was directed only at detection, investigation and prosecution of white-collar crime. Those prosecuted include politicians, public service officials and other citizens who were either guilty of gross abuse of powers, or through corruption had deprived the national exchequer of millions or resorted to other corrupt practices. In February 2002, NAB launched the National Anticorruption Strategy (NACS) project. The NACS team conducted broad based surveys, studied external models of international anti-corruption agencies and involved local stakeholder. All pillars of National Integrity System were studied in detail. After identifying the causes of corruption in each pillar, a comprehensive strategy and a detail action plan was recommended. Breaking away from traditional enforcement based routines NACS has recommended a comprehensive process. Relevant amendments have been made in NAO and now NAB is empowered to undertake prevention and awareness in addition to its enforcement functions.

VISION

The National Accountability Bureau is to be a credible, effective, efficient and dynamic anti-corruption organization creating an enabling environment for a corrupt free society.

MISSION

The National Accountability Bureau is to work to eliminate corruption through a comprehensive approach encompassing prevention, awareness, monitoring and combating.

OBJECTIVES

The National Accountability Bureau derives its objectives from its approved project document titled 'National Anti Corruption Strategy' or NACS and defines them as follows:

Short Term Setting in motion systemic improvements that will strengthen the national integrity system and the people against corruption.

Long Term The elimination of corruption by engaging all the stakeholders in the fight against corruption, through a programme, which is holistic, comprehensive and progressive.

SALIENT FEATURES of the NAO

- Setting up of a National Accountability Bureau so as to eradicate corruption and corrupt practices and hold accountable all those persons accused of such practices and matters.
- Take effective measures for the detection, investigation and prosecution of cases involving corruption, corrupt practices, misuse / abuse of powers, misappropriation of property, kickbacks & commissions and ensuring speedy disposal.
- Recovery of the outstanding amount from those persons who have committed willful default in repayments to banks, development finance institutions (DFIs), government and other agencies.
- Implement policies and procedures for awareness, prevention, monitoring and combating corruption in the society

Flaws in the National Accountability Ordinance (Ordinance Number XVIII of 1999) – Scrutiny and Analysis

Before we dive into the intricacies of the dreaded **Ordinance**, we must understand its historical inception. This background knowledge is important for us to understand that this law has its basis in injustice and therefore cannot lead to anything better or even anything closer to the much idealized notions of eradicating corruption that the institution which has brought it to life claims (i.e. the National Accountability Bureau).

To set the basis of this argument, I shall, throughout this piece of writing, simply identify gaps, flawed legal concepts and the lack of understanding of basic values of natural justice in the legislative marvel that has plagued Pakistan's public office holders or anyone who might be interested in acting as defense counsel in a NAB case. We will then be able to form our opinion about it and decide for ourselves whether or not it is indeed needed. We would also be able to understand the basic direction it might lead us to, especially if it remains unamended or not in force altogether.

The scope of this publication shall be limited to **section 1 – section 14** as well as powers of arrest of the NAB Chair i.e. **section 24**. Since this is not meant to be a legal dissertation, it is aimed to provide a general scrutiny without offering solutions.

Military Origins

As stated, the main purpose of the **Ordinance** seems to be the eradication of corruption and corrupt practices. In what seems to be the **preamble**, it is stated that the purpose behind the enactment of the law is to provide effective measures for

"...the detection, investigation, prosecution and speedy disposal of cases involving corruption, corrupt practices, ¹[misuse or abuse] of power ²[or authority], misappropriation of property, taking of kickbacks, commissions and for matters connected and ancillary or incidental thereto..."

Stress must be laid on the purpose because it seems to lay out certain foundational notions regarding the purpose of the law, however, as will be discussed later, it fails to set standards which are either procedural or theoretical and would allow it to be used effectively to curb corruption and corrupt practices without compromising on international standards of justice or justice in any shape whatsoever.

Historically, it must be stressed this law was created as a product of the *coup d'état* which established the military regime of General Musharraf in 1999 to target politicians and people who were against his regime. This was done rigorously and in a rather draconian way. Even though a lot of case-law is present on the matter, the **preamble** itself states the following.

