**State V/s Dosso case (updated)**

STATE V/S DOSSO CASE......1958
P.L.D. 1958 S.C. 553
**Introduction:**

 State v/s Dosso is a simple case of murder committed by a person named,Dosso in Balochistan.He was convicted under the tribal system of justice by Loya Jirga as enumerated in FCR(frontier crimes regulation); but his relatives approached to the Lahore high court which repealed the decision of Loya Jirga,later on, on the appeal of Federal Govt,Supreme court reversed the decision of Lahore High court.The case got prominence,because it indirectly questioned the legitimization of Martial law imposed by Iskandar Mirza on 7th oct,1958.

**Background:**

 A murder took place in the Lora lai district of Balochistan by a person named as Dosso.He was arrested and was handed over to the Council Of Elders(Loya Jirga).The Tribal authorities charged him under FCR, 1901.The relatives of Dosso upon this filed a writ petition in Lahore High court against the decision of Loya jirga.Lahore high court heared the case under the constitution of 1956, and held its verdict in favour of Dosso.Lahore high court also declared FCR as an unconstitutional.The Federal Govt filed appeal against this decision in SC of Pakistan.SC decided the case in favour of the federal govt.

**Main Events/Facts:**

1)Arrest and Conviction of Dosso:
Dosso and other were convicted under Section 11 of FCR 1901, and handed over to Loya Jirga. The Jirga convicted Dosso.

2)Petition in Lahore High court against FCR:
The relatives of Dosso filed a petition against the proceedings of council of elders regarding Dosso case in Lahore High Court. They challenged the references and the convictions on the grounds that the relevent provision of the FCR were void being repugnant in the " Equity before Law" and the equal protection of Law" and the right to counsel embodied in Articles 5 and 7 of the 1956 Constitution.

3)Decesion of Lahore High Court:
the High Court decided the case in favour of Dosso and declared FCR repugnant to 1956 constitution. Article 5 and 7 of which ensured the equality of all before the law. Thus Lahore High Court decided the proceedings of council of elders as null and void under FCR, 1901.

**Effect of Lahore High court:**
the effects of this decision were that,after the declaration of FCR as repugnant to the constitution;then the validity of those cases were questioned, which were decided under FCR since long befor it was enacted, and especially since 1956 when the new constitution was promulgated.

**Appeal in the Supreme Courtof Pakistan:**
The Federal Government of Pakistan went into an appeal in SC against the verdict of the Lahore High Court.The Supreme Court decided 13th october 1958 as the date for hearing the case. But prior to that on october 7, 1958, a drastic change came in the political history of Pakistan;when 1st martial was Imposed in the country.
Promulgation of Martial Law:

On october 7th 1958 the President of Pakistan Iskandar Mirza declared Martial Law in the country and made AYUB KHAN as Chief Martial Law Administrators(CMLA). the centeral and provincial legislature were dissolved with the abrogation of the 1956 Constitution.

**Laws ( Continuance in Force ) order: ( october 11,1958 )**
Three days later the Laws( continuance in Force ) order was issued according to which all other laws except those of 1956 constitution were validated and also the jurisdiction of all courts were restored. Thus,law ( continuance in force ) order 1958 was the NEW LEGAL ORDER, which replaced the old legal order i-e the 1956 constitution.
SOME TECHNICAL POINTS:

**Followed by the imposition of Martial Law some technical points raised in dosso case throughout the country.**
a) if Supreme Court would upheld the decesion of Lahore High Court in Dosso case, it means the 1956 Constitution was still in force as Lahore high Court decided the case in accordance with Article 5 and & 7 of the 1956 constitution.
b) And if 1956 constitution was still enforce then what was the role of Martial law regulation i-e Laws ( continuance in Force ) Order 1958. In short it would have been a challenge to the Martial Law administration.

**JUDGEMENT OF THE SUPREME COURT:**The Supreme Court decided the case unanimously against the verdict of Lahore High Court. The Supreme Court decesion ws based on the Hans KELSON'S THEORY OF LEGAL POSITIVISM.

