

## Evaluating the Fundamentals of Human Rights in South Asia: A Comparative Analysis with a Focus on Pakistan

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### Abstract

This study examines the four fundamental pillars of human rights; freedom, equality, justice and human dignity; within the context of South Asia, with a particular focus on Pakistan. Through an analysis of legal frameworks, international human rights instruments and case studies, this paper explores how these fundamentals are upheld or undermined across the region. The paper discusses the variations in the protection of human rights, providing a comparative assessment of South Asian countries, particularly emphasizing Pakistan's challenges and progress. The findings reveal significant disparities in civic participation, gender equality and access to justice, highlighting the need for comprehensive reforms and robust mechanisms to ensure the protection and promotion of human rights. The case studies illustrate the impact of socio-political factors on human rights practices, emphasizing the importance of addressing systemic issues to foster a more equitable and just society in South Asia.

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## Introduction

Human rights represent a cornerstone of contemporary international law and political theory, serving as the essential tenets that uphold human dignity, equality, justice and freedom. These rights, as enshrined in documents such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), are considered fundamental to the flourishing of individuals and societies alike. In the context of South Asia and particularly Pakistan, the discourse around human rights takes on added complexity due to diverse cultural, political and socio-economic landscapes. This paper seeks to explore these complexities through the lens of various theoretical frameworks, offering a

comparative analysis of human rights implementation across South Asia with a focused examination of Pakistan.

The theoretical underpinnings of human rights discourse are multifaceted, incorporating perspectives from liberalism, realism, constructivism and post-colonial theory. Liberalism, with its emphasis on individual freedoms and democratic governance, provides a foundational lens for understanding the universality and indivisibility of human rights. According to liberal theorists like John Rawls, the principles of justice as fairness are pivotal in ensuring that all individuals have equal access to opportunities and resources, thereby fostering a just society (Rawls, 1971). This framework is particularly relevant in analyzing the state of human rights in South Asia, where liberal democratic principles are often at odds with authoritarian tendencies and socio-cultural norms.

Realism, in contrast, offers a more pragmatic view, emphasizing the role of power and state interests in shaping human rights practices. From a realist perspective, states prioritize their sovereignty and security over the promotion of human rights, leading to selective enforcement and violations in the pursuit of national interests. This is evident in Pakistan, where geopolitical considerations and security concerns frequently overshadow human rights commitments. The realist framework helps explain why certain rights, such as freedom of expression and political participation, are more constrained in Pakistan compared to other South Asian nations (Dunne & Schmidt, 2017).

Constructivism, which focuses on the role of social norms, identities and discourse in shaping international relations, provides another valuable perspective. Constructivist scholars argue that human rights norms are constructed through social interactions and shared understandings, which vary across different cultural and historical contexts. This theory is particularly useful in examining the regional variations in human rights practices in South Asia. For instance, the differing levels of gender equality and civic participation in countries like Pakistan, India and Bangladesh can be understood through the lens of constructivism, which highlights the influence of cultural and social norms on the acceptance and implementation of human rights (Wendt, 1999).

Post-colonial theory offers a critical perspective on the legacy of colonialism in shaping contemporary human rights issues in South Asia. Post-colonial scholars argue that the colonial past has left a lasting impact on the political and legal institutions of South Asian countries, influencing their approaches to human rights. In Pakistan, for instance, colonial legacies have contributed to the entrenchment of hierarchical social structures and the marginalization of certain groups, thereby perpetuating inequalities and human rights violations. This perspective underscores the need to address historical injustices and decolonize human rights discourses to achieve true equality and justice in the region (Said, 1978).

In the context of Pakistan, the interplay of these theoretical frameworks reveals a complex picture of human rights practices. Despite constitutional guarantees and ratification of international human rights treaties, the realization of fundamental rights remains uneven and contested. Issues such as freedom of expression, gender equality and access to justice are particularly salient. For example, the judiciary's role in upholding the rule of law is often compromised by political interference and corruption, undermining the principle of justice (International Commission of Jurists, 2011). Similarly, socio-cultural norms and patriarchal structures continue to impede progress towards gender equality, despite legal protections (Human Rights Watch, 2019).