“AND WHEREAS the National Assembly and the Senate stand suspended in pursuance of the Proclamation of the fourteenth day of October, 1999, and the Provisional Constitution Order No.1 of 1999, as amended,

AND WHEREAS the President is satisfied that circumstances exist which ¹[render] it necessary to take immediate action,

NOW THEREFORE, in pursuance of the aforesaid Proclamation and Provisional Constitutional Order as well as Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance.”

The fact that the National Assembly and Senate stood suspended on 14th October, 1999 testifies that the law was created after a violation of the constitutional government. However, the situation seems graver where it is stated that the law was created without any debate, rather based on Presidential discretion alone.

Understanding the Legislative Intent Behind the Retrospective Nature of Section 2

The foremost example of this discretionary promulgation can be found within the law itself as it is deemed to have come into effect in 1985, according to **section 2** which states the following.

“This Ordinance shall come into force at once and shall be deemed to have come into force from the 1st day of January 1985.”

This **section** makes it a retrospective law, hence against the expositions of natural justice. This was done to entangle the then recently ousted (1999) ex-Prime Minister Nawaz Sharif, who had also been made the Chief Minister of the province of Punjab in 1985. Therefore, the very inception of the law in 1999 and the making of it as a retrospective law having effect from 1985 shows ill intent behind its creation. This malicious intention has not only been aimed at the then-ousted Prime Minister but it has been, since then, applied to numerous individuals who have dared to raise even a voice of criticism to laws that are

promulgated by the state regardless of the promulgator's job description. This also leads to the inevitable curtailment of the right to free speech/expression and numerous other rights which are synonymous with the concept of a modern state, as well as other inviolable rights afforded by the state to its individuals.

Definitional Flaws in Section 5- Exclusion of Armed Forces Personnel

Along with numerous flaws in this **section**, the most noteworthy are those that can be found in **s.5(m)(iv)** which defines a "holder of public office". Further signs of military origins can be found here as well as the **section** excludes the accountability of serving military officers in the following words:

"...other than a person who is the member of the armed forces of Pakistan."

This may also reflect a targeted approach towards any civilian government (emphasis on "any" civilian government). This can lead to instability in the existing state of affairs which are already not very stable, by allowing the law to be used whenever the need arises and against anyone who does not conform. This is the wrong approach because it denies accountability across the board and targets a specific class, leading to injustice which further leads to the marginalization of particular individuals who may not even be corrupt in the first place.

To be fair, as a consolation according to **s.5(m)(vi)**, the law does apply to retired personnel of the armed forces and those who have retired, hence retaining the meaning of "holder of public office" for them.

Decadence in the Appointment of the Chair, Deputy Chair and Prosecutor General Accountability (sections 6, 7 and 8)

The President would have to appoint the NAB Chair in consultation with Leaders of the House and the Opposition according to **section 6(b)(i)** "*on such terms and conditions as may be determined by the President*". This procedure shows a tilt towards the old presidential system or, aptly put, the dictatorial regime, in which the dictator was the President. The effect of the dictatorial discretion, however, has been reduced (through the consultation procedure and amendment in the law), yet the ultimate discretion to decided terms and conditions lies in the hands of the President. There is no set procedural framework that lays down how consultation is to be made, which can lead to uncertainty and an unjust outcome such as appointment on the basis of political whim and favouritism rather than merit or fairness.

The same case can be made out regarding the appointment of the Deputy Chair of NAB who shall be "*... appointed by the ⁴[President] in consultation with the NAB Chair*" according to **s.7(a)**. Needless to say, this is purely discretionary because the NAB Chair is, in accordance with the **Ordinance**, most likely to be discretionarily handpicked by the President, leading to more uncertainty in the appointment.

It is stressed that the same appointment setback can also be identified under **s.8** regarding the appointment of the Prosecutor General Accountability who is to be appointed by "*...the President of Pakistan, in consultation with the ²NAB Chair*". A presidential, rather dictatorial discretion is clearly visible here.

