

and affirmations; the fourth with legislative lists; the fifth with powers of the Supreme Court and the remuneration of judges; and the sixth with the laws altered, repealed, or amended without the previous sanction of the President.

Fundamental Rights

Like the previous Constitutions of 1956 and 1962, the new Constitution provided for the fundamental rights of the citizens. It laid great emphasis on these rights by asserting that if any existing law or custom or usage having the force of law was inconsistent with any provision of fundamental rights, it would be void to the extent of inconsistency and that no authority in Pakistan, whether the federal government, the National Assembly, a provincial government, or legislature, or any local authority, was competent to make any law, regulation, or any order which might be repugnant to any provisions of the fundamental rights. If any such law, regulation, or order was made, it would, to the extent of repugnancy be void.² The judiciary was given the power to enforce fundamental rights and the courts were to decide if a law was repugnant to any of their provisions.

The familiar democratic rights and freedoms such as freedom of speech and expression, of assembly and association, of movement and profession were all provided for in the constitution, with the usual qualifications. Regarding civil rights, familiar rights such as rights to life, liberty, and property were granted, again with the usual qualifications and safeguards. An important provision from the standpoint of civic liberty laid down that if a person were arrested he/she could not be detained in custody without being informed, 'as soon as may be' of the grounds for such arrest, and he or she could not be denied the right of legal consultation and defence. Further, a person arrested or detained was given the right to be produced before the nearest magistrate within a period of twenty-four hours and no further detention was allowed except on an order of the magistrate. Serious restrictions were laid down regarding laws relating to preventive detention. No law could authorize the detention of a person beyond one month unless the appropriate Review Board headed by a Supreme Court judge in case of a federal law, and by a High Court judge in case of a provincial

law, after affording opportunity to the *detenu*, came to the conclusion before the expiry of such period that there was sufficient cause for such detention. It was also provided that the detaining authority should communicate to the *detenu*, within one week, the grounds of his detention so that he could have representation against such order. It was also provided that no detention under a law for preventive detention could exceed eight months in a span of two years for acting in a manner prejudicial to the public order and twelve months in any other case.³ Such safeguards were, however, not applicable to any person arrested or detained for anti-national activities under any law providing for preventive detention.

During an emergency, the President could, by an order, suspend the enforcement of some of the fundamental rights guaranteed to the citizens under the Constitution. The right to move any court for the enforcement of fundamental rights could also be suspended.⁴

The principal fundamental rights guaranteed by the 1973 Constitution are briefly described below:

1. All citizens are equal before the law and entitled to equal protection of laws.⁵
2. No person should be deprived of life or liberty save in accordance with the law.⁶
3. No person should be punished for an act which was not punishable when it was committed.⁷
4. There should be no discrimination on grounds of religion, race, caste, sex, or place of birth with regard to access to places of public entertainment, recreation, welfare, or utility.⁸
5. All forms of slavery, servitude, forced labour, torture, or cruel or inhuman treatment or punishment were declared illegal.⁹
6. All duly qualified citizens were made eligible for appointment in the service of the state, irrespective of religion, race, caste, sex, descent, or place of birth, provided that for an initial period of ten years it would not be unlawful for the state to reserve posts in favour of members of any sex or class or residents of any area to secure their adequate representation in the service of Pakistan.¹⁰

7. Every person was guaranteed a right to acquire, hold and dispose of property in any part of Pakistan subject to reasonable restrictions and public interest under the law.¹¹ No person should be deprived of his property save in accordance with the law. The right to property was subject to a number of constitutional restrictions including acquisition of enemy property; acquisition of property for providing housing, education; maintenance of sick, old, and infirm; acquisition of property acquired through unfair means and in an illegal manner; or acquisition of property in excess of the maximum limit provided under a law for land reforms. However, the new constitution did not specifically provide for fair compensation. Adequacy of compensation provided under any law relating to compensation for acquisition of property, could not be called in question in any court.¹²
8. All citizens were guaranteed (a) freedom of speech, expression, and press; (b) freedom to assemble peacefully; (c) freedom of association; and (d) the right to move freely throughout Pakistan and to reside in any part of the country.¹³
9. Freedom of conscience and the right to profess, practise, and propagate any religion, subject to public order and morality, were guaranteed. Every religious association and every sect thereof was guaranteed the right to establish, manage, and maintain its religious institutions.¹⁴
10. No person attending any educational institution should be required to receive religious instruction or to attend religious worship other than that of his own community or denomination. No religious community should be prevented from providing religious instruction for pupils of that community in any educational institution which it maintained. No person should be compelled to pay any special taxes, the proceeds of which were specifically appropriated for the propagation or maintenance of any religion other than his own.¹⁵
11. The dignity of man and the privacy of home were declared inviolable. Procuring evidence through torture was prohibited.¹⁶
12. Protection was provided against double punishment and self incrimination.¹⁷
13. Every citizen was guaranteed the freedom to enter upon any lawful profession or occupation or to conduct any lawful trade or business. However, this freedom was subjected to such qualifications as might be prescribed by law.¹⁸
14. Other fundamental rights granted by the constitution included as under:
 - (a) Safeguards against discrimination in services on the ground only of race, religion, caste, sex, residence, or place of birth. This right was, however, subjected to regional quotas for some time.¹⁹
 - (b) Non-discrimination in respect of access to places of public entertainment or resort. However, special provisions could be made for women and children.²⁰
 - (c) Right to preserve and promote distinct language, script, and culture.²¹

Directive Principles of State Policy

Like the earlier Constitutions, the new Constitution also included Directive Principles of Policy. It was made the responsibility of each organ and authority of the state and those performing functions under them to act in accordance with these principles.²²

These principles are enumerated as under:

1. Steps to be taken to enable Muslims to order their lives in accordance with the Holy Quran and the *sunnah*. The state should endeavour to facilitate learning of Arabic, to promote observance of Islamic moral standards, and to secure the proper organization of *zakat*, *auqaf* and mosques.²³
2. Securing the well-being of the people, prevention of the concentration of wealth and means of production in the hands of a few, providing of basic necessities of life, reducing disparity of income, provision of food, clothing, housing, education, and medical relief for citizens incapable of earning their livelihood owing to unemployment, sickness, or similar reasons.²⁴
3. Promotion of social justice by removing illiteracy; providing of free and compulsory