ISSN: 2790-9409

Vol 2 Mar2022 Issue 5

# PREMIER LAW JOURNAL

**---------- Premier Research Centre ----------**

A Project of Premier Law College Gujranwala

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# EDITORIAL NOTE

Premier Law Journal (PLJ) is a research Journal published by Premier Research Center, Premier Law College Gujranwala in English Language. This is a 2nd volume, issue 5, which is going to be published in March, 2022. It is a quarterly Journal dedicated to provide original research articles in Legal Studies as well as analysis and commentary on issues related to Legal & Social Issues. This Journal brings together many of today's distinguished scholars and thinkers, practicing lawyers, teachers and students making their research available on Current Issues need to be legislated in Pakistan.

It is an interdisciplinary Journal of peer-reviewed research and informed opinion on various intellectual and academic issues in areas of Legal & Social Studies. Its readership includes Legal practitioners, policy makers, Judges, Teachers and Students of Law. The articles published in this Research Journal undergo initial editorial scrutiny, double blind peer-review by at least two experts of the field, and further editorial review.

Usama and Shahid's article is an analytical study of the right of freedom of expression in the light of the Constitution of Pakistan 1973. This article nicely explains the aims and objectives of the freedom of expression within the constitutional limits as these limits give helping hand to an individual not to forget his personal completion and perfection responsibility toward this right.

Zulqarnain and Shahid's article gives an depth overlook in the study of police practices in Pakistan in the light of United Nations Conventions against torture and other cruel, inhuman or degrading treatment or punishment (UNCAT). This article gives a good details in the illegal practices, which are increasing day by day in the police investigation of a crime.

Munir Abbas and Shahid's article is one the central themes of Islam that is elimination of Riba in the economy of human being. This article nicely explains that in order to eliminate Riba from its roots, instead of explaining order of its prohibition, focus should be given on Divine wisdom of its prohibition.

Muhammad Zohaib and Shahid's article is an analysis of free access issue to education in Pakistan in light of the Article 25A of the Constitution of Pakistan, 1973. This article nicely investigates the hurdles and challenges regarding the free and quality education in Pakistan.

Saleem Shaheen's article is an oversight on legal education in Pakistan. This article provides fresh answer to challenges for the law schools to respond to social change by restructuring their traditional approach to legal education. Which equip the lawyers with diverse interpersonal. Ethical and core legal skills in order to be professional-ready for the 21st century dynamic yet global world.

Dr. Muhammad Amin
The Editor

# The right of freedom of expression: an analytical study with reference to the constitution of Pakistan 1973

**Usama Naseer***

**Dr. Shahid Rizwan Baig****

**Abstract:** this article analyzes the right of freedom of expression in the light of the constitution of Pakistan, 1973. Although, the freedom of expression is the most essential and primary right of human beings and have been placed at the pedestal in the democratic constitutions. But it cannot be given the unlimited freeness within the constitutional boundaries. There are certain aims and objectives of the freedom of expression. It lends helping hands to an individual not to forget his personal completion and perfection responsibility toward this right. The real spirit and soul of "freedom of expression" is to say, mention and publish those things which every individual of society wants to have and these remarks should not disturb and eradicate the rights of other individual of society. A free and true liberal democracy comes into existence according to the choice of individual. Freedom of expression enable the representative to understand truth and reality. Therefore, this capacity is highly appreciated for political life.

**Keywords:** Freedom of expression, Constitution 1973, Pakistan.

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## INTRODUCTION

The term "freedom of expression" means to mention, elaborating the personal, proposals, convictions, suggestions and opinions, without any pressure. This expression can be made through different sources. It can be launched and propagated through speech, through written composition and through displaying certain pictures. This expression is made through body movements, gestures and paralanguage.

Freedom of express is the most essential and primary right of human beings. Such right is the primitive of the democratic institutions.

In freedom of expression different legal and lawful means of communication are used to express, ideas, outlooks, viewpoints and

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judgment, openly through loud speaker and other sources. Man must have the rights to spread and inculcate his ideas through circulation and press. Man enjoys this freedom under the legal restrictions. He must observe all the imposed and enforced legal condition fixed by the state.

Freedom of expression is most important conditions of an organized freedom loving society. The society does is best to collect information for the common interest of individuals. Freedom to express and press is the most required thing about democracy in a democratic atmosphere and environment. Democracy cannot exist without freedom of these things. The individuals express their knowledge, experience and intellectual approach through their speeches, even in the adverse circumstances. They are free to touch the different aspects and fields of human interest in the society. They must be fearless and unpressurized in free exchange and publications of their ideas for the collective welfare of humanity and the improvement of institutional performance.

There are certain aims and objectives of the "freedom of expression". It lends helping hands to an individual forgetting his personal completion and perfection. It provides guidance in the seeking truth. It makes an individual powerful and enhances his capacity in decision making. It also launched an organized system through which a proper balance is established between stability and social change.

The real spirit and soul of "freedom of expression" is to say, mention and published those things which every individual of society wants to have and these remarks should not disturb and eradicate the rights of other individual of society. A free and true liberal democracy comes into existence according to the choice of individual. Freedom of expression enable the representative to understand truth and reality therefore this capacity is highly appreciated for political life. The right to free expression is such a fundamental right of individual as is highly costly and precious. This right is very popular and desired among the democratic loving people. The expressions of ideas must not be limited to any specific field. Its scope must be wide spreading, ever stretching and unlimited, subject to the observance of legal formality.

A right to express is in fact the right of man to communicate to others legally and lawfully. He must have freedom to receive ideas and suggestions of others individual without any restrictions.

Similarly, man should have the rights to be silent and to refuse to write. The right of correspondence should be given to all by observing legal formalities, checks and restrictions. Man should have rights to express himself in privacy as well as in public. There must be coordination among freedom of speech and freedom of press, because they go side by side with each other in all circumstances, the freedom of expression should discriminate where, when and how, a speech is to be delivered?

The right to free speech is highly essential for running the democratic institutions. Even the government is ruined under the guidance of organized public opinions. Government should not lay any unreasonable pressure and restrictions on the public opinion. On the other hand, the freedom of expression should be treated wisely and do not let to be abused.

The right to free speech pertains to any act, which is wished to be communicated to one or more person. It is comprised of the display of certain signs, and symbols, demonstrations and musical performance. This expression of ideas may be made through terrorism and assassination, but such type of expression should not be allowed because it gives birth to negative results and forces. This expression of ideas must be made positively and reasonably.

It is pertinent to mention here a case title, "All Pakistan Muslim League vs. Govt. of Sindh" it was held that the basic right enter in the constitution by different countries is not only to defend act, conduct and views but also to protect the views with which one disagree or which may be founded unpleasant and unacceptable. In a political meeting the adverse remarks as well as the favorable remarks should be approved and protected. The right to free speech and free expression are inevitable necessities of democracy. No democracy can exist without such freedom. This right is not non-variable but proper and reasonable restrictions/checks can be obtruding upon this right, on reasonable basis, because it is admissible and permissible in the eyes of law.

**Research Question**

**1.** What law works for the freedom of expression in Pakistan?

**2.** What are Principles regarding rights and duties of freedom of expression?

**3.** What strategy should adopt at national level to protect the freedom of expression?

**Definition**

There is no precise and narrow definition of "freedom of expressions". Every community has defined it according to its own choices and norms. There are multitudinous interpretations of free expression. Some cardinal definitions are discussed as under:

**According to Legal dictionary**

"Freedom to express ideas without inhibition, whether orally or verbally or by some other mode of communication" (Freedom of Expression)

From the perusal of above-mentioned definition, it has been clearly shown that the term "Freedom of Expression" means the freedom to convey ideas, opinions, suggestions and views to others without any obstacles, checks. This communication of expression may be made orally or in written or by other mode of expression.

**According to UNO Declaration (UDHR) 1948**

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media and regardless of frontier" (UN)

**What does include into Freedom of Expression?**

The term freedom of expression includes many aspects of communication. Some of them are elaborating here below:

**Right to Information**

Everybody has freedom of expression. Similarly, freedom of expression is a basic right of press. Press can spread information for public interest. Everyone has freedom to get knowledge about certain things. Nobody can prevent from knowing the different views of different people, because this is the main feature of democracy. Everybody pay tax and government collects these taxes from all the citizens whether they are street baggers or street hackers. Whenever people purchase something, they have to pay sale tax. This money belongs to public thus everybody has the right to ask the government as, where does this money go? Where is this being spent? Why the hospitals are not furnished with medicine? Why have the people been deployed of foods? Why they are dying out of hunger and starvation? Why are the roads not being repaired? Every citizen shall have the right to ask these questions from the government. Everyone has the right to inspect his fine. He cans

takers copy of documents of government and checks. In this way they have the right to hold government accountable and he can keep an eye to inspect the ratio of corruption. This right of seeking and sending information is the basic and fundamental rights of every citizen.

**Freedom of Expression in Different Religions of the World**

"The freedom of expression is the most important, hot and significant topic of today discussion. The term Freedom of expression refers to a right which expressly introduces one's thoughts and experience freely through communication, letters and other form of expression, without any external fear or compulsion." Different religions of the world have the different prospective and viewpoints regarding the term freedom of expression. Some of them are discussed as under:

**Freedom of Expression in the light of Islam**

Islam considers freedom of expression as the basic and fundamental right of human beings. This decision was made about Fourteen Hundred years ago and it was related to all important social problems. Islam lays stress on the fact that, freedom of speech and communication is not only the right but in fact it a duty of every Muslims for human sublimity, honor and dignity.[1] Freedom of speech is a basic man right provided by Islam. Islam does not lay any restrictions on freedom of expression. Some people things that Islam bans it, but it is wrong motions. It is due to their ignorance from the basic ideology and concept of man's right as lay down in Islam.[2]

**As Abdullah Ben Abdul Muslim Al-Turki Said**

"In fact, due to the ignorance about these human rights (Islamic human rights) and lack of proper knowledge about them, the reputation of Islam and the Islamic ruling and governing is distorted in the eyes of the rest of the world". (Abdul-Mushin)

**As Allah Subhan Na Talah stated in the Holy Quran**

"Except for those who have believed and done righteous deeds and advised each other to truth and advised each other to patience".

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[1] Usmani, M. M. (2006). The Meanings of The Noble Quran with Explanatory notes. Karachi: Maktaba Maariful Quran.

[2] Usmani, A. S. (2003). *The Noble Quran(Tafseer-e-Usmani).* Karachi: Darul-Ishaat.

It is emphasizing on the above-mentioned verse of Quran that people those who put faith In Allah and perform good deeds and advise to speak the truth and to be patience, are those, which will get higher rank from Allah at the Day of Judgment.

**The Hadith of Hazrat Muhammad (PBUH) about the speaking the truth as below**

"The best form of Jihad is to tell a word of truth to a tyrannical Ruler". (Dawod, 2004)

The spirit of it is pertinent to mention here soul and the best form of jihad as mention by Holy Prophet in his Hadith is to speak the truth before the accrual and merciless king.

**Hazrat Abu Hurairah narrates**

"I have not seen any one to more diligent in consulting the companion then the Prophet (SAW) himself".[3]

Freedom of expression also includes the term freedom to write. Islam grants a man the right of free writing for social and religious interest and prophet. Islam confers the right of freedom to man in writing and publishing the different matter for human benefit.

As stated in the Holy Quran

"Proclaim! (Or read!) In the name of thy Lord and Cherisher, blood: Proclaim! And thy Lord is Most Bountiful, - He Who taught (the use of) the pen." (Daryabandi, 1991)

In this narration Holy Quran says that, read in the name of Allah (your Lord) who created, created a man from the clot of congealed blood, read; your Lord is the most bountiful. He has taught the use of pen and taught to man whatever he did not know. Islam also recognized that the term freedom of speech is also the most important, significant and vital part of freedom of expression. Islam also recognized that the term freedom of speech is also the most important, significant and vital part of freedom of expression.

**As said by Holy Quran**

"Call all to path of your Lord with wisdom and beautiful preaching. Discuss the matter with them in the best and most gracious way because you're Lord knows the best, to the people who have strayed from his path and who got guidance".

Some people try to discover, the right of free expression from Western thinking. But Islam grants this right in its style. Islam gives

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[3] Tirmidhi, I. (2004). *Sunan Al –Tirmidhi.* Lahore: Shaikh Ashraf Publishers.

to man the freedom of expression. It also encourages him to discover and search to truth.[4] Islam provides important rules and basic principle of all issues and problems. Sunnah and Hadith elaborate those matters, which have been describes in the Holy Quran, because this is the primary duty of the Holy Prophet (PBUH).

**Freedom of Expression in the light of Christianity**

Christianity is considered to be a World number one Religion. The followers of this Religion have been settled in the different region of the world. The followers of Christianity religion have the Holy Book named as "BIBLE". The Holy Book BIBLE has different verses with the concept of freedom of expression, which discussed the significance of this right to free speech. The wording of "Bible" makes it clear that the followers of Christianity are enjoying the right to freedom of speech and expression.

**As stated in the Ephesians**

"Let no corrupting come out of your mouths, but only such as is good for building up, as fits the occasion, that it may give grace to those who hear."

From the pretext of above verse of Ephesians, it is stated that, you must not utter any bad point from your mouth, but you must speak only those things, which may be suitable according to need and necessary for progress so that the hearer may be blessed.

**Freedom expression in the light of Judaism**

The followers of Judaism, are mostly settled/living in Israel and many other European countries of the World. The followers of Judaism have faith on God and their Holly book for them is, "The Psalms". In the context of freedom of speech and expression the different verses of Psalms deal with this concept.

The Psalms clearly mention that God likes a true and gentle speech. Its emphasis on the concept that, God will help the individuals, if the individuals follow the path set by Him and do the righteous deeds and make use of their tongue wisely and gently.

**As said in The Psalms by God**

"He loves righteousness and justice".

As God said at another psalm

"His faithfulness is a shield and bulwark."

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[4] Asad, M. (1984). The Message of The Quran. Gibraltar: Dar-Al-Andalus.

In the above-mentioned verse of Psalms, it is stated that the God likes the true speeches and good deeds. Therefore, his faithfulness will become a shield and bulwark for such types of peoples.

**Freedom of Expression in Buddhism**

Buddhism, the world most renowned religion also focuses on right to free speech and expression to people. Doboom Tulku, a Buddhist thinker and philosopher while giving an interview, elaborate the concept of freedom of speech and expression. In his views the people should have this right to free speech but this freedom must be limited when it shown an encroachment in the sphere of other rights. Currently the Buddhist positions the concept of free speech at high rank which is clearly depict in form of Kalama Sutta where the representative of the community communicates with his people through questions called as Kalama's and a rather long answer by Buddha. Obviously, the right to freedom of thoughts and expression is clearly restricted in Buddhism when people acting negligently.[5]

According to the Buddhist believers, they believe that the right to free speech must be divided into four parts. The first one deals with refrain from lying. In this part if we tell lies, it will give birth to some evils, mislead our soul and the true spirits of our spiritual values. In the result of that it will obviously harms us, because nobody wants to speak with liar. The second part deals with refrain from divisive speech. This form of speech is referring to a situation where the intention of the person is to create a rift, anarchy or divisions among the masses. It is used to separate one form of person or a group from the other form of person. Generally, these things done when people become jealous or they want to get more attention than other or they want to get pleasure by making fun of other. The third part of speech deals with to refrain from harsh words. These harsh words get birth due to anger or some similar kind of swear words. The aim of this type of speech is to take away a person's dignity. The last part of free speech deals with refrain from gossiping. The term gossiping refers to the communication that adds absolutely no value to anyone's lives. This form of speech get birth due to the three poisons; desire, anger and unawareness. All it does is to stir up everyone's emotions and give birth to the negative feeling among the individuals.

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[5] *Articulating Human Rights in the Context of Buddhist Ethics in Sri Lanka*. (1997, 09 02).

**Development of the Concept Freedom of Expression at Regional and International Level**

The freedom of expression is such a fundamental right of individual as is highly costly and precious. This right is very popular and desired among the democratic loving people. The expressions of ideas must not be limited to any specific field. Its scope must be wide spreading, ever stretching and unlimited, subject to the observance of legal formalities. A right to free speech is in fact the right of man to communicate to others legally and lawfully. He must have freedom to receive ideas and suggestions of others individual without any restrictions. Similarly, man should have the rights to be silent and to refuse to right. The right of correspondence should be given to all by observing legal formalities, checks and restrictions.

Man should have rights to express himself in privacy as well as public. There must be coordination among freedom of speech and freedom of press because they go side by side with each other in all circumstance so the freedom of expression should discriminate where, when and how, a speech is to be delivered? This is in fact a basic, primitive and fundamental right of an individual of a true democratic society. This right should not be considered as an absolute right. The state has the authority to impose restrictions on this right, if it considers necessary for the welfare of public at large. The right to freedom of speech and expression has been evolved gradually, from time to time and from country to country, in the form of declarations, constitutional amendments etc. Almost every country of the world has considered the right to freedom of speech and expression as an integral, part of its constitution. That's why this right gets prominent positions in the constitution of every country.

**Freedom of Expression in Pakistan**

Articles 19 in Constitution of Islamic Republic of Pakistan1973 ensure right to free speech and communication. This includes the man rights to write or speak and right to liberty. This is the corresponding right. Man may be silent; similarly, he has liberty to refuse to write. He has also the right of privacy. Similarly, he has been giving the right to speak freely. In Constitution of Islamic Republic of Pakistan 1973, freedom of press has not been mentioned separately. But the fact is that it has been included into citizen's right to freedom of speech and communication, because the ideas of the citizens are expressed through press, therefore the freedom of both

is considered to be alike. Press is relay in the position of ordinary citizens.

In Pakistan the legislature enjoys the power to impose restrictions on the freedom of speech. These restrictions are imposed when the freedom of speech intended to produce a clear and present danger/ risk of any serious evil. As dishonoring of Islam through Blasphemy is an illegal act in Pakistan. The local politicians and political power can check and stop this step through the application of their authority. Even the military establishment has the power more than anyone else to stop such vicious deeds and actions against Islam.

Absolute and unrestricted individual rights do not exist in any modern State and there is no such thing as absolute and uncontrolled liberty. The collective interests of the society peace and security of the State and the maintenance of public order are of vital importance in any organized society. Fundamental Rights have no real meaning if the State itself is in danger and disorganized. If the State is in danger the liberties of the subjects are themselves in danger. It is for these reasons of State that an equilibrium has to be maintained between the two contending interests at stake: one the individual liberties and the positive rights of the citizen which are declared by the Constitution to be Fundamental and the other the need to impose social control and reasonable limitations on the ejectment of those rights in the interest of the collective good of the society.[6]

In determining the reasonableness of the restrictions, the prevailing condition at the time of the legislation may be taken into account. From this, however, it does not follow that absence of manifestly disturbed condition by itself will be sufficient to strike down the legislation particularly when the exercise of the power granted is made dependent upon the existence or threatened appearance of such a situation. The power is indeed but they are to be exercised only if it were satisfied as to the necessity of using them for securing public safety or the maintenance of public order.

