



Protection of Right to Dignity as Envisaged under Pakistani Law for Print Media: Analysis from Top Two English Dailies

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Abstract

Protection of dignity is one of the most fundamental of rights recognized by Islam and international instruments yet it remains neglected in laws relating to press in Pakistan. The purpose of this article is to suggest reforms for protecting right to dignity effectively at the hands of press. Right to dignity is one of the most cherished of rights in all the legal systems of the world. The non-provision of effective protection of dignity by press in legal regime of Pakistan is deprecating to such a right and facilitates the violation of referred right to dignity by press media. The methodology adopted is doctrinal & critical with proposals for review of existing laws. The sources discoursed are both primary and secondary. Findings of this article mandate revision of Press Council of Pakistan, Ordinance 2002 to protect right to dignity effectively. The research doesn't go into a comparative analysis in relation to other jurisdictions. This is the first of its kind of research on the topic. The objective is to propose meaningful reform for protection of right to dignity so that it is not violated unnecessarily by press in Pakistan.

Key Words: Press, Laws, Amendment, Dignity, Privacy, English Dailies, Print Media:



Introduction

The topic under discussion analyzes few cases of abrogation of right to dignity at the hands of press and points to a higher malady of consistent violation of privacy and dignity of individuals in news reporting. Keeping in view persistent failure in protection of right to dignity at the hands of newspaper industry, appropriate reforms are proposed in press laws of Pakistan. The research will enrich the mass of literature on media ethics by highlighting importance and protection of right to dignity. The objective of the study is to propose meaningful reform in interest of free, impartial and unbiased reporting which inter-alia doesn't affect individuals' right to dignity and privacy.

Literature Review:

There is numerous scholarly literature pertaining to protection of right to dignity but none focuses on protection at the hand of print media. Government recently has targeted social media for prohibiting misuse in this regard but a lot is desired in-relation to introducing appropriate reforms for protecting right to dignity at the hands of print media. 'Dignity is a useless concept' discusses utility of such protection from the stand point of medics (Macklin, *Dignity is a useless concept* 2003). Book titled, 'Dignity at Work' pertains to workplaces with reference to protection of dignity (Hodson, *Dignity at work* 2001). "Understanding Human Dignity" aims to help the reader make sense of current debates about the meaning and implications of the idea of "human dignity and the book is different in scope to that of the present study (McCrudden, *Understanding human dignity* 2014)." Book titled, 'Dignity of Legislation' Underscores the subject of dignity through relevant legislation (Waldron, *The dignity of legislation* 2007). The article titled, 'Stupidity of the Dignity' tries to weighs on dignity as an effective concept (*The stupidity of Dignity - University of Pennsylvania*). The research in hand has not been conducted before and is distinguishable from other prevalent research which is not focused towards print media reforms in relation to dignity. The article has relevance to the present scenario of print media and does not encapsulate postulating reforms in other areas to which other scholars focused their attention.

Research Methodology:

Media laws warrant reforms for prohibiting indiscriminate flouting of dignity at the hands of print media. The methodology adopted for this study is doctrinal & critical analysis with proposals for review of existing laws. Findings of this article mandate revision of Press Council of Pakistan,



Ordinance 2002 to protect right to dignity of masses effectively at the hands of print media. The objective inter-alia of the study is to propose meaningful reform for print media in interest of free, impartial and unbiased reporting which advances right to dignity and privacy in Pakistan. Right to dignity as discussed in this study is of fundamental importance, value and legal import to which legal reforms have been envisaged. Theoretical framework is exploring the concept of dignity as a most fundamental of rights in Pakistan and then exploring same in print media laws while pointing out deficiencies in the existing legal regime relating thereto and proposing appropriate reforms. Data for research question under study was primarily collected from newspapers to highlight the flouting of right to dignity at the hands of print media. Other primary and secondary sources are from diverse origins.

Analysis

Allah Almighty is the source of all laws in Pakistan. It is mentioned regarding human dignity in the Holy Book for Muslims as follows:

“Certainly, We have **honored** the Children of Adam, and carried them over land and sea, and provided them with all good things, and given them an advantage over many of those We have created with a complete preference”. (Al-Isra’:70) ((PDF) *human dignity: An Islamic perspective - researchgate*).