**KELSON's THEORY OF LEGAL POSITIVISM:

According to kelson's theory:

MAIN POINTS/ASPECTS OF THE JUDGMENT:**

1)LEGALISATION OF 1958 martial law
The judgment held that 1958 Martial law imposition is a kind of revolution(peaceful revolution) which is not resisted or opposed by the common people;this clearly defines that the people are happy with this change,thereafter this revolution or martial law is legal as long as it satisfies the common people.

2)Recognition of Laws ( continuance in force ) order:
The Supreme Court held that the Laws ( c0ntinuance in Force ) order 1958 was the NEW LEGAL ORDER and the validity of laws and the correctness in the judicial decisions would be determined according to it.

3)Restoration of FCR:
The Supreme court also held that as the 1956 constitution was abrogated therefore FCR 1901 was still in force in accordence with the laws (coninuance in force ) order, 1958.

4) The Decision Of LOYA JRGA Is Valid:
The court also made a reference to the decision of council of elders,that its decision is valid and upto the mark.

**Critical Analysis/Commentary/Impacts of SC verdict:**

1)Recognition of ML:
The judgement of SC recognized the ML as legal and valid action;this had a far reaching effects on the political history of Pakistan.It opened the gates for the future ML”s in the country;also the recognition of ML provided with absolute powers in the hands of ML administrator who generously used it for next 10-11 years.

2)Halt Democratic process:
The verdict of Sc halted the democratic process of pakistan which had recently been on the road after the promulgation of 1st constitution of Pakistan on 23rd march 1923;and threw the country onto the track of dictatorship.

3)Deprivation from Constitution:
As a result of the judgment,Pak was deprived from its 1st independent constitution framed and promulgated after so much efforts,and a long struggle of 11 years.

4)Encouraged Military intervention:
The verdict of Sc encouraged the subsequent military interventions in the politics of Pakistan;which occurred three times i-e Gen;Yahya 1967,Gen;Zia 1979 and finally Gen;Musharraf in 1999, after this sad event.These interventions potently damaged the democratization in pak.

5) FCR Revalidated:
The judgement of Sc revalidated the British Imperial legacy,the curse,i-e FCR;popularly known as black law,in the tribal areas of Frontier and Balochistan;which is still enforced even today.Had it not been decalred as valid in 1958,the disturbacces now in these regions would have not been exist,if these people were brought under the arena of normal judicial system of Pakistan.

6) Damaged Independence of Judiciary:
The verdict was a serious blow to the independence of judiciary.The judiciary was bound to render its services under the new legal order of,Laws (continuance in force 11 oct,1958);even if the the judges have to give decisions against the basic principles of justice,they were bound to do so.

7) Curbing of Appellate Jurisdiction:
The decision also took away the power of the courts to hear appeals against the cases/actions of federal Govt.

8) Laughing stock for civilized world:
The judgement provided a laughing stock for civilized world on Pakistan;Because of the recognition of ML on the basis of Hans Kilson outdated theory,which is an irrelevant principle.

9) Judiciary Bow down in front of Executive:
Once again the judiciary bowed down in front of strong executive in this case.

10) Disturbed ties between East and west Pakistan:
The abrogation of 1956 constitution also led to the upset of agreements between East and West Pakistan;which were resolved after long struggle under 1956 constitution.The grievences of East Pakistan were almost pacified in 1956 consensus based constitution by incorporating both urdu and Bengali as national language etc.Had the ML was not legalized at that time,we would have not lost East Pakistan…
Conclusion:

**Maulvi tameez ud din case Vs federation of state**

**INTRODUCTION:**

Judiciary plays a very important role in the interpretation of the statues and laws. The judiciary has an important role in the development of law. In Pakistan to the superior courts gave judgements which became precedents. There have been a lot of important and leading cases in the history of Pakistan. Maulvi tameez-ud-din vs federation is one pf important case of history of Pakistan.