Definition of Corruption and Corrupt Practices (s.9)

According to this **section**, a holder of public office or any other person is said to commit or to have committed the offence of corruption and corrupt practices in about 12 ways which are scrutinized below.

1. Firstly, **9(a)(i)**, to summarize, deals with gratification other than legal remuneration which can be obtained directly/indirectly as a motive/reward for doing/bearing to do any official act or showing/bearing to show favour or disfavour in the exercise of official functions or rendering or attempting to render any service or disservice to any person. This is practically anything on earth that would be done by a politician or a bureaucrat in the normal course of business. The underlying problem here is not that the intention behind the law is flawed, the issue is that this definition is too wide and it only applies, as defined in the **Ordinance**, to practically anyone in the country. It would not be an overstatement if it is said that a Member of the National Assembly or Member of the Provincial Assembly, before the enactment of this law, should have been barred from meeting anybody in their constituency if the law was promulgated to ensure justice, however, it was not and that is exactly the argument. This is an understatement because it is practically impossible to disprove that such gratification was not obtained. Litigation, rather investigation in such cases would be synonymous with the opening of floodgates since it could be used to target anyone without any cogent evidence.

2. **Section 9(a)(ii)** criminalizes the accepting or offering of “any valuable thing” without consideration or inadequate consideration which a person “knows” to be inadequate, from “any person” who he or she knows, to anyone who is likely to be concerned in any proceeding or business transacted or about to be transacted by him or her, or having any connection with his or her official functions, or from any person he or she knows to be interested in or related to the person so concerned. This again is a very wide-ranging definition because it even extends to the relatives of a concerned person and hence might be misused against relatives who have no contact with the accused person at all. A more worthy criticism can be made of the fact that consideration in the **section** depends on having the “knowledge” which is very hard to prove and is usually dependent on inferences which may be mistaken and lead to injustices when the law is applied. Such logical tools may even be aimed at an honest official with the *mala fide* intention to malign or downplay their reputation, the purpose of which could be to pressurize the individual. This would lead to a negative consequence which could develop into much bigger issues than the one in sight. Furthermore, “any valuable thing” is not defined, leaving room for interpretation. While interpretation does give flexibility, however, it also leaves room for miscarriages of justice.

3. **Section 9(a)(iii)** deals with dishonest or fraudulent misappropriation or conversion or use of any property entrusted to the concerned officials and under their control, or willfully allowing any other person to do so. This is again a blitz of restrictions that can be applied to anyone holding a public office because “property entrusted to them” knows no bounds. There is also no set procedure on how such an act is to be reported in the first place, which creates space for more prosecutorial, judicial and political discretion and gives rise to elements against the basic notions of justice.

4. **9(a)(iv)** deals with seeking to obtain for oneself – or for a spouse³ or dependents or any other person – any property, valuable thing, or pecuniary advantage, by corrupt, dishonest or illegal means. The law at the same time lays down no definition for any of the “corrupt”, “dishonest” or “illegal means”. To restate previous arguments, this is a gap which can be and has already been exploited in numerous situations.

5. **9(a)(v)** deals with the ownership/possession/ acquired rights or title of dependents or *benamidar* of any assets/power of attorney in respect of the assets/pecuniary resources which are disproportionate to the person’s known source of income, or for maintaining a standard of living beyond what is commensurate with the source of income. This **section** does not take into consideration any legal means of acquiring assets which are beyond the known sources of income, such as inheritance, gratuitous gifts by relatives or beneficial ownership of properties or trusts which might later be acquired. “Known source of income” has not been defined which makes room for an old nemesis of justice and equity to make way, that is discretion.

6. **9(a)(vi)** deals with misuse of power to gain any benefit or favour for oneself or any other person. It can be criticized in the same way as the sections above. It has no positive legal value of its own and just expands the bounds of the **Ordinance** to “any benefit or favour” [a phrase open to interpretation].