Article 14 of the Constitution of Islamic Republic of Pakistan prescribes mandatory inviolable fundamental right to dignity of each individual (Constitution of Pakistan, 1973). Right to dignity inter-alia implies protection of reputation and honor etc. of each individual. This was affirmed in a judgment of Karachi High Court in Pakistan, (*Sadia Sumble Butt vs Rafiq Afghan*, 2006) by Judge Nadeem Azhar Siddique giving verdict of a defamation case, wherein it was held as under:

“Human dignity, honor and respect were more important than physical comforts and necessities. No attempt on the part of any one to detract , defame or disgrace another, thereby diminishing, decreasing or degrading the dignity, respect, reputation and value of life more particularly on the part of journalist should be allowed to go with impunity. Defendants failed to prove that publication was correct and was published after due care in good faith in the interest of public.”

The ratio of this judgment as reproduced clearly points out one of the reasons for low number of defamation cases against journalists in Pakistan.



Despite using high sounding words of ensuring respect and dignity at the hand of journalists of each individual as enshrined in the Constitution of Pakistan, journalists can be let go in defamation cases in Pakistan on proof of publication in good faith and interest of public. Good faith and interest of public being wide and loosely defined terms are heavily shouldered towards journalists favor. Besides, the poor justice system in Pakistan and lack of resources on part of masses can also be quoted as other major reasons of not coming forward of people against journalists in cases of insinuations.

United Nations declaration on human rights has following to say regarding human dignity and privacy:

“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks(*Universal declaration of human rights*).”

The International Covenant on Civil and Political Rights 1966 relates human dignity with peace in the society. German philosopher Kant pondering on the preciousness of this right to dignity has classified it beyond value ((*PDF*) *human dignity: An Islamic perspective - researchgate*).

Section 20 of the Prevention of Electronic Crimes Act, 2016 penalizes harming the honor and reputation of any person through any electronic information system. However, this article specifically pertains to inadequacies of laws, regulatory framework and their execution in the context of print media.

The law that provides for the ethical guidelines of print media and prescribes penalties for breach thereof is Press Council of Pakistan Ordinance, 2002. This Press Council of Pakistan Ordinance, 2002 establishes a press council presided by a person qualified to be a judge of a Supreme Court of Pakistan with eighteen members in equal parity from journalists and independent organizations(Press Council of Pakistan Ordinance, 2002) . The press council can take notice of any breach of ethical standard as prescribed in the schedule to the Press Council of Pakistan Ordinance, 2002 on its own or at the initiative of an aggrieved person (Press Council of Pakistan Ordinance, 2002). The ethical code of practice as prescribed in the schedule to the said ordinance inter-alia protects dignity of individuals in press reporting. It mandates that standards of morality will be upheld in press reporting, prohibits publication of slanderous/libelous material, avoidance of bias reporting and most importantly disclosing of all essential and relevant facts with accuracy (Press Council of Pakistan Ordinance, 2002).



This research will assess some of the news items of top two dailies of Pakistan i.e. 'Dawn' & 'The News' from recent past years with reference to right of dignity as enshrined in the Constitution of Pakistan and Press Council of Pakistan Ordinance, 2002 with the purpose of proposing reforms to the existing state of laws in relation to protection of right to dignity by print media. Flouting of law relating to dignity by print media can take the form of harassment and requires lawmaker's attention. Princess Diana lost her life fighting media bullying and in Pakistan, one can find no dearth of cases where people have suffered at the hands of media in relation to flouting of their honor.

'Dawn' newspaper is a leading newspaper of Pakistan and the analysis in hand will firstly scrutinize some of its news items in relation to right of dignity which again stated inter-alia implies upholding morality and ethical standards in relation to citizens of Pakistan. 'Dawn' is a newspaper which draws lots of its publicity from the fact that it is founded by Quaid-e-Azam Muhammad Ali Jinnah. The same is mentioned in every morning paper of 'Dawn' (*Dawn-epaper: Jul 30, 2021: Page front page*). A closer look at the news items of Dawn news some of which will be discussed hereinafter is extremely insightful as to how right to dignity is flouted in Pakistan with practically no culpability of persons directly or indirectly responsible in print media.

