

Fundamental Rights and Principles of Policy

Article 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.

CHAPTER 1 - FUNDAMENTAL RIGHTS

Article 8. Laws inconsistent with or in derogation of fundamental rights are 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.

Article 9. Security of a person.

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

Article 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 defense 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 authorize 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 defense 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.

Article 11. Slavery, forced labor, 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 labor 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 a public purpose, provided that no compulsory service shall be of a cruel nature or incompatible with human dignity.

Article 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 the 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.

Article 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.

Article 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.

Article 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, or 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 the law.

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

Article 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.

Article 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 defense 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.

Article 20. Freedom to profess religion and to manage religious institutions.

Subject to law, public order and morality: -

(a) every citizen shall have the right to profess, practice and propagate his religion; and

(b) Every religious denomination and every sect thereof shall have the right to establish, maintain, and manage its religious institutions.

21. Safeguard against taxation for purposes of any particular religion.

No person shall be compelled to pay any special tax the proceeds of which are to be spent on the propagation or maintenance of any religion other than his own.

22. Safeguards as to educational institutions in respect of religion, etc.

(1) No person attending any educational institution shall be required to receive religious instruction, or take part in any religious ceremony, or attend religious worship, if such instruction, ceremony, or worship relates to a religion other than his own.

(2) In respect of any religious institution, there shall be no discrimination against any community in the granting of exemption or concession in relation to taxation.

(3) Subject to law:

(a) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any educational institution maintained wholly by that community or denomination; and

(b) No citizen shall be denied admission to any educational institution receiving aid from public revenues on the ground only of race, religion, caste, or place of birth.

(4) Nothing in this Article shall prevent any public authority from making provision for the advancement of any socially or educationally backward class of citizens.

Article 23. Provision as to property.

Every citizen shall have the right to acquire, hold, and dispose of property in any part of Pakistan, subject to the Constitution and any reasonable restrictions imposed by law in the public interest.

Article 24. Protection of property rights.

(1) No person shall be compulsorily deprived of his property save in accordance with law.

(2) No property shall be compulsorily acquired or taken possession of save for a public purpose, and save by the authority of law which provides for compensation therefore and either fixes the amount of compensation or specifies the principles on and the manner in which compensation is to be determined and given.

(3) Nothing in this Article shall affect the validity of: -

(a) any law permitting the compulsory acquisition or taking possession of any property for preventing danger to life, property or public health; or

(b) any law permitting the taking over of any property which has been acquired by, or come into the possession of, any person by any unfair means, or in any manner, contrary to law; or

(c) any law relating to the acquisition, administration, or disposal of any property which is or is deemed to be enemy property or evacuee property under any law (not being property which has ceased to be evacuee property under any law); or

(d) any law providing for the taking over of the management of any property by the State for a limited period, either in the public interest or to secure the proper management of the property, or for the benefit of its owner; or

- (e) any law providing for the acquisition of any class of property for
 - (i) providing education and medical aid to all or any specified class of citizens or
 - (ii) providing housing and public facilities and services such as roads, water supply, sewerage, gas, and electric power to all or any specified class of citizens; or
 - (iii) providing maintenance to those who, on account of unemployment, sickness, infirmity, or old age, are unable to maintain themselves; or
 - (f) any existing law or any law made in pursuance of Article 253.
- (4) The adequacy or otherwise of any compensation provided for by any such law as is referred to in this Article, or determined in pursuance thereof, shall not be called in question in any court.

Article 25. Equality of citizens.

- (1) All citizens are equal before the law and are entitled to equal protection of the law.
- (2) There shall be no discrimination based on sex alone.
- (3) Nothing in this Article shall prevent the State from making any special provision for the protection of women and children.

Article 26. Non-discrimination in respect of access to public places.

- (1) In respect of access to places of public entertainment or resort not intended for religious purposes only, there shall be no discrimination against any citizen on the ground only of race, religion, caste, sex, residence, or place of birth.
- (2) Nothing in clause (1) shall prevent the State from making any special provision for women and children.

Article 27. Safeguard against discrimination in services.

- (1) No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste, sex, residence, or place of birth.

Provided that, for a period not exceeding [16][forty] years from the commencing day, posts may be reserved for persons belonging to any class or area to secure their adequate representation in the service of Pakistan:

Provided further that, in the interest of the said service, specified posts or services may be reserved for members of either sex if such posts or services entail the performance of duties and functions which cannot be adequately performed by members of the other sex.

- (2) Nothing in clause (1) shall prevent any Provincial Government, or any local or other authority in a Province, from prescribing, in relation to any post or class of service under that Government

or authority, conditions as to residence in the province. for a period not exceeding three years, before appointment under that Government or authority.

Article 28. Preservation of language, script, and culture.

Subject to Article 251, any section of citizens having a distinct language, script, or culture shall have the right to preserve and promote the same, and subject to law, establish institutions for that purpose.

