

ISLAM, RELIGIOUS FREEDOM, INTERNATIONAL HUMAN RIGHTS, AND THE JUSTICE SYSTEM OF PAKISTAN: A CRITICAL ANALYSIS

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ABSTRACT

This research paper critically analyzes how the justice system in Pakistan has protected religious freedoms in line with International Human Rights Instruments and the principles of Islam. The study aims to outline the legal framework of religious liberty in Pakistan through a qualitative review of existing literature, judicial decisions, constitutional provisions, relevant legislation, and Islamic perspectives. It also explores the interaction between religious freedom and the criminal justice system in Pakistan. The findings of this study reveal that though International Human Rights Instruments provides a basic international framework for religious freedom, yet Islam had already acknowledged and protected this right long before. The study concludes that the Constitution of Pakistan recognizes religious freedom as an independent human right, though it remains subject to the law. Furthermore, Pakistan's higher courts also support religious freedom in their rulings, but their calls for policy measures to prevent the misuse of religious penal provisions have yet to be implemented. The study also proposes future research on whether religious freedom is an inalienable right or remains subject to legal restrictions. This work offers critical insights into the ongoing discourse on religious freedom.

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INTRODUCTION

The Right to Religion (RTR) is broadly acknowledged as a core element of international conscience. It represents key aspects of human rights (HR) and their fundamental freedoms. This right has always been regarded as a vital element in human society. It forms the foundation upon which societies are built. Furthermore, religious freedom (RF) is highlighted as an essential right that confers dignity and honour on humans. RF has now been recognized as an inherent right which is granted to every person, and it has been considered as an absolute entitlement for all humans. Moreover, the implication of HR and RF is also evident in the fact that, despite the existence of diverse opinions held by world leaders on various life issues, there is a universal consensus on the importance of HR. The primary role of a society is to enable both its individuals and also the state to establish justice, for both individually and collectively. Therefore, the concept of RF still remains fundamental for all cultures and civilizations (Attaullah Khan, 2016). John Stuart Mill, who is known for his words on liberty, had little respect for authorities who enforced what he called the tyranny of the majority. He relied on his own sense of conscience. He strongly supported the idea that justice requires treating non-Christians the same as Christians. He held a cynical view of human nature. He believes that people are inherently intolerant, and he observed that religious zeal often leads to hatred (Mill & Rapaport, 1978, p. 40).

RF is a concept that can be expressed in various ways. There are various terms that are being commonly used in literature, research, and the media etc, such as religious liberty, freedom of religion, belief, and conscience, etc. All these expressions refer to a particular HR that permits persons to adopt and practice their religion freely. This right has been regarded as essential to HR. Over the years, many attempts to define religion have proven to be a complex and sensitive matter for the United Nations (UN) and its member states. However, what is allowed and protected in relation to subject of faith is that it has become clearer and established right through international declarations, conventions, statements from monitoring bodies, and legal decisions (Gunner, 2023).

Coming to the topic, according to research there are around 4,200 recognized religions in the world. Each has its own unique set of beliefs, cultural systems, identification, specific symbols, narratives, and histories. Despite these differences, the primary goal of every religion is to explore the meaning, origin, and purpose of life and the universe. All are focusing on the relationship between humans, their Creator, and their fellow beings (Shouler, 2010, p. 1). World major religions, including Islam, underscore on the importance of awareness of right and wrong, good and evil, legality and illegality, justice and injustice, and the equality of all people, free from all discriminations. The contributions of Shariah and the Holy Prophet Muhammad (PBUH) in the protection and promotion of HR are unparalleled. He (PBUH) exemplified the highest standards of dignified, social, and gracious behaviour in RF. He (PBUH) also urged his followers to honour and respect the beliefs of others (Yousif, 2000).

Pakistan is a diverse nation with multiple races and religions, though Muslims constitute the majority in this country. The 1973 Constitution (COP) ensures RF for all religious minorities. This commitment is also rooted in Islam. It itself advocates for RF for all humanity. However, there have been some reports of attempts to restrict this RF for certain faiths in Pakistan. These instances contradict Islamic teachings. Scholars have identified these issues and discussed them in the light of Islamic principles and explored the negative impact of mistreating religious minorities in Pakistan. Their analysis has addressed both the arguments for and against religious freedoms in the country and the religious rights and freedoms of non-Muslim minorities from an Islamic perspective. They have concluded that both the COP

and Islam uphold RF for all religious minorities in the country (Mehfooz, 2021).