Freedom, as one of the fundamental pillars of human rights, encompasses various dimensions including freedom of life and liberty, freedom from slavery and torture, freedom of opinion and expression and freedom to education. In Pakistan, the state of these freedoms is a reflection of broader socio-political dynamics. Freedom of opinion and expression, for instance, is severely restricted due to stringent media regulations, censorship and persecution of journalists and activists (Amnesty International, 2020). The recent decline in civic participation and freedom of liberty across Asia, with Pakistan being no exception, highlights the increasing challenges faced by civil society in advocating for human rights and democratic governance (Freedom House, 2021).

Equality, as another fundamental principle, is enshrined in various international human rights instruments and is essential for building a just and inclusive society. However, in Pakistan, significant disparities persist in terms of gender equality, political representation and access to social and cultural rights. The persistent gender gap in education and employment, coupled with cultural and legal barriers to political participation, underscores the need for comprehensive reforms to achieve gender equality (UN Women, 2020). Comparative analysis with other South Asian countries reveals both progress and setbacks, with some nations like the Philippines and Singapore showing better indicators of gender equality, while others, including Pakistan, continue to struggle with deeply entrenched patriarchal norms (World Economic Forum, 2021).

Justice, as a fundamental element of human rights, involves ensuring accountability, deterrence and the rule of law. In Pakistan, the justice system faces numerous challenges, including delays in the judicial process, lack of access to legal representation and widespread corruption. The country's low rankings in both civil and criminal justice indices reflect these systemic issues (World Justice Project, 2021). Addressing these challenges requires a multifaceted approach, including judicial reforms, strengthening of legal institutions and promoting a culture of accountability and transparency. Comparative studies with other South Asian countries can provide valuable insights into best practices and strategies for improving the justice system (Asian Development Bank, 2019).

Human dignity, which underpins all human rights, is a recognition of the intrinsic worth and value of every individual. In Pakistan, numerous challenges threaten the dignity of vulnerable groups, including internally displaced persons (IDPs), women and minorities. The displacement caused by decades of conflict has led to significant loss of homes, livelihoods and dignity for millions of people. Ensuring the protection and empowerment of these groups is crucial for fostering a just and equitable society (UNHCR, 2021). Comparative analysis with other countries in the region can shed light on effective strategies for addressing the needs of displaced and marginalized populations.

Thus, the analysis of the four fundamental pillars of human rights—freedom, equality, justice and human dignity—within the context of South Asia and Pakistan reveals a complex and multifaceted landscape. The interplay of various theoretical frameworks, including liberalism, realism, constructivism and post-colonial theory, provides a comprehensive understanding of the challenges and opportunities for advancing human rights in the region. While significant progress has been made, substantial gaps and disparities persist, underscoring the need for sustained efforts to promote and protect human rights for all individuals. This paper aims to contribute to the ongoing discourse by offering a nuanced analysis of human rights practices in South Asia, with a particular focus on Pakistan and by highlighting the importance of addressing systemic issues to achieve true equality and justice.

## Literature Review

The study of human rights in South Asia and particularly in Pakistan, has garnered significant scholarly attention due to the region's complex socio-political landscape. This literature review examines existing research on the four fundamental pillars of human rights -- freedom, equality, justice and human dignity -- within the context of South Asia. By exploring the contributions and limitations of previous studies, this review identifies key literature gaps and areas for further investigation.

- **Freedom in South Asia**

Freedom, as a fundamental human right, encompasses various dimensions such as freedom of expression, freedom from torture and freedom to education. Scholars have extensively studied these dimensions within South Asia. For instance, Subramanian (2017) explores the constraints on freedom of expression in India, highlighting the impact of legal restrictions and political pressures on media and civil society. Similarly, Shahid (2018) examines the restrictions on freedom of expression in Pakistan, documenting instances of censorship, harassment of journalists and suppression of dissent. These studies underscore the significant challenges to freedom of expression in the region, but there is a need for comparative research that analyzes these issues across multiple South Asian countries.

Freedom from torture and ill-treatment has also been a focus of scholarly attention. Amnesty International (2020) provides comprehensive reports on the prevalence of torture in South Asian countries, including Pakistan. However, there is limited research on the long-term psychological and social impacts of torture on survivors in these countries. Additionally, while there is significant documentation of state-sponsored torture, there is a need for studies examining the role of non-state actors in perpetuating torture and ill-treatment.