7. **9(a)(vii)** deals with the issuance of directives/policy/ SRO or any other order which grants or attempts to grant any undue concession or benefit in a taxation matter or law or otherwise, so as to benefit oneself or any relative or associate or a *benamidar*(or any other person). This part of the law seems to target the abuse of power, which is a good thing, however, it needs to be stressed that it ignores any “amnesty schemes” that the government has introduced to benefit the state by

widening the tax net. Instead, it only focuses on the negative aspect that such schemes might have. It does not fail to criminalize the practice of introducing such schemes to benefit one's relatives but it does ignore the fact that such schemes or laws might be made in practicality to serve the interests of the state. Who is to decide the contrary? This part of the law seems to be based on mere notions of political victimization, given that the evidentiary requirements of the **section** have not been defined.

8. **9(viii)** criminalizes willful default which is defined in **s.5(r)**. This is probably the most sensible area of the legislation because most of the "terms" are defined. However, even in this area there is a deficit of "procedural" definitions so even a logical face of the law is very open to debate each time a case is brought up.
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9. **Section 9, subsections (ix), (x) and (xi)**, all three refer to various sections of the **Pakistan Penal Code 1860**, therefore, it is assumed that the procedure laid out in the **Criminal Procedure Code** is to be followed. However, there remains uncertainty, which is synonymous with discretion for the purposes of our argument.

Gross Violation of the Right to Bail and Presumption of Innocence [s.9(b)]

With reference to **s.9 (b)**, it can be stated, firstly, that there is a spelling error. "non-boilable" should be "non-bailable". This **section** makes the offences committed under the **Ordinance** non-bailable, taking away power even from the courts. It needs to be stated here that there is a presumption in favour of bail under international law, especially British law and a great majority of laws that are promulgated, unless the sanctity of the legal procedure is violated or if it is a case of murder or manslaughter. Even in murder and manslaughter cases, in accordance with British standards bail can be granted in "exceptional" circumstances, while European standards dictate that a "right" to bail remains even in such cases. It is beyond legal theory that such a right has been curtailed by this **Ordinance**. What is an individual to do if he or she has been caught and thrown in jail without any substantial evidence against him or her and merely on the basis of a suspicion that he or she might have been involved in corrupt practices/corruption? Does an individual's liberty have no value in this country? Is corruption a graver, more sinister crime than taking an innocent person's life? What were they thinking when this law was made? These are questions nobody is willing to answer regarding this law and any other law that is way beyond legal theory or justification, therefore such laws are deemed to be draconian, dark and blind.

Indefinite Period of Investigation – Against Natural Justice

Adding more weight to the previous arguments, **s.9(c)** states that after the investigation of an offence against a holder of public office or any other person, if the NAB Chair is satisfied that no "*prima*

facie case" been made out against a person and it may be closed, the matter can then be referred by the Chair to a court for approval and for the release of the accused if in custody. This is an undue power allotted to the Chair because it sets out no time period for the investigation, hence making it indefinite and against the values of natural justice as well as a burden on resources. There is also no legal definition of a "*prima facie* case" in the sense of saying "for sure this is what we were not looking for", hence it is an identifiable gap.

Punishment for Corruption and Corrupt Practice- Extortionist?

According to **s.10**, the maximum sentence laid out in the **Ordinance** for punishment of an offence committed by a holder of public office or any other person who commits the offence of corruption and corrupt practices, is 14 years in prison and a fine, along with a forfeiture of assets to the appropriate government or concerned bank or financial institution, as the case may be.

To say that the punishment set out by the **Ordinance** is extortionist would be an understatement. In the UK, when the maximum punishment for bribery and corruption under the **UK Bribery Act 2010** was set to 10 years, it was labelled as grossly miscalculated and a very harsh punishment in comparison to similar international law compulsions imposed by the Organization for Economic Co-operation and Development (OECD) and the same Act was considered to be a far more draconian law than the **United States Foreign Practices Act 1977**.

Imposition of Fine – Lacks Legal Definition (s.11)

S.11 of the **Ordinance** deals with the imposition of fines and it can be said that it lacks wholly, a mechanism to decide how a fine is to be imposed. It just lays out the following,

"Where ⁴[an accused] found guilty of an offence is sentenced to pay a fine,⁵ the amount of the fine shall in no case be less than the gain derived by the accused or any relative or associate ⁶[by the commission of the offence]."

