

Ofcom Broadcast and On Demand Bulletin

Issue 430
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The Debate with Arnab

Type of case Broadcast Standards

Outcome In Breach

Service Republic Bharat

Date & time 16 July 2020, 21:00

Category Abusive and derogatory treatment, and generally accepted standards.

Summary During a current affairs discussion programme, the presenter and some of his guests made several statements which amounted to derogatory and abusive treatment of Pakistani people. The content was also potentially offensive and was not sufficiently justified by the context. In breach of Rules 3.3 and 2.3 of the Broadcasting Code.

Introduction

Republic Bharat is a satellite television channel broadcasting rolling news in the UK, predominately in Hindi. The licence for Republic Bharat is held by Worldview Media Network Limited (“Worldview Media” or “the Licensee”).

Ofcom received a complaint that the above programme contained statements that were likely to instigate hate amongst the British Asian community. The material was broadcast mostly in English, with some dialogue in Hindi and Urdu. Ofcom commissioned a translation of the Hindi and Urdu content in the programme, which we used for the purposes of this investigation. The Licensee disagreed with some parts of our translation in its response to Ofcom and suggested some changes. We therefore reviewed the translation in light of the Licensee’s comments.

Where we have made amendments based on the Licensee’s comments and revised translation, these have been incorporated into the text below and are explained in the footnotes.

The Debate with Arnab is a daily current affairs discussion programme presented by Arnab Goswami. This episode discussed the Pakistan Government's provision of consular access to an Indian national detained in Pakistan, the alleged spy, Kulbhushan Jadhav, in July 2020 after it was ordered to do so by the International Court of Justice ("the ICJ"). The debate took place between Arnab Goswami and several guest contributors, from both India and Pakistan, who were invited to participate in the programme.

Background

From 3 March 2016 to the date of broadcast of the programme, there had been a period of increased diplomatic tension between India and Pakistan arising from the detention of Indian national and alleged spy, Kulbhushan Jadhav. The case remains with the ICJ¹ and is currently ongoing. To summarise:

- On 3 March 2016, Kulbhushan Jadhav was arrested in the Baluchistan province of Pakistan near the border of Iran. The Government of India was informed of the arrest on 25 March 2016. Since then, it has made several requests for consular access, which were denied by Pakistan².
- On 21 March 2017 and 10 April 2017, Pakistan "informed India that consular access to Mr. Jadhav would be considered 'in the light of' India's assistance in the investigation"³.
- On 14 April 2017 in a press statement issued by the adviser on foreign affairs to the Prime Minister of Pakistan, it was announced that Kulbhushan Jadhav had been sentenced to death on 10 April 2017 by a court martial, due to activities of "espionage, sabotage and terrorism"⁴.
- On 17 July 2019, the ICJ found, on application filed by the Republic of India, that Pakistan had acted in breach of its obligations under Article 36 of the Vienna Convention on Consular Relations⁵ in connection with its detention of Kulbhushan Jadhav, and ordered that Pakistan "allow Indian consular officers to have access to him and to arrange for his legal representation"⁶.

¹ [International Court of Justice - Reports of Judgments, Advisory Opinions and Orders \(18 May 2017\)](#).

² [International Commission of Jurists – India v. Pakistan \(Jadhav Case\)](#).

³ [International Court of Justice – Request for the indication of provisional measures of Protection \(08 May 2017\)](#).

⁴ [International Court of Justice – Reports of Judgments, Advisory Opinions and Orders \(18 May 2017\)](#).

⁵ Article 36 of the [Vienna Convention on Consular Relations](#) requires that consular officers must "be free to communicate with national... and to have access to them" and gives consular officers "the right to visit a national... who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation".

⁶ [International Court of Justice – Judgement \(17 July 2019\)](#).

- Following the ICJ ruling, two consular meetings were provided by the Pakistan Government, on 2 September 2019 and 16 July 2020. In addition to the visits, Kulbhushan Jadhav's wife and mother had been permitted to meet him on 25 December 2017⁷.

These tensions, and the second consular meeting provided by the Pakistan Government on 16 July 2020, provided the backdrop to the broadcast of *The Debate with Arnab* on 16 July 2020.

The Programme

Arnab Goswami introduced the programme by saying:

"In a detailed 586-word statement today, the ministry of external affairs completely exposed Pakistan's dirty tricks in the so-called consular access granted to Kulbhushan Jadhav. Forget unimpeded, unhindered, and unconditional access. The ISI ⁸crooks, the ISI crooks planted cameras and in a cheeky way recorded the entire conversation. So, I want to say tonight, that tonight our resolve to fight for Kulbhushan has become stronger. And we will have to push Pakistan once again into a corner for violating ethics, legality, humanity and of course, international laws".

The programme went on to feature a 45-minute debate presented by Arnab Goswami. The discussion included four Indian guests and three Pakistani guests who participated in the discussion from other locations via a live video link to the studio. The presenter and the Indian guests dominated the discussion, with the Pakistani guests attempting to respond but largely being shouted down by the presenter and Indian guests. During the debate, the following comments were made by the presenter and guests. We have clarified where the guests are Pakistani:

Arnab Goswami: *"You know Gaurav⁹, I can argue legally Sushant¹⁰, but these Pakistanis, General Bakshi¹¹, don't understand legality. I can argue technicality, technically because we are technically also right. But these Pakistanis don't understand legality, technicality, law. So, I will argue simply, and I open the debate between Raja Faisal¹² and Sushant Sareen. And I begin the debate by accusing you of being four things. With*

⁷ [Ministry of Foreign Affairs, Government of Pakistan \(16 July 2020\)](#).

⁸ Ofcom understands that ISI refers to 'Inter-Services Intelligence', the intelligence agency for Pakistan.

⁹ Ofcom understands that Major Gaurav Arya is a former Indian army officer who served in the army from 1993 to 1999 and that he is now the Senior Consulting Editor for Strategic Affairs for Republic Bharat and a regular contributor on the channel.

¹⁰ Ofcom understands that Sushant Sareen is a Senior Fellow at the Observer Research Foundation and was previously a Consultant for the 'Pakistan Project' at the Institute for Defence Studies and Analyses in New Delhi.

¹¹ Ofcom understands that GD Bakshi refers to Major General Gagan Deep Bakshi, a former Indian army officer who served in the Indian army from 1971 to 2008.

¹² Ofcom understands that Raja Faisal is a Pakistani journalist.
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the greatest of respect to you all, and you are liars, you see, everyone is on the screen and let them hear me say this. You are liars in Pakistan, you are outlaws, you are cowards, and you are also unfortunately chameleons what we call in Hindi "girgit". First, I will prove to you why you are liars. You are liars because Sushant, I call them liars because they lied about unimpeded, unhindered, and unconditional consular access. What kind of a shameless country are you when after twelve requests for unhindered, unimpeded and unconditional consular access to Kulbhushan, you lied to the world about providing access and then placed your officials with intimidating demeanour with cameras in close proximity to Jadhav".