International human rights instruments (IHRI) also protect the RTR and RF. These are considered as basic HR and they under no circumstances can be violated. Presently, IHRI recognizes twelve fundamental rights that cannot be derogated: RF is including in it. Therefore, everyone has the RTR including the thought and conscience. This right includes the freedom to change religion or belief in IHRI (Witte & Green, 2017). Furthermore, during examination of Shariah's perspective on RTR and RF, scholars have not only conducted an empirical study of Quranic verses but also delved into the philosophical implications of theological messages about RTR and RF. They analyze those messages which have been articulated in the Qur'an and which have been demonstrated by the real-life examples of the Holy Prophet (PBUH). Through their interpretation of certain Quranic verses, scholars have found that Islam strongly advocates for a society where people of different religions can coexist on the basis of the principle of RF. This concept of RF is not about granting permission to individuals to act without restraint but rather it is about mutual respect and protection among people of different faiths. The value of RF was exemplified in the historical practices of the Holy Prophet (PBUH) (Roswanto, 2014). Furthermore, Islam, as a religion, always promotes tolerance and respect for other faiths. This principle is rooted in several key Islamic texts. Though the interpretation and implementation of such principles can vary across different Muslim communities and individuals, yet the core message of tolerance and respect for diversity is a fundamental aspect of Islamic teachings and it has been followed by all Muslim countries (Philpott, 2013).

In this context, there appears to be no conflict between Shariah and HR. Both endorse RF and HR. Both strongly advocate for the RTR including to follow, profess, and practice a religion of one's own selection (Attaullah Khan, 2016). As RF is enshrined in various IHRI, the same is also recognized in the justice system of Pakistan (JSP), yet it is vital to critically examine this topic in light of Shariah and to evaluate whether the JSP meets the minimum acceptable standards set by Shariah and the IHRI.

SIGNIFICANCE OF THE STUDY

The RTR is a well-established fundamental right in IHRI. It grants individuals the basic freedom to

express and practice their own beliefs without any fear of unreasonable restrictions. In today's world, a satisfying and meaningful life is depending on the full assurance of this RTR and RF. Whereas, contrary to commonly held beliefs regarding Islam, the Shariah considers this issue of RTR and RF in a comprehensive manner. It covers various dimensions of this subject. It offers a clear comparison when we analyse it alongside the modern IHRI and HR frameworks. This study aims to enhance comprehension of the meaning and scope of RTR and RF both Shariah and JSP. It also seeks to contribute in a critical evaluation of the JSP in light of Shariah and IHRI. The primary focus is to evaluate how closely the concept of RTR and RF in IHRI is aligned with Shariah, with particular emphasis on JSP on this issue. Additionally, this study will also assist in the promotion of HR in Pakistan regarding RTR and RF more effectively. By thoroughly analysis and comparing various religious viewpoints, laws, and constitutional jurisprudence on RF, this research endeavours to conduct an in-depth examination of the RTR and RF in JSP.

RESEARCH METHODOLOGY

Since the main purpose of this study is to address the legal issues, through an analytical approach, rather than a descriptive one, therefore, analytical methods have been primarily employed to examine the RTR and RF matters in JSP. Additionally, a critical methodology has also been used at the time of dealing with the principles and provisions of IHRI regarding the RTR and RF. To make critical analysis of issues related to JSP, special focus has been made on case laws, especially those that have given JSP a major jurisprudence and influential principles regarding RF.

RELIGIOUS FREEDOM IN INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

RF has now been shaped as a fundamental aspect of all civilized human societies. Now the dignity and self-respect cannot be fully realized without the RTR and RF. These are now essential for all individuals. The RTR and expression and belief has been acknowledged by all major IHRI including the regional, as well as national constitutions (OHCHR, 2023). It is enshrined in documents such as the Universal Declaration of Human Rights (UDHR) (Contreras & Saavedra, 2023), the United Nations Convention on Civil and Political Rights (ICCPR) (Van Schaik & Doomen, 2024) the European

Convention on Human Rights (ECHR) (Roberts, 2023) the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (Ghanea & Wiener, 2023) and the African Charter on Human and Peoples' Rights (Umozurike, 2023, p. 34), among others (Bielefeldt et al., 2016)