One such story pertains to the alleged irregular appointments in Islamabad High Court in which the primary author of this article was also mentioned as being appointed without due process (Newspaper, *Appointments in the worry many* 2011). The background to this news story goes as such that right after the establishment of Islamabad High Court through Act of parliament in 2010, certain individuals were appointed to the establishment of Islamabad High Court without advertisement of the said vacancies. These persons were appointed with full legal backing as the aforesaid establishment Act of Islamabad High Court, 2010 read with the establishment rules of Islamabad High Court granted unlimited powers to Chief Justice of the said court to appoint any person on the roll of establishment. Besides, there was a constitutional bar in bringing a petition against superior courts (Article 199(5), Constitution of Pakistan) which was a settled principle for almost 60 years till the same was reversed by virtue of judgment rendering these direct appointments to Islamabad High Court invalid after a lapse of five/six years from the date of appointment of these alleged irregular appointments. Merit system in Pakistan is well known to everyone which is hugely manipulated many a times to suit ends in favor of blue eyed. The primary author of this article despite making to the top of list



of some advertised post was never able to get a government job in Pakistan. In this backdrop, a request was made by way of application to the Chief Justice of Islamabad High Court being well qualified for the post to appoint primary author on the establishment of Islamabad High Court which was graciously acquiesced. This caused a heart burning among many quarters particularly one Librarian of Islamabad High Court who had particularly left the post to himself for promotion on which the primary author was appointed. This reserving of post was done systematically as Article 208 of the Constitution of Islamic Republic of Pakistan authorized High Courts to make establishment rules for itself subject to countersigning by the President of Pakistan. The librarian in the instant case possessed a degree in library science from online university and basic law degree. The same qualification was mentioned in the establishment rules of Islamabad High Court for promotion to Research and Reference Officer from Librarian. The primary author of this article at the time of appointment had vast litigation experience with a higher degree in law and degrees from top notch institutes of the country which was the actual requisite/vacancy demand for the post of Research and Reference Officer to Islamabad High Court.

This matter along-with other appointments went to the Supreme Court of Pakistan after the period of limitation in Public interest litigation at the behest of a local lawyer basing their case on news reports and one audit report which was settled. However, it was evident that the matter was agitated solely on the request of Islamabad High Court staff that had heart burning, as the course of arguments was negation of promotion channel to already employed staff. Islamabad High Court through its own enquiry initially implicated certain persons in conniving with media with regard to highlighting of the story in biased terms. The outcome of this case in Supreme Court of Pakistan left the alleged irregular employees after spending the prime of their period in Islamabad High Court jobless with no bread and butter for sustenance and no opportunity to apply elsewhere for government jobs.²

The subject case was overturned recently without any relief forthcoming directly from judiciary for the ousted staff, denying inalienable right of treatment in-accordance with law as enshrined in Constitution of Pakistan (Constitution of Islamic Republic of Pakistan, 1973). On October, 17th 2021, Dawn published a news item titled, 'Appointments in IHC worry many', making out a case that appointments in Islamabad High Court had been made irregularly to the astonishment of many concerned individuals.



The news item directly named the individuals appointed without naming the appointing authority (Newspaper, *Appointments in ihc worry many* 2011). This news item was regularly followed by other news items by journalists namely Nasir Iqbal and Malik Asad on regular basis supporting the stance of the aggrieved high court employees while the case was being regularly heard in the apex court of Pakistan (Iqbal, *Ex-ihc official wants to become party to irregular hiring case* 2015) (Asad, *Bar seeks resignations of those behind illegal ihc appointments* 2016). It is pertinent to mention that any comment on case pending before superior courts that has the effect of prejudicing the case is Contempt of Court under article 204 of the Constitution of Islamic Republic of Pakistan, 1973. However, this pattern of news was followed till the outcome of the case in Dawn newspaper with eventual final celebration and hailing of the Judge Ameer Muslim Hani that pronounced the judgment. This judgment however, was overturned after a lapse of about five years but this overturning also haunted Dawn newspaper and journalist namely Malik Asad who published yet another news without quoting any sources that ousted high court employees are coercing the registrar of Islamabad High Court for their reinstatement pursuant to the judgment if apex court larger bench (Asad, *45 former ihc officials Seek reinstatement following SC judgement* 2020).

