

Fundamental Rights 8 to 28

7. Definition of the State

In this Part, unless the context otherwise requires, "the State" means the Federal Government, Majlis-e-Shoora (Parliament), a Provincial Government, a Provincial Assembly, and such local or other authorities in Pakistan as are by law empowered to impose any tax or cess.

CHAPTER 1 - FUNDAMENTAL RIGHTS

8. Laws inconsistent with or in derogation of fundamental rights to be void.

(1) Any law, or any custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by this Chapter, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights so conferred and any law made in contravention of this clause shall, to the extent of such contravention, be void.

(3) The provisions of this Article shall not apply to :-

(a) any law relating to members of the Armed Forces, or of the police or of such other forces as are charged with the maintenance of public order, for the purpose of ensuring the proper discharge of their duties or the maintenance of discipline among them; or

(b) any of the

(i) laws specified in the First Schedule as in force immediately before the commencing day or as amended by any of the laws specified in that Schedule;

(ii) other laws specified in Part I of the First Schedule;

and no such law nor any provision thereof shall be void on the ground that such law or provision is inconsistent with, or repugnant to, any provision of this Chapter.

(4) Notwithstanding anything contained in paragraph (b) of clause (3), within a period of two years from the commencing day, the appropriate Legislature shall bring the

laws specified in Part II of the First Schedule into conformity with the rights conferred by this Chapter:

Provided that the appropriate Legislature may by resolution extend the said period of two years by a period not exceeding six months.

Explanation :- If in respect of any law Majlis-e-Shoora (Parliament) is the appropriate Legislature, such resolution shall be a resolution of the National Assembly.

(5) The rights conferred by this Chapter shall not be suspended except as expressly provided by the Constitution.

9. Security of person.

No person shall be deprived of life or liberty save in accordance with law.

10. Safeguards as to arrest and detention.

(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before a magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the nearest magistrate, and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall be made except to deal with persons acting in a manner prejudicial to the integrity, security or defence of Pakistan or any part thereof, or external affairs of Pakistan, or public order, or the maintenance of supplies or services, and no such law shall authorise the detention of a person for a period exceeding three months unless the appropriate Review Board has, after affording him an opportunity of being heard in person, reviewed his case and reported, before the expiration of the said period, that there is, in its opinion, sufficient cause for such detention, and, if the detention is continued after the said period of three months, unless the appropriate Review Board has reviewed his case and reported, before the expiration of each period of three months, that there is, in its opinion, sufficient cause for such detention.

Explanation-I: In this Article, "the appropriate Review Board" means,

(i) in the case of a person detained under a Federal law, a Board appointed by the Chief Justice of Pakistan and consisting of a Chairman and two other persons, each of whom is or has been a Judge of the Supreme Court or a High Court; and

(ii) in the case of a Person detained under a Provincial law, a Board appointed by the Chief Justice of the High Court concerned and consisting of a Chairman and two other persons, each of whom is or has been a Judge of a High Court.

Explanation-II: The opinion of a Review Board shall be expressed in terms of the views of the majority of its members.

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, [11][within fifteen days] from such detention, communicate to such person the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order:

Provided that the authority making any such order may refuse to disclose facts which such authority considers it to be against the public interest to disclose.

(6) The authority making the order shall furnish to the appropriate Review Board all documents relevant to the case unless a certificate, signed by a Secretary to the Government concerned, to the effect that it is not in the public interest to furnish any documents, is produced.

(7) Within a period of twenty-four months commencing on the day of his first detention in pursuance of an order made under a law providing for preventive detention, no person shall be detained in pursuance of any such order for more than a total period of eight months in the case of a person detained for acting in a manner prejudicial to public order and twelve months in any other case:

Provided that this clause shall not apply to any person who is employed by, or works for, or acts on instructions received from, the enemy or who is acting or attempting to act in a manner prejudicial to the integrity, security or defence of Pakistan or any part thereof or who commits or attempts to commit any act which amounts to an anti-national activity as defined in a Federal law or is a member of any association which has for its objects, or which indulges in, any such anti-national activity.

(8) The appropriate Review Board shall determine the place of detention of the person detained and fix a reasonable subsistence allowance for his family.

(9) Nothing in this Article shall apply to any person who for the time being is an enemy alien.

11. Slavery, forced labour, etc. prohibited.

(1) Slavery is non-existent and forbidden and no law shall permit or facilitate its introduction into Pakistan in any form.

(2) All forms of forced labour and traffic in human beings are prohibited.

(3) No child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.

(4) Nothing in this Article shall be deemed to affect compulsory service:-

(a) by any person undergoing punishment for an offence against any law; or

(b) required by any law for public purpose provided that no compulsory service shall be of a cruel nature or incompatible with human dignity.

12. Protection against retrospective punishment.

(1) No law shall authorize the punishment of a person:-

(a) for an act or omission that was not punishable by law at the time of the act or omission; or

(b) for an offence by a penalty greater than, or of a kind different from, the penalty prescribed by law for that offence at the time the offence was committed.

(2) Nothing in clause (1) or in Article 270 shall apply to any law making acts of abrogation or subversion of a Constitution in force in Pakistan at any time since the twenty-third day of March, one thousand nine hundred and fifty-six, an offence.

13. Protection against double punishment and self incrimination.

No person:-

(a) shall be prosecuted or punished for the same offence more than once; or

(b) shall, when accused of an offence, be compelled to be a witness against himself.

14. Inviolability of dignity of man, etc.

(1) The dignity of man and, subject to law, the privacy of home, shall be inviolable.

(2) No person shall be subjected to torture for the purpose of extracting evidence.

15. Freedom of movement, etc.

Every citizen shall have the right to remain in, and, subject to any reasonable restriction imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof.

16. Freedom of assembly.

Every citizen shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order.

17. Freedom of association.

(1) Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality.

(2) Every citizen, not being in the service of Pakistan, shall have the right to form or be a member of a political party, subject to any reasonable restrictions imposed by law in the interest of the sovereignty or integrity of Pakistan or public order and such law shall provide that where the Federal Government declare that any political party has been formed or is operating in a manner prejudicial to the sovereignty or integrity of Pakistan or public order, the Federal Government shall, within fifteen days of such declaration, refer the matter to the Supreme Court whose decision on such reference shall be final.

Provided that no political party shall promote sectarian, ethnic, regional hatred or animosity, or be titled or constituted as a militant group or section.

(3) Every political party shall account for the source of its funds in accordance with law.

(4) Every political party shall, subject to law, hold intra-party elections to elect its office-bearers and party leaders.

18. Freedom of trade, business or profession.

Subject to such qualifications, if any, as may be prescribed by law, every citizen shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business:

Provided that nothing in this Article shall prevent:-

- (a) the regulation of any trade or profession by a licensing system; or
- (b) the regulation of trade, commerce or industry in the interest of free competition therein; or
- (c) the carrying on, by the Federal Government or a Provincial Government, or by a corporation controlled by any such Government, of any trade, business, industry or service, to the exclusion, complete or partial, of other persons.

19. Freedom of speech, etc.

Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offence.