How is it deciphered that the accused is found guilty? Will this be done by investigation alone? How can such an investigation be seen as reliable when it is initiated without any proper charges? Who is to impose such a fine? Is the Chair omnipotent? Can the Chair select anyone, put them under investigation and keep them locked up until they confess and pay the fine? Will that conviction be safe and will that fine be justified?

There are no answers to such questions and this is exactly what has downplayed the reliability of the law, made it draconian and rendered it open to legal criticism. One thing is certain, the fine or conviction itself will never be considered to be safe because it completely disregards justice, fair play and other values of due process.

Unfettered Powers Allotted to the Chair to Freeze Property for Prolonged Periods (s.12)

The use of discretion can be said to reach its pinnacle when it comes to this part of the law. According to **section 12(a)**, the NAB Chair, or the court trying an accused, *"may, at any time, if there^g appear reasonable grounds for believing that the accused has committed such an offence, order the freezing of his property,^g or part thereof, whether in his possession or in the possession of any relative, associate or person on his behalf."*

Additionally, according to **section 12(b)(i), (ii), (iii) and (iv)** applicable to "a debt" or "movable property", *"If the property ordered to be frozen under sub-section (a) is a debt or other movable property, the freezing may be made, (i) by seizure, or (ii) by appointment of receiver, or (iii) by prohibiting the delivery of such property to the accused or to anyone on his behalf, or (iv) by all or any of such or other methods as the Court or the Chairman NAB as the case may be, deem fit."* **Section 12 (c)** is a repetition of the same clauses in case of "immovable" properties.

"At any time" is a problematic expression which has no limits because of the flexibility it exhibits in all aspects. It is an expression of arbitrariness and we cannot allow that to creep into the law if we are to maintain any sense of fairness. "Appear reasonable grounds" and "for believing" also do not seem to be appropriate yardsticks for an arrest not seizing property, which can jeopardize not only human freedoms guaranteed by the state but the right to property guaranteed by our Constitution as well, if exercised with an unjust interpretation. According to the law of England and Wales, even an arrest can be deemed to be improper if proper procedural requirements were not fulfilled. This part of the law in question does not lay down the requirements which should either be evidentiary or procedural. It does not even explain how strong or weak the reasonable suspicion ought to be in order to help the Chair make a decision. It rather lays down a very low threshold for a very big decision i.e. the seizing of property as compared to conclusive knowledge or even evidentiary proof. **Sections 12 (b)(iv) and 12 (c)** become unbelievably discretionary when they mention the seizing of property "by all or any methods that the NAB Chair or the court deem fit". Does this mean they can deploy the military as well since there are there no limits? This does, however, mean one thing, it takes us back to the military origins of the **Ordinance**.

Section 12 (d) allows the NAB Chair or the court to sell "livestock" or "perishable" property without permission even where corruption is presupposed and not proven in a court of law.

Section 12 (f) sets out that the freezing order is to remain operative until the final disposal of the case. It needs to be stressed at this point that this shall be the case even where there is no conclusive evidence proven in a court of law that the asset was indeed obtained through corruption or corrupt practices. Adding insult to injury, the order is to remain operative for 10 days even after acquittal. One reason to do so would be that there might be an appeal against the acquittal. Regardless of such a possibility, it ignores the principle that an acquittal, even though temporary in nature, is still an acquittal.

Section 13 allows for an appeal to be entertained and adjudicated upon all claims and objections against the freezing of any property which might have been wrongly frozen or appropriated in the first place. Such an application can be dismissed like all applications and the time for making one can be extended to 14

days. Yes, there is finally some procedural definition but then again, would it even be needed if previous sections had been drafted to be inclusive of legal tests and procedures? This seems to be a vicious circle of freezing and unfreezing properties that could have been prevented from being frozen in the first place. Quite a confusing situation that could easily have been avoided.