There cannot be any presumption that there will be abuse in the exercise of the powers. A case of mala fide exercise of power is always subject to judicial interference. In determining the vires of the impugned section, we are called upon to see only whether the restrictions put by it on freedom of speech were reasonably necessary in the interest of public order. In answering that question,

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[6] [PLD 1965 (W.P) Lhr. 642]

we cannot assume that the Provincial Government will exercise the discretion given to it by the impugned section arbitrarily without reference to the interest of the purposes mentioned in the section. The contemplated action being of a preventive nature. It must be taken promptly, and therefore the absence of a provision for a prior hearing does not render the restrictions unreasonable.[7]

**Freedom of Expression in United State of America**

The First Constitutional Amendment in the US Constitution was made in 1979. Basically, the First Amendment in said Constitution aimed to secure the right of a man to free speech and free expression. The Constitution of U.S.A makes it clear that congress will not enact any law regarding establishment of religion. It will not deprive people of the right of freedom of speech. The Press also should not be debarred from acting. People will be given a right to assemble at a place peacefully for the redress of their grievances. The 14th amendment also clarified that no human beings will be deprived of his life, liberty and property. This provides the right to freedom of communication as well as the freedom of press to express his thoughts in the state. The local government and community tried to lay restrictions and limits on free speech which was considered to be disaster and unpopular. Effort was made for the right to free speech on the Campus of University of California at Berkeley in 1960;[8] where working classes also consider it necessary to struggle for the right of free speech. This free speech campaign became very successful although worker faced may great risk and perils. In some public places freedom of speech is confined to free speech zone. This can take form of barricades. They are barred from free speech at political gathering or on college or universities campuses. The Constitution of U.S.A defended the freedom of press. Press functions as a watch-dog in State. The Supreme Court of U.S.A stopped government to encroach upon the freedom of press under the guise of punishing libel. The court made it clear that the First Amendment gave guarantee to the public to have an access to social,

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[7] [PLD 1965 Dacca 68 (p. 78, 79)]

[8]Anderson, B.W. (1974). *The Psalms Speak for Us Today.* Philadelphia: Westminster Press.

political, moral and other ideas. Without freedom of speech such right will go non-futile and ineffective.[9]

**Freedom of Expression in India**

Article 19(1) (a) of the Constitution of India 1949 deals with the concept of freedom of expression:

"All citizens shall have the right; to freedom of speech and expression"

From the perusal of text of Article 19(1) (a), it has been clearly shown that the citizens of India have the right to free speech and expression. The intention of the legislature at the time of formation of provisions of the said Article was that, this freedom will only available to the citizens of India. But Supreme Court of India its ruling made it clear that this right does not demands geographical limitations. The text of said Article does not give clearance that whether freedom of press is also included in the right to free speech and expression. This problem has been solved by Supreme Court while giving its judgment in the case "Romesh Thappa vs. State of Madras" Supreme Court of India held that the freedom of press although not mention in Article 19(1) (a), but it is a part of freedom of speech and expression.[10]

The Indian Constitution grants the right of freedom of communication and thoughts to every citizen. On the other hand; it lays certain restrictions on this freedom. Indian Supreme Court has also allowed freedom of expression to press and to every citizen in many important cases. In India the citizens are enjoying freedom to criticize politicians, politics, bureaucracy and police. But speech can be control on the bases of security and morality.[11]

**European Convention on Human Rights**

European Convention on Human Right was a treaty, which was formulated in the year 1950.This Convention deals with the protection of basic rights of human beings. Article 10 of this Convention gives guarantee for the protection of right to free

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[9] Alexander, L. (2005). *Is There a Right of Freedom of Expression?* New York: Cambridge University Press.

[10] R.P.Kataria, D. a. (2000). Law Relating to Protection of Human Rights. New Delhi: Orient Publishing Company.

[11] Singh, M. (2009). *Constitutions,Constitutional Interpration and Human Rights.* Haryana: LexisNexis Butterworths Wadhwa Nagpur.

speech. Moreover Article 10(2) provides the restrictions as may be imposed in this way to the right of free speech.[12]

**Universal Declaration of Human Rights 1948**

The Universal Declaration of Human Right is to be considered as an integral and important document regarding Human Rights. This Declaration was passed and published by UN General Assembly in Paris on 10th December 1948.As for as Right to free speech is concerned, this Declaration made much more emphasis in this regard. While making a gentle look into the text of Article 19 of UDHR, it has been shown that everybody has the right to enjoy the right to express his opinion, freely without any interior and exterior interference. He is free to received and send his information through any possible and available, media/ advertising mode.[13]

**Cairo Declaration on Human Rights**

The Cairo Declaration on Human Rights basically deals with the human basic rights as per the teaching of Islam. This is an effort made by the members of OIC in 1990at Cairo, Egypt. This emphasized on the human fundamental rights with respect to Shariah. It is to be considered that this is an attempt made by the Islamic World in response to Universal Declaration of Human Rights. Article 22 of Cairo Declaration on Human Rights (CDHR): "Everyone shall have the right to express his opinion freely is such manner as would not be contrary to the principle of Shariah".

The freedom of expression is basically the right to communicate one's opinions freely. One should express one's ideas in such a way as they may not be contrary to principle of Shariah.

**Importance of Freedom of Expression**

Freedom of communication and speech plays most significant, fundamental and vital role in the development of a civilized country. A nation cannot survived/flourish without this right to freedom of speech. When the people are giving opportunity to speak according to own wishes and free will, they can participate in more efficient way to the prosperity of the country. The importance of freedom of expression, speech and press cannot be denied. Historically press

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[12] Tonkin, J. (1971). *The Church and The Secular Order in Reformation Thought.* New York and London: Columbia University Press.

[13] UN. (n.d.). Universal Declarartion of Human Rights. Retrieved 01 10, 2017,

has a huge contribution to the mental, psychological and social development of the masses.

## FREEDOM OF EXPRESSION IN PAKISTAN

The right of expression is such a fundamental right of individual as it is highly costly and precious. This right is very popular and desired among the people of democratic loving society. The expression of ideas must not be limited to any specific field. Its scope must be wide spreading, ever stretching and unlimited, subject to the observance of legal formalities. A right to free speech is in fact the right of man to communicate to others legally and lawfully. He must have freedom to receive ideas and suggestions of others individual without any restrictions. Similarly, man should have the right to be silent and right to refuse. The right of correspondence should be given to all by observing legal formalities, checks and restrictions. Man should have rights to express himself in privacy as well as public. There must be coordination among freedom of speech and freedom of press, because these go side by side with each other in all circumstances. The freedom of expression should discriminate where, when and how, a speech is to be delivered?

This right to free speech is highly essential for running the democratic institutions. Even the government is ruined under the guidance of organized public opinions. Government should not impose any pressure and restriction on the public opinions. Therefore, freedom of expression should be treated wisely and do not let out to be abused. This right to free speech pertains to any act, which is wished to be communicated to one or more than one person. This freedom of expression or communication depicts the attitude and disposition of communicator.[14] It is comprised of the display of certain signs, and symbols, demonstrations and musical performance. On the other hand, expression of ideas may also be made through terrorism and assassination, but such type of expressions should not be allowed because it gives birth to negative results and forces. The expression of ideas must be made positively and reasonably.

The basic right enters in the prevailing Constitution not only to defend act, conduct and views but also to protect those views with

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[14] Cohen-Almagor, R. (2001). Speech, Media and Ethics (The Limits of Free Expression). Palgrave Publishers Ltd.: New York.

which one disagree or which may be founded unpleasant and unacceptable.

In addition to that the legislature of Pakistan has the power to impose restrictions on all the constitutional rights as provided in the Constitution including the right to free speech and expression. These restrictions are imposed upon these fundamental rights when the exercise of such rights intended to produce a clear and present danger/ risk of any serious evils. Dishonoring of Islam through Blasphemy is an illegal act in Pakistan. The local politicians and political powers can check and stop these attitudes through the exercise of their authorities. Even the military establishment has the power more than anyone else to stop such vicious deeds and actions which are against Islam.

**Freedom of Expression in the Constitution of Islamic Republic of Pakistan 1973:**

Article 19 of the constitution of Islamic Republic of Pakistan 1973 provides right to free speech and Expression as below:

"Every citizen shall have the right to freedom of speech and expression and there shall be freedom of press, subject to any reasonable restriction imposed by law in the interest of 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 or incitement to an offence".

Article 19 of the Constitution of Islamic Republic of Pakistan 1973 is in line with the corresponding Fundamental Right No.9 of 1962 Constitution, except a new word, "glory of Islam" is added. By virtue of "Fourth Constitutional Amendment Act in 1975",the word "defamation" substituted by the word "Commission of". In a case of "Majid Nizami vs. Muhammad Rashid", It was held that the Article 19 of the Constitution of Islamic Republic of Pakistan of 1973 as it stands now is the result of constitutional amendment which was introduced on 21/11/1975, through Act LXXI of 1975.The word "defamation" as mentioned in Article 19 was substituted by the word "Commission Of". This alteration in Article 19 is of great significance. After alteration the scope of right to freedom of press also becomes wider, therefore now press also can serve its purpose without any fear of restriction. Article 19 of Constitution Islamic

Republic of Pakistan 1973 provides three categories of freedoms such as:

**a.** Freedom of Speech.

**b.** Freedom of Expression.

**c.** Freedom of Press.

These above mentioned freedoms will only be enjoyed by the citizens, when they do not act in contravention or in violation of limitations as provided under Article 19.In a democratic government, the right to free speech/expression and press are considered to be essential requirement of democracy and without them the concept of true democracy cannot be survived.[15] Freedom of speech also includes communicating knowledge and freedom to advance ideas even in an adversarial atmosphere with freedom to disagree, without being captive to any specified field of human interest. A liberal/unorthodox democracy depends upon the will of its people. The right to free speech, expression and press can contribute to the possibility that the masses and their representative embrace the truth because that is important for the political life. In case "Muhammad Nawaz Sharif vs. President of Pakistan and Others", it was held by the Honorable Court that where there is a right of free speech easily available, the people will not reluctant to get information. As this is the primary right secured by the Article 19.[16]

The right to freedom of press does not captive only to newspaper and periodical but includes leaflets, circulars, pamphlets and every kind of publication which affords vehicle of opinion, ideas and information. The right to freedom of speech and expression as guaranteed under Article 19 of the Constitution of Islamic Republic of Pakistan 1973 does not consider being absolute freedom. In fact, this freedom can be enjoyed, subject to observation of certain restrictions as imposed by Constitution. In case "Engineer Jameel Ahmed Malik vs. Pakistan Ordnance Factories Board, Wah Cantt". It was held in this case that democracy cannot survive without freedoms as guaranteed under Article 19 of the Constitution of

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[15] Hamid Khan and Muhammad Waqar Rana , H. H. (2014). Comparative Constitutional Law. In H. K. Rana, *Comparative Constitutional Law*. Lahore: Pakistan Law house.

[16] Shaukat Mahmood, N. S. (2006). The Constitution of the Islamic Republic of Pakistan 1973. In N. S. Shaukat Mahmood, *The Constitution of the Islamic Republic of Pakistan 1973* (pp. pp 208-210). Lahore: Legal Research Centre.

Islamic Republic of Pakistan 1973 and such freedoms do not consider to be absolute freedoms, therefore reasonable restrictions can be imposed upon the same on reasonable grounds, as reasonable classification is always permissible by law.

**Laws which Effect Right to Freedom of Expression in Pakistan:**
In Pakistan there are certain laws which directly or indirectly effect on exercise of right to free communication and speech. These are:

**The Official Secrets Act, 1923:**
The Official Secrets Act 1923, restrict individual's right to express their ideas by way of publications/ leaflets or by another written mode of expression, when these publications hit on official or confidential documents related to Government.

**Foreign Relations Act 1932:**
The Foreign Relations Act 1932Also restrict any individual from publication of defamatory statement, against any ruler of severing states, or principles ministers of such ruler or tend to affect the governing of healthy friendly relations among the government of Pakistan and such state. Contravention of this law is punishable able under section 124-A of the PPC 1860.

**Security of Pakistan Act, 1952:**
Security of Pakistan Act 1952 in its section 11 introduces the writer's right to professional secrecy. By virtue of this section newspaper authorities are legally bound to disclose their sources of information. Moreover section 12 of this Act expands pre-censorships.

**Maintenance of Public Order Ordinance:**
Maintenance of Public Order Ordinance was promulgated in 1960. This ordinance suspended the license of news Agencies, for a specified time period, which were held guilty of disturbing public peace and order.

## Law of Defamation

### Definition of defamation under section 3 of the Defamation Ordinance 2002:

Section 3 of the Defamation Ordinance 2002 elaborate the concept of defamation as; any unjustified deed or act or proclamation or communication of a fallacious report or statement or representation made either verbally or nonverbally which harm the prestige of someone or tends to degrade him in the belief of other people or tends to unfavorable criticism, abhor contempt or hostility

considered as defamation. Defamation has two kinds, namely: Slander &Libel. Any fallacious verbal communication or statement or report that amounts to defamation shall be term as slander. Any fallacious nonverbal, documentary or ocular report or statement made directly through electronic mode of expression or by some other modern devices, that terms as defamation shall be considered as libel respectively.”[17]

Whenever definition is used the following principles are certainly true:

The words which are amounted to be defamatory, such words must be communicated by the person other than the aggrieved person. It will not be amounted as a defamatory to prejudice other simply by calling other person as a thief and a liar if nobody else hears the words or statement.

The statement must be in a form of words which amount to do one or more of the following:

- Lower the aggrieved person in the estimation of prudent man

or

- Expose the aggrieved person to hatred, contempt, or ridicule

or

- Cause the aggrieved person to be shunned or avoided.

Aggrieved person who takes a libel action does not require proving that in actual he has suffered any physical injury or loss in result of such defamatory words or statement. In legal terminology libel is said to be actionable per se that means that damage is presumed to have occurred. Slander on the other hand normally requires proving the actual injury or loss, for example that the aggrieved person has lost his employment etc. Libel is permanent i.e., writing etc., and slander is defamation in a transitory form i.e., speech. Publication: Example of a FAX sent to someone at an office and read by others.

**Legal Exceptions to Freedom of Expression**

The right to free speech and expression do not consider as an absolute right, as mentioned in different constitutions of the different countries of the world. It has been evident from numerous cases that this right shall not be considered as an absolute right. In a case “Giltow vs. New York”, in this case the Supreme Court of U.S.A held that there are several sorts of speeches that are

[17] Chaudhary, M. I.-U.-H. (n.d.). Marvellous Complete Research on Law of Defamation. Lahore: Al-Haq Law Publishers.

repudiated from this freedom and it has been established that government may legislate reasonable restraints upon this freedom, with respect to reasonable time, places and manner. Similarly in a case "Engineer Jameel Ahmad Malik Vs. Pakistan ordnance Factories Board Wah", it was held by the Superior Court of Pakistan, that democracy cannot survive without freedoms as guaranteed under Articles # 19 of Constitutions of Islamic Republic of Pakistan 1973, but such freedoms do not consider to be an absolute one, therefore government has the power to impose sensible restraints on the exercise of these freedoms. In a case "Romesh Thapper Vs. State of Madras", it was held by Supreme Court of India that the freedoms as provided in the Article 19 (1) (a) of Constitution of India 1949, could not be considered as an absolute one, because nothing is supreme than the integrity of india.so therefore state has the power to impose restriction of such freedom. To conclude this we can say, after perusal of different Constitutional Cases of different countries, that this right is not an absolute one. Therefore, concern government has the authority to foist sensible restrictions on the exercise of such freedom.

As for as Pakistan is concerned, Article # 19 of Constitution of Islamic Republic of Pakistan 1973 provided different categories of restrictions on the exercise of right to free speech and expression.

- Glory of Islam.
- Integrity / Security or defense of Pakistan.
- Friendly relation with foreign States.
- Public order
- Contempt of Court.
- Commission or incitement to an offence.
- Decency or Morality

## CONCLUSION

Freedom of expression is most important conditions of an organized freedom loving society. The society does is best to collect information for the common interest of individuals. Freedom of expression and press are the most required things of democracy in a democratic atmosphere and environment. Democracy cannot exist without freedom of these things. The individuals express their knowledge, experience and intellectual approach through their speech, even at the adverse circumstances. They are free to touch the different aspects and fields of human interest in the society. They must be fearless and unpressurized in free exchange and publications of their ideas for the collective welfare of humanity and the improvement of institutional performance.

There should be comprehensive and standardize definition of freedom of expression needs to be redrawn and communicated to the masses which should be irrespective of any pressure so that they might not misinterpret it as a freedom to disregard others' faiths, perceptions, and opinions.

In Pakistan, there are restrictions on the freedom of expression despite having its provision in the Constitution. Multiple factors and actors are contributing to the current state of affairs with respect to freedom of expression. Mainly it is restricted through tactics that include censorship, narrow legislation, and harassment/killing of journalists/ human right activist and others who voice their opinions. Other tactics are crackdown on religious minorities, and suppressing free thought and religious opinion.

Interpretation of the law needs to be neutral and fair. The state bodies, on the one hand, must abide by the laws and on the other they need to be addressed by public condemnation and social responses. Moreover, since the freedom of expression is a basic human right, it should be exercised with its full spirit. However, this freedom should be within certain boundaries.

Freedom of expression should not be exploited for the defamation of any group. Media should dedicate 10% of their air-time/ newspaper coverage for public service messages.

Misunderstandings and gaps between government and NGO sector can only be bridged in a smooth setting of dialogue and consultation between the two. Joint-ventures between the two should be initiated to increase effectiveness and avoid duplication

of work. Both parties should not see the other as mutually exclusive rather work for building an environment conducive for partnership. The government should levy regulations for its security purposes, but the regulations should be designed to help and not hinder

In fact, the real spirit and soul of freedom of expression is to say, mention and published those things which every individual of society wants to have and these remarks should not disturb and eradicate the rights of other individual of society. A free and true liberal democracy comes into existence according to the choice of individual. The purpose of free expression is to enable the representative to understand truth and reality and this capacity is highly appreciated for their political life. There are certain aims and objectives of the freedom of expression. It lends helping hands to an individual forgetting his personal completion and perfection. It provides guidance in the seeking truth. It makes an individual powerful and enhances his capacity in decision making. It also launched an organized system through which a proper balance is established between stability and social change.

Freedom of speech and expression in American Constitution as mentioned in Chapter (III) is the blessing of the First Constitutional Amendment. The American First Constitutional Amendment makes it clear that Congress will not enact any law regarding establishment of religion. It will not deprive people of the right of freedom of speech. The freedom of press will not be barred. People will be given a right to assemble at a place peacefully for the redress of their grievances. The 14$^{th}$ amendment also clarified that no human being will be deprived of his life, liberty and property. It granted the right to free speech as well as the free press in the American society. On the other hand, the local government and community tried to lay restrictions and limitations on the right to free speech which was considered to be disaster and unpopular. Effort was made for the protection of free speech at the Campus of University of California at Berkley in 1960; where working classes also considered it necessary to struggle for the right to free speech. This free speech campaign became very successful although worker faced may great risk & perils.

Freedom of expression includes freedom to speech and freedom to profess religion which is worldwide ensured, interconnected and dependent rights available to every person without nepotism. But

the fact is that recently these rights are caused by narrow-minded and religious violent people. That's why different States across the world made legislation to control hate speech, blasphemy, dispraise of one's religion and incitement, under the shadow of protective religion, which these violent people considered as legitimately guaranteed to them through international law. On the other hand, these legislations have been considered as inappropriate at addressing and responding to the huge number of attacks of sectarian violence by evil minded people, in order to protect the civilized people from these violence and discrimination, when they are trying to enjoy this freedom of expression.