Mohsen Kadivar, in his discussion of the RTR and RF as outlined in the UDHR, explains that this concept covers the right to hold a faith, to express religious beliefs, and to freely practice religious rituals. It also includes the right to teach religion to children, to promote religious teachings within a society, to establish places of worship, including the right to renounce one's faith or religion (apostasy), and to question religious doctrines. However, these religious practices must not infringe upon the RF others, nor should they disturb public peace and order (Kadivar, 2012, p. 121). Moreover, although the UDHR does not extensively cover RF, yet the ICCPR addresses it in a more detailed manner. The committee's comments on it further emphasis on the importance of RF and RTR. Article 18.1 of the ICCPR provides for the RTR, besides conscience and the freedom to hold beliefs. This RF is broad and significant. It covers freedom of thought as well on all subjects, such as the personal conviction, and the commitment to religion or belief, etc. The Committee highlights that RF and of thought and conscience is also equally protected alongside the RTR. The fundamental nature of these freedoms is underscored by the fact that they cannot be derogated from, even during a public emergency (UN Human Rights Committee, 1993).

RELIGIOUS FREEDOM IN ISLAM

Islam is not just a religion in the narrow sense; it represents Deen, which literally means a way of life, a rule of conduct, and it covers an ideology. The concept of Deen covers all basic aspects of human life. It consists of broad principles that direct us towards true purpose. It leads humans towards a genuine success, though it also enhances their moral and intellectual abilities. Both the Quran and the Sunnah refer Islam as Deen, not merely as a religion (Khan, 2019) As the verse provides that "Insofar as Allah's scheme for man goes, the only *Deen* for him is 'Islam' and none other" (*The Holy Quran 3:19*). Moreover, in Islam, the concept of RF is rooted in Qur'anic verses and the hadith of the Prophet (PBUH). This freedom covers both external and internal dimensions. External freedom refers to an individual's rights regarding acceptance or rejection of

a religion. Internal freedom has two other aspects: one, the freedom to choose among different sects, madhabs, and schools of thought within one religion; second, the freedom to fully commit to the teachings of the chosen religion. Once a person chooses a religion, then they are expected to adhere to and practice its teachings faithfully. Islam promotes RF and tolerance (Sumbulah, 2018) Furthermore, the foundation of the Islamic argument for RF lies in the Qur'an's perspective on human nature. The Qur'an's view of humanity recognizes every individual as a creation of God. That everyone is endowed with intellect and free will. God created humans "in the best of moulds" (*The Holy Quran 95:4*). The Qur'an also underscores the inherent worth and dignity of all people. Additionally, it asserts that God has given humanity the intellect and capacity to distinguish between right and wrong (*The Holy Quran 17:15*). It emphasizes on unrestricted selection. It said that "the truth [has now come] from your Sustainer: Let, then, him who wills, believe in it, and let him who wills, reject it" (*The Holy Quran 18:29*)

The Qur'an stresses that selection of the right path gives benefits to the individuals themselves, while going astray from this harms themselves. Faith is a personal decision—one that is between the individual and God. As a result, forced conversions are entirely unacceptable in Islam. They contradict the Quran's views. It is the philosophy of the Quran that religion should be spread through persuasion and not from coercion (Saeed, 2018). In this regard, the International Islamic Fiqh Academy, after reviewing scholars' research, has issued a resolution that is outlining the following principles on religious freedom: (Council of the International Islamic Fiqh Academy, 2009)

Core Principle

RF is now a fundamental aspect of Shariah. It has been deeply rooted in our human nature and it is linked with a responsibility in Islam. It is aimed at preservation of human dignity.

Protection of RF

In an Islamic society, RF is well-protected. It must be defended against all kinds of harmful ideologies and influences that threaten the Islamic identity of the Ummah.

No Compulsion

Muslims are obligated to adhere to the Qur'anic principle regarding compulsion of religious matters. (*The Holy Quran 2:256*) Through the history, Muslims have shown tolerance and acceptance of people with other faiths. All lived under Islamic governance. In return, non-Muslims also owes duty to respect the Islamic faith and to refrain from acts

that harm or desecrate Islamic sacred persons, places and symbols.

Jurisprudential Diversity

Diversity in sects and jurisprudential opinions is natural. Cooperation among Muslims, regardless of sect, is a Shariah obligation. Islam calls for unity, cooperation, and tolerance in matters of consensus besides it also allows for differences.

Prevention of Religious Chaos

There must be an end to actions that are provoking chaos regarding Islamic principles and they are creating doubts within the Muslim community about established aspects of our faith. Such practices, often carried out under the guise of RF. Misuse of RF should be strictly prohibited with an aim to safeguard the religious and intellectual security of our society and to prevent non-Muslims from using these RF against Islam.