Presumption Against the Accused for Accepting Illegal Gratification Should Be a Stoppage Point (s.14)

Section 14 (a) is primarily based on **s.9** which has its own gaps as identified above. However, the point to be kept in mind is that this presumption against the accused for accepting illegal gratification in **s.14 (a), (b) and (c)** is based on an already made presumption without due legal procedure in **s.9 (i)-(viii)**. This can, at the very least, be said to be against the rules of natural justice wherein there is a "presumption of innocence" and "not a presumption of guilt" which this part of the law seems to instill. This is by far the darkest part of the law. It goes to show a no-way-out situation for the person to whom these laws have been applied. The prosecution does not have to do anything, rather the accused has to prove that he or she was not corrupt. The burdens of proof, both legal and evidentiary, have been shifted to the accused, which should be enough reason to scrap this law. These burdens should rest on the shoulders of the prosecution and not the defendants. Even if they get shifted in exceptional circumstances, there should at least remain a presumption of innocence – which is not being granted to the accused as yet.

Arrest (s.24)

According to **s.24 (a)** the NAB Chair "*at any stage of the [inquiry or] investigation*" can direct the accused to be arrested if not already arrested. **Section 24 (c)** states that **subsection (a)** would also apply to cases that have already been referred to the court. **Section (d)** lays down that such a person, "*as soon as may be*", shall be informed of the grounds and substance on the basis of which he or she has been arrested, shall be produced in court within 24 hours and "*having regard to the facts and circumstances of the case, be liable to be detained in the custody of NAB for the purpose of inquiry and investigation for a period not exceeding 90 days*".

The test for "as soon as may be" is presumably based on "as soon as reasonably practicable" of UK law, which makes sense and is not that big of an issue just like being produced in court within 24 hours, however, prescribing 90 days at the investigation stage seems to be a flaw that cannot be ignored because in criminal cases in the UK, the investigation time is usually not more than 96 hours and that is the maximum in accordance with the current criminal procedure.

Keeping somebody in custody without charge is a gross violation of human rights and the freedom of movement which is supposed to be guaranteed by the state. In English law, custody can never be indefinite without charge. There is a bar on time periods of investigation because custody or detention is a curtailment of a person's right to free movement which is also a part of the right to life. Indefinite custody is a violation of such rights and falls in the domain of "unlawful detention", also invoking the writ of *habeas corpus*. This seems to have been ignored by the legislators. Thus, it is unfair and unacceptable.

Conclusion

The analysis has not only aimed to identify easily visible cracks in the **National Accountability Ordinance of 1999** but also provide critical scrutiny in order to generate the viewpoint that even though no law is perfect, laws as draconian and unfair as this **Ordinance** lead to miscarriages of justice, prosecutorial errors and abuse of power by way of their application.

Such laws, as long as they exist and continue to be in force, will make our already decaying justice system a breeding ground for injustice, not because we are not cognizant of the fact that we need to improve the legal system but because they have a tendency to be misused.

ISSUES TO BE DISCUSSED IN FORMUN 2019.

- 15. DEFINE ACCOUNTABILITY**
- 16. ENUMERATE THE ACCOUNTABILITY LAWS IN PAKISTAN**
- 17. ELABORATE THE PROCESS OF ACCOUNTABILITY**
- 18. DISCUSS MEGA CASES UNDER THE PROCESS OF ACCOUNTABILITY**
- 19. POLITICAL SITUATION OF PAKISTAN INCLUDING ALL SOCIAL, RELIGIOUS, ECONOMIC & CULTURAL FACTORS & NEED OF ACCOUNTABILITY WHEREIN PUBLIC EXCHEQUER IS INVOLVED,**
- 20. ISSUES IN IMPLEMENTATION OF LAWS,**
- 21. NEPOTISM**
- 22. ACCOUNTABILITY OF NAB & NAB JUDGES**
- 23. NEED FOR NEW LEGISLATION?**
- 24. NEED FOR NEW COURTS?**
- 25. PROPOSED SOLUTIONS TO ALL PROBLEMS AS DISCUSSED**
- 26. WAYFORWARD**

NOTE. Come up with fine research otherwise park at your own risk.

WISH YOU GOOD LUCK

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