# Police practices in Pakistan: a study in the light of United Nations Convention against torture and other cruel, inhuman or degrading treatment or punishment (UNCAT) 1984

**Syed Ibn-e-Ali Zulqarnain***

**Dr. Shahid Rizwan Baig****

**Abstract:** Police torture is very common issue of our society. Use of this illegal practice is increasing day by day, especially during the investigation when police officers are willing to extract the evidence at any cost, they use each and every tool or method to which they can achieve information from the accused and that information and admissions which accused made before police constitute the offence. Not only the offence but they also disturb them mentally and torture psychologically which made a distasteful impact on the person's life. Investigation plays an important role in proceedings of criminal trial. It is an attempt to highlight the issue of torture by police which is totally prohibited under the fundamental rights of constitution and Geneva Convention. And there is also a specific convention named Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment New-York, 10 December 1984. This article explains that the torture is illegal and evidence which is extracted by making torture is become irrelevant in criminal proceedings. This article is an effort to completely wipeout this practice and to give some suggestions by which torture can be stop completely in Pakistan.

**Keywords:** Torture, Police Practices, Relevancy of Conventions, Fundamental rights, Criminal Justice System.

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## INTRODUCTION

Torture alludes to any demonstration by which extreme agony or enduring, whether physical or mental, is intentionally caused for an individual for purposes, for example, getting data from him or a third individual or admitting to a wrongdoing, punish him for what he or a third individual did. Torture by the police and other policing in Pakistan is so normal and coordinated that it is a typical practice.

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Torture is perceived as an essential piece of policing Pakistan, and culprits of savagery need social and social acknowledgment, absence of autonomous reconnaissance and insightful methods, and broad powers of capture and confinement. Imperfections and incapable reservations, including Pakistan's inability to condemn viciousness. The Government of Pakistan confirmed the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) in 2010, making it legitimately restricting. The National Action Plan for Human Rights, presented in February 2016 by the Federal Ministry of Human Rights, set a six-month cutoff time for the section of the Torture, Custodial Death, and Custodial Rape (Prevention and Punishment) Bill. Regardless of these advances, until this point, Pakistan has neglected to authorize exhaustive homegrown regulation that characterizes and censures savagery by government authorities, recommends disciplines for culprits, and gives powerful change to casualties. Furthermore, there is no autonomous insightful component for exploring charges of viciousness and detailed cases, which makes an exemption for the police, who rarely record criminal grievances against their associates.

## LITERATURE REVIEW

Chaudhry, M. A., Haider, W., Nagi, A. H., Ud-Din, Z., & Parveen, Z. (2008). Pattern of police torture in Punjab, Pakistan. In this author stated that, the police framework in Pakistan is one of the most horrendously terrible in the state. It is appropriately portrayed as ineffectively prepared, inadequately politicized.

Khuram Sohail Raja., Arshad, H., & Manzur, F. (2011). Torture injuries: Pattern of injuries in police torture victims at Faisalabad. In this book author stated that, various sorts of injuries of various lengths were seen on various pieces of the body. Blunt trauma was frequent. There was likewise a mental component of savagery in a portion of the people in question.

Dr. Khurram also discussed in seminar conducted by College of Law, Government College University Faisalabad, that only in Faisalabad 4500 torture cases he examined in 5 years and 500 were the custodial death cases.

Chattha, Z. N., & Ivkovic, S. K. (2003). Police Misconduct. The contours of police integrity, in this journal author stated that, the police are generally responsible for enforcement of law, but in reality, police is used for victimization of opposition.

Abbas, H. (2009). Role of Pakistan Police in Counterinsurgency. In this article author stated that, The Police Order 2002 ought to be completely executed and disputable revisions ought to be made. The law (established in and around 2004) ought to be canceled fully intent on redesigning make the police a powerful, proficient and politically impartial power, the police Safety Commission ought to be enabled to screen the exhibition of the police.

Chaudhry, R. (2013). Policing, Custodial Torture and Human Rights: Designing a Policy Framework for Pakistan. In this author intensely and compactly suggests a complete survey of torment, techniques for cross examination, legal methods, upgrade of the jail framework and changing the DNA of the severe Thana (Police Station). The concentrate accurately alerts that except if policing and custodial torment rehearses are transformed, institutional coordination improves successfully and common society turns out to be more watchful, changing the design of the strategy structure would stay a test.

Gondal, A. R. (2017). Torture an Undefined Word in Pakistan. Pakistan ratified the Convention against Torture yet the public authority of Pakistan has neglected to implement powerful regulations in such manner. It is the ideal opportunity for powerful and suitable regulation against viciousness. A more prosperous nation needs more compelling regulations. The overall regulation with respect to discipline for different wrongdoings in Pakistan is PPC 1860.

Murad, T. (2018). Analysis of Torture cases under police custody in this article author stated that, various kinds of wounds were seen on different parts of the body. Gruff injury was continuous. It is infringement of the Istanbul Protocol against torture.

## DEFINITION OF TORTURE

There is no definition of torture in Pakistani law. The only mention of the word "torture" in Pakistani law is under Article 14 (2) of the Constitution “No person shall be subjected to torture for the purpose of extracting evidence”. This isn't near circling and condemning the "tortu" portrayed in Article 1 of the UNCAT. Besides, the text of Article 14 (2) demonstrates that it forbids demonstrations of savagery executed by government authorities for the sole motivation behind removing proof. There is no notice of viciousness under Pakistan's two fundamental lawbreaker runs the show: the Pakistan

Penal Code 1860 (PPC) and the Code of Criminal Procedure 1898 (CrPC). Correctional Code for specific demonstrations of viciousness under related offenses such as “causing hurt to extort confession or to compel restoration of property”, “wrongful confinement to extort confession or compel restoration of property” or provisions governing “criminal force and assault.” These violations, be that as it may, don't cover all parts of viciousness as characterized under Article 1 of the UNCAT. Besides, the expression "harmed" under area 337-K of the Penal Code is lawfully equivocal and it is unsure whether it incorporates both physical and mental misery. It does exclude agony or uneasiness that emerges just from legitimate limitations, genetic or coincidental. It is common definition of torture but torture by police mean that an accused to be put in fear or cause him severe pain mentally or physically for obtaining the information or extraction of evidence. In the case of Pakistan which belongs to third world country torture by police officers is very common. Many laws were introduced but this practice is still very common especially in rural areas of Pakistan.
The UN Committee against Torture said in an overall analysis that UNCAT expects that the wrongdoing of brutality be named and isolated from the "general attack" so casualties, culprits and the overall population are made mindful of the extraordinary seriousness of the savagery.

**Constitution of Pakistan 1973**

“Under the article 14(2) of the Constitution of Pakistan 1973, a person is not to be threatened, tortured, or any other way regulated in order to elicit any form of information that has implicating way over the arrested or blamed person. In the both cases, the miserable and terrifying part of the story is that the police are continually utilizing these strategies to check the genuine admission of the charged and put the entire crook process under lawful examination. Pakistan's jails and police detainment rehearses have become so scourge those huge quantities of individuals have been killed or genuinely harmed because of police viciousness. There are many elements behind the utilization of these strategies, experienced hoodlums make them train to get through cruel disciplines, so the police will not be able to get data from them without the utilization of such methods. With regards to how the police ought to manage hoodlums, most cops accept that they will fall flat in the event that they don't rebuff the sentenced crooks harshly. Furthermore, the

policing of the subcontinent relies upon the Anglo-Saxon central worldview, in which the accentuation of the law is on proof in opposition to current realities. Criminal convictions ought to be treated as "admissions."

**Ayubi ATM Robbing Case**

While robbing an ATM machine in Faisalabad, Pakistan a person named Salah Uddin Ayubi reluctantly stuck his tongue out of the observation camera. His activities drew a ton of media consideration and he was captured on August 30, 2019. Also, the following day, Ayubi passed on. His family says he was killed in authority. A spilled video shows up, Ayubi asks his investigation officer: "Who taught you these strategies for torment?" It is an inquiry that the specialists likewise need to find out if they have any desire to end the savagery.

**Probate worth of proof separated through torture**

That being said, there is an unmistakable contrast between the acceptability of proof and its weight. There is a presumption that, a person will not make a false statement against his own interest. But the evidential value of statements made before police is very low. These admissions may not always be true. It should check in the context of the whole of the evidence on the record in order to see if they carry conviction or not." And it ought to likewise be made sure that the explanation of the charged and the blamed isn't the outcome for police savagery.

**Accused in Police custody and safety measures**

"The Qanun e Shahadat ordinance 1984 has a few prudent steps with regards to scrutinizing an individual by the police. While scrutinizing a blamed, cross examination ought not to be scary or undermining. The police don't utilize an exhaustive round of questioning strategy to confirm affirmation. Except for this piece of the statement which prompts the revelation of the material in question, the blamed's clarification for the 'cop' isn't allowable inside the proof.

An admonition about the fittingness of an assertion given to a 'cop' has been proposed as a method for safeguarding the charged against the police utilizing disappointing rate strategies. The law of proof is direct to the point that an admission made before a cop isn't allowed, however it very well may be utilized as proof of a cop's admission.

Therefore, on the off chance that the guns utilized in numerous cases are recuperated by the police because of the admission of a charged party, the seizure is a significant piece of the proof. Consequently, it would be right to reason that the arrangements of the Qanun e Shahadat Ordinance 1984, obviously, censure the police and sabotage public trust in them.

**Code of Conduct for police**

Article 156 (d) of the Police Order 2002 accommodates fines against any cop who "torments or misuses" an individual in his authority. Notwithstanding, the law just rebuffs the activities of cops and doesn't reach out to other government authorities and doesn't characterize savagery. It neglects to order savagery as a wrongdoing and is more not kidding than simple brutality by cops and, therefore, neglects to meet Pakistan's commitments under UNCAT.[18]

"As well as deciding the lead and obligations of the police and the overall obligations of the police, Article 114 of the Police Order, 2002 states that the common cop will propose a governing set of principles for cops. The Code of Conduct is set out in the Police Rules, 2002. Provision (v) of Rule 6.46 of similar states is as per the following:

No cop might actuate, endure or endure any demonstration of savagery or other awful, brutal, or debasing treatment or discipline. Political flimsiness or some other individuals' solicitation. Crisis as an avocation for viciousness or other savage, barbaric, or corrupting treatment or discipline. According to Rule 34.8, each Regional Police Officer will assess every one of the areas under his charge 206 to survey the presentation of District Police Offices and send his report to the Provincial Police Officer. Rule 34.9 requires the Regional Police Officers to review, in addition to other things, any matter connecting with death or brutality in police guardianship. Infringement of morals can be managed. At least one punishment might be forced as per the guidelines of shortcoming and discipline contained in Chapter VIII and in Chapter VIII of these standards."

"The Police Order, 2002, under article 156 provides penalty or accommodates the discipline of a blamed by a cop for attack, which states as follows: Or savagery. For each such offense, upon

[18] UN Committee Against Torture, General Comment No. 2: Implementation of Article 2 by State Parties, 24 Jan 2008, Accessed at: http://www.refworld.org/docid/47ac78ce2.html

conviction, detainment will be forced for any period, which might stretch out as long as five years with fine. Along these lines, the police ought to abstain from involving such procedures and strategies as it isn't proper and legitimate in current times and the police is turning into an awful picture in the general public. The police ought to submit to the guidelines and guidelines and shouldn't go past the cutoff points set by the law enforcement arrangement of Pakistan."

**Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment New York, 10 December 1984.**

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Torture Convention") was embraced by the United Nations General Assembly on 10 December 1984. It came into force on June 26, 1987, after endorsement of the Convention by 20 states. The Torture Convention was the after effect long periods of work, which started soon after the announcement to shield all people from being exposed to torment and other horrible, brutal or corrupting treatment or discipline ("Torture Declaration"). General Assembly on December 9, 1975. The Committee against Torture holds two yearly gatherings. At each gathering, the board of trustees' audits reports from parties in a few states. Each report is verbally analyzed within the sight of at least one agents of the state concerned. Each express whose report is to be evaluated in a gathering, the board is educated ahead of time about the significant inquiries that the council needs to examine. In the wake of looking at each report, the council embraces its discoveries and suggestions. The Committee may likewise offer general remarks on unambiguous arrangements of the Convention or on issues connecting with their execution. The Committee against Torture has likewise framed a functioning gathering to look at individual correspondences got under Article 22 of the Torture Convention. The functioning gathering audits the agreeableness and benefits of the correspondence and makes suggestions to the panel.

**In July 2017, following Pakistan's review of the ICCPR, the Human Rights Committee in its Concluding Observations directed the Government to:**

a) To guarantee that all components of the wrongdoing of savagery are denied as per Article 7 of the Covenant, to change its

regulations and to force limitations on demonstrations of viciousness that are as per the seriousness of the wrongdoing;

b) Ensuring immediate, complete and powerful examination of all charges of brutality and abuse, arraigning and, in the event that tracked down blameworthy, rebuffing the culprits, rebuffing them as per the seriousness of the wrongdoing, and giving successful treatment to the people in question. Counting reclamation;

c) Ensure that constrained admissions in official actions won't ever be acknowledged.

d) Take all essential strides to forestall savagery, including fortifying the preparation of judges, examiners, police and armed force and security powers.[19]

**Torture and Custodial Death (Prevention and Punishment) Bill 2020 on 10th February 2020,**

The Torture and Custodial Death (Prevention and Punishment) Bill 2020 was presented in the Senate of Pakistan by Senator Sherry Rehman. The bill was passed by the Senate Functional Committee on Human Rights in July 2020. After over seven months, the report of the Senate Committee was at last postponed in the Senate on February 1, 2021. Whenever passed by parliament, the bill would, interestingly, condemn brutality by policing. Nonetheless, a year after it was presented, the bill still needs to be postponed, before it very well may be presented in the National Assembly.

## CONCLUSION

On a final note, The Government of Pakistan looks to satisfy its commitments under worldwide regulation under the United Nations Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). Characterizes and condemns brutality by authorities, endorses disciplines for culprits, and gives successful change to casualties. “It is appropriate to state that the importance of statements cannot be ignored for the purposes of a criminal trial. Admission under the Criminal Procedure Code of 1898 has a number of characteristics. Evidentiary statements are

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[19] 7 ICCPR Concluding Observations 2017. http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhssymRLSm3gUSDlntv8Slm%2f%2bjSkxSlLEnCLYiaWS2Zt2ITQfT1Ihv40HhjfTMf8Nky906kLKaSHaIcX%2byl7%2ftFUPrUqGm8FbOBvJ6oGjzqpQw

having a wide background history but there is currently no valid and authentic process for evaluating the 'veracity of evidence.' As a result, a confession may have a huge effect on jurists and judges. Even if no other evidence linking a suspect to a crime was presented, the mere presence of a confession enhanced the chances of being convicted rather than acquitted." "It has a significant incentive in the Criminal Justice System, and in this way, the sacredness of the validity of confessionary explanations can't be maintained, there should be introduction of new mechanisms and components for recalling Extraction of evidence should be modified in the standard arrangements of current procedural laws and the entire evidential law in the Pakistan. So, then the police excessive energy and tension is reflected in their curse of extreme measures and reverting to the use of third-degree violence for the purposes of withdrawing and drawing out the admission of the accused people in authority or those who have gone up against police remand." So, police should work in their limitation sets by justice system of Pakistan. "The admissibility of the statement of accused persons, always highlight the concerns of relevancy and accuracy in evidence, which is recorded during investigation, there is a big need of law to be amended with strict terms and conditions. The environment of interrogation and investigation be upgraded with modern devices and equipment for extraction of evidence and checking the veracity of statements under Article 164 of Qanun-e-Shahadat Order, 1984. There should be use of polygraph machine in making of confessions, which can detect an accused person is telling true or lying. I also suggest a psychologist to be hired during the making of statement of any accused who can assess his personality and make a report for submission in the court. I suggested a medical checkup of accused before making statement to check his mental and physical condition." I also suggest the penalties already in case of torture by police should be increase because, it is severe act, so there should be severe punishment to stop this illegal practice.

# Wisdom behind prohibition of Riba: doctrinal approach

**Munir Abbas khan***

**Dr. Shahid Rizwan Baig****

**Abstract:** One of the central themes of Islam is nourishment of Mankind. For this purpose, a new system known as economic system of Islam was developed and prohibition of Riba is the base to construct this new Islamic economic system. To eliminate Riba from its roots, instead of explaining order of its prohibition, focus should be on Divine wisdom of its prohibition. To support this argument, different verses of Holy Quran regarding concept of Riba and their comparative interpretations by different religious scholars have been explained in the article. The main aim of this article is to critically examine the wisdom behind prohibition of Riba and how it demonstrates the real picture of economic system of Islam. Doctrinal approach has been used in order to explain the concept of Riba through methodology used by different Muslim jurists.

**Keywords:** Riba, Holy Quran, Prohibition of Riba Interest-free banking system

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## INTRODUCTION

Before the advent of Islam, Riba was considered as increased money in consideration for holding the loan for some more time. Economic justice is one of main consideration of last declaration of Holy Prophet (P.BU.H). The Prophet (P.BU.H) said: "Allah has forbidden you to take usury (interest); therefore, all interest obligations shall be waived. Your capital is yours to keep. You will neither inflict nor suffer any inequity. Allah has judged that there shall be no interest". Favorite of Allah is one who earns through hard work. System of Quran is that Allah wants to make everyone to be capable to work for development of this universe. Earn from Static wealth is not allowed and interest captures wealth in few hands.

Collapse of economy which is called Great Depression opened the door of capitalistic society. People think that economy cannot

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survive with prohibition of interest. In every economic system, interest in form of profit or in any other form exists. All traditional and Islamic banks are working on the interest system. But Muslim jurists believe that riba is prohibited in all its forms. Prohibition of riba is beneficial for the individual as well as for collective level. In fact, riba is the root cause of hindrance in development of economy of any country. Importance of prohibition of riba lies in the fact that not only Islam but other religions also prohibit interest.

Economic problem remained throughout human history. Now a days, world is dividing into two blocks and the base of this division is also difference of economic system. It is the clash between capitalist and communist system. It is the claim of religion Islam that it provides solution of every basic problem. In view of this claim, every Muslim tries to find out the solution of this important issue of economic problem. By pondering over individual life, collective life of a family and whole system of a country, it is depicted that weight age is given on the problem of economy.

System of Quran is based upon the concept of delivery of resources of nourishment to human being. Importance of prohibition of riba lies in the fact that in whole Quran, for no offence or sin, war hasbeen declared but only for system of Riba, war has been declared. If this is only violation of a la or it is a sin, then there will be punishment for its violation but in fact it is not merely violation of law, it is rebellion. System of nourishment and system of reservation are two different ideologies and riba is rebellion against a system of nourishment. It is not just business which is working on interest, but in fact it is an economic system. Muslims are enjoined to wage war against those who do not give up usury (Askari Hasan, 1979). From this perspective, it is clear that how much Quran given importance to economic system.

In both societies whether Eastern or Western, interest rate is used in all financial organizations. Even in Islamic countries some banks used terms for itself as Islamic Banking or interest free banking but these institutions are working on interest rate indirectly.[20]

One of the purposes of establishment of Islamic banking is prohibition of Riba which remained controversial among different religious scholars.

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[20] 672 article text-100098-33-32

**Research Question:**

**1.** What is the wisdom behind prohibition of Riba according to Quran?

**2.** Is understanding the wisdom behind prohibition of Riba is sufficient to abolish Riba from society?

**Research Objectives:**

The main aim of this study is:

**1.** To highlight the philosophy behind prohibition of Riba

**2.** To encourage state of Pakistan to adopt Islamic economic system

**Literature Review:**

The research question which the researcher is raising has not been answered properly; it has been answered in some ways that does not satisfy the researcher, therefore the researcher needs to undertake research in another way.