**BACKGROUND AND DETAILS OF THE CASE**

Dissolution of the First Constituent Assembly of Pakistan:After dismissing the second Prime Minister Khwaja Nazimuddin'sGovernment in April 1953, G.G. Ghulam Muhammad appointed MuhammadAli Bogra as premier who was working as a diplomatic representative of Pakistan in USA and against all the norms of parliamentary prectices, hehimself appointed other ministers in the cabinet. Muhammad Ali Bogra wasnaturally apprehensive of the possible repetition of the misuse of power bythe G.G. and therefore with undue haste, passed a constitutionalamendment through the Assembly on September 21, 1954. This amendmenthad the effect of stripping the G.G of his powers to dismiss the PrimeMinister at will and to oblige him to act according to ministerial advice.This amendment was naturally construed by the G.G. as an affront to him.Therefore, instead of showing his displeasure in a constitutional manner byoffering his resignation, he struck back and proceeded to perpetuate hisauthority by dissolving the Constituent Assembly on October 24, 1954. Hedid this inspite of the fact that at that time the work of constituent assembly.

**FACTS OF THE CASE.**

Following are the important facts of the case of moulvi tameez-ud-din vs federation.

**(I). DISSOLUTION OF THE CONSTITUENT ASSEMBLY.**

The Governor General ghulam mohammad of Pakistan dissolved the constituent assembly in Oct, 24 1954. There were some clashes among the prime minister and governor general which were caused regarding the dissolution of the constituent assembly.

**(II). GOVERNOR GENERAL ALSO DISSOLVED CABINET IN 1953.**

Governor general dissolved cabinet in 1953 before the dissolution of the constituent assembly of maulvi tameez-ud-din, the governor general of Pakistan in 1953 also dismissed cabinet of nizam-ud-din.

**(III). RECONSTITUTION OF THE COUNCIL OF MINISTERS.**

After the dissolution of the constituent assembly, the council of ministers was reconstituted.

**(IV). ACTION TAKEN BY THE MAULVI TAMEEZ-UD-DIN.**

Maulvi tameez-ud-din who was the head of the constituent assembly filed a writ petition before the cheif court sind. This petition was against the federation.

**(a). WRIT PETITION.**

Maulvi tameez-ud-din filed the writ petition in the chief court sind under section 223.A of the government of india act 1935.

**(b). NUMBERS OF WRITS FILED.**

He filed two writ petitions in order to redress his grievance. They were as follow.

**WRIT OF MANDAMUS.**

A writ of mandamus was filed by the maulvi tameez-ud-din, in order to restrain the enforcement of the proclamation of the governor general. It was also prayed that the federation and the members of he reconstituted council of ministers should be prohibited from meddling into the functions of maulvi tameez-ud-din.

**WRIT OF QUO WARRANTO.**

A writ of quo warranto was also filed by the maulvi tameez-ud-din demanding that the ministers should be asked as under which authority they were holding the offices.

 **ARGUMENTS GIVEN BY THE STATE.**

The federation and the council of ministers gave arguments in respect of writs filed by maulvi tameez-ud-din.

Following were the arguments given by the federation.

**(I). DISSOLUTION OF CONSTITUENT ASSEMBLY WAS RIGHT.**

It was argued that the constituent assembly was dissolved in a right way.

**(II). NO WRIT JURISDICTION OF THE CHIEF COURT.**

It was further argued that the chief court had no jurisdiction to entertain the writ petition.

**(III). INVALIDITY OF SECTION 223-A.**

It was further argued by the federation that the section 223-A which was put into the government of India act 1935, was invalid due to non-assent of the governor general which was very necessary for all laws.

 **DECISION OF THE CHIEF COURT.**

The chief court of the sind declare null and void the step taken by the gulam muhammad governor general and assembly restored.

 **APPEAL OF FEDERATION BEFORE THE FEDERAL COURT.**

The federation and council of ministers appealed before the federal court against the decision of cheif court sind.

**DECISION BY THE FEDERAL COURT.**

**(I). GOVERNOR GENERAL ASSENT IS NECESSARY.**

It was observed that the constituent assembly also performs its functions as the legislature and all laws past by it require the assent of governor general.

**(II). SEC 223-A OF GOVERNMENT OF INDIA ACT WAS NOT LAW.**

Section 223-A of government of India act 1935 was not law due to non-assent of governor general.

**(III). NO JURISDICTION OF CHIEF COURT.**

It was further observed that the section 223-A is not a law therefore the chief court did not have any jurisdiction to issue writs.

**(IV). CONSTITUENT HAS NO SOVEREIGNTY.**

According to the federal court constituent assembly is not sovereign but governor general is a sovereign authority.