RELIGIOUS FREEDOM IN THE JUSTICE SYSTEM OF PAKISTAN

HR in COP are covered in Articles 8 to 28, with specific provisions about the RTR and RF. Among these there are three articles. Article 20 is the first one which guarantees the RF including its practice and to manage religious institutes. It provides that within the boundaries of law, public order, and morality, every citizen has the RTR and RF besides propagation of religion. Additionally, religious groups or sects are also granted the HR to establish and maintain religious institutes. Furthermore, article 21 also safeguards individuals from being compelled to pay any special tax that is used for the promotion or maintenance of a particular religion other than their own. This provision also ensures that no one is forced to financially support religious activities that they do not follow or they believe in. Moreover, article 22 provides very important protections related to RF within educational institutions. It states that no one who is attending any educational institution should be required to receive special religious instructions, or to participate in special religious ceremonies, or to engage in specific religious worship if that pertains to a religion different from their own. Furthermore, it is also HR that no community will be discriminated in receiving tax exemptions or concessions on account of RTR and its institutions. The article also ensures that religious communities will become able to provide religious instructions to their students in their own institutions which are maintained by them. In addition, HR also ensure that no citizen will

be denied admission to educational institutions which are working on public funds on the basis of race, religion, caste, or place of birth (The Constitution of the Islamic Republic of Pakistan, 1973, Art. 20, 21 and 22). In the criminal justice system (CJS) and religious matters, Pakistan has introduced several amendments to its penal code (PPC). Chapter XV specifically governs offences which are related to the subject of RF and RTR. There have been many significant amendments which create substantial impacts on the subject of RF in the CJS and they include the Pakistan Penal Code (Second Amendment) Ordinance of 1980, the Pakistan Penal Code (Amendment) Ordinance of 1982, and the Criminal Law (Amendment) Act of 1986. These changes have significantly influenced how RF and religious tolerance are managed within the justice system of Pakistan. Although these amendments have faced strong criticism from liberal scholars, (Hayee, 2012; Rehman, 2001) they continue to regulate RF. These legislations have made RF and RTR subject to the penal laws which are outlined in this chapter of PPC. However, it is important to note that under this discussion we do not cover the criticisms of these penal provisions, as to deal with them researchers would require a separate, in-depth study.

The culture of this country demonstrates that Muslims constitute approximately 95 percent of Pakistan's total population of 190 million, with about 20–25 percent of them being Shia Muslims. Christians and Ahmadis each make up around 2 percent of the population, while Sikhs, Hindus, Parsis, Buddhists, and others comprise the remaining 1–2 percent. Despite this religious diversity, Pakistan's founder, Muhammad Ali Jinnah, aimed to steer the country away from divisions based on religion. In his speech on August 11, 1947, Jinnah emphasized, "You may belong to any religion, caste, or creed—that has nothing to do with the business of the state... We are starting with this fundamental principle that we are all equal citizens of one state" (Curtis, 2016). Moreover, scholars observed that after the Jinnah's death shortly, his speech was largely overlooked in the formulation of laws and policies for many years. However, proponents of a more inclusive society have been frequently referenced this speech as evidence of Pakistan's original commitment to equal rights for all citizens, regardless of their religious beliefs. They also pointed out to the Lahore Resolution of 1940, which emphasized the equal status of minorities. Furthermore, another symbol of inclusivity in

Pakistan is also represented by its white stripe of the national flag: that represents minorities. This stripe makes up 30% of the flag (Din & Jacob, 2019).

The existing PPC and criminal laws in Pakistan do not cover the potential misuse or abuse of the religious penal provisions which are currently in place. While there are laws that are governing offences related to religion, yet there is a notable lack of safeguards or adequate mechanisms in order to prevent these laws from being exploited for personal vendettas, discrimination, or false accusations. This gap in the legal framework has led to numerous instances where accusations of these penal provisions and other religious offences have been used to settle personal scores. To deal with this issue, it is important for the Pakistan to introduce specific legal measures that can actively prevent the misuse of penal religious laws. This could involve incorporating provisions that are clearly defining the burden of proof, and set strict penalties for false accusations, and establish processes for fair investigation and trial. Through implementation of these basic changes, Pakistan can ensure that its religious laws are not weaponized, and thereby they can be used to uphold justice and the fundamental rights of its citizens.