Riba is Arabic word which means to expand or to increase.[21] Different religious scholars assigned different meanings to Riba. According to socialism, wage is the only legitimate reward of a factor input. According to Mushtaq Ahmed, confusion regarding legitimacy of interest of Islamic banking and different types of riba lies in the fact of not understanding the meaning and scope of riba. Meaning and wisdom behind prohibition of riba are interconnected and interdependent. As any legal system is consisted on three parts; order, rules for extraction of order and rationale (wisdom). Scholar Mushtaq Ahmed explained only two aspects Ahkam and Usul al-Fiqh but he missed the most important part which is wisdom behind prohibition of Riba.[22]

This researcher highlighted the third most important aspect of legal system which is the wisdom behind this prohibition. Rationale behind the prohibition of riba is not beyond the wisdom of a common man. Interest is a source of social injustice and a medium

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[21] Al-Raghib Al-Isfahani, Al-Husain, Al-Mufradat Fi Gharaib Al-Qur'an, Cairo, 1961, pp.186-187. The same meaning is also unanimously indicated in all classical Arabic Dictionaries and in the commentaries of al-Qur'an as well

[22] Nyazee, The Concept of Rib_ and Islamic Banking (Islamabad: Institute of Advanced Legal
Studies, 1995),

of economic exploitation.[23] Riba blocks the circulation of wealth and manifested the selfish attitude of money owners. Muhammad Qayyum argued that rationale behind prohibition of riba is that it is a sign of moral bankruptcy.[24]

The wisdom behind the prohibition is that it promoted the concept of earning money without hardworking (Abdul Quddus Sohaib 2021). Production and distribution of wealth are therefore interdependent. This means that the problem of Riba is at the same time the problem of the overall economic political system (Zia-ul Haque 1985).

The argument that compounds interest only and not simple interest is prohibited has been raised by different scholars. Quranic verse 3/130 which is quoted to answer this question as: word Muza-afah in this verse means only doubled or multiplied interest is prohibited and not simple interest. Different interpretations of this Ayat which have been quoted as a reference in FSC judgment are also under consideration of this research. "O You who have believed, do not consume usury, doubled and multiplied, but fear Allah that you may be successful (Saheeh International, Abdullah Yusuf Ali)".

The researcher is not satisfied with concluding remarks of FSC because the question which was raised by opposite party regarding legitimacy of simple interest and only prohibition of doubled and multiplied interest has not been answered in a way in which opposite party presented his argument. In order to deal issue of Riba, language which has been used by Justices of Federal Shariat Court in their Judgment is very much confident. Words like after pondering over work of every era and every background, it is concluded that Riba is absolutely prohibited in every form and quantity.[25]

This verse simply says that Riba does not increase with Allah (Scholar Ejoici, 2019). Allamah Ghulam Ahmed Pervez interpreted this verse as "O Jamaat-ul-Momineen! Do not accept an economic system based on riba. You think it increases the wealth manifold, whereas it is decreased. You should always remain conscious of Allah's Laws and follow them as this is the way to prosperity and

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[23] https://www.askedon.com/wisdom-behind-prohibition-of-interest-riba-in-islam/

[24] https://www.askedon.com/wisdom-behind-prohibition-of-interest-riba-in-islam/

[25] S-P 30-L 1991 Riba Case 4-02-22

success." Ibn Faris says word Muza-afah has two different meanings. One is of weakness, while the second meaning is of doubling something up. Raghib says that Muza-afah actually is from Zaeef not from Ziif. Therefore, this verse is referring to interest (riba) which you think increases the money but in fact decreases it. Interest decreases a society's wealth and the man who gives money on interest loses his capabilities. With Riba national wealth decreases and weakness upon weakness is created. This is the concept which is the baseline upon which foundation of economic system is build up. The question arises which is also main point of this research that whether return is of labor or of capital. According to verse 53/39, "compensation should be only for labor". Capital is not a thing from which return or compensation can be demanded. Any matter of money dealing from which compensation is demanded but which is without hard work will be considered the shape of Riba.

**Prohibition of Riba in Quran**

"And whatever you lay out with the people in order to obtain an increased return, this increases you nothing with Allah, but whatever you give in alms, seeking Allah's pleasure, it is those who receive multiplied recompense", (Verse al-Rum 39).

Interpretation of this verse is conducted by Dr. Shabbir Ahmed as "And the wealth you give in usury in order that it may increase on other people's money has no increase with God. But when you give in charity, seeking God's approval, these are the ones who will have their return multiplied". "And whatever you give for interest to increase within the wealth of people will not increase with Allah. But what you give in Zakat, desiring the countenance of Allah- those are the multipliers" (Sahih International). Such types of identical interpretations have been conducted by Abdul Yusuf Ali and Dr. Tahir-ul-Qadri. Scholar Ghulam Ahmed Pervez interpreted as: When you give to others believing that in return you will get something from their wealth, in addition to what you had actually given (estimating this increase according to your own calculations), remember that according to the Divine Law this will bring no increase in your wealth. (What you get extra in this way appears so because you calculate wealth on an individual level. However, if you calculate it at the level of humanity, you will see that it has brought no addition.) As a matter of fact, the wealth of people increases only when they give with the intention that this will help their own

development and bring them in harmony with the Divine Laws. This interpretation is the clear indication of wisdom behind prohibition of riba.

**Declaration of War against system of Riba**

Different interpretations have been made regarding the meaning of riba. Prohibition of riba is not a concept but in fact it is the name of system. Importance of prohibition of riba lies in the fact that in whole Quran, for no offence or sin, war has been declared but only for system of Riba, war has been declared. If sin of riba is only violation of a law or it is a sin, then there will be punishment for its violation but in fact it is not merely violation of law, it is rebellion.

Holy Quran instead of imposing final strict restrictions on different sins and offences provides gradual scheme for their abolition. Some scholars believe that use of gradual scheme to eliminate something means that thing is captured from its very roots which need to be cut-off.[26] But this researcher believes that riba is a complete system in itself. Islam came there to establish an opposite system which is called return on labor not on capital which is known as Islamic economics. There is a need of full fledge mechanism to establish system in opposite to already existing system. Therefore, Allah has revealed verses related to Riba in gradual form.

**Economic System of Islam**

The personality of human being is remained under the law of Allah. Two types of features or characteristics are inherently inbuilt in every person. One is flourishment of mankind and other is accumulative effect. The restrictions which are imposed by Divine authority on human beings are also imposed for two types of purposes which impact upon these inbuilt characteristics. One is to enhance the orbit of human personality which is called flourishment of mankind and 2nd one is give others not in terms of help but as their right. Economy is a source for flourishment of mankind.

The argument that verses regarding prohibition of riba was revealed in last days of Holy Prophet (P.B.U.H) that's why it remained unclear and this argument is also highlighted in decision of Federal Shariat Court But the reality is that every last topic or last verse is actually the concluding portion. Concluding portion or last message is actually the stamp or conclusive upon all earlier material. In this

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[26] *Concept of Rib*. n.d.

way, no ambiguity arises regarding which type or how much amount of riba is provided in Quran or not. Because this researcher after reading the verses in which Allah said that "O people ponder over surrounding nature, there are signs for you" has drawn an inference. On the basis of this aspect of Quran, researcher is trying to understand the actual Islamic economic system. Researcher took the example of life cycle of honey bee.

Different scholars conducted the research on the life of honey bee. They argued that the travelling time of one honey bee from flower towards nest is equal to the time if honey bee travelled two times around the land of this whole universe. The importance of highlighting this travelling time lies in the fact that during this travel, no single honey bee takes or conceals the material for eating himself. Honey bee deposits all collected material to the Queen of all honey bees which is the head of this system. After depositing materials by all hardworking honey bees, they sit outside the nest as security of those new born honey bees who are sitting inside the nest. After this, Queen of honey bees gives material as a food to all honey bees with respect to their capacities or needs. No single honey bee who actually works hard in this matter of earning asks from Queen about to return all that what he worked. Hard working honey bee is satisfied upon receiving the material for surviving itself according to its need. This is called the belief or Eiman upon Divine law. Work is done by some honey bees but all take benefit from it not as a help but as a right. This is called accumulative effect. The most important point which is explored by this research is that Queen or head of the system (state) itself take responsibility of delivery of distribution of wealth.

Moreover, in the idea of Communism, also there is no concept of personal ownership (of land or something else). The question arises then in this sense, communism and Islam will be considered as same. This confusion lies in the fact that as it is the aspect of belief or Eiman that a person who works hard will merely receive according to his needs and remaining portion of his earning will be reserved into the treasury of state (as system of honey bees). This belief differentiates Islam from other religion. This concept or belief or system will cut the roots of Riba.

**Research Methodology**

This research relies on a qualitative approach to explain research data. Library based research will be used in gathering the data from

primary and secondary sources. Primary sources consist of different verses of Quran. Different Hadith are also used as a source to understand the research topic. Secondary sources include books, Islamic articles of different scholars and law journals related to prohibition of riba. This research will critically evaluate the wisdom behind prohibition of riba in Islam. Digital material such as YouTube lectures of different scholars used as secondary sources.

**Findings**

**1.** No doubt the man who gets anything is the reward of what he is struggled for, but it should also be kept in mind that the capabilities through which he acquires something are gifted by God in free of cost. In this sense, it should be clear that what any one earns is called partnership. It has accumulative effect.

**2.** It is the fundamental obligation of Islamic state to first take responsibility of all living persons to itself. The state who does not take responsibility cannot be called an Islamic state. The state which claims to be an Islamic state must take itself this issue. According to Quranic system, concept of personal ownership of land is not available and is not allowed and also concept of ownership of state is also not present. But state just manages the system of flourishment. Land is the fundamental source of livelihood. For land Quran clearly said in verse 55/10 that ownership of land is only of Allah.

**Recommendation**

**1.** First of all, raise this ideology that establishment of economic system is actually the purpose of Islam and Islamic state is the source for fulfillment of this purpose. It should be incorporated into the constitution of Pakistan that fulfillment of basic needs of all living persons of the state is the responsibility of state itself. Through, incorporation of this provision, goal of Islamic state will be determined. The reason is that distribution of wealth should be in control of one center which is called the state.

**2.** Principles of policy which is riba should be eliminated as soon as possible should be replaced with Islamic system will be established as soon as possible. In this way, question of Riba will not arise. In fact, riba is not the name of sood; it is the translator of that economic system which is opposite to Quranic economic system. In pure Islamic system, every person reserves less for him

and spends more to others. While in un-Islamic system, everyone tries that other will work hard and he will reserve more. These are two opposite systems.

**CONCLUSION**

From above discussion, it is concluded that, basis upon which Islamic economic system is based upon a single belief that facilities of life, sources of flourishment all are acquired from those resources which are not the personal property of a human being. These are not created by any human being nor purchased but in fact given by God. No doubt a man who gets anything is the reward of what he is struggled for, but it should also be kept in mind that the capabilities or sources through which he acquires something are gifted by God in free of cost. In this sense, it should be clear that what any one earns is called partnership and it has accumulative effect. Return is only of hard working not of capital.

# Article 25A: A Constitutional study of free access issues and right to education in Pakistan

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**Dr. Shahid Rizwan Baig****

**Abstract:** Education is massive important for every nation. For the development of humans, education is the most important factor. It is also known as the basic right of every national in their country. Every nation's bright future is depending upon the quality education. In this regards education is very much significant for our country for its better present and for its bright future but still in the modern time period when there is great need of it in our country we are still lacking in this sector. This research work investigates the hurdles and challenges regarding the free and quality education are concerned. Free education is the most important primary right of every individual in this regard after the 18th amendment in constitution of Pakistan, providing free education and it is free to all citizens from the age of five to sixteen regarding article 25th A is concerned. It must be according to best of quality and free for all the nationals of Pakistan according to the amendment. In this piece of writing going to analyze that how much effective edict is secondly what are challenges which is currently faced by the government and other institution for its implementation. To analyze this piece of writing I will follow the qualitative method because it fulfills all the dimension of my research work.

**Keywords:** Education, Hurdles, Implementation, 25th A, Qualitative.

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## INTRODUCTION

Education right is highly important in all over the world, in number of international conferences it is recognized that right to education must be provided in all of the countries. The latest conference regarding education is held in UK and near about 164 members were present including Pakistan, it is also known as Covenant, a written promised in which all the members signed that they must work for the right of education.

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Pakistan is under developing nation and it has many issues and hurdles since its creation in 1947. The condition of our country is not as better as we needed but still the government and other organizations are working to meet the criteria according to the international standards. In contrary to this there are many issues which leads it's towards the horrendous situation.

Education right is a fundamental as well as constitutional right in Pakistan. For development of Pakistan literacy is very much important, because it is considered as human right in all over the world it is also known as a tool of self-empowerment which help individual to life of human and moreover it provides the real meaning of life.

Pakistan is an Islamic country, and in Islam there is massive value of education, "It is the duty of every Muslim (male and female) to acquire knowledge"[27]. In Islam it is clear instruction that every Muslim male and female everyone should obtain the education. Education is way through individual can be able to recognize the true path. In this regard there are many other references in Islam which put stressed to acquire knowledge.

Right to education is primary right of every individual because through knowledge and acquisition of knowledge individual know about what is good and what is bad. It plays very vital role in the elimination of evils in the human personality and its mind. For every nation it is compulsory to educate their young once, moreover it is a continuous process and it should be in progress till the last moment of life.

In Pakistan from its independence there are enormous issues regarding education is concerned as compared to other under developing nations they are much better than us. In our country many hurdles and issues are there and through which the nation's future are on the atrocious mode. In the countryside area people are not aware of the importance of the education. So, they are not interested and send their children to schools.

In this regards many times due to illiteracy the parents are not interested or secondly the economical factor effects a lot they send their children in fields and other departments to earn the livelihood regarding running the circle of life. In this regard there are also international conferences which deals with this issue and they have

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[27] *Sunan-ibn-Majah, Vol-1, Hadith-224*

raised voice to eliminate these all factors from parent's mind and provide them awareness on grounds of importance of education.
According to international law article 26 it is universally accepted right for the entire nation that education must be free and quality must be good is basic right of every individual, in this regard there are also parameters which has been defined internationally that there will be no discrimination on the grounds of gender as well and education must be responsibility of state to provide primary education to all.
In Pakistan gender issue is the most horrific issue, in this regard females are not allowed to get education and they becomes victim of strange cultural and traditional of orthodox values. In this regard they are unable to get education and becomes the victim of traditional tyranny. Furthermore, in other issues infrastructure and much more important factors are present.
After the 18th amendment right to education got its legal status in Pakistan and in this regard many of work has been done by the authorities and there are also huge loophole and dodges in which this right has not been exercised practically or fully functional. According to constitution of Pakistan right to education is basic and fundamental right of every individual according to article 25 A.

**Statement of the Problem**

Pakistan since its independence faced massive problems in every field due to its post colonization affect. In this regards quality and free education is very much important for our country, every country future is highly depending upon its own resources these can only be developed in positive sense with quality education system. As we know that we are under developing country and suffering from many of the horrendous issues regarding financial and economic stability is concerned since the day of our independence. The condition of education sector is also massive atrocious. And right of education is basic right of every individual in this regards article 25 A was introduced in the constitution of Pakistan, and the authorities have made constitutional efforts to show the importance of free and compulsory education for the citizens. This present writing has designed to explore the implementations of this Provision of the constitution furthermore it also explores what are the hurdles and issues regarding providing and implementing this regulation in our country.

**Objective of the Research**

The main objective of this work is to know about the article 25a and its implementations. Government and the concerning authorities have introduced this article in our country constitution and there is huge issue regarding the implementation in the proper way. Furthermore, it also explores the causes which are hurdles in this regard to provide free education. The main objective revolves around what are real causes of poor system regarding free and quality education in our Pakistan because now it's our constitutional as well our fundamental and primary right to get free and quality education.

**Research Questions**

- What are the problems and issues in implementing the free education?
- What is the current condition of our country in providing right to education according to article 25 A?
- What measures had been taken by the authorities to provide this fundamental right after it becomes a part of constitution.

**Methodology**

This research work explores about the article 25th A regarding their issues and implementations and it followed the qualitative method. In this work data is collected through different methods such as observations, ethnographic technique, and the articles related to education sector which provides the updated statistics about its implementations. More over some of case laws also part of it. So, in this regard to analyze this piece of writing going to follow the discussion method because through it I am able to explore this issue thoroughly and it also complete the requirements of our work.

**Literature Review**

In this research work the writer explore the pre and post effect of the 18th amendment regarding the education sector is concern, in this work writer investigate regarding what are the conditions before and after the amendment for free and compulsory education in this regards he also highlights different statistical data which shows that still our country is massive behind in this sector and we have massive low literacy rate as compared to the other countries even which got independence later then our country. Moreover, he also discussed the different education policies which is part of our

legislation and at the end he concluded that article 25th A is need of time but still we are deficient to give our hundred percent to improve this sector[28].

Regarding this work the writer explores the comparative analysis of constitution of Pakistan and India regarding the right to education in this regards she explores the similarities and differences regarding the free education policies of both countries. Moreover, she also highlights that our constitutional amendment related to right to education is need of time and it must be part of time from the day first of the constitution, in the neighbor country right to education was introduced in 86th amendment in 2002 and now they have also upgraded to higher level also. She concluded that education is massive important for all and is primary right for every individual and more work is required to make it more perfect[29].

This research work was conducted by the assistant manager Idara-e-Taleem-o-Aagahi (ITA).

In this research work the author highlights the policies of education in Pakistan, moreover he shows through statistical data that still our condition is massive poor regarding the education policies are concerned. Authorities and other concerned departments are not taking this issue seriously. As he discussed in his paper report that after the amendment many of the years has been passed and no proper practical work has been done regarding the free and quality education. He concluded with the statistics that 23 million students are working in different fields in our country. Education is their fundamental right and government must provide assistance to them so they may able to perform their part for the development of their country with the help of proper education[30].

This report was carried out by the "Pakistan institute of legislative development and transparency" in this report enforcement of article 25A and their background was discussed and also this report shows many positive signs which help in the development of education system in Pakistan. Furthermore, this report highlights the

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[28]Jamal, Haroon (2021) Educational Status of Pakistan: Pre and Post 18th Amendment Scenario, https://mpra.ub.uni-muenchen.de/106274/ MPRA Paper No. 106274, posted 25 Feb 2021 0

[29]Jamil, Sara (2014) Impact of Justifiability of the Right to Education on its Enforcement in India and Pakistan. Lums volume 1

[30] Sadaf, Taimur (2016) 7 years down the road, where do we stand? http://aserpakistan.org/index.php

framework of this article 25A and their importance because as we know that education has significance and only through it, we can be able to compete with this modern world[31].

This case study was conducted in the capital of Pakistan; in this research work author has discussed the issue of student's low admissions in the schools. In this regard he explores different statistical data. Moreover, he also highlights the issue of financial crisis in the school as well as he wrote about the poor management system in the city. He concluded his report with the question that who is responsible for the implementation of this free education. Authorities must take their responsibility in serious manner, and this way our country will progress more and more[32].

In this research paper author has given their suggestions regarding free education in Pakistan and also explore what is the current situation in Pakistan regarding this sector is concern. Pakistan is a country which is still present in its developing phase, it faced many challenges and issues and now education is very much needed for the better and prospect Pakistan. Moreover, the main agenda of this research work is to highlights the primitive time teaching method which creates many issues for the students and with this issue student's move to private sector for better and upgraded substance[33].

Through this case law the Supreme Court of Pakistan has issued the ordered to all provinces that what has been done for the implementation of the article 25A, in this petition the petitioner has filed the petition against the ghost school and also against the police who occupied the land of school illegally. In this regards Supreme Court has ordered to submit the report from all provinces that how much we are successful in implementing the constitutional article 25 A. Moreover, in this judgment it was also written it must be duty of the authorities to provide free education under this rule of constitution, furthermore the infrastructure is also responsibility of the government and the authorities[34].