Raja Faisal (Pakistani): *"Arnab. What kind of, what kind of a thankless country you are".*

Arnab Goswami: *"You liars. I therefore have proven you are liars. Now defend yourself".*

Raja Faisal (Pakistani): *"Let me tell what happened. As you know I'm a journalist and you are a journalist, let me be very frank to you and tell you what happened today. Well, what happened today was while they were asked to come today and meet Kulbhushan Jadhav, the place they were taken to, they started saying 'oh this is not right, that is not right'. Well there are a few arrangements and then arrangements they were looking at the fact that we are going through Covid-19 and looking at the fact that we had to make sure that Kulbhushan Jadhav is, is given, is given a meetup in proper, in proper way. You know. We have been very careful about that but what happened was as soon as your consular went back, as they were present, they started saying "oh we don't need this, we don't need that". Yes. Whenever there was something [interrupted by Arnab Goswami]"*

Arnab Goswami: *"It's supposed to be unimpeded, unhindered and unconditional, obviously they will complain".*

Raja Faisal (Pakistani): *"Yeah. Pakistan did so. Pakistan did so".*

Arnab Goswami: *"I mean are you an educated man? Sushant will educate you now".*

Raja Faisal (Pakistani): *"The problem is, the problem is, by the looks of it, the problem is, that they did not want to meet Kulbhushan Jadhav because they do not want Pakistan to carry on with the process".*

Sushant Sareen: *“Arnab, I think that the disingenuity of the argument is reflected in what this guy is saying. He is [inaudible] – ”.*

Arnab Goswami: *“Louder”.*

Sushant Sareen: *“Why can’t he be specific. If he claims that he knows what exactly happened, he should be specific. Number one. Number two. To start making the excuse of, the excuse of Covid to try and defend the kind of obnoxious behaviour that the Pakistanis displayed today, and actually illegal behaviour, considering the ICJ judgment. I clearly, I don’t think this is going to wash down anybody’s throat. The basic issue at stake was that here is a man who has been accused, he needs to be given consular access so that a proper defence of his can be mounted. According to the statement issued by the Ministry of External Affairs he was not even allowed to sign the statement. He was, he was, he was prevented from even signing a particular statement which would allow him to file an appeal [interrupted by Raja Faisal]”*

Raja Faisal (Pakistani): *“I was coming to that point”.*

Sushant Sareen: *“But having said that, please keep quiet let me finish then you can say whatever you want to say. So, so the thing is, in any case Arnab, I think the Indians went through the motions because they probably very well expected this kind of thing coming from the Pakistanis who are perfidious, you know, in their very, congenitally who are perfidious. So, now in any case had the review petition even been filed, for anybody to expect justice from, you know, the kind of kangaroo courts which run in Pakistan, I think was to expect the moon. In any case, now the Pakistanis have probably shot themselves in the foot because I don’t see how India has any other option but to go back to ICJ and say that the judgement has been flouted, and that the original petition of Mr Salve¹³ that either Mr Jadhav needs to be released unconditionally and given back to India or if at all, that is what I am adding, a trial has to be carried out against him, then it has to be done in neutral territory because justice cannot be delivered in Pakistan”.*

¹³ Ofcom understands that Mr Salve refers to Harish Salve, former Solicitor General of India and Senior Advocate of the Supreme Court. Harish Salve represented India in the Jadhav case (India v Pakistan) in the ICJ.

Arnab Goswami: *"We are here to analyse the Pakistani, we are here to analyse the Pakistani behaviour in the case. Hamid Khan is a foreign affairs and strategic analyst from Lahore, and I would like him to come into this debate with Aman Sinha of the BJP¹⁴. You see, Hamid Khan, first of all, for the greatest of respect to you, sir personally, shame on you. Because, you are outlaws. You tried to subvert the spirit of the ICJ".*

Hamid Khan (Pakistani)¹⁵: *"[inaudible]"*

Arnab Goswami: *"Sir, allow me to speak. Allow me to complete – "*

Hamid Khan (Pakistani): *"No, no, no. I would like you to, no. I would like you to. If you want to start the debate like this then I'm sorry it is not the way to do it. First of all – "*

Arnab Goswami: *"But that's the way we'll have to speak to you. I'm very polite. There's nothing wrong in saying shame on you".*

Hamid Khan (Pakistani): *"No, no. I don't [interrupted]"*

Arnab Goswami: *"I do believe. I will repeat. Shame on you. I will repeat ten times. Shame on you".*

Hamid Khan (Pakistani): *"No, no. It is. It is. Shame on India".*

Arnab Goswami: *"I am not abusing you. I am saying shame on you".*

Hamid Khan (Pakistani): *"And shame on RAW ¹⁶who sent Kulbhushan to kill hundreds of people [inaudible]"*

Arnab Goswami: *"Well I, I, shame on you because you tried to subvert the spirit of the ICJ order. Shame on you sir. Shame on you. Aren't you ashamed of yourself and the rogue nation that you are? Shame on you when despite the ICJ ordering a reconsideration of the Jadhav case you did everything to sabotage the process and then you're coming here and making sham claims of providing consular access and when I politely say to you shame on you, you want to correct me? What wrong did I say? I repeat to you Hamid".*

¹⁴ Bharatiya Janata Party, which currently forms the Indian Government.

¹⁵ Ofcom understands that Hamid Khan Al Mashriqi is a Pakistani journalist and analyst.

¹⁶ Ofcom understands that RAW refers to 'Research and Analysis Wing', the foreign intelligence agency of India.
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Hamid Khan (Pakistani): *"No, no".*

Arnab Goswami: *"Hamid, shame on you".*

Hamid Khan (Pakistani): *"No".*

Arnab Goswami: *"Shame on you Hamid Khan".*

Hamid Khan (Pakistani): *"No, no. No, you actually. Let me tell you. Let me tell you one thing".*

Arnab Goswami: *"Shame on you".*

Hamid Khan (Pakistani): *"No, shame on you because. You have no manners because – "*

Arnab Goswami: *"Shame on you because you tried to play a double game".*

Hamid Khan (Pakistani): *"You have no idea manners on how to talk to someone on the first – "*

Arnab Goswami: *"Shame on you because you are cowards".*

Hamid Khan (Pakistani): *"No, I am not coward".*

Arnab Goswami: *"Of course, you are a coward. You're a right royal coward".*

Hamid Khan (Pakistani): *"No, no, this is your – "*

Arnab Goswami: *"What type of double game are you trying to play when you declared Pakistan provided consular access to Commander Kulbhushan Jadhav".*

Hamid Khan (Pakistani): *"It is the [interrupted]".*

Arnab Goswami: *"When the fact is that neither the environment nor the arrangements of the meeting were in accordance with the assurances".*

Hamid Khan (Pakistani): *"It is the mercy of the Pakistan Government that they are allowing".*

Arnab Goswami: *"That you gave. So, shame on you!"*

Hamid Khan (Pakistani): *"It is the mercy of the Pakistan Government and the people of Pakistan".*