The Supreme Court of Pakistan (SCP) has consistently sought to cover the misuse of religious penal provisions through the proper application of procedural laws and the principles of the CJS. Through its rulings, the SCP has attempted to strike a balance between the strict implementation of law and protection of accused individuals from wrongful prosecution, particularly in cases where these laws might be exploited for personal or sectarian purposes. Numerous case laws illustrate the SCP efforts to ensure justice and to prevent the abuse of such provisions. One notable example is a recent case wherein a bail application for an accused who was suffering from schizophrenia was accepted. (*Ziagham Hussain Khan v. The State* PLD 2024 SC 75) The SCP recognized the mental incapacity of the accused and adhere to the legal principles related to mental health in CJS (Tullah et al., 2024).

Furthermore, in another case, the SCP upheld the importance of strict application of the procedural law during the investigation phase of cases which are related to religious offences. The court found that the investigation had not been conducted by a senior police officer, as it was required by procedural law, and this was indicating a serious violation of the established legal process. It emphasized that, despite

the severity of the penal provisions, which can carry a capital sentence, the COP mandates that every accused individual must be treated in accordance with the law, without discrimination. The court reiterated that even in cases which are involving sensitive religious issues, the proper legal procedures must be followed in order to ensure justice. Through bail due to the procedural violations in this case, the court sent a clear message that adherence to legal standards is utmost importance for the justice and that the rights enshrined in the COP apply to all citizens, regardless of the nature of the offence. This decision further highlighted the SCP's role in protection of fairness in CJS though regarding RF and RTR (*Zubair Saeed Sabri v. The State PLD 2024 SC 681*). Moreover, in one more case, the SCP again emphasized that though these cases are involving religious issues and they often evoke strong emotions, yet the application of criminal laws must be strictly and objectively construed. The SCP made it clear that an one's intentions or thoughts cannot be used to constitute an offence under these penal laws. It further highlighted that the COP calls us to be tolerant and peaceful. It is mandating that every person has the right to practice their religious beliefs freely, unless they do not violate any laws. The SCP in this case again reinforced that non-Muslims in Pakistan are equal citizens, and they are entitled to the same constitutional rights to practice and express their religion as they wish, especially within the confines of their religious institutions. It also stressed on the importance of stay away from discriminatory or bigoted behaviour towards religious minorities because these attitudes damage the nation's reputation and paint it as intolerant and extremist. Moreover, the court also underscored that human dignity is an inalienable right for everyone, regardless of their religious beliefs. Since these penal provisions directly impact individual liberty and human dignity, therefore, they must be applied with the utmost precision and care. This ruling also served as another reminder that the rule of law, respect for diversity, and the protection of fundamental human rights are the cornerstones of a just society (*Tahir Naqsh v. The State PLD 2022 SC 385*).

The SCP also observed that the verses of the Holy Quran has explicitly prescribed the death penalty for those who oppose Allah and His Holy Prophet (PBUH), including those who show disrespect towards the Prophet (PBUH). The court emphasized that no one, through spoken or written words, directly or indirectly, is permitted to disobey, disregard, or

show irreverence towards the Holy Prophet (PBUH). Those who found guilty in trial of cases of such disrespect are subject to punishment. The court also pointed out that history bears witness to incidents where attempts to defy or insult the Holy Prophet (PBUH) have led to strong reactions from Muslim communities worldwide, often resulting in serious consequences. Due to the deep reverence for the Holy Prophet (PBUH), any form of attack on his sacred life provokes an intense response from Muslims; this also often leads to severe law and order disturbances. This is why Section 295-C was enacted—with an aim to bring those who commit such acts of contempt to justice within the legal system (*Mst. Asia Bibi v. The State PLD 2019 SC 64*; Ullah Ranjha, 2018). The Federal Shariat Court had also reviewed the validity of this provision in a particular case, and it concluded that Section 295-C PPC was inconsistent with the fundamental principles of Islam, as it allowed life imprisonment as an alternative to the death penalty. The court ruled that the only appropriate punishment for contempt of the Holy Prophet (PBUH) is death (*Muhammad Ismail Qureshi v. The Pakistan through Secretary, Law and Parliamentary Affairs PLD 1991 FSC 10*).