The right to education is another critical aspect of freedom. Although UNESCO (2020) reports highlight improvements in educational access in South Asia, disparities persist, particularly in rural and marginalized communities. Nussbaum (2011) argues for the importance of education in promoting human capabilities and freedom, yet there is insufficient research on the intersectionality of gender, socioeconomic status and education in South Asia. Further studies are needed to explore how these factors affect educational outcomes and the realization of the right to education.

- **Equality in South Asia**

Equality is a cornerstone of human rights, enshrined in international instruments such as the UDHR and ICCPR. In South Asia, gender equality has been a primary focus of research. For instance, Jayachandran (2015) analyzes gender disparities in South Asia, documenting significant gaps in education, employment and political representation. Similarly, the World Economic Forum's (2021) Global Gender Gap Report provides comprehensive data on gender inequality in the region. Despite these contributions, there is a lack of in-depth qualitative studies exploring the lived experiences of women and other marginalized groups, which could provide richer insights into the socio-cultural barriers to gender equality.

Research on political equality and representation has also been prominent. Studies by Chhibber (2014) and Rai (2017) examine the participation of women and minorities in South Asian politics,

highlighting both progress and ongoing challenges. However, there is limited research on the impact of electoral systems and political party dynamics on the representation of marginalized groups. Comparative studies that analyze how different political systems within South Asia influence political equality would be valuable.

Social and cultural rights, including access to cultural life and heritage, are less explored in the context of South Asia. While studies such as those by Sen (1999) emphasize the importance of cultural rights in human development, there is a paucity of empirical research on the accessibility of cultural resources and participation in cultural life among marginalized communities in South Asia. Future research should address this gap by examining the barriers to cultural participation and strategies for promoting cultural inclusion.

- **Justice in South Asia**

Justice, encompassing accountability, deterrence and the rule of law, is crucial for the protection of human rights. Existing research has documented significant challenges to justice in South Asia. For instance, the World Justice Project's (2021) Rule of Law Index highlights issues such as corruption, delays in the judicial process and lack of access to legal representation in countries like Pakistan. Studies by Siddique (2011) and Hussain (2015) further explore these challenges, emphasizing the need for judicial reforms and stronger legal institutions.

Despite these contributions, there is a gap in research on the effectiveness of existing legal and institutional reforms in South Asia. While there are numerous reports on the deficiencies of the justice system, there is limited empirical evidence on the impact of specific reforms and interventions. Comparative studies that evaluate the outcomes of different judicial reform initiatives across South Asian countries would provide valuable insights into best practices and effective strategies for improving justice.

The accountability of state and non-state actors is another critical area. Studies such as those by Transparency International (2020) document corruption and impunity in South Asian countries, but there is a need for more research on the mechanisms and processes that promote accountability. Additionally, there is limited research on the role of civil society organizations and human rights defenders in advocating for justice and accountability. Future studies should explore the strategies and challenges faced by these actors in holding perpetrators of human rights violations accountable.

- **Human Dignity in South Asia**

Human dignity, which underpins all human rights, is a recognition of the intrinsic worth of every individual. Research on human dignity in South Asia has primarily focused on vulnerable groups, such as women, minorities and internally displaced persons (IDPs). For instance, studies by Human Rights Watch (2019) and UNHCR (2021) highlight the challenges faced by IDPs in Pakistan, including loss of homes, livelihoods and dignity. These studies provide valuable documentation of the plight of IDPs, but there is a need for more research on the long-term impacts of displacement on human dignity and the effectiveness of humanitarian interventions.

The dignity of marginalized communities, such as religious and ethnic minorities, has also been a focus of research. Studies by Puri (2017) and Das (2019) examine the discrimination and violence

faced by these communities in South Asia, emphasizing the need for stronger legal protections and social inclusion policies. However, there is a gap in research on the intersectionality of different forms of marginalization and their cumulative impact on human dignity. Future research should adopt an intersectional approach to explore how multiple forms of discrimination intersect to affect the dignity of individuals and communities.

- **Literature Gaps and Areas for Further Research**

Despite the significant contributions of existing research, several gaps remain in the literature on human rights in South Asia. First, there is a need for more comparative studies that analyze human rights practices across multiple South Asian countries. Such studies would provide valuable insights into regional patterns and variations, as well as the factors that influence the protection and promotion of human rights in different contexts.