Arnab Goswami: *"Mercy? Oh right".*

Hamid Khan (Pakistani): *"If you would be – "*

Arnab Goswami: *"Gaurav?"*

Hamid Khan (Pakistani): *"If you want to know the reality – "*

Gaurav Arya: *"Arnab, Arnab. Arnab, I want to comment here – "*

Arnab Goswami: *"Mercy? Mercy, ah. [Translated from Hindi: "Gaurav looks like we'll have to get him fixed".] Mercy. Mercy".*

Hamid Khan (Pakistani): *"It is the mercy of the Pakistani people. It is the mercy of the Pakistani people".*

Arnab Goswami: *"Mercy. Shame on you. You put Jadhav under a considerable amount of stress".*

Hamid Khan (Pakistani): *"According to the wishes of the Pakistani people, he [Kulbhushan Jadhav] should have been hanged by now".*

Gaurav Arya: *"[Translated from Hindi: "One minute. One minute. Please let the other person talk"]".*

Arnab Goswami: *"Gaurav – "*

Hamid Khan (Pakistani): *"[Inaudible] He should have been hanged by now".*

Gaurav Arya: *"Arnab, this Pakistani is going berserk. He's gone insane".*

Arnab Goswami: *"He's gone berserk because I said shame on you".*

Hamid Khan (Pakistani): *"[Inaudible]"*

Gaurav Arya: *"This Pakistani is going insane".*

Arnab Goswami: *"Shame on all of Pakistan".*

Gaurav Arya: *"Now let me tell you – "*

Arnab Goswami: *"Shame on all Pakistanis".*

Hamid Khan (Pakistani): *"[Inaudible]"*

Gaurav Arya: *"Absolutely Arnab, absolutely. Arnab, I want to make two quick points. I want to make two quick points here – "*

Hamid Khan (Pakistani): *"[Inaudible as interrupted]"*

Gaurav Arya: *"Can you please stop shouting, sir".*

Arnab Goswami: *"Hamid, Hamid, Hamid, Hamid".*

Gaurav Arya: *"Sir, can you please stop being a Pakistani".*

Hamid Khan (Pakistani): *"No!"*

Gaurav Arya: *"Can you please stop being a Pakistani?"*

Hamid Khan (Pakistani): *"If he shouts, I will shout".*

Gaurav Arya: *"Can you please stop being a Pakistani and be quiet for two minutes".*

Arnab Goswami: *"I am not shouting. I am politely saying to you that shame on you".*

Hamid Khan (Pakistani): *"He has. No. I am very sorry Arnab".*

Arnab Goswami: *"And I am substantiating it with factual points and assertions".*

Hamid Khan (Pakistani): *"No. No Arnab. No listen to me now Arnab".*

Arnab Goswami: *"Hamid please don't behave like a Pakistani please on my programme".*

Hamid Khan (Pakistani): *"No!"*

Arnab Goswami: *"Please behave like a human being".*

Hamid Khan (Pakistani): *"The Indian, and the Indian media has changed. I have seen the India in 2005, 2006".*

Arnab Goswami: *"Oh right. It has man. Thank you for asking. Of course, Gaurav. The Indian media has changed. Of course. Of course, it's changed. So, this is the new Indian media then you'll have to deal with. So, we will call you on a programme and say right to your nose, we'll say shame on you".*

Hamid Khan (Pakistani): *"Would you like me to finish? Would you like me to finish? What Moodi has done to India [interrupted]"*

Arnab Goswami: *"Modi, not Moodi. Learn to say our prime minister's name properly".*

Gaurav Arya: *"Please stop. Please keep quiet".*

Hamid Khan (Pakistani): *"I'm telling you. Prime Minister Modi has isolated the whole of India".*

Arnab Goswami: *"You're just a bitter man like all of Pakistanis. You're a bitter man".*

Gaurav Arya: *"Arnab. Tell this man to shut up".*

Arnab Goswami: *"Just a bitter man with high BP¹⁷. That's what you are. You are under visible stress".*

Hamid Khan (Pakistani): *"[Inaudible as interrupted]"*.

Gaurav Arya: *"Arnab, Arnab. Arnab, I need to make two quick assertions".*

Hamid Khan (Pakistani): *"You always try to hide the things, hide the facts, by louding your voice".*

Arnab Goswami: *"Relax".*

Hamid Khan (Pakistani): *"No, when – "*

Arnab Goswami: *"You're a barbaric nation. You're a barbaric nation. You're a country of barbarians".*

Gaurav Arya: *"Arnab you need to stop this man. He is hijacking the entire debate. He is being Pakistani".*

Arnab Goswami: *"Where dignified consular officers cannot engage collusion on his legal rights and were prevented from obtaining his written consent for arranging his legal representation".*

Gaurav Arya: *"He must allow others to speak. This terrorist must be stopped".*

Hamid Khan (Pakistani): *"[Inaudible as interrupted]"*

Gaurav Arya: *"Stop this terrorist Arnab, he is hijacking the debate".*

Hamid Khan (Pakistani): *"Let me tell you one thing – "*

Gaurav Arya: *"We can't make it out what's going on here".*

Arnab Goswami: *"Gaurav Arya".*

Gaurav Arya: *"Arnab. Arnab. This terrorist is hijacking the debate. Arnab please ask him to keep quiet".*

Hamid Khan (Pakistani): *"Indians don't tell truth to your own public [inaudible]"*.

Gaurav Arya: *"Please keep quiet sir. Please keep quiet sir. Keep quiet, keep quiet, you little terrorist. Keep quiet. Please. Arnab this guy is hijacking the debate, you got to ask him to stop. I can't speak like this he has to stop. He has to be told to shut up. Okay. Arnab two quick points. Two quick points. Number one. Arnab, Arnab I can't hear anything".*

¹⁷ Ofcom understands that 'BP' refers to the medical term, blood pressure
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Arnab Goswami: *"Gaurav, Gaurav he's gone berserk. Gaurav, I just said shame on you and the man lost his nerve. I don't know what's wrong with him. I don't know what's wrong with him. I was very mild by my standards".*

Gaurav Arya: *"Shame on him. Shame on his nation. Shame on Pakistan".*

Arnab Goswami: *"Of course, shame on them".*

Gaurav Arya: *"Shame on Muhammad Ali Jinnah¹⁸. Shame on Imran Khan¹⁹. Shame on Bajwa²⁰. Shame on all the people who are from Pakistan".*

Arnab Goswami: *"Gaurav Arya and Mona Alam²¹ are on the debate right now. Gaurav Arya and Mona Alam please".*

Gaurav Arya: *"Shame on the entire population of your pathetic country".*

Gaurav Arya: *"Okay. Two quick points. Number one. Number one. Okay. Mona hold on it's my turn. Please don't be Pakistani".*

Mona Alam (Pakistani): *"No, no I don't know if it's your turn or my turn. I haven't said anything. Look the moderator hasn't said anything. I have been waiting for his question".*

Gaurav Arya: *"No, no, Raja Faisal. Mona don't be Pakistani I told you. Mona don't be Pakistani. No Mona don't be Pakistani, I am telling you".*

Mona Alam (Pakistani): *"No, no, don't be an Indian. No don't be an Indian okay?"*

Gaurav Arya: *"Your passport isn't respected anywhere. You guys are strip searched at all airports. Your ex-Prime Ministers are strip searched".*

Mona Alam (Pakistani): *"Stop being Indian. Stop saying terrorist. You Indian terrorist".*

¹⁸ Muhammad Ali Jinnah: Founder and first Governor-General of Pakistan.