 **EFFECT OF THE DECISION.**

In the decision of federal court the decision of chief court of sind was suspended.

 **BENCH OF FEDERAL COURT.**

* Chief justice. Mohammad Munir
* Justice. Mohammad Sharif
* Justice. S.A.Rehman
* Justice. S.M.Akram
* Justice. R.Cornelius

 **CONCLUSION.**

In the end we can say that the federal court decided the case in the favour of the federation and the council of ministers. The dissolution of constituent assembly was held right and it dismissed the writ petition.

**Article 18 of udhr**

**What is religion?**

Religion is basically a particular system of faith and worship.

**Definition of religion:**

[**Friedrich Schleiermacher**](https://en.wikipedia.org/wiki/Friedrich_Schleiermacher) in the late 18th century defined religion as:

"the feeling of absolute dependence".

[**Edward Burnett Tylor**](https://en.wikipedia.org/wiki/Edward_Burnett_Tylor)defined religion:

"the belief in spiritual beings"

**Freedom of religion:**

**Definition:.**

The right to choose a religion (or no religion) without interference by the government. Freedom of religion is guaranteed by the First Amendment to the Constitution. (See separation of church and state.)

The right to freedom of thought, conscience and religion includes:

* the freedom to change religion or belief;
* the freedom to exercise religion or belief publicly or privately, alone or with others;
* the freedom to exercise religion or belief in worship, teaching, practice and observance; and
* the right to have no religion (e.g. to be atheist or agnostic) or to have non-religious beliefs protected (e.g. philosophical beliefs such as pacifism or veganism).
* Freedom of religion does not prevent there being a state church, but no one can be forced to join a church, be involved in its activities or pay taxes to a church.
* The role of the State is to encourage tolerance and all religions or non-religions, if regulated, must be regulated with complete neutrality.
* The right to exercise, or manifest, one’s religion or belief will not generally be considered to be interfered with if a person is left with a choice as to whether or not to comply with his or her religious obligations.  However, there will be interference if restrictions make it practically difficult or almost impossible to exercise the religion or belief.

**Limitations:**

Article 9 is a qualified right and as such the freedom to manifest a religion or belief can be limited, so long as the limitation:

* is prescribed by law;
* is necessary and proportionate; and
* pursues a legitimate aim, namely:
	+ the interests of public safety;
	+ the protection of public order, health or morals; or
	+ the protection of the rights and freedoms of others.

Note also section 13 of the HRA which emphasises the importance of the right to freedom of thought, conscience and religion.  It provides that if a court or tribunal’s decision might affect the exercise of the right by a religious organisation or its members, the court or tribunal must have particular regard to the importance of the right.

**Case study - Nadia Eweida**

In 2013 the European Court of Human Rights recognised that British Airways employee Nadia Eweida was discriminated at work because of her faith.

Ms Eweida was banned from visibly wearing a cross at work because it breached the airline’s uniform code. She took her case to Strasbourg after it was rejected in Britain at tribunal – a decision later upheld by the Court of Appeal. The European Court ruled that British Airways’ actions breached Articles 9 and 14 of the European Convention on Human Rights – freedom of thought, conscience and religion and non discrimination.

But the Court also rightly maintained that staff must not discriminate against others at work by dismissing two other claims.

**What does the Constitution say about freedom of religion?**

The First Amendment (Amendment I) to the [United States Constitution](https://en.wikipedia.org/wiki/United_States_Constitution) prohibits the making of any law [respecting an establishment of religion](https://en.wikipedia.org/wiki/Establishment_Clause), ensuring that there is no prohibition on the [free exercise of religion](https://en.wikipedia.org/wiki/Free_Exercise_Clause), abridging the [freedom of speech](https://en.wikipedia.org/wiki/Freedom_of_speech_in_the_United_States), infringing on the [freedom of the press](https://en.wikipedia.org/wiki/Freedom_of_the_press_in_the_United_States), interfering with the [right to peaceably assemble](https://en.wikipedia.org/wiki/Freedom_of_assembly), or prohibiting the [petitioning for a governmental redress of grievances](https://en.wikipedia.org/wiki/Right_to_petition). It was adopted on December 15, 1791, as one of the ten amendments that constitute the [Bill of Rights](https://en.wikipedia.org/wiki/United_States_Bill_of_Rights).