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[31] Right to free and compulsory education in Pakistan: enforcement of Article25A of the constitution of Pakistan. www.Pildat.org.

[32] Financial Implications of Article 25-A: Case Study of Islamabad Capital Territory (ICT).

[33] Khan, Shahinshah Babar. (2013). Challenges to Promotion of the Fundamental Right to Education in Pakistan. Journal of Educational and Social Research. 3. 10.5901/ajis. 2013. V2n2p327.

[34] MISERABLE CONDITION OF THE SCHOOLS (2013) 2013 S C M R 764

In this petition Supreme court of Pakistan has ordered that education is for all without any kind of discrimination, in this petition the petitioner has claiming for the right of transgender education and supreme court has clearly ordered in this regards that it is duty of the authorities to ensure the admission of transgender without any discrimination and they have equal rights to get education free in Pakistan under the said provision of right to education[35].

In this case law Baluchistan High court has given direction to the government of Baluchistan and other concerned departments which are related to the education sector. In this judgment the ordered was passed and clear directions were given to the authorities regarding to take action against the ghost school and the teachers. Moreover, this charged was given to the revenue officers and Edo's to collect all data about it and take necessary action to implement the provision of article 25A[36]

In this case law High court Lahore gives their judgment in favor of student on the ground of article 25 A as fundamental right of student. He was not appeared in the practical of F.Sc. exam practical and also submitted their medical in the board but board is not approving that medical certificate and considered the candidate failed in the said exam. In this regards court had issue the ordered that in this regard retake is allowed and board can retake the exam of the candidate. Moreover, it was announced by the court that for right to education is fundamental right for every individual it must not be delay and authorities must provide comfortableness regarding these kinds of issues[37].

In this article writer is exploring the condition of whole Pakistan regarding the education sector is present and he has highlighted that free education is needed of time in our country but still after the 18th amendment issues are same as it was present in the past decades. Moreover, he highlighted the Baluchistan and Sindh and wrote regarding the condition of education sector. Free education and other infrastructure are basic need of this sector but the condition is

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[35] Dr. Muhammad Aslam Khaki vs. S.S.P (Operations) Rawalpindi (2013) P L D 2013 Supreme Court 188

[36] Maher Gul vs Government of Baluchistan Education Department (2014) 2014 C L C 1810

[37] Muhammad Nadeem Nasir vs Chairman Board of Intermediate and Secondary Education (2014) 2014 M L D 353

massive horrendous the development is only in the written material but not in the practical or in real form[38].

This article has explored the recent time condition of right of education in this regards he called article 25A an orphan, and he shows the clear picture through the statistical data that near about half of strength of children are out of from the school one many of the issues and nobody is paying attention towards these horrendous issues. Free education is right that has been protected by law and constitution but due to critical condition of people they send their children for work instead of study[39].

Writer has highlighted the serious concern over the issue of right to education under article 25A, in this regards he explore that budget for education is not sufficient moreover people of whole country is not aware of this article in a real manner in this regards he said that in the budget there must be at least 4% budget reserved for education. And he also highlights that the departments which are established for the developed of education sector are totally flopped to give positive results in this regard there must be action against them for better out comes[40].

Research worked has explored different challenges after the 18th amendment in the country. He highlights the rights provided in the constitution special put stress on the article 25A that right to education is important an individual rights it must be free till the advance level. Moreover, the important concern of his writing was the pitiful condition of Punjab school the condition was really pathetic and students even can't survive in those institutions and this was basic need and mode through which children can get their basic right[41].

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[38] Khan, Irfan (2018) the government must revitalize the article 25th A. https://eacpe.org/the-government-must-revitalize-the-article-25-a/

[39] Article 25 A – An Orphaned Law Or An Actionable Fundamental Right To Education? (2020) Development Dialogue. https://www.ppaf.org.pk/doc/Development%20Dialogue%20October%202020.pdf

[40] Dr. Kashif Imran Zaidi, Sehrish Neik Ch, & Dr. Usman Hameed. (2021). Implementation of Article 25-A of the Constitution of the Islamic Republic of Pakistan in Punjab and KPK: A Critical Analysis of Government's Memorandum and Shortcomings. *Al-Qamar*, *4*(2), 173-186. https://doi.org/10.53762/alqamar.04.02.e12

[41] Kayyam Sehrish (2020) Implementation of article 25A of the constitution in Punjab: challenges and way forward

**Analysis**

Today we are living in postmodern era and in Pakistan it's an era of post colonization there are massive after effects of the colonization in Pakistan, since our independence we are facing the condition of colonial period and still in the era of modernism where all rights and remedies are available and we are waiting for the miracles. There are rights and remedies are present but there are some hurdles and issues which creates massive troubles in their implementations of right to education in Pakistan.

**Lack of Economical Funding**

This is very much important factor which affects this right in Pakistan. In Pakistan there are very low budget for the education sector is concerned according to article 25 A in our constitution education is right and must be free till age 16, but for this implementation there is massive big question with low funds and low reserved money for this sector so in this regards our authorities are totally failed to tackle these issues their policies and agreements are just mere of paper work it massive far from the practical implementations.

**Language Barrier**

Our country policies are highly depends upon the standards of international values, it is massive good sign but in the countryside students and children in early education they are not familiar with the L2 language in most of time language barrier is cause of their failure and they are afraid of language barrier, and in Pakistan from Montessori level the medium of instruction of syllabus is English but our national language is Urdu, and regional languages are other related to genre and dialect basis so in this account we all are multilingual and authorities are not paying attention on this issue . Regarding this many of the students are victim of this issue.

**Gender Discrimination**

According to constitution Pakistan rights are for the both not for any specific gender. This is massive important factor which effects a lot regarding right to education. In most of the region of Pakistan still female is victim of gender discrimination. Even in tribal areas still females are victims this tyranny. Now a day's government has worked on this issue to promote non formal education and send different teams in the countryside area to implement the article 25A in its proper direction.

**Lack of Infrastructure**

This is massive factor which creates hurdles in the implementation of right to education in our country, the condition of government schools and colleges are poor and no proper infrastructure is concerned in Sindh thousands of schools in the region of Mithi and Larkana and other areas of Sindh are looking like a ghost house, and also in the region of Punjab there are many of the schools don't have basic necessary things which is important for class room management.

**Corruption in Policies**

Corruption is curse that has been present in all over the country and money grabbing spirit and other dumping policies are very much lethal for our country. Corruption in education funds and different policies lead towards other causes which paved the way towards horrendous outcomes. When there is no fund and forged documentation in policies, then there is no practical implementation. And this all is hurdle in the implementation of article 25 A in the Pakistan.

**Lack of Teachers and UN Trained Teachers**

In the school education department teacher's presence is very necessary. In Pakistan school education department compliance with teachers and students ranging from class playgroup to secondary education. This must be according to article 25 A. In these regards teachers and student both are important. Recently it is reported that in Sindh and Baluchistan the presence of teacher is low and for this reason also students are not available. Moreover, there are also bogus recruitment are also reported in this way the teacher they are present there don't have the prescribed qualification and untrained to performed their duties in the right manner.

**Current Condition and Implementation of Right to Education Article 25A**

In our country after the 18$^{th}$ amendment the things are divided in all the provinces and the matter of right to education is also under the umbrella of provinces. In this regard in Punjab and Khyber Pakhtunkhwa the conditions are better as compared to some previous years on the other side in Sindh and Baluchistan condition is still pitiful and horrendous in this regard Government of Pakistan should work hard and collective effort is needed.

Now in the current scenario Pakistan government has done some practical implementation to tackle this issue now different monitoring teams have worked for the right to education in Pakistan our literacy rate is massive low as compared to the other under developing countries. Regarding article 25 A authorities and related departments had called different meetings on different levels but collective effort is needed in our country to eliminate these horrendous impurities.

Government policies are also not updated in this regard, regarding the free and quality education the policies of government is not upgraded as requirement of postmodern time period moreover we are still using the legal frame work of late classical period which is massive outdated after the introduction article 25 A in 18th amendment it is now protected by the law and constitution to provide this basic right to every individual child.

**Measure Taken by the Government Officials**

After the 18th amendment and induction of article 25A in the constitution authorities had taken some measure to provide this right to everyone and most of the work in this regard have been done in the Punjab Province. And in the other provinces practical implementation are low but since 2010 many of the reforms had been taken to ensure this right to every child in Pakistan.

**Monitoring and Evaluation Assistants (MEAs)**

In the school education departments MEA are introduced to check the activities of the education system in the whole Punjab these monitoring assistants visited school on every month and collect the data of the teachers and students as well these officials conduct the test of students to check the quality of education system.

**Awareness to Parents and Non-Formal Education Policy for Article 25A**

At provincial level in every province in Pakistan especially in the countryside areas, different teams visited the area and provide awareness regarding this right which is necessary for them as well as for the country future. In Sindh 2017 non formal education has introduced for those orthodox families who are trapped in customs and their tradition an unable to join the formal education sector[42].

[42] Sindh non formal education policy 2017

**Abolishment of Child Labor**

For the right of education government of Pakistan has taken serious regarding the issue of child labor in this regard now there are different teams who monitor especially on the brick kilns and other this kind of manner where children work and strict action has been done against them who put stressed on the children to work, in recent years FIRs are also registered against the people in Pakistan[43]

**Appointment of Trainers**

In the recent past years government of Pakistan has taken this method seriously and for giving the quality right of education to students some serious steps have been taken in this regard. For quality education now teacher training has compulsory for all teachers every year, from this step quality education will be impart in all government schools of Pakistan.

**Free Uniform and Low Charges**

Right to education also demands free of cost education in Pakistan now a day's economic conditions are massive horrible and children are not going school just because of high fees of private schools and college, in this regards governments school fees are very low in primary education school charged on 20 rupees from student and after its collection school invest back this amount in form of non-salary budget[44]. And moreover, through NSB they provide stationary and uniform free of cost every year in school to students.

**RECOMMENDATIONS**

**Proper Funding**

For proper implementation of article 25 proper funding is necessary and the use of those funding must be in positive form without any corruption and other influence of political and unfair prejudice must be avoided.

**Check and Balance**

There must be check and balance over the department for the proper work of implementations and penalties must be awarded for those who create hurdles and issue for the implementation of article 25A.

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[43] Child Labor and Forced Labor Reports (2020) Bureau of International Labor Affairs

[44] Dr. Faisal Bari et al, (2018) Revision of the Non-Salary Budget Formula Report April. https://ideaspak.org/wpcontent/files_mf/1555319397NSBFormulaRevisionReport_June20181.pdf

**Free of Cost Education**

For free education government should work for giving incentives to those who cannot afford or massive brilliant in the studies according to article to 25 A right to education till age 16 and also authorities should platform for higher studies as well.

**Avoid Unfair, Prejudice and Discrimination**

For right of education, it must be provided to all children without any caste and creed or must avoid discrimination on gender, religion or on caste basis. So, it is right of every individual and must be get advantage from it. Without any dump and unfair prejudice practice must give to all.

**Importance of Education and Awareness**

It is moral duty of the authorities to arrange different seminars in countryside or remote areas where people are not aware of education rights and parents are not aware of children education importance so with the help of seminar, they will get massive awareness from it.

**Regional Languages and Their Promotion**

No doubt international language has its own value but in Pakistan many students has left there early staged studies due to international and L2 language they are unable to cope with it and in a result failed in the exam. So, for literacy student must go ahead with their dialect or regional based study and after they are fully aware of the importance of education, they go for formal education, this is applicable for remote area where people are multilingual.

**Collective Effort**

After the 18$^{th}$ amendment now, provinces are autonomous and they can exercise powers easily therefore it is important for right of education there must be collective effort of the whole country to make a legal frame work which is upgraded according to the modern time period and must be easily approach able for the needy and poor also to get education with quality and dignity**.**

## CONCLUSION

In the light of above mentioned all discussion it is proved that there many hurdles and issues in Pakistan regarding right to education, twelve years has been past and still the condition is massive poor. Due to massive hike in price poor can't not afford quality education in private sector in this regard student cannot survive and left their education. Moreover, there are other issues which are horrible and affect the right of education in our country.

Article 25 A protect and legalized the right of Pakistani national to get education up to age 16, furthermore education right is most important right are it is also universally acknowledged that this right is massive important for all nation because through education we can come out the darkness, we can progress and compete with the world with quality education.

In Pakistan millions of students of Pakistan are waiting for this right but they are trapped in the horrendous notions of caste, creed, discrimination and political values. So, authorities' hard work is needed with full devotion. Furthermore, collective effort is need to tackle these all issues in positive way. 18$^{th}$ amendment had done massive to protect this law and paved the way for every child for their better tomorrow and bright future.

# Revamping need of Legal Education in Pakistan

**Saleem Shaheen***

**Abstract:** This article firstly puts a brief oversight on legal education in Pakistan. Secondly, it goes to answer to challenges for the law schools to affirmatively respond to societal change by re-structuring their traditional approach to legal education to produce lawyers with diverse interpersonal, ethical and core legal skills in order to be professional-ready for the 21st century dynamic yet global world. Thirdly, it tries to reform legal education in order to bring it nearer to attain the goals of justice and make it compatible with international standards. It is demand of the current time that Pakistan should manifest a robust legal education framework which enables development of pragmatic L.L.B. curriculum to cater for contemporary socio-legal needs of future lawyers and legal fraternity at large. In Pakistan, the legal education and its structured curriculum merely relied on theoretical framework and annually measured by assessment regime predominantly assessing and questioning the memory of a law student – it is an archaic yet conflicting approach to develop a cohort of pragmatic lawyers with sound soft and robust advocacy skills……..Therefore, it is a dire need to eliminate this conflicting approach through reforming and reviewing legal education in Pakistan.

**Keywords:** Legal Education, Pakistan, Reform, Review

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## INTRODUCTION

The teaching of legal education in Pakistan both historically and currently has been undertaken by predominantly lawyers and retried justices. Overtime, the role of lawyers and their peak regulatory bodies became unnecessarily invasive that it assumed the role of regulatory oversight of the legal education, its accreditation, and notably curriculum design and standardization of law schools.[45] The Pakistan Bar Council ('PBC') – the national regulatory body elected by Pakistani lawyers thus becomes catalyst in this debate and has

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[45] Siddique O, 'Legal Education in Pakistan: The Dominance of Practitioners and the "Critically Endangered" Academic' (2004) 63(3) *Journal of Legal Education* 499.

vexed the role usually entrusted and delegated to both public and autonomous law schools along with state regulators and career academics and researchers.[46]

The Higher Education Commission ('HEC') of Pakistan also asserts similar claims for being the peak regulatory body for university. This jurisdictional uncertainty therefore does not let either the PBC or HEC play any meaningful role in both reformation and development of legal education in Pakistan, nor has shown any demonstrated efforts resulting in enhanced quality of the process or structural cohesion.[47]

This dichotomy of legal education and its professional oversight and control has led to numerous issues and problems in both designing and delivering the structured legal education in Pakistan. It has been argued that traditionally legal education system in Pakistan has been trying to develop a 'craft-like specialization' based on predominantly actual legal training received through apprenticeship by only emphasizing on "training" aspect of law. Meanwhile, remainder of the training occurs in specialized structural environment of law schools where emphasis is rather placed on legal theory to impart rationality and systematic demeanor.[48] Therefore it is argued that the current system places at a great emphasis on the practicality at the cost of theory and legal reasoning which the current educational system is based and relies on. Such discard has added no value but has resulted in further widening the gap between legal education and professionally expectations of lawyers in the society. There is a dire need to fill in the gap between legal education and professional structures in Pakistan by reforming and reviewing the legal education. So that, the legal system comes nearer to attain the goals of justice.

## AN OVERVIEW ON LEGAL EDUCATION IN PAKISTAN

Historically, the legal education began by asking socio-legal and ethical question in ancient Europe. However, the focus of legal

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[46] Siddique O, 'Legal Education in Pakistan: The Dominance of Practitioners and the "Critically Endangered" Academic' (2004) 63(3) *Journal of Legal Education* 450.

[47] Blue R & Hoffman R, 'The Final Report: Pakistan Rule of Law Assessment' (2008) accessed on 4th January 2022 from

[48] Siddique O, 'Legal Education in Pakistan: The Dominance of Practitioners and the Critically Endangered Academic' (2004) 63(3) *Journal of Legal Education* 499, 500.

education changed over time by studying Roman, Canon and International laws known to be *jus-Commune* at the medieval European universities.[49] The impact of this triad on legal education was significantly reduced by the early development of robust legal culture (predominantly stemming from the Roman law) in England and English common law.

Under this sophisticated and indigenous legal culture,[50] the legal education in medieval England was offered and facilitated by the *Inns of Court* that organized highly structured vocational apprenticeships involving both law readership and practical exercises with shadowing law practitioners – certainly with dining, in a closed and monastic community.[51]

Organized legal education for solicitors however did not begin until the 1750s, when Sir William Blackstone started to deliver his famous lectures of English law at Oxford.[52] These famous lectures were not specifically aimed at fledgling solicitors to follow a degree course, but were stand-alone lectures targeted to educate and train future justices of peace and civic gentlemen with avid interest in jurisprudence and law.[53]

In modern history of organized legal education, Victorian era is considered to be the catalyst in both commencing of organized legal education at universities and promulgation of legal profession at social canvass – by transitioning jurisprudence from rather noble, closed and monastic environments to liberal socio-economic environments. Early 19th century legal scholars and visionaries, notably, John Austin, Jeremy Bentham and Sir Henry Maine are accredited to have established the *university legal education* at University College London and beyond along with the establishment of Council of Legal Education in 1852.[54] The Council subsequently established Society of Legal Scholars, which along with other academic bodies further promoted structured legal

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[49] Economides, K. (2015) 'Legal Education' *International Encyclopedia of the Social & Behavioral Science* (2nd edn) 736.

[50] Economides, K. (2001) 'Legal Education' *International Encyclopedia of the Social & Behavioral Science*, 8630.

[51] Brand, V. (1999) 'Decline in the reform of Law teaching? The Impact of Policy Reforms in Tertiary Education', *Legal Education Review* (10)2, 109.

[52] Economides (2015).

[53] *Ibid*.

[54] Cock R. (1983) '*Foundation of the Modern Bar'* (Society of Legal Scholars, Sweet and Maxwell Ltd).

education and its cohesive teaching across United Kingdom and British Colonies throughout the duration of twentieth century. [55] Meanwhile, in United States, the university legal education began with the establishment of Harvard Law School in 1817, which was subsequently developed and monitored by the Association of American Law Schools across the country.[56]

In Pakistan, the legal education started at public universities and subsequently law colleges (both public and private) based on above-mentioned Anglo-Saxon model yet with a distinction – the legal education and its structured curriculum merely relied on theoretical framework and annually measured by assessment regime predominantly assessing and questioning the memory of a law student – an archaic yet conflicting approach to develop a cohort of pragmatic lawyers with sound soft and robust advocacy skills. Secondly and distinctly significant, Pakistan is amongst a few common-law jurisdiction where teaching of legal education is undertaken with practicing lawyers and retired judges which directly overshadowed the development of a sound community of law academics and avid researcher.