¹⁹ Imran Khan: Current Prime Minister of Pakistan.

²⁰ Ofcom understands that Bajwa refers to General Qamar Javed Bajwa, the current Chief of Army Staff of the Pakistan Army.

²¹ Ofcom understands that Mona Alam is Pakistani journalist and news presenter.
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Gaurav Arya: *"It's because you behave like Pakistanis. Stop behaving like Pakistanis Mona please".*

Mona Alam (Pakistani): *"Don't do that with me, it's not going to work. No this isn't going to work. You put up a question. Don't be ridiculous".*

Gaurav Arya: *"Please I am requesting you, please. Mona. Please. Stop behaving like a Pakistani okay? Now listen to me".*

Arnab Goswami: *"Hamid is shouting again; he is shouting again. No, no. He's shouting again".*

Gaurav Arya: *"They have not made up their mind whether Kulbhushan Jadhav is a terrorist or a spy. They are totally confused and today they are saying that we have not given him access properly because he is a spy. I'm sorry sir, the court of justice, the International Court of Justice will say it whether he's a spy or not. Your kangaroo courts, which country has military courts for civilians?"*

Hamid Khan (Pakistani): *"Can I say something?"*

Gaurav Arya: *"For heaven's sake".*

Hamid Khan (Pakistani): *"Arnab, can I say something?"*

Gaurav Arya: *"No. You cannot have a minute because you have hijacked the entire debate and now, I am not going to allow you to have a debate".*

Hamid Khan (Pakistani): *"Arnab?"*

Gaurav Arya: *"Because you are a pathetic little Pakistani".*

Hamid Khan (Pakistani): *"Can I say something? Can I say something?"*

Gaurav Arya: *"No, I'm sorry forget about Arnab. You are not going to be allowed [interrupted]".*

Arnab Goswami: *"No, no, no. Let him reply, let him reply".*

Gaurav Arya: *"Stop being Pakistani. First apologise".*

Hamid Khan (Pakistani): *"Can I say something?"*

Gaurav Arya: *"First apologise for being Pakistani. Say that you're sorry for being a Pakistani. Apologise for being a Pakistani. Then we'll allow you. Apologise for being a Pakistani first. Apologise for*

being a Pakistani. Say. Say that I am sorry for being a Pakistani. Say that”.

Hamid Khan (Pakistani): *“If you will let me speak”.*

Gaurav Arya: *“No, no, you will not get a minute. No. Because shame on you. No. Shame on you, first of all. You tried to hijack the debate in your typical Pakistani army manner. No, no. You will not get one second to breathe”.*

Hamid Khan (Pakistani): *“Arnab, Arnab. I will say just give me one second to speak”.*

Gaurav Arya: *“No, you will not get one second or one minute. I’m sorry you will not get a minute. You first apologise for being Pakistani. You were born in the wrong country”.*

Hamid Khan (Pakistani): *“This is the way losers speak”.*

Gaurav Arya: *“Apologise for being a Pakistani. You pathetic little man”.*

Hamid Khan (Pakistani): *“This is the way losers, this is how losers, this is how losers behave”.*

Gaurav Arya: *“I’m sorry. I’m sorry sir. You have to apologise for being Pakistani. You tried to hijack. You people hijack planes. You hijack trains. You hijack buses. And now you’ve tried to hijack the debate. That is what you’ve done. I’m going to respond to you in your own coin whether you like it or not, whether you like it or not. Listen, you pathetic little Pakistani”.*

Hamid Khan (Pakistani): *“[Inaudible]”*

Gaurav Arya: *“Let me tell you. Kulbhushan Jadhav. You beat a confession out of an innocent man. You beat a confession out of an innocent man. I, I want to tell you something. You come to India. You come to India you pathetic Pakistani. You come with me. I’ll take you, I, I, I will make sure that you, you, sign a confession. I will make sure”.*

Hamid Khan (Pakistani): *“I’ve been to India”.*

Gaurav Arya: *“You come to me in India next time. Yes, you must’ve come for medical treatment for obesity. You fool”.*

Hamid Khan (Pakistani): *“Let me tell you one thing”.*

Gaurav Arya: *“I want to tell you I can beat a confession out of you, you fool”.*

Arnab Goswami: *"[Inaudible] We could've killed them all. Gaurav. We could've killed them. Ninety-three thousand²² of your cowards we returned. What are you comparing? [inaudible] Gaurav Arya? Gaurav we could've killed those ninety-three thousand. You try your civilians in a military court".*

Gaurav Arya: *"Pakistanis don't know. I'll tell you a small little thing. We treated, we have always treated prisoners of war with honour. We have treated them with honour. You know they don't understand humanitarian treatment. You know Arnab what the General GD Bakshi, what GD Bakshi said, just imagine the plight of the woman. She's sitting in front of her husband and they are saying take off your mangal sutra²³. [Translated from Hindi: "They [Pakistani officials] told her to remove her bindi"²⁴. This is the level of the Pakistani Government. They show oppression on an unarmed woman. They are gangsters basically. They are thieves"]. They are trying to justify their pathetic little nation. [Translated from Hindi: "Unhindered consular access means get out of the room"]. Can't you understand English? Get out of the room. Let him interact with other Indians. That is obedience. Why are you in the room? Why are there cameras in the room? Just get lost. It's simple. These are international laws. But apparently not for Pakistan. You catch hold of a guy, you beat the confession out of him, you, you give him drugs and say, [translated from Hindi: "He has signed this confession. Sir, you come to India and we will make you sign a confession within two hours without drugging you. What difference will it make? No court in India will believe it. In the whole world, only Pakistan's court will accept a confession. No court in the entire world accepts a confession. No confession statement made in military or police custody can be accepted in a civil court. Where is this*

²² This refers to the ninety-three thousand prisoners of war belonging to the Pakistan Armed Forces Eastern Command held by the Indian army during the 1971 Indo-Pakistani War.

²³ A necklace that the groom ties around the bride's neck in the Indian subcontinent in a ceremony called Mangalya Dharanam. In the Hindu religion, the mangal sutra is considered an auspicious thread that married women should wear throughout their life as it is believed that the practice enhances the well-being of her husband.

²⁴ A red dot worn on the forehead, most commonly to represent a married woman. In the Hindu religion, it also symbolises the third eye which is used to ward off bad luck.

accepted? It's not accepted in India. India's Supreme Court will tear it apart and ask to record a confession in front of a magistrate court or judge. You beat the poor man; you beat him till he gave you signed a confession. What are you even saying?""]"