Second, there is a lack of in-depth qualitative research exploring the lived experiences of individuals and communities in relation to human rights. While quantitative data and reports provide important documentation of human rights violations and disparities, qualitative studies can offer richer insights into the socio-cultural dynamics and personal experiences that shape human rights practices. Future research should adopt ethnographic and participatory approaches to capture the voices and perspectives of marginalized groups.

Third, there is limited research on the effectiveness of existing legal and institutional reforms in promoting human rights in South Asia. While there are numerous studies documenting the challenges and deficiencies of the justice system, there is a need for empirical evaluations of specific reforms and interventions. Comparative studies that analyze the outcomes of different judicial reform initiatives would provide valuable evidence on best practices and effective strategies for improving justice.

Finally, there is a gap in research on the intersectionality of different forms of marginalization and their cumulative impact on human rights. Future studies should adopt an intersectional approach to explore how multiple forms of discrimination intersect to affect the realization of human rights. Such research would contribute to a more nuanced understanding of the barriers to human rights and inform more comprehensive and inclusive policy interventions.

While there is a substantial body of research on human rights in South Asia, significant gaps remain that warrant further investigation. By addressing these gaps, future research can contribute to a more comprehensive and nuanced understanding of human rights practices in the region and inform more effective strategies for promoting and protecting human rights.

## **Critical Evaluation of the Four Fundamental Principles within the Context of Pakistan**

This section critically evaluates the four fundamental principles of human rights—freedom, equality, justice and human dignity; within the specific context of Pakistan. By examining various human rights indexes and relevant literature, this analysis highlights the key challenges and progress in Pakistan and offers policy recommendations to address the identified issues.

### **1) Freedom in Pakistan**

Freedom, encompassing freedom of expression, freedom from torture and freedom to education, is a critical human right. In Pakistan, these freedoms are constitutionally guaranteed but face significant practical challenges.

- **Freedom of Expression**

Pakistan ranks low on global freedom indexes. The World Press Freedom Index 2021, published by Reporters Without Borders, places Pakistan at 145 out of 180 countries, reflecting severe restrictions on freedom of expression. Journalists face threats, harassment and violence, often leading to self-censorship (Reporters Without Borders, 2021). The legal framework, including laws such as the Pakistan Electronic Crimes Act (PECA) 2016, is used to suppress dissent and restrict online expression (Amnesty International, 2020). Despite these challenges, there have been efforts by civil society organizations to advocate for greater press freedom, but progress remains limited.

- **Freedom from Torture**

Torture and ill-treatment by law enforcement agencies are reported widely in Pakistan. The Human Rights Watch (2020) highlights instances of police brutality, arbitrary detention and torture, often targeting marginalized groups. Despite Pakistan being a signatory to the Convention against Torture, domestic legislation lacks effective enforcement mechanisms to prevent and punish torture. The Pakistan Human Rights Commission reports that judicial oversight is weak and there is a culture of impunity for security forces (Human Rights Commission of Pakistan, 2021). Reforms in the police and judicial sectors are essential to address these violations effectively.

- **Freedom to Education**

Education is a fundamental right enshrined in Pakistan's constitution, yet access to quality education remains inequitable. The Global Education Monitoring Report (2021) indicates that Pakistan has one of the highest rates of out-of-school children, particularly among girls and rural populations. Socioeconomic barriers, cultural norms and security issues, especially in conflict-affected areas, impede educational access (UNESCO, 2020). Government initiatives like the Ehsaas Education Stipends program aim to improve access, but more comprehensive policies are required to address systemic inequalities.

## 2) Equality in Pakistan

Equality, particularly gender equality and equal protection under the law, remains a significant challenge in Pakistan. Discrimination against women, religious minorities and marginalized communities is pervasive.

- **Gender Equality**

The Global Gender Gap Report 2021 ranks Pakistan 153 out of 156 countries, indicating severe gender disparities (World Economic Forum, 2021). Women face significant barriers in education, employment and political representation. Cultural norms, discriminatory laws and economic dependency contribute to these inequalities. While legislative measures such as the Protection against Harassment of Women at the Workplace Act 2010 exist, their implementation is often weak (UN Women, 2020). Empowering women through education, economic opportunities and legal reforms is crucial for achieving gender equality.