These news reports by Dawn newspaper are self evident how matters are taking to a personal level while news reporting putting at stakes the reputation of individuals. A judge of the Supreme Court of Pakistan had to retire following these news reports. The whole story also casts a shadow on independence of judiciary indicating how judgments are procured on extraneous considerations rather than on Justice and merits. The story as mentioned was repeatedly highlighted by Dawn Newspaper and other such like stories e.g. direct appointments in Lahore High Court fail to get importance from Dawn Newspaper for obvious reasons i.e. same not being motivated and involving malice on the part of Dawn team.

The above news stories are manifestly expressive of infringement in privacy to family life too which is inviolable in legal regime of Pakistan but remains un-culpable.

Another case of unbalanced and in all probability prejudiced news items is that pertaining to Malik Riaz (Property Tycoon) which may be cited here, in making out a case for media reforms, with reference to protection of right to dignity at the hands of print media. Malik Riaz of Bahria Town Ltd has been repeatedly cast as a villain through various news items in 'Dawn' newspaper, imputing therein shady property deals to him (Hasan, *Projects*



like bahria town 'are atom bombs for the poor' 2016) (Fahim Zaman | Naziha Syed Ali, *Bahria Town Karachi: Greed unlimited* 2021).

The case of perverse news items relating to Malik Riaz which was also challenged by him, (*Bahria Town serves defamation notice on dawn, claims express tribune*) also illustrative of classic case on media trial hitting right to dignity. Why is the whole justice & administrative system in the state silent if Malik Riaz is such a goon as portrayed in these new items? Why has the Dawn news not covered this aspect of case and initiated appropriate legal inquiries? Perhaps 'Dawn Newspaper' owners don't want to irk their puppeteers! So much so, that to malign said Malik Riaz, two news items have been published mentioning Malik Riaz and family refusing corona testing as if this is the most disgraceful problem country is facing. (Siddiqui, *Malik Riaz, 2 others refused to give samples for covid-19 test: Lahore Airport manager* 2021) (Chaudhry, *Real estate tycoon, spouse refuse to undergo Covid test after Dubai Return* 2021). Less said the better about this paper being claimant of founder of Pakistan name in attracting followers. But this depicts extremely unfortunate state of affairs in the print media. It has also been seen in the past that 'Dawn' newspaper can even detract after publishing news pertaining to national importance & cohesion (Almeida, *Exclusive: Act against militants or face international isolation, civilians tell military* 2017).

The right to dignity in Islam seemingly derives its' roots from the verses where story of confrontation between Satan and Almighty is described. Angels in this story were not inclined to the idea of creation of man but were convinced of its authority as Adam possessed the ability to name things which Allah Almighty had taught to him. This forming of concepts in humans seems to be the driving force for granting of dignity. However, dignity is absolute & unrestricted for individuals as fundamental right in international instruments and Pakistani constitution. Having a right without proper protection seems to be not so good an idea as is being seen in the case of Pakistan where right to dignity is mercilessly flouted at the hands of print media. The holy scriptures which form the jurisprudential base of Pakistani constitution protect dignity to such an extent that calling of names other than one's own has been deprecated. Further, slander to women without proper evidence is a strict liability offence with serious consequences.

Now we look at some of the news stories from daily newspaper titled, 'The News'. This is also a widely read newspaper in Pakistan. The most accredited author of 'The News' is probably Ansar Abbasi and his recent news items on former Chief Justice of Pakistan Mr. Saqib Nisar is



further being analyzed here in relation to right of dignity etc. Mr. Ansar Abbasi's motivation for news items becomes self evident once when goes through the news items.

The said gentleman namely Ansar Abbasi on July 4th 2021 published a news item citing former government counsel Mr. Ausaf claiming that former government of PML(N) in Pakistan wanted to remove then Chief Justice Saqib Nisar and a case was prepared in this regard which was to be forwarded to Supreme Judicial Council for proceeding accordingly (Abbasi, *Nawaz wanted to remove ex-CJP saqib nisar* 2021). However, on advice of aforesaid government counsel namely Mr. Ausaf, the proposed reference against Saqib Nisar was not so filed. On July 5th 2021, Ansar Abbasi publishes another news item stating that former Prime Minister Khaqan Abbasi has clarified the previous news item in stating that judges of superior courts approached Khaqan Abbasi for filing of a reference against Saqib Nisar, however, the idea was not pursued. Thus, both stories i.e. 4th and 5th of July, 2021 become dubious and loose sanctity due to manifest contradictions raising question mark over quality of press reporting in Pakistan.