The ultimate goals of legal education is to educate, train and develop quality lawyers to practice within a given society, ranging from students' educational preparation, hands-on training and regulatory accreditation and trade licensure.[57] Throughout the course of structure legal education, law students are exposed to diverse legal courses and contents in an interdisciplinary academic and social setting to skillfully embrace the lawyers' role. However, this traditional approach towards legal education changed overtime in neo-liberal western democracies to reflect and denote societal change to produce next generation of pragmatic lawyers to become a diverse profession beyond jurisprudential and judicial setting. This radical shift in societal and economic norms posed a challenge for the law schools to affirmatively respond to this societal change by re-structuring their traditional approach to legal education to produce lawyers with diverse interpersonal and core legal skills in

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[55] Cownie F., and Cocks R. (2009) '*A Great and Noble Occupation! The History of the Society of Legal Scholars'* (Hart Publishing, Oxford), 276.

[56] Stevens R. (1983) '*Law School: Legal Education in America from the 1850s to the 1980s'* (Chapel Hill: The University of North Carolina Press) 18.

[57] Wegner, J.W. (2010) 'Education for the Legal Profession' *International Encyclopedia of the Social & Behavioral Science* (3rd edn) 25.

order to be job-ready for the 21st century dynamic yet global world. Some jurisdictions internalized this societal change well and restructured their legal education in a pragmatic way by shifting its focus towards training and problem-solving methods.[58] It is pertinent to mention here that American law school became the pioneers to champion this new approach by emphasizing a great deal of efforts in developing academic and industrial resources to help law students think like lawyers by enabling them:

a) to develop independent critical-thinking skills by using case-dialogue methods; and

b) To develop sound legal researching and writing skills by enrolling in clinical programs or simulation-based courses to invoke such skills.[59]

Overtime, when governing and accrediting legal bodies became resourceful to nurture professional responsibility and practice ethics, law school were obliged to offer practice management and ethics course along with increased efforts to boost *pro-bono* engagements to connect future lawyers with the community and real-life lawyering.[60]

In order to have a successful career in law, there are certain core legal skills that every lawyer and law student ought to have. Although, every lawyer has a different position and in terms of their official responsibilities, i.e., some being public attorneys, other private practitioners, yet the importance of the core legal skills is consistent and obstinate throughout the legal career.

Legal research is often considered to be a fundamental skill for lawyers. The capacity or in capacity to do competent legal research might have repercussions. As a result, all attorneys must offer adequate counsel to their clients. Despite the widespread belief that legal research is an essential skill for lawyers, there has long been an impression that legal research skills in new lawyer are sorely missing.[61]

Furthermore, there have been constant debates about, whether young lawyers are equipped with the necessary writing skills. It has

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[58] Wegner, J.W. (2010) 'Education for the Legal Profession' *International Encyclopedia of the Social & Behavioral Science* (3rd edn) 25.

[59] *Ibid*, 26 – 27.

[60] *Ibid*, 27.

[61] Venie, T.W. (2008). Essential Research Skills for New Attorneys: A Survey of Academic and Practitioner Law Librarians. 02-05

been iterated that most of the lawyers upon their graduation are not equipped with necessary writing skills. A study by Jamshed, Jibran & Javed, Muhammad (2021), reveals that fresh graduates of law do not know about legal drafting, finding case laws, legal research, and proper usage of the law library. Correspondingly, the fresh law graduates had been found to have serious problems with the understanding of basics of English Language. They are very poor in all the three departments of reading, writing and speaking, when it comes to English Language. Since English has paramount importance in the legal professional, thereby the lack of understanding by the lawyers draws a serious implication for their practice. [62]

A detailed analysis about reforming legal education in Pakistan was performed by Khan, Hanna et al. They identified multiple problems in the prevailing education system, of which the stark difference between practice and theory is the most obvious one. [63] It was suggested that the purportedly two faces of legal world – academic and practical – need to bring closer by introducing vocational activities which provide the taste of practical world to the students.

It was asserted that the fresh lawyers had very meagre understanding of basic legal principle and knowledge on laws which are translated to during their degree. Due to this, a distrust among the major law firms exists for fresh graduates from Pakistan against those who have external degree.[64]

**UNESCO SKILLS AND LEGAL EDUCATION IN PAKISTAN**

The sustainable development goals (SGDs) formulized by United Nations development program (UNDP), deal with 17 goals which are of prime importance. One of these goals is Education. In the retrospect of this development, UNESCO has outlined four skills which must be incorporated along-with the practical knowledge.

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[62] Jamshed, Jibran & Javed, Muhammad. (2021). Evaluation of Fresh Law Graduates: An empirical study about the Legal Education System of Pakistan.

[63] Khan, Hanna & Dastagir, Ghulam & Hak, Nora & Hussain, Faridah & Iqbal, Mohd & Wahab, Abdul. (2019). Reforming Legal Education in Pakistan by Introducing Clinical and Practical Aspect in the Existing Syllabus: A Key to Enhance Professionalism within Law Graduates.

[64] Khan, Hanna & Dastagir, Ghulam & Hak, Nora & Hussain, Faridah & Iqbal, Mohd & Wahab, Abdul. (2019). Reforming Legal Education in Pakistan by Introducing Clinical and Practical Aspect in the Existing Syllabus: A Key to Enhance Professionalism within Law Graduates.

These skills are named as critical thinking, communication skill, analytical skills and problem-solving skills.

According to the United Nation Secretary General, António Guterres, "Education today should combine knowledge, life skills and critical thinking." There is a consensus among the academia, policy makers and social activists that critical thinking should replace the old system of education. Educational institutes should elevate the young brains so as to critically accept or reject an argument on the basis of its merits. Pincione, G. (2009) argues that critical thinkers can undermine a deteriorating legal culture. By drawing an analogy between the law and other disciplines, it asserts that while other disciplines have a sound methodology for deduction, law has multiple meanings to a same subject matter. In order to find the right solution, a comparative analysis is required. [65] Critical thinking helps in developing a perspective.

Secondly, the analytical skills; analytical skills in legal outfield involve fact analysis, case analysis and synthesis, statutory analysis, argumentation, and critical evaluation of legal and ethical issues.[66] In Pakistan, however, more or less, all law institutes use the outdated methods for the exams wherein same questions are repeated every year and rather using rational and analytical skills. Students in this perspective memorize the schemes for passing an exam and never bother to go through legal statutes and research which can enable them for assuming their future roles.[67]

Most law courses do not provide in-depth study to build analytical, critical, logical, rational, communication, and interpersonal skills, nor do they instill professional ethics and code of conduct, which are fundamental legal abilities. As a result, pupils develop neither a motivation to conduct research nor legal abilities. They solely study with the goal of passing the exam, which is only a memory test, which they ace by cramming.[68]

Third, Legal profession needs the support of communication skills more than any other profession. A lawyer is paid for his good

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[65] Guido, Pincione. (2009). Critical Thinking and Legal Culture. Rationality, Markets and Morals.

[66] Larry O, 'Deconstructing Thinking Like a Lawyer: Analyzing the Cognitive Components of the Analytical Mind' (2007) 29(3) *Campbell Law Review*

[67] Sarmad M, 'Legal Education in Pakistan: Problems and Prospects in the Context of 21st Century' (2007) 3(1&2) *Islamabad Law Review*

[68] *ibid*

communication skills to present the case on the behalf of his clients. Communication skills include not only the presentation of the case but also understanding of the legal documents. Since, the legal statutes are written in English Language, it is important that lawyers reflect a good understanding of English Language. Ahmed N (2011) conducted a study to analyze the needs of Spoken English in Pakistani Academic Legal setting. He took two both the teachers and students (recent graduates) into account. 87% of the respondents revealed that learners had inadequate spoken skills.[69]

Problem solving skills are the last of the prescribed skills by UNESCO. The relevancy of Problem-Solving skills in legal profession as important as all of the above-mentioned skills. According to Ken Murphy, director general of the Law Society, a professional body for solicitors in Ireland, lawyers are professional problem-solvers. People budge off their problems onto their shoulders, so lawyers have to focus on obtaining the best practical outcome. It is important for lawyers to draw the solution of the problem based on the available data. It not only helps them build their reputation but also facilitate their clients with required remedy.[70] However, like all the skills, in the presence of current curriculum, the inception of problem-solving skills, too, is not possible on account of all the above impediments.

The Priestley 11 are eleven law subjects required to be successfully completed for candidate status for admission into practice as a legal practitioner. These include Administrative Law, Civil Procedure, Company Law, Constitutional Law, Contracts, Criminal Law and Procedure, Equity, Ethics, Evidence, Property, and Torts.

Lawyers upon graduation find it imperative to consult legal matter related to these fields of law.

Although, the current legal curriculum is comprised of these courses, yet the quality of the tutorship is below average. The status quo is exam centric, rather than being profession centric or student centric. The students are taught in the class with a perspective of passing the exams rather developing their legal base. A few numbers of questions which are repeated on the regular basis, are taught to

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[69] Ahmed N, 'Analyzing the Spoken English Needs in Pakistani Academic Legal Setting' (2011) 31(2) Pakistan Journal of Social Sciences

[70] The Irish Times. (2005). Problem Solving is vital for legal career. https://www.irishtimes.com/business/problem-solving-is-vital-for-legal-career-1.420189 /

the students who cram them for passing the exams. This under emphasizes the importance of prevailing priestly 11 and their significance in the legal education, in the long run.

**INTERNATIONAL EXPERIENCE**

**a. UNESCO skills and education in general in OECD countries**

The structure of education in OECD countries varies significantly. They provide an interesting arena to learn from different experiences. The system of education in Finland, e.g., reflects the importance of educational interventions, equity, and professional teaching in the development of individuals at large.[71] The Finish educational structure model demonstrates how properly preparing students for the transition from elementary to secondary school may enhance the rate of successful career selections and, as a result, lower student failure in secondary school.[72] Levy and Murnane[73] provides an excellent example of the changing skill requirements. They classified the tasks into five categories, i.e., Expert thinking, Complex communication, Routine cognitive tasks, Routine manual tasks, non-routine manual tasks.[74]

Upper secondary school in OCED is voluntary and provides students with a variety of educational options. The OECD divides upper secondary programmes into three groups.

**a.** General education programmes are not specifically designed to educate students.[75] For certain jobs or for subsequent vocational or technical education. Only around a quarter of the program's material is vocational or technical.

**b.** Pre-vocational or pre-technical education programmes are primarily intended to introduce students to the job market and to prepare them for vocational or

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[71] Pasi Sahlberg (2007). Secondary Education OECD Countries, European Education Foundation.

[72] Pasi Sahlberg (2007). Secondary Education OECD Countries, European Education Foundation.

[73] Levy, Frank & Murnane, Richard. (2012). The New Division of Labor: How Computers Are Creating the Next Job Market. The New Division of Labor: How Computers Are Creating the Next Job Market.

[74] Levy, Frank & Murnane, Richard. (2012). The New Division of Labor: How Computers Are Creating the Next Job Market. The New Division of Labor: How Computers Are Creating the Next Job Market.

[75] Pasi Sahlberg (2007). Secondary Education OECD Countries, European Education Foundation.

technical education. Completion of such programmes does not result in a vocational or technical qualification that is marketable. A minimum of 25% of the content of the curriculum should be vocational or technical.

**c.** Vocational education programmes enable students to enter specialized jobs little to no advanced training. The completion of such programmes results in a vocational or technical qualification that is relevant to the labor market.

**b. Legal education in the United Kingdom**

The legal education system in the United Kingdom is established on the common law system, which was created over hundreds of years via rulings and customary laws consolidated by customs and tradition. The legal education system in the United Kingdom is one of the most advanced systems in the world, both in terms of academic quality and professional training.

All three territories, i.e., England and Wales, Scotland and Northern Ireland, of the United Kingdom are based upon Common Law system. Prior to the split from EU, there was a significant effect of European integration in UK legal education system, however it has not been the case anymore. In both intellectual and practical elements, the three territories' legal education systems differ. However, the greatest common feature is that the legal education systems of the three countries contain two pre-qualification stages, i.e., Academic and Vocational, each with its unique set of features. Though the academic stage is dedicated to the examination of statutory interpretation, principles, doctrines, and the recognition of constitutional concepts, the vocational stage is more focused on the skills and expertise that professional attorneys need.[76]

Undergraduate and postgraduate programmes, which are offered by the majority of UK institutions, make up the academic stage, which involves earning a "regular" legal degree. The Law Society and the Bar Council of England and Wales determine whether the law degrees are Standard for the purposes of the term, compiling a list for the convenience of prospective lawyers. According to BC/LS

[76] Al Faruque. A (2009). Legal Education in the UK: An Overview, Chancery Law Chronicles.

rules[77], a law degree 'must' include a comprehensive curriculum on essential 'primers' or 'fundamental' legal subjects in order to be certified as a Standard law degree. These include contract and tort law, equity trusts, property law, administrative and constitutional law, criminal law, evidence, and European law, among others. Since these essential courses should be established on UK law instead of the legislation of certain other countries, in this regard, virtually all degrees from international institutions are termed 'non-standard' for BC/LS purposes.[78]

In England and Wales, there are two types of legal professionals i.e., barristers and solicitors. Students who want to practice law will go for one of two career paths, apply for admission, and undergo the vocational stage. The practical abilities that attorneys require are highly concentrated during the vocational stage.[79]

The Law Society and the professional body for solicitors in England and Wales, both, requires aspiring lawyers to do a Legal Practice Course, completing this, they must secure a Training Contract from a lawyers' company, which will give them with two years of training, before being officially 'admitted as a solicitor' or put on the Roll of Solicitors.[80]

For lawyers aiming for becoming barristers in England and Wales, the General Council of the Bar has authorized a one-year program and examination known as the Bar Vocational Course (BVC). The Bar Professional Training Course (BPTC), previously Bar Vocational Training Course (BVP), was established in 2009 in order to focus on the practical skills essential for judicial work.[81] Practical activities include the skills of drafting, research, advocacy, interviewing, and negotiation. BPP Law School, Inns of Court College of Advocacy, College of Law Cardiff, School of Law University of London, Manchester Metropolitan University,

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[77]Qualifying with a Degree, The Law Society (2021). https://www.lawsociety.org.uk/career-advice/becoming-a-solicitor/qualifying-with-a-degree

[78] *Ibid*

[79] Al Faruque. A (2009). Legal Education in the UK: An Overview, Chancery Law Chronicles.

[80] *Ibid*

[81] Amendments to the Bar Training Regulations – Matters Relating to Pupillage, (2007), Legal Board Service. https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/Application_bsb.pdf

University of Northumbria, Nottingham Law School, Bristol Institute of Legal Practice, and University of the West England are among the eight institutions offering a bar vocational course.[82] Various institutions have developed their own programmes and assessment criteria. Most, if not all, institutions, on the other hand, have embraced performance evaluation in skill areas and multiple-choice examinations to measure thorough knowledge of procedural regulations. In addition to practical skills, the Bar vocational course includes substantive training in criminal law, common law, taxes, civil and criminal process.[83]

### c. Legal education in United States of America

The legal education in United States started and developed against the backdrop of Langdellian School of thought professing and promoting case-method of teaching law. Christopher Langdell, the first Dean of Harvard Law School from 1870 to 1895 advanced and entrenched the idea that "law was a theoretical science whose overarching substantive principles could only be mastered through the careful analysis of appellate court opinions."[84] That analysis was thus based on the "case method" approach to structure legal education at the pioneer law school of USA which required the use of specially prepared casebooks of leading decisions – akin to PLD, SCRs and CLRs. This rather restrictive approach failed soon after its implementation since it could be help law students to conceptualise and develop a coherent body of objective rules.[85] However, its proponents stressed that this approach should be retained for its pragmatic reasons especially in the absence of another robust approach. One of the key argument in its favor was that it helped students to learn and practice "thinking like a lawyer" since it conformed to the intellectually sound trends in other scientific disciplines. Though it was the only pragmatic approach to

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[82] Smith, Jemma (2021), Bar Professional Training Course, Prospects. https://www.prospects.ac.uk/jobs-and-work-experience/job-sectors/law-sector/bar-professional-training-course-bptc

[83] Al Faruque. A (2009). Legal Education in the UK: An Overview, Chancery Law Chronicles.

[84] Bloomfield M, 'Book Review: Law School: Legal Education in America from the 1850's to the 1980's by Robert Stevens (1983)' Symposium: Law of the Sea (1985) *Louisiana Law Review* 45(6)1330.

[85] *Ibid*.

structure legal education at university, it was however not embraced and implemented by all law schools across the country.
Therefore, progress towards developing a unitary system of university legal education occurred in two stages. Firstly in 1930, states insisted and started moving towards a law school training as the sole method of preparing for the bar thus extinguishing apprenticeships with its distinct features. Secondly, subsequent to the World War II, states legislated to move towards a standardized legal education by requiring students to attend only law schools approved by the American Bar Association or the Association of the American Law School which certainly monopolized market for elitist law school and once again served to perpetuate the Langdellian (case-method) approach.[86] Duncan Kennedy, an imminent legal scholar of the time, concluded his well-founded and accepted thesis on the state of legal education in America, in general remarks as that the law school are intensely political places, barren of the theoretical and intellectually ambition or practical vision of what social life might be. That certainly denotes a typical example of "trade school" mentality "where the endless attention to trees at the expense of the forests, the alternating grimness and chumminess of focus on the limited task at hand, all these are only part of what is going on." [87] Based on Kennedy's experience and research into a century old legal education system, he recommended change in the curriculum, which should *incorporate and emphasize clinical experience and feature and interdisciplinary "legal decision course" to invoke legal ideological sense and application in law students and changes in the placement process at small and large firms for competitive positions to test their learnings.*[88]

### d. Legal education in Australia and Canada

The undergraduate degree in Canada is the *Juris Doctor* or JD, which takes three years to complete.[89] In most Canadian law schools, the first year of law school is similar, where students study

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[86] Bloomfield M, 'Book Review: Law School: Legal Education in America from the 1850's to the 1980's by Robert Stevens (1983)' Symposium: Law of the Sea (1985) *Louisiana Law Review* 45(6) 1331 – 1332.
[87] Kennedy D, 'Legal Education and the Reproduction of Hierarchy: A Polemic against the System' (Cambridge: Afar Press, 1983) 1.
[88] *Ibid*, 98.
[89]So, you want to become a Lawyer (2021), University of Toronto, Faculty of Law. https://www.law.utoronto.ca/getstarted

basics of criminal law, constitutional law, property law, and contracts law. Special courses are also offered to teach first-year students about other areas of law. First year students are also given specialized training in legal research and writing.[90] First-year students can participate in a variety of extracurricular activities and outreach programs.