CHAPTER 2 - PRINCIPLES OF POLICY

Article 29. Principles of Policy

(1) The principles set out in this Chapter shall be known as the Principles of Policy, and it is the responsibility of each organ and authority of the State, and of each person performing functions on behalf of an organ or authority of the State, to act in accordance with those Principles in so far as they relate to the functions of the organ or authority.

(2) In so far as the observance of any particular Principle of Policy may be dependent upon resources being available for the purpose, the principle shall be regarded as being subject to the availability of resources.

(3) In respect of each year, the President in relation to the affairs of the Federation, and the Governor of each Province in relation to the affairs of his Province, shall cause to be prepared and laid before the National Assembly or, as the case may be, the Provincial Assembly, a report on the observance and implementation of the Principles of Policy, and provision shall be made in the rules of procedure of the National Assembly or, as the case may be, the Provincial Assembly, for discussion on such report.

Article 30. Responsibility with respect to the Principles of Policy.

(1) The responsibility of deciding whether any action of an organ or authority of the State, or of a person performing functions on behalf of an organ or authority of the State, is in accordance with the Principles of Policy is that of the organ or authority of the State, or of the person concerned.

(2) The validity of an action or of a law shall not be called in question on the ground that it is not in accordance with the Principles of Policy, and no action shall lie against the State or any organ or authority of the State or any person on such ground.

Article 31. Islamic way of life.

(1) Steps shall be taken to enable the Muslims of Pakistan, individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam and to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy Quran and Sunnah.

(2) The state shall endeavor, as respects the Muslims of Pakistan, :

(a) to make the teaching of the Holy Quran and Islamiat compulsory, to encourage and facilitate the learning of Arabic language and to secure correct and exact printing and publishing of the Holy Quran;

(b) to promote unity and the observance of the Islamic moral standards; and

(c) to secure the proper organization of zakat, ushr, auqaf and mosques.

Article 32. Promotion of local Government institutions.

The State shall encourage local Government institutions composed of elected representatives of the areas concerned and, in such institutions, special representation will be given to peasants, workers and women.

Article 33. Parochial and other similar prejudices to be discouraged.

The State shall discourage parochial, racial, tribal, sectarian and provincial prejudices among the citizens.

Article 34. Full participation of women in national life.

Steps shall be taken to ensure full participation of women in all spheres of national life.

Article 35. Protection of family, etc.

The State shall protect the marriage, the family, the mother, and the child.

Article 36. Protection of minorities.

The State shall safeguard the legitimate rights and interests of minorities, including their due representation in the Federal and Provincial services.

Article 37. Promotion of social justice and eradication of social evils.

The State shall:

(a) promote, with special care, the educational and economic interests of backward classes or areas;

(b) remove illiteracy and provide free and compulsory secondary education within the minimum possible period;

(c) make technical and professional education generally available and higher education equally accessible to all based on merit;

(d) ensure inexpensive and expeditious justice;

- (e) make provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment;
- (f) enable the people of different areas, through education, training, agricultural and industrial development, and other methods, to participate fully in all forms of national activities, including employment in the service of Pakistan;
- (g) prevent prostitution, gambling and taking of injurious drugs, printing, publication, circulation, and display of obscene literature and advertisements;
- (h) prevent the consumption of alcoholic liquor otherwise than for medicinal and, in the case of non-Muslims, religious purposes; and
- (i) Decentralize the Government administration to facilitate expeditious disposal of its business to meet the convenience and requirements of the public.

Article 38. Promotion of the social and economic well-being of the people.

The State shall:

- (a) secure the well-being of the people, irrespective of sex, caste, creed, or race, by raising their standard of living, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of general interest, and by ensuring equitable adjustment of rights between employers and employees, and landlords and tenants;
- (b) provide for all citizens, within the available resources of the country, facilities for work and adequate livelihood with reasonable rest and leisure;
- (c) provide for all persons employed in the service of Pakistan or otherwise, social security by compulsory social insurance or other means;
- (d) provide necessities of life, such as food, clothing, housing, education, and medical relief, for all such citizens, irrespective of sex, caste, creed, or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness, or unemployment;
- (e) reduce disparity in the income and earnings of individuals, including persons in the various classes of the service of Pakistan; and
- (f) eliminate RIBA as early as possible.

Article 39. Participation of people in the Armed Forces.

The State shall enable people from all parts of Pakistan to participate in the Armed Forces of Pakistan.

Article 40. Strengthening bonds with the Muslim world and promoting international peace.

The State shall endeavor to preserve and strengthen fraternal relations among Muslim countries based on Islamic unity, support the common interests of the peoples of Asia, Africa and Latin America, promote international peace and security, foster goodwill and friendly relations among all nations and encourage the settlement of international disputes by peaceful means.