But then again, the SCP also observed that under the authority of the COP and the law, it is the responsibility of the State to ensure that incidents of blasphemy do not occur in our country. If such a crime is committed, then only the State has the power to activate the legal process, and to bring the accused before a competent court for a fair trial in accordance with the law. It is not for people, groups, or masses to decide if an act falls under penal provisions of religion offences, as this decision lies solely with the court and that too after a thorough trial and on the basis of credible evidence. The court has also stressed that though blasphemy is considered abhorrent, immoral; however, to make any false accusations of such a crime it is equally detestable and culpable. Islam not only condemns blasphemy but also strongly opposes those who make false allegations. Therefore, it is the State's duty to guarantee that no innocent person is subjected to investigation or trial on the basis of false or fabricated accusations. (*Malik Muhammad Mumtaz Qadri v. The State PLD 2016 SC 17*) These decisions of the SCP underscore the commitment to fair justice. They also demonstrate that even in cases involving religious issues, fundamental principles relating to proof of charges in CJS and the appropriate administration of justice are paramount for courts. The approach of SCP in such

cases reflects that they are doing efforts to mitigate the potential for these penal provisions to be misused, and they also stressed on the need for careful application of these provisions and to follow legal procedures.

CONCLUSION

SCP have noted that provision of false testimony in cases which are involving religious issues is a violation of the covenant made by the Holy Prophet (PBUH) with those who follow the Christian faith. (*Mst. Asia Bibi v. The State PLD 2019 SC 64*) Scholars have cited several covenants made by the Holy Prophet (PBUH) with persons of the Christian faith. One such covenant is known as the "Covenant of the Prophet Muhammad (PBUH) with the Monks of Mount Sinai." It is recorded that around the year 628 A.D., a delegation from St. Catherine's Monastery—the oldest monastery in the world, situated at the base of Mount Sinai in Egypt—approached the Prophet (PBUH) and sought his protection. In response, He (PBUH) granted them a charter of rights (Zein & El-Wakil, 2022). Furthermore, these covenants, along with the above referred verses of the Holy Quran and the teachings of the Holy Prophet (PBUH) together underscore that Islam has long recognized RF and RTR as a fundamental HR. All these illustrate Islam's commitment to protect the rights and practices of people from other faiths. These sources also make it clear that RF and RTR is not only an important aspect of HR in Islam but it also a key component of the Islamic ethical and legal framework.

Furthermore, though IHRI, such as the UDHR, the ICCPR, and the ECHR, have all underscored RF and recognized RTR as a fundamental, independent HR; however, this study has revealed that Islam had already acknowledged and firmly established the principle of RF and RTR long before these instruments came into existence. The emphasis on RF in Islam is not simply a modern interpretation but it is a core value that has been upheld for centuries. It demonstrates that Islam views RF and liberty as an inherent HR. These teachings lay the foundation for religious tolerance and co-existence well before the IHRI and other codified principles in HR law. Therefore, though modern HR instruments are providing a structured and legal framework for RF, yet Islam had already embedded this right within its ethical, moral, and legal educations. Moreover, as SCP have noted in their judgements that the misuse

of religious penal provisions is also a distressing reality in our country, which often lead to false accusations, personal vendettas, and violations of HR. This situation underscores the urgent need for comprehensive legislation and policies keeping in due regards to the injunction of Islam with an aim to ensure the proper and fair application of penal laws in religious matters.

Future Research

Moreover, it is also important to mention here that some HR are inalienable and some HR are subject to the law. The first category is those which are regarded as fundamental and universal, and very inherent to every human being, such as the right human dignity (Barak, 2015); therefore, they cannot be surrendered or taken away, irrespective of any circumstances. In distinction, the second category are of those rights which are subject to law. They can be regulated or restricted by legal systems with an aim to maintain public order, security, morality, and to protect the rights of others. Though inalienable rights are seen as unfringeable, yet rights are usually considered to be subject to law to ensure societal harmony (Schiller, 1969). Whether RF and RTR is inalienable right or it is a right which is subject to law; and if it is, then what are permissible limits of RF and RTR: for the answer it requires another independent study (Berg, 2005; Côté & Gunn, 2005; Garay et al., 2005; Gedicks, 2005; Hostmaelingen, 2005; Ozsunay, 2005, 2005; Robbers, 2005; van Bijsterveld, 2005; Ventura, 2005). However, under the COP and CJS the RF and RTR is subject to law (The Constitution of the Islamic Republic of Pakistan, 1973, Art. 20, 21 and 22). Therefore, the challenge for any CJS is to balance these rights, on one side it obliged to protect individual freedoms on the other side it is bound to uphold the public interest and their welfare.

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