During second year, students have a lot of options for choosing their own courses depending on their interests. Most law schools mandates students to engage in a "moot," which is a mock trial in which students serve as "attorneys" and are "judged" by professors and lawyers, whether in the first year or later in the program.[91]

After their second year of law school, many students work as legal research assistants at law, government legal agencies, or legal clinics. It's a profound way to learn regarding different legal jobs and to determine what kind of law they want to practice, if any. Students apply for articling opportunities and go through articling interviews throughout the summer. Students attend more specialized classes in their final year and work on extensive research papers in their fields of concern. Exchange programs are also available to students.[92]

Meanwhile in Australia, a three-year degree for individuals with a prior university degree or a four-year degree for those without a prior degree is required for legal education.[93] In both settings, the degree is normally pursued full-time. A Bachelor of Laws (LLB) or, in certain cases, a Juris Doctor is the title given to this degree (JD). The LLB is frequently pursued in combination with another degree. Most law schools have a structure in place that requires students to take a set number of basic courses such as contract, tort, property, constitutional law, criminal law, evidence, and court procedure which expose them to the legal understanding.[94]

Furthermore, several law schools offer a variety of courses from which students can choose to satisfy the required number of subjects in the four years. Jurisprudence, international law, comparative law,

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[90] So, you want to become a Lawyer (2021), University of Toronto, Faculty of Law. https://www.law.utoronto.ca/getstarted

[91] *Ibid*

[92] *Ibid*

[93] Legal Education in Australia (2021), Studying Law in Australia. https://cald.asn.au/slia/legal-education/

[94] *Ibid*

comparative trade law, copyright patents, and trademarks are a few of the disciplines that are offered but not required.[95]

The legal degree does not place a strong value on cramming. Reading for relevance, analyzing and selecting relevant topics, knowing and being able to apply applicable legal concepts to facts from daily life, and tailoring legal solutions to client problems are the skills learned. In Australia, most students study law for five years and get two degrees. The most popular combined degrees are arts/law, commerce/law, business/law, and science/law. Engineering/law and even medicine/law are also becoming increasingly common. Some understanding of other subjects is deemed necessary in the practice of law.[96]

## LEGAL EDUCATION IN PAKISTAN

Law in Pakistan, requires students to enter the LL.B degree after completion of their 12 years of education and continues for five years. The first two years elaborate students with several basic courses which are complementary to the legal education in the long run. These courses have been divided into three categories; the foundations courses like Sociology, Economic, Political Science, Reasoning, History, Philosophy of Law, and Psychology; the compulsory courses like English Language, Skills Development, Islamic and Pakistan Studies and Introduction to Law, and; the core courses like Jurisprudence, Constitutional Law, Criminal Law, Civil Law, Administrative Law, Contract Law and Equity etc. The basic assumption behind the indoctrination of this dichotomy is to balance the broad perspective of the academic and legal understanding of the students.[97]

While this structure may produce some quality amongst the students in university, the same is not replicated in the accredited and affiliated colleges across the country. As it has been discussed above that given the examination structure of the University of Punjab, the students cram the selected few topics, in order to pass the exams.

### a. 5 years program introduced

The gap between legal education and its graduate core competencies is well established and evident within both academic and supreme

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[95] Legal Education in Australia (2021), Studying Law in Australia. https://cald.asn.au/slia/legal-education/

[96] *Ibid*

[97] HEC, 'Curriculum of LL.B(5 years)' (2015)

judicial communities. One such example of this pressing issue is evident from the recent judgement of the Supreme Court of Pakistan in the case of *Pakistan Bar Council v Federal Government of Pakistan 2019 SCMR 389.* PBC filed this petition[98] seeking to enforce an earlier judgement (*Pakistan Bar Council v Federal Government of Pakistan & Others PLD 2007 SC 394)* of the same Court, where the Court decided the matter concerning the declining standards of the legal education and the issues concerning the substantial growth of rather unregulated law colleges across Pakistan.

With the introduction of 10 general courses and 08 foundational courses, the National Curriculum Revision Committee (NRC) aspired to

- Indoctrinate a broad socio – politico – economic understanding in the students under which legal systems across the globe and especially in Pakistan works
- Make sure that students are equipped with knowledge and understanding of the fundamental doctrines and principles of Law
- Develop the intellectual and practical skills necessary for employment in the legal profession and other careers.

The foundations courses like Sociology, Economic, Political Science, Reasoning, History, Philosophy of Law, and Psychology aimed to complement the broad perspective of the academic and legal understanding of the students. In addition, the compulsory courses like English Language, Skills Development, Islamic and Pakistan Studies and Introduction to Law prescribed major part of the initial degree. The purpose of these courses was to inculcate all the important and necessary details about the history of law, society and culture as well as English language outcomes before introduction of the core courses relating to the laws. [99]

### b. Graduate attributes

It was asserted that the five years program in Pakistan would bring forth such attributes to graduates that upon their graduation, they would be able to

- Reflect the understanding of the basic values and principles of Pakistan's legal system

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[98] Pursuant to s 183(3) invoking Court's inherently original jurisdiction to decide a matter concerning public criterion.

[99] HEC, 'Curriculum of LL.B(5 years)' (2015)

- Understand the basic laws of Pakistan and its legal institutions
- Solve a range of complex legal problem with their legal acumen
- Communicate effectively in both written and oral form[100]

**c. Overall Learning outcomes**

NRC stressed that the course contents and the teaching methodology should place emphasis upon

- the acquisition and development of a wide range of intellectual and practical skills of students so that they can analyze, evaluate, synthesize and apply conceptual information to practical legal problems
- the development of intellectual and practical skills and in particular law students should be able to develop and demonstrate independent thinking, plan and carry out independent research and apply basic legal research skills and research techniques.
- The development of written and oral skills of the students to build their capacity to problem-solving and expand their knowledge of information technology.[101]

**d. Development skills of current curriculum**

The basic premise behind the introduction of 5-years program was to enable students against the backdrop of declining standards of legal education. It was thought to introduce such skills as necessary computer literacy, social media usage and other information skills, so to prepare them for the changing needs of the time. The courses of basic communication skills, while they may complement the prescribed learning outcome, however it needs the proper implementation of these courses.

**e. a job-ready program**

However, despite all the above-mentioned attributes, due to multiple structural problems underlying the legal system, these reforms have not been able to provide the desired outcomes. The students upon their deficient of certain skills which are necessary for their professional practice. Jamshed J, et al. (2021) highlighted a series a problems which the law graduates face at the time of their graduation. It is found that fresh graduates do not have any

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[100] HEC, 'Curriculum of LL.B(5 years)' (2015)
[101] *Ibid*

understanding of the English language. They are not able to write, speak, listen or even read a statute properly in its essence. This rises a serious question upon the quality of English language subject being taught under the banner of compulsory subjects during the degree. In addition, the fresh graduates lack necessary skills to do research for case preparations. Given core subjects are delegated to the understanding of how to conducts research and find relevant information about the case and subject matter. Moreover, students also lack the necessary skills of legal drafting, finding case laws, and proper usage of the law library. Likewise, fresh law graduates have inadequate understanding about the type and jurisdiction of special courts. Furthermore, it was found that most of the fresh law graduates cannot not argue in English during the judicial proceedings. [102]

These results and several other studies[103] have indicated that the system introduced in the 2015 has not been able to reach its desired outcome, which is primarily underscored by the assumption that examination system coupled-with the teaching attributes has limitized the scope of learning the prescribed courses. This is reflected in the above-mentioned results.

## PRE-REQUISITES FOR THE REFORMATION

### a. Learning from international experience

The above discussion on the comparative study of the international legal education system is a precedent for Pakistan to follow. A lawyer without a critical subject analysis is as good as a layman. Profession of advocacy demands that such lawyers join the fields who have a higher aptitude and skills. This requires that they are graduated from such a system, which accommodates them with the required cover for the enhancement of the success rate. For this, it is important that Pakistan too, develop a system, which complements the professional intricacies. For this purpose, we must follow the footsteps of the international programs and educational systems. As

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[102] Jamshed, Jibran & Javed, Muhammad. (2021). Evaluation of Fresh Law Graduates: An empirical study about the Legal Education System of Pakistan.

[103] Siddique, O. (2014). Legal Education in Pakistan: The Domination of Practitioners and the Critically Endangered Academic, Journal of Legal Education; Talpur, Z. H. (2013). Study on the Reformation of Legal Education in Pakistan, 16, No. 5 Journal of Humanities and Social Sciences; and Sial, A.Q. (2009). Designing Legal Education to Support Social Evolution in Pakistan, South Asian Studies, Research Journal of South Asian Studies

discussed above, the fundamental outlook of the all the major international legal education systems involve a combination of the both theory and practical application of theoretical knowledge. In comparison to this, law students in Pakistan never go through a phase of potential training, which may enhance their professional outlook, during the course of their entire degree program.

This is one of the principal reasons behind the shortfall of the quality lawyers in the country, as majority feel distress and burning out as they start their career in the professional field. To counter this problem, it is important that students are introduced to the professional world, during the phase of their degree program, where it is made compulsory upon them to do internships during their summer or examination break. This system has been successfully tested in all the above-mentioned countries and has yielded in a large number of quality lawyers.

**b. Foundations reforming a newly developed system**

It would not be unfair to provide lawyer an alias of a "communicator" since that's what lawyers do in any scheme of work. They are expected to be sharp and effective communicator across all means of communication. Thus, a bare minimum standard for any lawyer including lawyering predominantly rests on communication skills – that if nurtured and developed well at law school setting, could be catalyst in reforming both legal education and legal fraternity at large.

Since here our brief is concerned with the syllabus reformation, it would be therefore pertinent to discuss it against the backdrop of that lens. Although, current syllabus does have English language course, it would however be of great help if students were to learn substantive law in more engaging way. For instance, Mooting could be just one example of such an interactive learning experience. It is widely recognized and equally accepted that mooting teaches a good mix of generic skills beside specific legal skills.[104] It has been suggested that they can be grouped as "communication skills".[105] Thus by making mooting a part of standardized curriculum law

[104] Lynch Andrew, 'Packing Them in Aisles: Making use of Moots as Part of Course Delivery' (1999) 10(1) *Legal Education Review* 83; J Costinis, 'The MacCrate Report: Of Loaves, Fishes, and the Future of American Legal Education' (1993) *Journal of Legal Education* 157, 171 – 5.

[105] Lynch Andrew, 'Packing Them in Aisles: Making use of Moots as Part of Course Delivery' (1999) 10(1) *Legal Education Review* 83.

students would be exposed to a simulated real-life environment starting in early years of education.[106] Mooting has also been recognized a unique legal skills with "the presence of a certain nebulousness – an indefinable quality" enabling law students to "explain very complex legal matter both simply and clearly.[107] A unique set of skills which has also been associated with good lawyering.[108] Australian government's substantive inquiry of 1987 into the state of legal education within the country and Commonwealth summarized in its catalyst Report[109] reinforces the same understanding concerning the vital importance of mooting. Whilst considering mooting as a part of course delivery at law schools, the Report denoted that it is a pragmatic way to teach law students substantive law at all levels since this interactive exercise would involve diverse (some of the essential lawyering) skills such as, research, oral delivery and written submissions[110] – certainly further validating the centuries old 'shadow lawyer' simulation enunciated at Inns of Court and still thriving at global level.[111]
It has been observed by the virtue of several studies[112] that students belonging to non-native background usually find it difficult to understand the basic jargon of any subject which is related to English language. It has also been observed that students who are not from the native background usually find themselves at disadvantage in comparison with those who are native. Despite the various strategies adopted by the teachers, the time span for understanding the basic crux of any subject matter was larger for the non-native students[113]. It was also observed that students who have

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[106] Lynch Andrew, 'Packing Them in Aisles: Making use of Moots as Part of Course Delivery' (1999) 10(1) *Legal Education Review* 83.
[107] J Snape and G Watt, 'The Cavendish Guide to Mooting' (Cavendish Publishing Limited, London, 1997) 11 – 12.
[108] D Bentley, 'Mooting in an Undergraduate Tax Program' (1996) 7(1) *Legal Education Review* 97, 99.
[109] D Pearson et al., 'Australian Law Schools – A discipline Assessment for the Commonwealth Tertiary Education Committee' (AGPS, Canberra, 1987).
[110] L Andrew, 84.
[111] Economides, K. (2015) 'Legal Education' *International Encyclopedia of the Social & Behavioral Science* (2nd edn) 736.
[112] S J Yeo, 'English Communication Skills and the Teaching of Law: A Study of the Singaporean Tertiary Sector,' (2018) University of Western Australia
[113] A Owens et al, 'What are the challenges involved and strategies employed in teaching Australian Law to Non-Law Students from Non-English Speaking

a weaker command of English language are less likely to enunciate the legal principles and concepts.[114]

In this regard, a study[115] has suggested to incorporate the English Specific Programs (ESP) with the current curriculum in order to provide a definite understanding for the jargon of the subject matter. These programs are customized to focus on the specific jargon of a particular subject matter, hence whenever a word or terminology is enunciated, the students know its meaning and its primary usage.

Specific terminology is thought to be a barrier to effective English communication, so there should be a greater emphasis on learning vocabulary which is specifically related to law.[116]

### c. Researching demeanor

As already described before in 1-B that research factor is predominantly missing in the current lot of young lawyers. There is a dire need of bringing this factor in the ambit of the curriculum. However, other factors must also be taken into account. To begin with, the expansion of the administrative state necessitates that all law students receive instruction in statutory and regulatory research earlier and at a higher level than has previously been the case.[117] The few who take an advanced legal research course can no longer claim to have a firm basis in regulatory research.

Second, law schools across the globe are beginning to recognize the influence of globalization and are beginning to educate first-year students to the fundamentals of international and foreign law.[118] Legal research courses must also assist this introduction by mentioning it in the first year.

Third, the Internet has expanded both the types of material that courts rely on and the types of study that attorneys conduct on a regular basis.[119] "Attorneys today do research in ways they never

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Backgrounds and Culture' (2010) Journal of the Australasians Law Teachers Association.

[114] *Ibid*

[115] Xhaferi, Brikena & Xhaferi, Gezim. (2011). The English language skills in ESP for law course. Revista de Lenguas para Fines Específicos. 17. 431-448.

[116] Xhaferi, Brikena & Xhaferi, Gezim. (2011). The English language skills in ESP for law course. Revista de Lenguas para Fines Específicos. 17. 431-448.

[117] Valentine, S. (2010) 'Law Research as a Fundamental Skill: A Lifeboat for Students and Law Schools' CUNY School of Law

[118] *Ibid*

[119] *Ibid*

studied in law school, and this shift is largely due to technological advancements. Information literacy is becoming a mandatory component of law school legal research curricula due to the expansion of freely accessible information.

Fourth, technological advances are weakening the legal system's core framework. [120] The expanding number of technical tools available for retrieving, sorting, and managing the massive quantity of data available is changing how legislation and information are accessed. These changes affect the very structure of American law, not merely how lawyers research the law.

Legal research needs to be recreated under the auspices of the institutional sponsorship. The solution is to develop a course during law school that teaches legal research as both a fundamental legal skill and a fundamental lawyering ability. Law students will continue to fail at legal research and weakened by the repercussions of freely accessible "electronically generated" law if it is not taught as such. Both legal and lawyering skills actively assist the process of legal analysis that law schools want to impart in their first-year students, as well as providing skills required for legal practice.[121]

**d. Advocacy and presentation proficiency**

Skills of advocacy and effective presentation of the case are often overlooked in the development of any curriculum. Where Communication, Language and Research skills are important and often dealt with in the course of studies, the presentation skills are never provided merited time and attention. A study by Korn J. (2014)[122] reveals it is equally important for the students to inculcate these skills. While the presentation on a certain topic may have been a norm in the universities, the same is not true for affiliated schools. Moreover, even the existing model of presentation may help students to understand the theoretical basis of a certain topic, it does not prepare them for the advocacy skills which involves dialects on

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[120] Valentine, S. (2010) 'Law Research as a Fundamental Skill: A Lifeboat for Students and Law Schools' CUNY School of Law

[121] *Ibid*

[122] Korn, J. (2004). Teaching Talking: Oral Communication Skills in a Law Course. *Journal of Legal Education*, *54*(4), 588–596. http://www.jstor.org/stable/42898356

the ideal of Socratic Method.[123] There are also some other courses such as trial advocacy, appellate advocacy and clinical courses which address the needs of court room communications in the long run.

While it may be easier for the university to implement these courses within the ambit of the university where it, it may not be facilitated to the affiliated colleges in the existing model of examination, primarily because it is difficult to get these skills evaluated externally. Hence, a semester system, which has a focus on the continuous assessment, is an answer to this problem.

**e. Invoking and manifesting dynamism and flexibility**

Law Schools in Pakistan do not offer any elective courses during the course of undergraduate degree. Students tend to study only the core courses in the five years, whereas for the specialization they either need to do a diploma or a LL.M, where they have a range of courses which are employability centric and for research demeanor. It has been indicated by the HEC records[124] that number of students who opt for graduate programs after under-graduation are considerably decreased. Therefore, the chance to study the elective programs is also decreased. The students who go for practicing in the local courts tend to practice only those fields of law whose cases are in abundance with their seniors or those they learn practice from.

In background of this, it is important that lawyers are introduced to such subjects which have a prospect in the legal field for the years to come. Gopalan S.[125] conducted a survey to identify which elective subjects have more prospects in the Australian labor market. Although the survey has been conducted in Australia, yet the **range of elective subjects** mentioned have a considerable relevance to the legal education in the 21st century. To name a few, internet law, international trade law, corporate litigation, mining law, international human rights law, environmental laws, have serious future within the framework of Pakistan. Young lawyers must be given choice to elect either of these courses before the completion

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[123] Korn, J. (2004). Teaching Talking: Oral Communication Skills in a Law Course. *Journal of Legal Education*, *54*(4), 588–596. http://www.jstor.org/stable/42898356

[124] HEC, 'Graduates having 16 years of education and above from universities, campuses and affiliated colleges'

[125] Gopalan S, 'What Electives should I take in in Law School: Evidence from a Survey of Australian Lawyers'

of their degree and conduct comprehensive research assignments, which may be evaluated by the university teachers on the merit of their practicality and relevancy.

The United States of America, with a population of 328 million has a total number of 1.3 million lawyers,[126] where it is one of the highest earning professions in across the country. Conversely, in Pakistan, against 216 million population of the world, 0.2 million people are registered as lawyers, nevertheless, law is being treated as a profession past its apex.

Pakistani legal market is in a disarray due to the structural problem of unwitting obliviousness on part of fresh graduates about their careers. A law student with all the desired skills, and inherent interests, has a wide range of legal and professional opportunities available.

In addition to practicing in the local and district courts, lawyers have an enormous opportunity to start their careers in the public sector as district and assistant district attorneys at the divisional and district level. In addition to that, the judiciary is also an understood and open option for all the lawyers who get to graduate from educational institutions. However, these are the career options that every lawyer knows about. In addition to these, there are several options that the law graduates are acquainted with. In the age where corporate business is at its peak, lawyers are specifically needed to work with multi-purpose enterprises to handle their legal advisory council. Moreover, with rising awareness about climate change, environmental law has gained global recognition. Any violation of it is deemed as a violation of human rights. Lawyers can become experts in environmental law and help protect the global climate. Furthermore, all the industrialists need assistance from the lawyers in pursuance of agreement and contract formulation. Additionally, there are several non-legal jobs, which require legal training, per se, these include, investment banking, entrepreneurship, or journalism. Law, therefore, is more than about courts and case filing. There is a difference between a lawyer and a pleader, and educational institutions must inculcate that in the minds of students during the course of the degree.

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[126] Statistica (2021), 'Number of lawyers in the United States from 2007-2021,' https://www.statista.com/statistics/740222/number-of-lawyers-us

## HOW IT SHOULD BE REFORMED – WAY FORWARD

There are several factors which have been highlighted in the upper portions from the non-employability to labor market. The curriculum needs to complement such traits which help in the development of future lawyers. Furthermore, Pakistan should also take a leap from the international models given above, whereby bring from them such traits which best suit the legal system of Pakistan in a twofold manner, i.e., short-term and long-term.

### a. Socio-Economic Formulation

There is a need to oversee which subjects complement the studies of law and which are more relevant in the future context. In this regard, an objective analysis of the current subject formulation is required.

For the subject of English I, while the Communication Skills are part of the curriculum, however, apart from writing skills there exists no method to assess the listening and speaking skills. While, writing skills are important for the law students, it is equally important that a prime focus be paid to listening and speaking skills. The assessment of the latter two is not possible in the existing assessment method of annual based examinations, rather continuous assessment which focuses on the all aspects of learning will overcome this problem. Students would then be engaged in the presentations and group discussions which will enable them in both listening and speaking skills and thus they will be assessed on the merit of these skills as well. Further, English II which already does focus on the English Essay, should also enlighten, how to write letters and applications which are focused not on the normative subject matters, rather on the positive objective matters. Moreover, to evaluate the critical understanding of the student, either of comprehensive paragraph or precis writing should also be introduced.

