
SUMMARY of [Democratic breakdown], [Mirza Moiz Baig], [Published on May 25th, 2024]

The article “Democratic breakdown” by Mirza Moiz Baig critiques the recently passed Punjab Defamation Act, 2024, as part of a series of measures that restrict free speech under the guise of combating fake news. The Act establishes tribunals with non-judicial members appointed by the executive, prioritizing adherence to statutory timelines over competence and integrity. This undermines the right to due process and fair trial, as the Act also excludes the application of the Qanoon-i-Shahadat and envisions summary proceedings. Additionally, the Act imposes financial barriers for appealing tribunal decisions and affords greater protection to constitutional office holders from defamation, creating a chilling effect on legitimate critique of government policies. The article argues that this Act symbolizes the broader democratic breakdown in Pakistan, where political forces attack each other’s legitimacy, and institutions fail to adhere to their jurisdictional boundaries. The author calls for political parties, the judiciary, and the security establishment to unite and address the issues undermining democracy, urging ruling elites to prioritize long-term stability over short-term opportunism.

Easy/Short SUMMARY:

The article discusses the Punjab Defamation Act, 2024, which restricts free speech and fair trials by prioritizing quick rulings over justice. The Act protects government officials from criticism, creating fear among citizens. It symbolizes the broader decline of democracy in Pakistan, where political attacks and institutional overreach are common. The author calls for political unity to address these issues and urges leaders to focus on long-term stability.

SOLUTIONS to The Problem:

Legal and Institutional Reforms:

- Amend the Punjab Defamation Act, 2024, to ensure fair trials and protect free speech.
- Reintroduce the application of Qanoon-i-Shahadat in tribunal proceedings.
- Reduce financial barriers for appealing tribunal decisions.

Promote Mutual Tolerance and Institutional Forbearance:

- Encourage political parties to respect differing opinions and avoid attacking each other's legitimacy.
- Ensure institutions adhere to their jurisdictional boundaries and avoid 'constitutional hardball.'

Enhance Protection of Democratic Principles:

- Protect the right to critique government policies without fear of defamation suits.
- Establish mechanisms for accountability and transparency in governance.

Strengthen Civic Engagement and Awareness:

- Promote civic education to empower citizens to advocate for their rights.
- Encourage public participation in the legislative process.

Unite Political, Judicial, and Security Establishments:

- Foster collaboration among political parties, the judiciary, and the security establishment to address democratic breakdown.
- Prioritize long-term stability and democratic principles over short-term

political gains.

IMPORTANT Facts and Figures Given in the Article:

- The Punjab Defamation Act, 2024, was hastily passed to curtail free speech under the pretext of combating fake news.
- The Act establishes tribunals with non-judicial members appointed by the executive, with a tenure renewable every 18 months.
- The Act prioritizes adherence to statutory timelines over competence and integrity, undermining the right to due process.
- Section 23 excludes the application of the Qanoon-i-Shahadat to proceedings under the Act, and Section 26 imposes financial barriers for appealing tribunal decisions.
- The Act affords greater protection to constitutional office holders from defamation, creating a chilling effect on legitimate critique of government policies.
- The article argues that the Act symbolizes the broader democratic breakdown in Pakistan, where political forces attack each other's legitimacy and institutions fail to adhere to their jurisdictional boundaries.

MCQs from the Article:

1. What is the primary focus of the Punjab Defamation Act, 2024?
 - A. Enhancing free speech
 - B. Combating fake news
 - C. Restricting fair trials
 - D. Protecting constitutional office holders

- Correct Answer: B. Combating fake news

1. How are tribunal members appointed under the Punjab Defamation Act, 2024?
 - A. By the judiciary
 - B. By the executive in consultation with the Lahore High Court chief justice



- C. By public vote
- D. By the legislative assembly

- Correct Answer: B. By the executive in consultation with the Lahore High Court chief justice

1. What is the weightage assigned to adherence to statutory timelines for tribunal members under the Act?
 - A. 25%
 - B. 50%
 - C. 75%
 - D. 100%

- Correct Answer: B. 50%

1. Which section of the Punjab Defamation Act, 2024, excludes the application of the Qanoon-i-Shahadat to proceedings?
 - A. Section 8
 - B. Section 23
 - C. Section 26
 - D. Section 10

- Correct Answer: B. Section 23

1. What effect does the Act have on legitimate critique of government policies?
 - A. It encourages open discussion
 - B. It creates a chilling effect
 - C. It has no impact
 - D. It enhances media freedom

- Correct Answer: B. It creates a chilling effect

VOCABULARY:

1. **Docile** (adjective) (□□□□□□□□□□): Easily managed or handled; submissive.
2. **Pretext** (noun) (□□□□□): A reason given in justification of a course of action that is not the real reason.



3. **Egregiously** (adverb) (□□□□□□□): In an outstandingly bad way; shockingly.
4. **Adherence** (noun) (□□□□□□): Attachment or commitment to a person, cause, or belief.
5. **Obviating** (verb) (□□□□□): To remove (a need or difficulty); to avoid or prevent.
6. **Muzzle** (verb) (□□□□ □□□□□): To silence or restrain someone's speech.
7. **Voluminous** (adjective) (□□□□□): Very lengthy and detailed.
8. **Extraneous** (adjective) (□□□□□ □□□): Irrelevant or unrelated to the subject being dealt with.
9. **Delineates** (verb) (□□□□ □□□□): To describe or portray something precisely.
10. **Summary Proceedings** (noun) (□□□□□□□□ □□□□□): Legal proceedings conducted without the full formalities of a regular trial.
11. **Chipping Away** (phrase) (□□□□ □□□□□): Gradually weaken or reduce something.
12. **Deprecate** (verb) (□□□□ □□□□): To express disapproval of.
13. **Protracted** (adjective) (□□□□□): Lasting for a long time or longer than expected.
14. **Forbearance** (noun) (□□□□□): Patient self-control; restraint and tolerance.
15. **Mutual Toleration** (noun) (□□□□□□□ □□□□□): Acceptance and respect for differing opinions and beliefs.