**Is freedom of religion a human right?**

The United Nations recognized the importance of freedom of religion or belief in the 1948 Universal Declaration of Human Rights (Universal Declaration), Article 18 of which states “Everyone shall have the right to freedom of thought, conscience and religion.

**Relavant articles:**

* Article 18 of UDHR
* Article 2o 21 22 of Pakistan constitution.
* Amendment 1 of US constitution.
* Article 25(1) of indian constitution.
* Article 11 of constitution of Malaysia

**Religious rights:**

In religious rights, following rights are included;

* Right to profess
* Right to practical
* Right to propogate

**Right to profess:**

In Myanmar, the military junta crushed peaceful demonstrations led by monks, raided and closed monasteries, confiscated and destroyed property, shot, beat and detained protesters, and harassed or held hostage the friends and family members of the protesters.

In China, Falun Gong practitioners were singled out for torture and other abuses while in detention. Christians were persecuted for practicing their religion outside state-sanctioned channels.

In Kazakhstan, local authorities in a community near Almaty authorized the destruction of twelve homes, all belonging to Hare Krishna members, falsely charging that the land on which the homes were built had been illegally acquired. Only homes belonging to members of the Hare Krishna community were destroyed.

**Right to practical:**

# “The Right Way to Do the Right Thing”

**Right to propagate:**

However, it shields individual religions or groups by adding religious rights as fundamental rights. Article 25 says "all persons are equally entitled to freedom of conscience and the right to freely profess, practice, and propagate religion subject to public order, morality and health."

**Relavant Case laws:**

* Mormon polygamy case
* Peyode case law
* Ismaeel farooqi case law

**Conclution:**

To conclude I can say that Freedom of religion does not prevent there being a state church, but no one can be forced to join a church, be involved in its activities or pay taxes to a church.The role of the State is to encourage tolerance and all religions or non-religions, if regulated, must be regulated with complete neutrality.The right to exercise, or manifest, one’s religion or belief will not generally be considered to be interfered with if a person is left with a choice as to whether or not to comply with his or her religious obligations.  However, there will be interference if restrictions make it practically difficult or almost impossible to exercise the religion or belief.

**Iccpr**

**Article 1**

**Statement:**

1. All peoples have the **right of self-determination**. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

**Introduction**

All peoples have the **right to self**-**determination**. ... All peoples have the **right to self**-**determination**. By virtue of that **right** they freely determine their political status and freely pursue their economic, social and cultural development.

**Definition**

Right to self determination in bodies, the right for all people to determine their own economic, social and cultural development . it can also be defined as the need to pay regard to the freely expressrd will of people.

**Explanation:**

Self-determination All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, .

The **purpose of UN** is to ‘develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples’

**Historical background:**

After world war 1 the idea were proposed that any organization is made for the development of hope. In the charter of league nation this article were not included.

 **UN Charter, art 1**(2):

. Self-determination Art 1: ‘The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the UN and is an impediment to the promotion of world peace and co-operation.’

 **Art2**:

‘All peoples have the right to self-determination; by viSelf-determination All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

**. Who is entitled to self-determination?**

 • Final Report and Recommendations of an International Meeting of Experts on the Further Study of the Concept of the Rights of People for UNESCO (1990) – a ‘people’ has the following characteristics:

 1.Common historical tradition

2.Racial or ethnic identity

 3.Cultural homogeneity

 4.Linguistic unity

 5.Religious or ideological affinity

6.Territorial connection

7.Common economic life •

As well as these objective characteristics, must have subjective will to be identified as a people

**What does self-determination entail?**

 • For colonial or non-self governing territories, the right to self- determination required states to take steps to facilitate independence (GA Res 1514, art 5) •