Abid Abbasi²⁵ (Pakistani): *"[Inaudible]. [Translated from Urdu: "Did Kulbhushan Jadhav come here to get his sister married? Obviously, he came here for terrorism. Terrorism charges means he will face a trial. When we caught your man, he was taken to the army, he was taken to the supreme court, he was given consular access, he was given consular access again, this is the proper process of the country. You were given permission through the [inaudible] convention"]"*

Gaurav Arya: *"[Translated from Hindi: "You have said such a degrading thing. I just want to say that what you just said, that Kulbhushan came to get his sister married off is wrong. I just want to bring up one thing, why did your ninety-three thousand come? Why did ninety-three thousand come? Why did your ninety-three thousand come? I won't say they came to get their sister married off. I won't say that. Only Pakistanis can say something as degrading as that. This dirty language can only be used by Pakistanis. It can only be used by Pakistanis"]"*

Arnab Goswami: *"Gaurav Arya [addressing Abid Abbasi]: Control your language. How dare you. How dare you. Abid Abbasi, for the language you are speaking I am cancelling and throwing you out of my programme. How dare you use that language. They are now attacking. Look at the languages used, the languages being used, GD Bakshi. Look at the language"*

Gaurav Arya: *"[Translated from Hindi: "Arnab, they are Pakistanis. This is how the Pakistani nation is. This is how they are. The whole Pakistani country is like this. They are all like this"]"*

Arnab Goswami: *"The dirty language of this dirty scoundrel. He has used this language. He has shown his true colours. He is unable to argue legally. He is unable to put out a rational argument, GD Bakshi. And Mona Alam is quiet. And Mona Alam is quiet as this kind of dirty language is used. Mona Alam is quiet. She suffers this language as a woman she should have shouted at Abid, but she won't. She won't GD Bakshi. It horrifies me the position of people like Mona Alam. This*

²⁵ Ofcom understands that Abid Abbasi is a journalist representing the views of Pakistan.
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language used by a fellow Pakistani supported by Mona Alam on a live TV programme”.

The discussion of the issue of consular access continued until the conclusion of the segment, but we did not consider the content relevant to our decision in this case.

We considered this content raised issues under the following rules of the Broadcasting Code (“the Code”):²⁶

Rule 3.3: “Material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television...services...except where it is justified by the context”.

Rule 2.3: “In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...Such material may include...offensive language...discriminatory treatment or language...Appropriate information should also be broadcast where it would assist in avoiding or minimising offence”.

Ofcom requested the Licensee’s comments on how this material complied with these rules.

Response

The Licensee said that the programme was based on “a high-profile case of an Indian citizen’s legal and human rights having been denied despite claims to the contrary”. It said the debate took place after “Pakistan refused to give India unimpeded consular access to Kulbhushan Jadhav, who has been held in Pakistani custody on charges of spying since 2016”. The Licensee described these events as “a long running issue of huge significance to the Indian community”. It added that the consular access provided by Pakistan “was not private, had cameras, screens and Pakistani officials present”, which was a breach of “all three conditions” of the ICJ’s order that Pakistan “allow unimpeded, unhindered and unconditional access”.

The Licensee stated that this context was repeatedly made clear by the presenter Arnab Goswami, who stated, at the beginning and throughout the programme, that the debate was specifically about Pakistan violating “ethics, legality, humanity and of course, international laws”.

It argued that the “antagonistic language” was used in the programme within the context of a “highly topical issue at the time of broadcast” and “did not amount to hate speech” and “would not have been considered abusive and derogatory to one group”.

The Licensee made several points which it believed provided contextual justification as to how the programme complied with the Code rules as set out above and did not amount to hate speech. Specifically, the Licensee argued that:

²⁶ Ofcom also asked the Licensee to provide representations on Rule 3.2: “Material which contains hate speech must not be included in television...programmes...except where it is justified by the context”. We did not consider that there were grounds to pursue our investigation under this rule.

- in relation to a statement made by the Indian guest, Sushant Sareen (*"So the thing is, in any case Arnab, I think the Indians went through the motions because they probably very well expected this kind of thing coming from Pakistanis who are perfidious you know, in their very, congenitally who are perfidious"*), the term *"perfidious"* meant *"deceitful, untrustworthy"* and was therefore was *"clearly said in the context of the handling of Mr Jadhav's case and the failure of Pakistani authorities to respect the conditions imposed by the ICJ"*;
- the statement made by the Indian guest, Gaurav Arya (*"They show oppression on an unarmed woman. They are gangsters basically. They are thieves. They are trying to justify their pathetic little nation"*) was in response to *"humiliation levelled on the wife of Mr Jadhav. A wife only removes the mangal sutra (the wedding necklace) on the death of her husband. To force her to do this on her first prison visit to him was to make her feel like a widow"*. The Licensee said the humiliations levelled on Mr Jadhav's wife in requiring her to do these things during her meeting with him were significant and *"fuelled the temperature of the debate in which both parties were equally combative"*;
- the statement made by the presenter (*"You're just a bitter man like all of Pakistanis"*) was in response *"to a claim"* made by the Pakistani guest Hamid Khan, that *"Mr Modi has isolated all of India"* and was *"made with no malice"* rather on the *"basis that India has seen socio-economic and diplomatic growth under Prime Minister Modi vis-à-vis Pakistan, a country which doesn't see eye to eye with India and is likely to be displeased by it"*²⁷;
- the statement made by the presenter (*"You're a barbaric nation. You're a barbaric nation. You're a country of barbarians. You're a country of barbarians where dignified consular officers cannot engage Kulbhushan Jadhav on his legal rights and were prevented from obtaining his written consent for arranging his legal representation"*) was said in the *"context of the abuse of legal rights of the named individual"*. The Licensee said the term *'barbaric'* in this context meant *"brutal, cruel, vicious"*;
- the statement made by the Pakistani guest, Abid Abbasi, about Mr Jadhav coming to Pakistan to *"get his sister married"* was a *"major insult to the Asian woman and her family and seen as a taboo among both societies which 'called into question the honour of the sister' and is 'one of the most fundamental insults to a family and society'".* The Licensee said that the strength of the insult was demonstrated by the Pakistani guest who used this insult being condemned by the panellists, including the Pakistani contributors. It also argued that two statements (*"Only Pakistanis can say something as degrading"*²⁸ *as that. Dirty language can only be used by Pakistanis"* and *"We [Indians] don't use such foul language. We are a civilised country"*) were also said in response to this *"insult"*;
- the statement made by the presenter (*"please don't behave like a Pakistani please on my programme"*) was said in response to the Pakistani guest, Hamid Khan, who stated, *"Kulbhushan is under Pakistan's mercy and should have been hanged by now"* after being

²⁷ The Licensee provided a number of references to highlight the *"bitterness"* between India and Pakistan, including, among others: 'Kashmir attack: India 'launches strikes against militants' [BBC News \(September 2016\)](#); and 'Global Terrorist: Masood Azhar listed as a global terrorist after China lifts restrictions' [India Times \(May 2019\)](#).