□ *Attention Please!*

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“A state which dwarfs its men in order that they may be more docile instruments in its hands, even for beneficial purposes, will find that with small men no great thing can really be accomplished.” — John Stuart Mill

AFTER blocking social media platforms like X, the state appears to have turned its attention to silencing dissent on other platforms. The hastily passed Punjab Defamation Act, 2024, is the latest in a series of measures curtailing free speech under the pretext of obviating the dissemination of fake news. Does the Act merely address the infirmities underpinning the Defamation Ordinance, 2002, or is it an attempt to muzzle dissent?

Section 8 of the Act establishes tribunals which may comprise non-judicial members appointed by the executive in consultation with the Lahore High Court chief justice. The tenure of such members shall be renewable every 18 months, subject to their performance being satisfactory. Section 8(6) delineates three-pronged criteria to gauge a member’s performance, with 50 per cent marks reserved for adhering to statutory timelines, and 25pc each for competence and integrity.

By placing adherence to statutory timelines on a higher pedestal than competence and integrity, the Act allows a member to pass muster even where his judgements are egregiously unlawful or motivated by extraneous factors.

While trials emanating from the 2002 Ordinance were admittedly marred by delays, the Act’s sole focus on swift disposal without addressing the structural issues contributing to such delays chips away the right to due process and fair trial. Section 23, for instance, excludes the application of the Qanoon-i-Shahadat to proceedings under the Act. Similarly, while claims involving defamation often



require voluminous evidence, cross-examination, and a deeper appreciation of the facts asserted by each side, the Act envisages summary proceedings.

With the weightage assigned to adherence to statutory timelines, and given the summary proceedings it envisions, the Act emboldens the tribunals' members to give short shrift to the principles of due process and procedural fairness, which constitute the cornerstone of any democratic dispensation.

Punjab's Defamation Act forms part of a series of actions symbolising the breakdown of our democracy.

Such concerns are also aggravated by Section 26 which provides that the high court may only suspend the operation of a tribunal's decision or stay its execution after the aggrieved party deposits an amount equivalent to the tribunal's decree with the high court's registrar. While courts have frequently deprecated placing conditions which stifle litigants' right to appeal, the Act compels aggrieved parties to comply with the tribunal's decision before seeking its suspension by an appellate court, even where such decision is bereft of any sound reasoning.

Most disconcertingly perhaps, the Act shields constitutional office holders from legitimate critique. The Act's 'Statement of Objects' state that defamation "damages the reputation and image of public figures or the government". While the Act creates tribunals for claims instituted by the general public, constitutional office holders can directly invoke the high court's jurisdiction, thus, implying that holders of constitutional offices require more protection than the general public.

The Act, thus, departs from principles entrenched in other jurisdictions where public office holders have to meet a higher threshold to prevail in a claim of defamation since they voluntarily place themselves in positions where their actions may be subjected to heightened scrutiny. Moreover, public office holders often have much greater access to the media than average citizens and can use their access to the media to rebut any defamatory statements without assistance from the courts.

Third, such jurisdictions recognise the importance of allowing citizens to critique policies that deeply affect them and are thus wary of encroaching upon the right to democratic expression through incessant defamation suits.

Following the decision of its supreme court in the New York Times case, for instance, courts in the United States have often held that public officials could only seek damages for defamation if the publisher knew that the information was wholly and patently false or that it was published “with reckless disregard of whether it was false or not”. Nonetheless, the Act, by affording greater protection to constitutional office holders, creates a chilling effect whereby legitimate critique of the government’s policy is muzzled with citizens fearing protracted litigation by those who wield power.

In their seminal work on democratic backslide Levitsky and Ziblatt argued that constitutional protections only endure in a polity characterised by mutual toleration and institutional forbearance. Mutual toleration entails accepting each other’s legitimate mandate and respecting differing political opinions without attacking the patriotism of those we disagree with. Institutional forbearance, on the other hand, demands that each institution adheres to its jurisdictional fetters, cautioning particularly against ‘constitutional hardball’, or using institutional prerogatives unabashedly.

Today, the spirit of mutual tolerance witnessed during the signing of the Charter of Democracy or the restoration of democracy in 2008 appears to be submerged amidst political forces endeavouring to assail each other’s legitimacy. Contemporaneously, parliamentarians have launched scathing attacks on judges who have unruffled feathers, agents of the executive have been accused of attempts to emasculate the judiciary, and rumours about a constitutional amendment tinkering with the retirement age of judges of the Supreme Court remain rife. The Act, thus, forms part of a series of actions symbolising the breakdown of our democracy. Where then do we go from here?

The path to our salvation lies in political parties, the judiciary, and critically the security establishment coming together and acknowledging the follies which have brought us to this juncture. Political parties in particular need to preserve the democratic structures, which are critical to their own survival.

Will our ruling elites shun short-term opportunism in the interest of their own longevity, or will they continue to ingratiate themselves with the actual custodians of power? Will we ever learn from history?

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