- **Equal Protection under the Law**

Legal protection for minorities and marginalized groups is weak. The Pakistan Minorities Rights Commission reports frequent incidents of violence, forced conversions and discrimination against religious minorities, including Christians, Hindus and Ahmadis (Pakistan Minorities Rights

Commission, 2020). Blasphemy laws are often misused to target minorities, leading to social and legal repercussions. Despite constitutional guarantees of equality, practical implementation is hindered by socio-political dynamics and judicial biases. Strengthening legal frameworks and ensuring their enforcement is necessary to protect minority rights effectively.

### 3) Justice in Pakistan

Justice, encompassing accountability, deterrence and the rule of law, is fundamental for human rights protection. Pakistan's justice system faces significant challenges, including corruption, inefficiency and lack of access.

- **Accountability and Deterrence**

The World Justice Project's Rule of Law Index 2021 ranks Pakistan 130 out of 139 countries, highlighting severe deficiencies in accountability and deterrence mechanisms (World Justice Project, 2021). Corruption within the judiciary and law enforcement agencies undermines public trust and hampers justice delivery. The National Accountability Bureau (NAB), tasked with combating corruption, is often criticized for political bias and inefficacy (Transparency International, 2020). Strengthening anti-corruption measures and ensuring impartiality in judicial processes are essential to improve accountability.

- **Rule of Law**

The rule of law in Pakistan is weak, with significant delays in judicial processes and lack of access to legal representation for the poor. The International Commission of Jurists (2019) reports that cases often take years to resolve and the judicial backlog is immense. Legal aid services are limited, leaving marginalized communities without adequate legal support. Judicial reforms, including the modernization of court procedures and expansion of legal aid, are necessary to uphold the rule of law.

### 4) Human Dignity in Pakistan

Human dignity, recognizing the intrinsic worth of every individual, is foundational to human rights. In Pakistan, various socio-political factors undermine human dignity, particularly for vulnerable groups.

- **Intrinsic Worth and Empowerment**

Human dignity is often compromised by social and economic inequalities. Internally displaced persons (IDPs), due to conflict and natural disasters, face significant challenges in accessing basic services, such as healthcare and education, leading to loss of dignity (UNHCR, 2021). Women and minorities also face societal discrimination that undermines their dignity. Empowering these groups through targeted social protection programs and inclusive policies is vital for enhancing human dignity.

- **Protection of Vulnerable Groups**

Protection mechanisms for vulnerable groups are inadequate. The Human Rights Watch (2020) reports that IDPs, refugees and economically disadvantaged individuals face systemic neglect and exploitation. Social protection programs are underfunded and poorly implemented, exacerbating vulnerabilities. Strengthening social safety nets and ensuring equitable access to resources and services are critical to protecting the dignity of vulnerable populations.

## Recommendations for Policy Makers

To address the identified challenges and improve human rights in Pakistan, the following recommendations are proposed for policymakers:



### 1) Strengthen Legal Frameworks and Enforcement

- **Enhance Freedom of Expression**

Reform laws that restrict freedom of expression, such as PECA 2016, to align with international human rights standards. Ensure protection for journalists and activists against harassment and violence.

- **Combat Torture and Ill-Treatment**

Enact and enforce comprehensive anti-torture legislation that includes mechanisms for accountability and redress for victims. Strengthen judicial oversight of law enforcement agencies.

- **Promote Gender Equality**

Implement and enforce gender equality laws effectively. Increase investment in girls' education and economic empowerment programs. Ensure representation of women in political and decision-making processes.

- **Protect Minority Rights**

Reform discriminatory laws, including blasphemy laws, to protect minority rights. Strengthen legal protections against hate crimes and discrimination.

### 2) Improve Justice System Efficiency

- **Combat Corruption**

Strengthen anti-corruption bodies and ensure their independence and impartiality. Implement transparent mechanisms for the selection and accountability of judges and law enforcement officials.

- **Enhance Access to Justice**

Modernize court procedures to reduce delays and improve efficiency. Expand legal aid services to ensure access to justice for marginalized communities.

### 3) Promote Human Dignity

- **Strengthen Social Protection**

Increase funding for social protection programs targeting vulnerable groups, including IDPs and economically disadvantaged individuals. Ensure equitable access to healthcare, education and basic services.

- **Empower Marginalized Communities**

Develop and implement policies that promote the social and economic inclusion of marginalized communities. Foster community-based initiatives that enhance social cohesion and respect for human dignity.

By implementing these recommendations, policymakers can address the critical human rights challenges in Pakistan and work towards a more just and equitable society.

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