**Relative case law:**

Self-determination in the ICJ • Western Sahara case (ICJ Reports 1975 at 12) • ‘The principle of self-determination, at least as it applies to colonial and similar non-self-governing territories, has attained the status of customary international law.’ • Eg Judge Dillard – in Western Sahara: ‘it is for the people to determine the destiny of the territory and not the territory the destiny of the people’. • Any claim by Spain, Morocco or Mauritania over the territory was subject to the customary law principle of self-determination. • East Timor: the right of peoples to self- determination is customary law with the status of a norm erga omnes • That is, obligations are owed by all states, all states must respect self-determination. • The right is not limited to a colonial context, but is enjoyed by all peoples. • Israeli Wall: confirmed erga omnes status 26

**. External and Internal self- determination** • Principle of territorial integrity acts as limitation on exercise of self-determination (Kosovo advisory opinion) • Colonial or non-self governing territories do have right to independence – has led to creation of nearly 100 new states – but that right doesn’t apply for all peoples • In other cases, independence will require the consent of the territorial sovereign in the form of recognition of independence. • Where independence not possible, self-determination must be allowed through internal’ means, eg self-government or autonomy.

Conclution.

**PART II**

**Article 2**

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

**Related case laws**

Weber and Saravia v. Germany

(Leander v. Sweden

Amann v. Switzerland

**Article 3**

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

**Article 4**

1 . In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

**Article 5**

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

**PART III**

**Article 6**

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

**Article 7**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

**Article 8**

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3.

(a) No one shall be required to perform forced or compulsory labour;

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.

**Article 9**

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

**Article 10**

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2.

(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

**UDHR**

**ARTICLE 19 OF UDHR**

**Right to freedom of opinion and expression :**

Everyone has the **right to freedom of opinion and expression**; this **right** includes **freedom** to hold **opinions** without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. ... the **right** to impart information and ideas.

What is **the meaning of freedom of expression?**

Right to express one's ideas and opinions freely through speech, writing, and other forms of communication but without deliberately causing harm to others' character and/or reputation by false or misleading statements

. **Freedom** of press is part of**freedom** of **expression**.

**Freedom of thought** (also called the **freedom** of conscience or ideas) is the**freedom** of an individual to hold or consider a fact, viewpoint, or **thought**, independent of others' viewpoints. It is different from and not to be confused with the concept of **freedom** of speech or **expression**.

**What is the right to freedom of speech?**

The First Amendment (Amendment I) to the United States Constitution prohibits the making of any law respecting an establishment of religion, ensuring that there is no prohibition on the **free** exercise of religion, abridging the **freedom of speech**, infringing on the **freedom** of the press, interfering with the right to ...

**Who created the freedom of speech?**

In **Schenck** v. United States (1919), the Supreme Court invented the famous "clear and present danger" test to determine when a state could constitutionally limit an individual's free speech rights under the First Amendment.

**Is there a difference between freedom of expression and freedom of speech?**

For most legal purposes, there is no difference; **speech** is a form of **expression** but it is not the only protected form of **expression**. Technically, the USSC didn't hold that "money is **speech**" but that "money is **expression**" and as such protected by the First Amendment in regard to campaign financing.

**Right to education :**

The Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE), is an Act of the Parliament of India enacted on 4 August 2009, which describes the modalities of the importance of free and compulsory education for children between 6 and 14 in India under Article 21a of the Indian Constitution. India became one of 135 countries to make education a fundamental right of every child when the Act came into force on 1 April 2010.

Which amendment is right to education?

While **education** may not be a "fundamental **right**" under the Constitution, the equal protection clause of the 14th **Amendment** requires that when a state establishes a public school system (as in Texas), no child living in that state may be denied equal access to schooling.

What is Article 21a?

The Constitution (Eighty-sixth Amendment) Act, 2002 inserted **Article 21**-A in the Constitution of India to provide free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right in such a manner as the State may, by law, determine.

What is Right to Education Act?

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What is Article 46 of Indian Constitution?

**Article 46** of the **Constitution** states that, "The State shall promote, with special care, the education and economic interests of the weaker sections of the people, and, in particular of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of social exploitation."

What is Article 47 of Indian Constitution?

**Article 47** of The **Constitution** of **India** is one of the Directive Principles which directs the State to raise the level of nutrition and the standard of living and to improve public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of intoxicating drinks and drugs

What is the provision in Article 24 of Constitution?

**Indian Constitution provisions**: **Article 24** Prohibition of employment of children in factories, etc. No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

When the Right to Education Act was implemented in India?

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