²⁸ In Ofcom's original translation, the phrase *"ghalat baat"* was translated as *"shallow"*. The Licensee argued that the correct translation was *"degrading"*, which Ofcom agreed and accepted.

repeatedly told not to shout. The Licensee clarified that “this is not derogatory but a reference to the fact that similar Indo-Pakistan debates become a shouting match”;

- the statement made by Major Gaurav Arya calling “Mr [Hamid] Khan a terrorist for hijacking the debate” was a “clear reference to historical events, namely the hijack of Air India flight²⁹ and the 26 November attack in Mumbai³⁰”;
- the term “*terrorism*” was first introduced to the debate³¹ by Pakistani guest, Abid Abbasi, and it was continued through the statements made by Pakistani guest, Mona Alam, calling Gaurav Arya an “*Indian terrorist*” and saying to him: “*No, don’t be an Indian. Don’t be an Indian ok? Stop being an Indian*”. It said that this demonstrates “how this tit-for-tat type of debate is second nature to the communities involved” and within the expectations of the audience; and
- the statement made by an Indian guest (“*We don’t use such foul language. We are a civilised country. But I want to ask why did ninety-three thousand Pakistanis come? What did they come to do?*”) was a clear historical reference to the surrender of ninety-three thousand soldiers of the Pakistan Armed Forces Eastern Command in 1971 and made the point that “Such language was not used against them by Indians”.

The Licensee also made representations about the specific rules of the Code. In relation to Rule 2.3, it said that although “the contributors spoke in a combative manner which, at times, resembled a tit-for-tat sparring match”, this was “typical of Asian news channels and their communities and does not exceed the expectations of their audiences”. In addition, in relation to Rule 3.3, it said that the “heated exchanges” were within the “current and historical context of the full debate”. It stated its belief that the comments made by “both sides” were “justified and would not have been considered abusive and derogatory to one group”.

In addition, the Licensee said that the “antagonistic language” was used by both parties but “did not amount to hate speech” in the context of a debate about the “denial of legal and human rights of an Indian national”.

Finally, the Licensee expressed “disappointment” at Ofcom’s Preliminary View that the programme was in breach of Rules 3.3 and 2.3. It said it had no further representations to make other than to say, “it was never the channel’s intention to offend any group or nationality”.

Decision

Reflecting our duties under section 319 of the Communications Act 2003, Sections Two and Three of the Code require that generally accepted standards are applied to the content of television and radio services to provide adequate protection for members of the public from the inclusion of harmful

²⁹ Ofcom understands that this is a reference to an incident in 2019 in which air control received a threat to hijack an Air India plane and take it to Pakistan: [The Economic Times \(23 February 2019\)](#).

³⁰ Ofcom understands that this is a reference to an incident in November 2008 in which Pakistani terrorists attacked the Taj Hotel in Mumbai: [The Guardian \(November 2008\)](#).

³¹ Ofcom understands this to mean that the word “*terrorism*” was first raised in this part of the debate by Pakistani guest Abid Abbasi. We note that the term “*terrorist*” was first raised in the programme as a whole by an Indian guest, Gaurav Arya, and that when the Pakistani guest Abid Abbasi used the word “*terrorism*” he was clearly referring only to the individual who was the subject of the programme, against whom charges of terrorism had in fact been made.

and/or offensive material in programmes including material containing hatred, abusive and derogatory treatment of individuals, groups, religions or communities.

Ofcom has taken account of the audience's and broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights ("ECHR") when considering the Licensee's compliance with the Code.

Ofcom has also had due regard³² in the exercise of its functions to the need to eliminate unlawful discrimination, to advance equality of opportunity and to foster good relations between those who share a relevant protected characteristic, such as race, religion or belief, and those who do not.

Broadcasters should be able to, and can, make programmes which address controversial subjects, as this is clearly in the public interest. The Code does not prohibit people from appearing on television and radio services because their views have the potential to cause offence. To do so would, in our view, be a disproportionate restriction of the broadcaster's right to freedom of expression and the audience's right to receive information. In this context, Ofcom considered that it was clearly legitimate for a channel like Republic Bharat to broadcast a programme that discussed Pakistan's compliance with the ICJ's ruling with regards to the provision of consular access to Kulbhushan Jadhav. However, when dealing with sensitive or controversial topics and views, broadcasters must ensure they comply with the Code.

Rule 3.3

Rule 3.3 of the Code states:

"Material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television...services...except where it is justified by the context".

The Code does not prohibit criticism of any country or citizens of that country. However, such criticism must not spill over into pejorative abuse. The Code has been drafted in light of the Human Rights Act 1998 and the ECHR and seeks to strike an appropriate balance where broadcast content engages competing rights. In the context of Rule 3.3, it does so in particular in relation to the right to freedom of expression, which encompasses the broadcaster's and audience's right to receive material, information and ideas without unnecessary interference, as well as the right to freedom of thought, conscience and religion and the right to enjoyment of human rights without discrimination on grounds such as nationality or ethnicity.

We first considered whether this programme contained abusive or derogatory treatment of individuals, groups, religions, or communities.

Throughout the programme, we considered that the term "Pakistani" was repeatedly used as a term of abuse, including through the following statements:

- the presenter said to a Pakistani guest, *"please don't behave like a Pakistani please on my programme...please behave like a human being"*;

³² Under section 149 of the Equality Act 2010.

- the Senior Consulting Editor on Strategic Affairs at Republic Bharat, Gaurav Arya, addressed a Pakistani guest as a *“pathetic Pakistani”* and *“listen you pathetic little Pakistani”*. He also suggested that the Pakistani guest should not be allowed to contribute further to the debate *“because [he is] a pathetic little Pakistani”* and would not be able to contribute further unless he first apologised for being Pakistani: *“First apologise for being Pakistani. Say that you’re sorry for being Pakistani. Apologise for being Pakistani”* and *“apologise for being Pakistani. You were born in the wrong country”*;
- while addressing the criticism of the Prime Minister of India expressed by a Pakistani guest Hamid Khan, the presenter responded, *“you’re just a bitter man like all of Pakistanis”*; and
- in addition to the presenter’s response above, Gaurav Arya also addressed the Pakistani guest, Hamid Khan’s criticism by responding, *“shame on him. Shame on his nation. Shame on Pakistan”*. To which the presenter agreed and responded, *“of course, shame on them”*. Gaurav Arya continued to respond, *“shame on all the people who are from Pakistan. Shame on the entire population of your pathetic country”*.

The Licensee argued that two of the presenter’s statements (*“please don’t behave like a Pakistani please on my programme”* followed by *“please behave like a human being”*) were an attempt to moderate the debate in response to a Pakistani guest who said *“Kulbhushan is under Pakistan’s mercy and should have been hanged by now”* after being repeatedly told not to shout. The Licensee argued that *“this is not derogatory but a reference to the fact that similar Indo-Pakistan debates become a shouting match”*. The Licensee also said that the presenter’s comment *“you’re just a bitter man like all of Pakistanis”* was *“made with no malice”* but rather was made on the basis that *“India has seen socio-economic and diplomatic growth under Prime Minister Modi and referenced that Pakistan, a country which doesn’t see eye to eye with India, was likely to be displeased by it”*.