These news items were followed by another news item on November 15th 2021 by same Ansar Abbasi wherein former Chief Justice of Pakistan Saqib Nisar was again implicated by a former High Court Judge of influencing trial in Nawaz Sharif case on pretext that the said judge of High Court overheard the Chief Justice of Pakistan Saqib Nisar phone call dictating course of action in Nawaz Sharif trial (Abbasi, *Ex-CJ GB makes bombshell revelations about ex-CJP saqib nisar in signed affidavit* 2021). This news story subsequently raised a lot of hype in public and courts but no one has cross examined the author reporter on material questions e.g. why was news story published on hearsay etc. It is also material with reference to this news item that why such a sensitive matter if true was being discussed before a High Court judge and not in private chambers. No counter balancing argument in favor of Mr. Saqib Nisar has been put forth in the said news item thus significantly reducing his demeanor and dignity in public eye. News is also surfacing that Islamabad High Court is also raising question marks over these news items by Ansar Abbasi. Though Court is unnecessary dragging itself in the controversy, as being an affected party, it should lay its hands off in interest of justice. However, the news reports as reported are self explanatory of media manipulation for vested interests.



These news items don't end here and another biased news item is followed alleging public demand of inquiry against Saqib Nisar isolated short clipped audio leak confessing influencing trial of Nawaz Sharif (Abbasi, *Demand for SC probe into ex-CJ's alleged audio leak on the rise 2021*). One can only lament the sorry state of affairs of press with regard to dignity and privacy presently. In this scenario, reforms are being proposed which may protect dignity of individuals and enhance fairness in news reporting which is divested from bias.

Press Council of Pakistan Ordinance, 2002 is completely deficient for ensuring fair reporting that does not hit dignity of individuals. This is being said as there is no effective penalty prescribed in Press Council of Pakistan Ordinance, 2002, for making certain effective checks on newspapers. The penalty of warning and alternately cancellation of license are wholly insufficient in relation to breach of right to dignity. Violation of right to dignity and privacy of home in most cases results in virtual death of a person. To countenance such breach at the hands of press effective checks are beckoning which can ameliorate the esteem of individuals violated by affording appropriate relief. Press Council of Pakistan Ordinance, 2002 mandates serving of fifteen days notice before initiating of complaint therein. A cumbersome process with little to offer is obviously tilted in favor of journalists who are prone to violations due to lack of oversight. In this regards, it is proposed that 'manipulated news' should be made a culpable offence under Press Council of Pakistan Ordinance, 2002 which inter-alia should mean twisted, exaggerated & biased news items. The burden of proving otherwise should be placed on the journalist in case of complaint. Moreover, hearing of the parties after notice without going into detailed inquiry should be made suffice for imposing any penalty pursuant to provisions of Press Council of Pakistan Ordinance, 2002. Further, it is proposed that heavy fines recoverable from journalist pocket for payment to any affected party may also be introduced by reforming Press Council of Pakistan Ordinance, 2002.

Conclusion

The research highlights some of the news items of top most two English dailies in Pakistan wherein breaches of right to dignity have been committed pointing towards a higher malady in law that such violations are the norm of day, hence, serious reform needed to regulate newspaper industry in Pakistan. It is resultantly inter-alia proposed that manipulated news may be strictly dealt with appropriate punishments. This will raise the level of press reporting in Pakistan and enhance prestige of press. Besides, checks on



media as proposed will protect right to dignity and promote the culture of fair reporting. Future research on the topic has huge potential and can be directed towards discourses in gauging the severity of nature of violation of right to dignity and its consequent punishment.

Recommendations:

It is proposed that ‘manipulated news’ should be made a culpable offence under Press Council of Pakistan Ordinance, 2002 which inter-alia should mean twisted, exaggerated & biased news items. The burden of proving otherwise i.e. non-manipulation & non-bias etc. may be placed on the journalist in case of complaint. Moreover, hearing of the parties after notice without going into detailed inquiry should be made suffice for imposing any penalty pursuant to provisions of Press Council of Pakistan Ordinance, 2002 or summary trial of proceedings introduced for said purpose. It is also proposed that heavy fines recoverable from journalist pocket for payment to any affected party may also be introduced in the Press Council of Pakistan Ordinance, 2002 by reforming same.

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