The Political Science I draws relevancy to the subjects of laws as it keeps its prime focus on the basic concepts and ideas. However, the Political Science II should focus on the objective study of Constitutional Monarchy and Parliamentary System of the United Kingdom, the Presidential System of the United States, and the Socialist System of the People's Republic of China, the Confederation of Switzerland and the Semi-Presidential System of France. Thus shedding due importance to all the major political and constitutional orders across the globe.

For Sociology I, the chapter of Research Methodology should be omitted, as this subject has no relevance to the study of laws.

However, the rest of the syllabus compliments the learning outcomes for a lawyer. In Sociology II, where the majority of the curriculum focuses on the concepts of criminology, it is suggested to either completely add a subject of criminology or include an elective, which covers the entire prescribed outline. In contrast, the Sociology II should keep its focus on the Philosophers both Western and Islamic.

As far as, Arabic and Islamic Studies is concerned, they ought to be incorporated with Islamic Jurisprudence. Whereas a new subject of Urdu be introduced in the year one. The reason behind inclusion of this subject is to twofold. First, it is to promote the dying literature of Urdu amongst the new generation, and second, in the competitive examinations of Civil Judge Urdu is one of the prescribed subjects. This would enable the students to deal with subjects with a broad vision. Furthermore, in place of Philosophy of Law, the subject from year two, i.e., Legal Systems be taught, as our think tank asserts that the subject of Philosophy of Law can be covered under English Jurisprudence, which may take place of Legal Systems in the second year. In addition, the subject of Pakistan studies should objectively focus on the ideology of Pakistan, evolution of democracy in Pakistan and Political History of Pakistan. In addition, since the objective of the IT Skills is to help students become more accustomed to the using computer and Microsoft Office, its prime focus should be on the practical manifestation of the subject, rather than theoretical.

Moreover, by giving their due share of importance in the study of political systems, the constitutions of the USA and the UK should be replaced with Constitution of Pakistan in third year. Furthermore, the subject matter of laws of tort and easement is menial, thereby another subject from year four, i.e., Equity and Trusts should also be added along with it in third year. Where Torts and Easement is taught in one semester, and Equity and Trusts in other. Furthermore, it has been opined that since Partnership is an integral part of Contract, thereby it is only logical that Partnership Act should also be taught simultaneously with Contract Act and Sales of Goods Act. Thus, repealing it from the ambit of Mercantile Law of 4$^{th}$ year. Moreover, in order to develop research demeanor in the students, a subject of Legal Research, which focuses in the research methods, approaches and techniques in the legal realm. Third year should also conclude with a practical exercise, where students are introduced

with a practical aspect of the legal degree. For this purpose, students from the very beginning of the 3rd year should be taught Legal Drafting in its practical manifestations. Furthermore, coupled-with statute interpretation, students should be first taught on how to read and understand the language of an act. This is necessary as not all laws can be taught during the course of their degree. Thereby, guiding them first on how to read the law and then how to interpret may be a more suitable and practical option for the students.

From the current year 4 curriculum, we suggested to move both Equity and Trust and Constitutional Law in the third year. From Mercantile Law, we suggested to move Partnership Act with Contract Act in the third year, leaving Company Law and Negotiable Instrument Act. The International Law has a focus on the required learning outcomes and should remain in its place. Whereas subject of Property Law is deemed as highly complementary to the legal understanding. And for Muslim Personal Laws, it should grouped with Inheritance laws so the broad understanding about both the personal and collective rights be understood by the students from the Islamic perspective. The reason for the change is the close semblance of both subjects and thereby should be taught as one. Moreover, we also recommend that special and local laws should be placed in the list of elective subjects, where the students should be given a choice to study any subject from the list of the prescribed elective subjects. Furthermore, we also recommend that the subject of Administrative Law from Year 5 should be promoted in the year four in its entirety. In addition, continuing the practical manifestation of the legal program, we recommend an internship program during the summer break of the students with a firm, industry or private lawyer who has the experience of more than 10 years. The Students may be required to write a report at the termination of the internship and which should be duly signed by their supervisor. The grades for this report should be included in the final result of the fourth year.

In the fifth and final year, the subject of Criminal Procedure Code and Civil Procedure are highly complementary to the core legal knowledge. However, the medical jurisprudence should be merged with forensic laws in the electives, and instead Juvenile Justice System should be taught in its place, given its more affinity to the criminal law than medical jurisprudence. Moreover, minor acts should be place in the list of elective subjects, thus giving students

another option to study a subject of their choice from the list given. Furthermore, mooting should be made compulsory for the students of the year five, where they are evaluated for their performance. In addition, before the completion of their degree, all the students must complete an apprenticeship under a law firm or a seasoned lawyer, whereby he is required to write a report for his activities and which is duly signed by the supervisor.

**b. Subject Formulation Plan**

A summary of the suggestions have been provided in the tables given below.

***Year 1***

| **Subject Nature** | **Current Position** | **Recommended Position** |
|---|---|---|
| English | English I | English I (Mechanism to evaluate the Speaking and Listening Skills needs to be drawn) |
| Political Science | Political Science I | Political Science I |
| Sociology | Sociology I | Sociology I (Omit Research Methodologies from syllabus) |
| Jurisprudence | Introduction to Philosophy of Law | Legal Systems (Omit Philosophy of Law) |
| Religious Studies | Islamic Studies / Ethics | Islamic Jurisprudence (Omit both Arabic and Islamic Studies) |
| Language | Brief Introduction to Arabic Language | Urdu |

***Year 2***

| **Subject Nature** | **Current Position** | **Recommended Position** |
|---|---|---|
| English | English II | English II (Focus on Objective letter and Application writing, in addition to Essays. Also Either of Comprehensive Paragraphs or Precis writing to develop Critical ability in Students) |
| Political Science | Political Science II | Comparative Political Systems (UK, USA, China, Switzerland, and France) |
| Sociology | Sociology II | Sociology II (Philosophers both Muslim and Western) |
| *Or* | | |
| | | Criminology (With Given Subject Matter) |
| Jurisprudence | Introduction to Legal Systems | English Jurisprudence (Given Subject Moved to year 1) |
| History | Pakistan Studies | Political History of Pakistan (Indian Councils Act 1892 onwards) |
| Technology | IT Skills | MS Word, Excel and Power Point (Practical only) |

***Year 3***

| **Subject Nature** | **Current Position** | **Recommended Position** |
|---|---|---|
| Jurisprudence | English Jurisprudence | (Moved to Year 2) |
| Jurisprudence | Islamic Jurisprudence | (Moved to year 1) |
| Laws | Constitutional Law I (US and UK) | Constitutional Law (Pakistan)<br>(US and UK Political Systems moved to Comparative Politics) |
| Laws | Contract Law + Sales of Goods | Contract Law + Partnership + Sales of Goods |
| Laws | Law of Torts and Easement | Law of Torts + Equity |
| Laws | Criminal Law | Criminal Law |
| Research | - | Legal Research |
| Training | - | Legal Drafting, How to read a law and Statute interpretation |

***Year 4***

| **Subject Nature** | **Current Position** | **Recommended Position** |
|---|---|---|
| Laws | Constitutional Law II | (Moved to Year 3) |
| Laws | Equity and trusts | (Moved to Year 3) |
| Laws | Company Law | Company Law + Negotiable |
| Laws | Property Law | Transfer of Property Act + Land Acquisition |
| Laws | Muslim Personal Law | Muslim Personal laws + Inheritance laws |
| Laws | Public International Law | Public International Law |
| Laws | Special and Local Laws | (Placed in Electives) |
| Laws | - | Administrative Law + Services Law |
| Training | - | Internship |

***Year 5***

| **Subject Nature** | **Current Position** | **Recommended Position** |
|---|---|---|
| Laws | Law of Civil Procedure | Law of Civil Procedure |
| Laws | Criminal Procedure Code | Criminal Procedure Code + Juvenile Justice System |

**List of Recommended Elective Subjects**

- Alternate Dispute Resolution
- Banking Laws
- Conflict of Laws
- Consumer Protection Laws
- Corporate Litigation
- Custom and Tariff Laws
- Cyber Laws
- e-Commerce Law
- Election Laws
- Environmental Laws
- Gender and Law
- Insurance laws
- Intellectual Property Laws
- International Economic Law
- International Humanitarian Law
- International Institutions
- International Trade Law
- Internet Laws
- Islamic Commercial Laws
- Labor Laws
- Land Laws
- Law and Development
- Law and Energy
- Limitations Act
- Local and Special Laws
- Media Laws
- Medical and Forensic Law
- Mergers and Acquisitions
- Mining Laws
- Minor Acts
    - Rented Relief
    - Court Fees
- Islamic Legal Maxims
- Police Order 2002
- Police Rules
- Public Interest Litigation
- Rules and Orders of Lahore High Court Volumes (I) to (IV)
- The Punjab Civil Courts Ordinance 1962
- Securities Regulation
- Shipping and Admiralty Laws
- Special and Local Laws
    - Land Revenue Act 1967
    - Pre-Emption Act 1991
    - Punjab Tenancy
- Specific Relief Act
- Taxation Laws
- Telecommunication La

### c. Assessment Methodology

The existing curriculum of the University of the Punjab has tried to bring about an all-encompassing and inter-disciplinary approach to the curriculum development. It is obvious from the inclusion of several foundational and compulsory courses, in addition to the core courses. These courses, though, had been inculcated to bring about a universal understanding of the legal structure, however, the examination system does not complement the same.

Unfortunately, the prevailing examination system has been outdated and out-modelled across the country and same is adopted in the legal education. The students, instead of studying the text-books of statutes and laws tend to buy the guides which include a number of questions of which only a handful are deemed as important in the context of examination. These questions are repeated on the annual basis, thus implying students to only cram those, and those too in particular scheme for better marks. This examination structure does not compel students to develop any creative mind which solves the legal problems, rather a traditional brain which is not opt at sustaining in the long run of the professional career.

It is therefore, suggested to remodel the examination system along-with bringing structural changes in the curriculum. Only a good examination system can help build a better person in general, and lawyer in specific. The explicit change in the examination model and questions will accompaniment the prescribed learning outcomes of the legal degree.

Around the globe the most efficient method of assessing the performance of a student is activity based continuance assessment. For this purpose, it is of vital importance that students are judged not on the basis of an exam which is conducted at the end of the year, but on the basis of their performance throughout the academic year. They must be engaged in several activities like, mooting, internships, presentations, quiz, and group discussions, which are not only aimed at enhancing their legal and professional skills but are also evaluated. Furthermore, it is also unfair for such students who perform throughout their academic year but fall sick in a one or two papers, hence jeopardizing their entire academic year. For this purpose, it is suggested that an assessment methodology be changed from annual exam based to activity based continuous assessment which rests upon the semester system.

In addition to this, the nature of questions which are being asked should also be changed. Internationally, several assessment questions are employed which aim at student's critical abilities, for this purpose, the paper must be an amalgam of to the point short questions, multiple choice questions as well as essay based questions. Currently, only the essay-based questions are part of examination and those too, in a rather monotonous manner that majority of students tend to cram the selective 5-6 questions from the guides, as they are sure that those questions would be in the

paper. Furthermore, the essay-based questions should focus on the core understanding of the student about a particular subject. Instead of asking the basic concepts which almost all students have crammed about, the students must be provided with a condition in which the theoretical knowledge is applied.

***Comparative Analysis of Proposed and Existing Assessment Method***

| Existing System | Proposed System |
|---|---|
| Annual System | Semester System |
| Annual Examination | Activity Based Continuous Assessment |
| Exam Centric Studies | Subject Centric Studies |
| Generic Questions | Scenario Based Questions |
| Essay-Based Questions only | Amalgam of Essay-based Questions, Short Questions and MCQs |

**Activities to be assessed**

- Mooting
- Presentations
- Group Discussions
- Internships

**d. Teachers Training**

In Pakistan, generally formal lectures are adopted whereby students are engaged in a very few activities. While the formal lecture has proved relevance throughout the academic world, it is not as efficient when it comes to graduate level students understanding. The students at graduate level have menial understanding about the subject matter and thus cannot understand the basics of the subjects bound within the serious environment of a formal lecture. An interactive lecture where, the students are as participating as the teacher, is the answer to this problem. The more the students participate in the lecture the more understanding about the subject they would develop.

Therefore, while it is completely the prerogative of the teacher, still the university can make intervention in this regard by introducing teaching reforms and training to conform the same pedagogy

throughout the colleges as is endorsed by the university. Given that teachers have been following the same pedagogy and methodology in lieu of their subjects, as the subjects' outlines remain the same, it is important that there should be programs to upgrade the teachers so as to enhance their scope. For this purpose, it is recommended that teacher training workshops and programs be arranged at the behest of bar, university and colleges, whereby a selected number of teachers have to travel to university on the allowances by the colleges and engage in the training programs which bring them in line with the use of modern technology in the classroom.

In the backdrop of changing world in a digital world, it is of the most importance that teachers understand the modern pedagogical tools and use them form better understanding of the students. The use of multimedia, video lectures and activity based learning enhance the students' understanding and hence grasp the gist of the subject matter.

**Comparative Analysis of the Existing and Proposed Pedagogy**

| Existing System | Proposed System |
|---|---|
| Formal Lectures | Interactive Lectures |
| Traditional Approach of White Board | Digital Approach by the use of Multimedia |
| Questions at the end of session | Ask questions from students, throughout the session to make sure they are understanding |
| Organization of annual teaching training workshops to bring forth same pedagogy throughout the Affiliated Colleges | |

**e. Attendance Enhancing**

Another vital problem that almost all the colleges throughout the country face is the problem of keeping the attendance. While the general perception of the students is that they can cover the entire syllabus in the last few weeks via selective studies and guides, it is evidently very difficult to justify their attendance in lieu of the status quo. The students generally come to college, a month or two throughout their academic year and leave as soon as the syllabus is completed. The attendance problem is root cause of the existing assessment system which is annual based system.

To rectify this problem and to ensure the presence of students on campus, it is suggested again to develop an activity based continuous method in a semester system for assessment of the students. Knowing that their assessment is not completely dependent on their annual exams, students would try to make sure that they make it to the college and participate in as many activities, prescribed above, as possible.

**f. Employability**

Fourthly, the reformed curriculum ought to target certain goals which aim to prepare students for the market and its changing dynamics. There are several programs which may adopted for enhancing the employability of the students after graduation. These programs include interventions, workshops and talks on different legal topics including Commercial Awareness, Legal Technology and Mooting. Moreover, the intervention programs can also be inculcated in the existing curriculum which may aim to update students with the local and international market and the skills required.

Seminars and workshops should be conducted where the professional lawyers with sound legal understanding are summoned to provide legal training to the future lawyers on the regular basis.

The Law moot is one of the most overlooked factors in the current curriculum. It should be necessary for all students to participate in law moot. Mooting prepares students in the real-time microcosmic environment which works on the model of judicial practices in the professional life.

Students already learn the subjects of legal drafting; they should be engaged in learning the practical manifestation of these skills in the law moots. Other skills like case filing may also be taught under the auspices of the Moot.

Apprenticeship, that students adopt after completion of their degree, should be part of curriculum where students are placed in law firms or with good lawyers who are considered an authority in the legal practice of a certain field.

The introduction of law clinics within the educational institutions may solve all the above-mentioned problems. Students under the supervision of professional attorneys may work on the first-hand legal cases, *pro-bono*, which involves drafting, case filing, and defense counsel to the real-time clients. This may enable students to

learn all the skills which aim at enhancing their employability in the existing labor market.

**INTERNATIONAL STANDARDS**

Another reference to the improvement of curriculum may be taken from the existing international standards. As we have already mentioned above, the legal educational structures of the developed countries targets twofold objectives, i.e., curriculum and training. It is important that Pakistan too adopts these standards.

The curriculum of Pakistan already matches to some extent to the international standards, with threefold division of courses in compulsory, foundational and core. However, the elective subjects may also be included which are matched with the digital revolution across the globe. The range of electives should provide an opportunity to students to explore the world from the perspectives of developed world. This will cater with the upbringing of such lawyers who are more advanced and can better counsel the corporate conglomerates within the country. Courses like internet law, international trade law, corporate litigation, mining law, international human rights law, environmental laws, have serious future within the framework of Pakistan, and they can help lawyers in the achievement of real-time success in all aspects of legal industry.

Internationally there have been two aspects of training the lawyers across all the developed countries. They are both relevant and both have produced serious results. These are

- Procedural training and mooting
- Internships and law clinics

The former aims at the providing training to the students in a microcosmic environment, which is modelled at the real-time court room. This helps in abridging the gaps between the theory and practice, and students thus learn to apply their theoretical knowledge in its practical manifestation. Students, who graduate, having training or experience as such tend to perform better.[127]

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[127] Parsons, L. (2017). *Back to the past to meet the future: The benefits of competitive mooting in a new era of legal practice*. 72nd Annual Conference of Australasian Law Teachers' Association , Adelaide, Australia

Secondly, the internships and apprenticeships during the course of studies has shown better results in terms of employability[128]. Students who work with real-time data and information, at the early stage of academic lives are better in performing in the professional life. They find it easier to adapt to the environment of courts have shown better performance.

Thirdly, the concept of law clinic, as discussed above, also contributes in the professional out-look of the students. The clinics within the educational institutions deal with pro-bono cases which are aimed at helping the oppressed community. Students are engaged to work with experienced attorneys at the clinic and who have vast experience legal practice. Under the supervision of such experienced attorneys, students learn the interpretation of laws, statutes and precedents. It has been evidently observed that students who are thus trained tend to perform profoundly well against other.

Moreover, students must be held under first under internship then after completion of course work, under apprenticeship of the senior lawyers of high repute. Spending the summer break in the internship may help them in understanding the applicability of their theoretical into practice, in addition to development of their PR.

Students may also be placed with several industries as interns to widen their scope beyond practicing in courts and learn value in the corporate and business field.

[128] Alison Fuller & Lorna Unwin (2011) Apprenticeship as an evolving model of learning, Journal of Vocational Education & Training, 63:3

## CONCLUSION

All in all, the importance of the changing dynamics in the light of the digital revolution, for the education system cannot be overlooked. The students being taught and the way they are taught, needs a lot of upgradations. The production of quality lawyers who have higher chances for employability should be the primary focus of the law degree, and any changes that occur in the curriculum should inculcate such changes so as to complement these necessary attributes. The introduction of semester system with continuous assessment methodology is answer to this problem. This coupled with a revised scheme of subject formulation which focuses on both theory and application would bear far reaching results. Law unlike other subject's needs, both practical and theoretical skills and knowledge. This needs to be foremost predicament for the new curriculum. Introduction of internship, apprenticeship and mooting would allow students to learn and have a feel about the real-time professional environment, they are to get during the course of their professional life. Furthermore, the exam structure from memory testing to problem solving should be changed by introducing propositions and hypotheticals where student are invoked to critically evaluate the problems. They must be able to apply problem solving skills and conclude the task with sound writing thus enabling a holistic interpersonal skills training for effective lawyering. And finally, the range of electives is must which may introduce to the students, the dynamism happening in the legal world. It may enable them to see the world as from the perspective of a developed world. Modern laws aiming at modern problems should be priorities in this aspect, so to enable the lawyers in a universal perspective. These conditions must be accommodated in any reform which is to be made with regards to the curriculum.