However, Ofcom considered that the context in which the various statements above were made in the programme made it clear that the term *“Pakistani”* was used as a term of abuse by the presenter and regular contributor Gaurav Arya, characterising Pakistani people as *“pathetic”* and *“bitter”* by virtue of their nationality, and suggesting that their nationality was something for which Pakistanis should apologise and of which they should be ashamed. In addition, we considered that the presenter’s statement to a Pakistani guest (*“please don’t behave like a Pakistani please on my programme” ...please behave like a human being”*) amounted to abusive or derogatory treatment because the presenter was implying that Pakistani people should not be considered human, solely on the basis of their nationality.

Also, at multiple points within the programme, contributor Gaurav Arya, Senior Consulting Editor on Strategic Affairs at Republic Bharat, used the word *“terrorist”* to refer to a speaker from the Pakistani point of view. We considered that the statements: *“You people hijack planes. You hijack trains. You hijack buses. And now you’ve tried to hijack the debate”*; and *“Your passport isn’t respected anywhere. You guys are strip searched at all airports. Your ex-prime ministers are strip searched”*, were particularly derogatory and abusive. This was because they implied that internationally all Pakistani people are suspected terrorists, and all those representing the Pakistani perspective may be metaphorically grouped together with terrorists.

In addition to this, Gaurav Arya made the following statement about Pakistani people:

“only Pakistanis can say something as degrading as that. This dirty language can only be used by Pakistanis. It can only be used by Pakistanis...Arnab, they are Pakistanis. This is how the Pakistani nation is. This is how they are. The whole Pakistani country is like this. They are all like this”.

We acknowledged the Licensee’s argument that these words were said in response to Pakistani guest, Abid Abbasi, saying *“Did Kulbhushan Jadhav come here to get his sister married?”*, and that Abid Abbasi’s statement is considered to be highly insulting in both Indian and Pakistani culture, and that this “fuelled the temperature of the debate”. However, we considered that notwithstanding the potential offence of what was said Mr Abbasi, it concerned one individual, whereas the response to it characterised, in highly pejorative terms, the people of Pakistan as a whole, as uncivilised.

It was our view therefore that the broadcast contained material which amounted to abusive or derogatory treatment of Pakistani people on the basis of their nationality.

We next considered whether there was sufficient context to justify the broadcast of this abusive and derogatory treatment. Our [published guidance](#) to Rule 3.3 makes clear that there are certain genres of programming where there is likely to be editorial justification to include challenging or extreme views in keeping with audience expectations, provided there is sufficient context. We consider a current affairs panel discussion to be one of these genres. However, the greater the risk the material may cause harm or offence, the greater the need for contextual justification. In this case, we considered that the risk of the material broadcast causing harm or offence was high, given that statements amounting to abuse and derogatory treatment of Pakistani people were made throughout the programme. We therefore considered that the need for contextual justification was therefore also correspondingly high in this case.

In assessing whether there was a contextual justification, Ofcom must take proper account of the broadcaster’s right to freedom of expression, and the audience’s right to receive information without interference. Ofcom recognised the particular importance of freedom of expression when assessing content containing political speech.

The Code states that contextual factors relevant to Rules 3.2 and 3.3 of the Code include, but are not limited to:

- the genre and editorial content of the programme;
- the extent to which sufficient challenge is provided;
- the status of anyone featured in the material; and
- the service on which the programme is broadcast and the likely size and expectations of the audience.

We therefore considered whether these or any other contextual factors were relevant to this case.

We acknowledged that Republic Bharat is a television channel delivering news and current affairs to the Indian community in the UK, with a specific focus on India and its relationship with Pakistan. We accepted that Republic Bharat’s audience would expect to see robust discussions of political issues on the channel, including topics such as Pakistan’s compliance with the ICJ order in relation to providing consular access to detained Indian national, Kulbhushan Jadhav. Given the heightened Indo-Pakistan

sensitivity to the issue at the time of broadcast, we also recognised that audiences would be likely to expect a provocative debate between Indian and Pakistani guests about these matters which would involve some panellists expressing challenging views. We recognise that debates on matters touching on relations between the two countries are emotive and sometimes heated, and that this too would be within audience expectations.

However, as we set out in our guidance, the greater the risk for the material to cause harm and offence, the greater the need for contextual justification.

The Licensee argued that the discussion and comments made within the programme should be seen in the larger “historical context” of Indo-Pakistani relations. The Licensee also said that “antagonistic language” was used by both parties during the debate on this programme but it “would not have been considered abusive and derogatory to one group” in the context of a debate about the “denial of legal and human rights of an Indian national”.

We therefore considered whether the political context relating to Mr Jadhav’s detention and associated heightened tension between India and Pakistan were sufficient context for the content concerned and concluded that it was not. We acknowledge it was legitimate for the programme to scrutinise and robustly challenge the Pakistan Government and its actions in relation to Mr Jadhav, including his detention, the provision of consular access in response to the ICJ order and the alleged treatment of Mr Jadhav’s family.

However, in our view, the statements outlined above went beyond expressing a political opinion. There is an important distinction between scrutinising and challenging the policies and activities of the Pakistani state, and abusive or derogatory treatment of Pakistani people on the basis of their nationality.

Throughout the programme, and led by its presenter, comments on the conduct of the Pakistani Government were expressed as criticisms of “you”, apparently referring to the Pakistani speakers and all Pakistani people. The debate opened with:

“these Pakistanis don’t understand legality, technicality, law. So, I will argue simply, and I open the debate between Raja Faisal and Sushant Sareen. And I begin the debate by accusing you of being four things. With the greatest of respect to you all, and you are liars, you see, everyone is on the screen and let them hear me say this. You are liars in Pakistan, you are outlaws, you are cowards, and you are also unfortunately chameleons what we call in Hindi “girgit””.

Pakistanis were described as “congenitally... perfidious”, and the programme contained comments that likened Pakistani people to “barbarians”: “you’re a barbaric nation. You’re a barbaric nation. You’re a country of barbarians. Where dignified consular officers cannot engage collusion on his legal rights and were prevented from obtaining his written consent for arranging his legal representation” and “you are not part of the civilised comity of nations”.

We considered these statements characterising Pakistan as uncivilised and lawless tended to elide the distinction between the Pakistani Government and the Pakistani people in general to such a degree

that it was never wholly clear to an audience that what was being discussed was only the conduct of the Pakistani Government, and not the alleged behaviour and nature of Pakistani people as a whole.

We recognise the Licensee has the right to be fundamentally critical of the Pakistani Government and its policies. However, where the distinction between the criticism of the government and the people had not been made clear, we considered it was reasonable for the audience to have perceived the use of the term “*Pakistani*” as an abusive and derogatory criticism of the people of Pakistan as a whole.

Ofcom considered the statements of the presenter and his Indian guests did at times go beyond the expression of criticism of the Pakistani Government, its policies, or such support for the government and its policies as was expressed by the Pakistani guests. Parts of the programme were given over to abuse of the guests merely for being Pakistani.

The Licensee argued that the “combative manner which, at times, resembled a tit-for-tat sparring match” was “typical of Asian news channels and their communities and does not exceed the expectations of their audiences”. Ofcom recognises the longstanding tension between India and Pakistan which can often lead to heated discussions and that audiences would expect a “combative” style of debate of such political issues on the channel. Indeed, the debate began with the presenter characterising Pakistanis as “*liars*”, “*outlaws*” and “*cowards*” because of the way in which consular access to the Indian national concerned had been handled. The programme contained robust and provocatively expressed criticisms of Pakistan and its policies by contrast with those of India throughout. We also recognise the presenter, Arnab Goswami, is well known for his confrontational debating style.

However, we did not accept that the inclusion of sustained abuse and derogatory treatment towards Pakistani people within these debates were within UK audience expectations for this channel.

We acknowledged that the Pakistani guests at times expressed critical views about India, including: “*I’m telling you. Prime Minister Modi has isolated the whole of India*”. However, the presenter responded directly to this criticism in disparaging terms: “*You’re just a bitter man like all of Pakistanis*”. We did not accept the Licensee’s explanation of this comment.

We also acknowledge that Pakistani guest, Mona Alam, said to Gaurav Arya: “*No, no, don’t be an Indian*” and “*Stop being Indian. Stop saying terrorist. You Indian terrorist*”; however, we considered these statements to have been made in defence, as they mirrored the words repeatedly said to her and other Pakistani guests by Indian guests.

Ofcom understood that Pakistani guest, Hamid Khan, expressed views about Kulbhushan Jadhav including, “*Kulbhushan is under Pakistan’s mercy and should have been hanged by now*” and “*he should be killed. He should have been hanged by now*” which the Indian guests would have found both provocative and potentially highly offensive. However, we considered that these words, while highly charged, related to the political topic under discussion in a way that the sustained abusive and derogatory treatment of Pakistani people during the programme did not. We considered the inclusion of some very brief critical and retaliatory statements by the Pakistani guests did not constitute sufficient challenge to or contextualisation of the abusive and derogatory speech described above. We also considered that the Pakistani contributors to the programme were repeatedly interrupted and afforded little time to make points that may have provided challenge and context.

The Licensee said that during the programme, the presenter was “trying to control the participants” and that the “panellists were largely facing off each other with intervention from the host anchor”. Whilst we accepted that the presenter did make attempts at moderating the debate between Indian and Pakistani guests, he did so principally by silencing the Pakistani guests even where the Indian guests were abusing them. We were particularly concerned that, in his role as the presenter of the programme, he was responsible for making some of the remarks, as outlined above, that we considered amounted to abusive and derogatory treatment of Pakistani people. For example, we noted the following exchange:

Arnab Goswami: *“Hamid please don’t behave like a Pakistani please on my programme”.*

Hamid Khan (Pakistani): *“No!”*

Arnab Goswami: *“Please behave like a human being”.*

In our view, his status as the presenter and editorial voice of the programme gave weight to this highly derogatory statement. Therefore, we did not agree with the Licensee’s representations that the presenter intervened or provided sufficient challenge or context for the abusive and derogatory treatment of Pakistani people during the programme.

We were also concerned that the presenter often turned to Gaurav Arya, Senior Consulting Editor on Strategic Affairs at Republic Bharat to endorse his point of view and that some of the strongest forms of abuse in the programme were made by him. As detailed above, Gaurav Arya repeatedly and implicitly used the word “terrorist” metaphorically to describe a Pakistani guest. He repeatedly addressed the Pakistani guest as “you pathetic Pakistani”. He also suggested that the Pakistani guest should not be allowed to contribute further to the debate unless he first apologised for being Pakistani: “First apologise for being Pakistani. Say that you’re sorry for being Pakistani. Apologise for being Pakistani” and “apologise for being Pakistani. You were born in the wrong country”.

We did not accept the Licensee’s argument that the word “terrorism” was first used in the debate by the Pakistani guest Abid Abbasi because, in our view, the use of the word “terrorism” by Mr Abbasi was clearly a reference to the individual who was the subject of the programme, against whom charges of terrorism had in fact been laid. We therefore considered that the term “terrorist” was first raised in the programme as a derogatory and abusive term by Mr Arya, and as outlined above, that the one instance of this term being used by a Pakistani guest was done in defence.

Taking all the elements above into account, we considered that there were insufficient contextual factors to justify the abusive and derogatory treatment of Pakistani people included in this programme.

Therefore, our Decision is that this programme breached Rule 3.3.

Rule 2.3

This rule states that:

“In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context. Such

material may include...offensive language...discriminatory treatment or language (for example on the grounds of...religion or belief...
Appropriate information should also be broadcast where it would assist in avoiding or minimising offence.”

We acknowledge that, at times, offence can be caused not just by the actual content of a programme but by people with extreme and very controversial views being given airtime. The Code does not prohibit the broadcast of material or the inclusion of people or groups whose views and actions have the potential to cause offence. To do so would, in our view, be a disproportionate interference with the broadcaster’s right to freedom of expression and the audience’s right to receive information. Rule 2.3 places no restrictions on the subjects covered by broadcasters, or the manner in which such subjects are treated, as long as potentially offensive content is justified by the context. Ofcom first considered whether the material in the programme had the potential to cause offence.

As discussed under Rule 3.3, this programme contained material which was abusive and derogatory towards Pakistani people. Ofcom therefore considered this programme clearly had the potential to cause significant offence.

We therefore went on to consider whether the broadcast of potentially offensive material was justified by the context. As previously discussed, Republic Bharat is a television channel which broadcasts news and current affairs looking at issues relevant to the Indian community in the UK. For this reason, it was legitimate for the channel to explore the contentious issue of Kulbhushan Jadhav’s detention and for these discussions to include challenging and critical views of Pakistan Government’s handling of the situation. The Licensee said that although “the contributors spoke in a combative manner which, at times, resembled a tit-for-tat sparring match”, this is “typical of Asian news channels and their communities and does not exceed the expectations of their audiences”. However, this programme contained potentially highly offensive material including straightforward abuse of Pakistani people based on their nationality. In our view, this material would have exceeded the expectations of the UK based audience of this channel.

We acknowledged the Licensee’s representations that it was not the channel’s intention to “offend any group or nationality”. However, given the strength of the material and our assessment of the relevant contextual factors, in Ofcom’s view the channel’s audience was unlikely to have expected to view content of this type broadcast without sufficient contextual justification or appropriate information to avoid or minimise the level of potential offence.

Our Decision is therefore that Rule 2.3 was breached.

Breaches of Rules 3.3 and 2.3 of the Code.