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STUDENT NAME:	AZAD HUSSAIN
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NAME OF FACULTY:	SIR DR. MUHAMMAD TAHIR
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Q:-1

Describe the importance of fundamental rights in constitution of Pakistan 1973 and equality of citizen is given in article 25 of constitution of Pakistan in detail.

ANS:

Fundamental Rights are enshrined in the Constitution of Islamic Republic of Pakistan. Chapter 1 of the Constitution contains articles about the fundamental rights. Articles 8 to 28 of the constitution deals with the all fundamental rights provided to the citizens of Pakistan. Followings are the fundamental rights guaranteed to the citizens of Pakistan under constitution.

No person shall be deprived of life or liberty, save in accordance with law (article 9)

Safeguard as to arrest and detention. All arrested persons must be informed of the grounds of their arrest, they have right to consult and defended by lawyer of their choice.

Right of fair trial under article 10A

Slavery, forced labor is prohibited and no child under age of 14 year be employed in factory and mines.

There will be protection against retrospective punishment

There will be protection against double punishment and self-incrimination.

Freedom of movement to everyone

Freedom of assembly for all citizens

Freedom of association for all citizens

There will be freedom of trade, business and profession for all citizens.

Freedom of speech for all citizens

All citizens shall have the right to have access to information in all matters of public importance under Article 19A.

Freedom to profess religion and to manage religious institution in country

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

Safeguard as to educational institutes in respect of religion etc.

All citizens have right to acquire, hold and dispose of property in any part of Pakistan.

Protection of property rights of owners.

All citizens are equal and there shall be no discrimination on bases of sex etc.

Free and compulsory education to all children of age 5 to 16 by Government

No discrimination in respect of access to public places.

Safeguard against discrimination in services.

All citizens have right to preserve their particular language, script and culture.

The fundamental rights provided under 1973 constitution may be classified as follows:-

1. RIGHT TO LIFE OR LIBERTY:

This right is the most important to all fundamental rights. It is the basis of the rule of law. It declares that a person cannot be deprived of his life or liberty except in accordance with law.

2. SAFEGUARD AS TO ARREST AND DETENTION:

Every person who is arrested and detained in custody shall be produced before a Magistrate within a period of twenty four hours of his arrest. He has the rights to consult or be defended by a lawyer of his choice.

3. SAFEGUARD AGAINST SLAVERY AND FORCED LABORS:

The constitution in conformity with the wish of the prophet has declared slavery absolutely illegal. So Slavery is forbidden and all from of forced labor are prohibited under constitution of 1973. no person can be forced to work against his will and no children below 14 years of age can be engaged in any labor works.

4. PROTECTION AGAINST RETROSPECTIVE PUNISHMENT:

Under the constitution no law, shall authorize the punishment of a person for an act or omission that was not punishable by law at the time of act or omission.

5. PROTECTION AGAINST DOUBLE PUNISHMENT AND SELF INCRIMINATION:

Double jeopardy means prosecution or sentencing twice for the same offence and self-incrimination means to enforce a person to become witness against himself. Constitution of Pakistan has negated concepts of double jeopardy and self-incrimination.

6. FREEDOM OF MOVEMENT:

Every citizen of Pakistan shall have the freedom of movement through Pakistan and to reside and settle in any part of the country.

7. POLITICAL FREEDOM:

Every citizen of Pakistan not being in the service of Pakistan shall have the right to form or be member of a political party.

8. FREEDOM TO TRADE, BUSINESS OR PROFESSION:

Every citizen has the right to enter upon any lawful profession or occupation and to conduct any lawful trade or business.

9. FREEDOM TO SPEECH:

Every citizen of Pakistan shall have freedom of speech as well as expression. Freedom of speech and expression is the major fundamental right of the people of Pakistan.

13. FREEDOM TO PROFESS RELIGION:

Every citizen of Pakistan shall have the right to profess, practice and propagate his religion.

10. EQUALITY OF CITIZEN:

All citizens of Pakistan (Not Aliens) are equal before law and are entitled to equal protection of law. There is no discrimination on the basis of race, religion, caste and sex.

Article 25 of the Constitution of the Islamic Republic of Pakistan safeguards the equality of all citizens before the law. Article 25(2) further stipulates: “There shall be no discrimination on the basis of sex”. The CII’s proposed draft is in clear violation of Article 25 of the constitution since, if it were to ever be enacted, it would create an environment where women are excluded from all public spaces. This is also a violation of Article 26 of the constitution which protects against discrimination with respect to accessing public spaces. A similar provision is also found in Article 27 of the constitution which prohibits discrimination in services.

Q 2. Describe “constitution of Pakistan deals with freedom of speech”

Ans: Pakistan got its first constitution, nine years after independence, on March 23, 1956. This constitution guaranteed the right to freedom of expression under Article 8. The freedom of press was not mentioned here. This constitution was based on the Government of India Act of 1935 and was abrogated by the military regime of Field Marshal Ayub Khan in 1958.

The new constitution, promulgated in 1962, guaranteed the right to freedom of expression under Article 6, but it too failed to provide for the right to freedom of press. The constitution of 1962 was soon abrogated by the military regime of General Yahya Khan and after his regime fell, the

democratically elected government of Zulfikar Ali Bhutto set about formulating yet another constitution for Pakistan - a task which was completed in 1973. It was a ' consensus Constitution ' - all parties concerned seemed satisfied. The Constitution of 1973 guaranteed the right to freedom of speech and expression under Article 19 and it also guaranteed the right to freedom of press.

Pakistan has had a checked history of freedom of press. Pakistan enjoyed a very brief period during which there was complete freedom of press and that ended with the death of Muhammad Ali Jinnah. Soon after, newspapers started getting banned and their editors were hauled off to prisons. Successive governments continued to arm-twist the press. A number of laws were enacted to restrict freedom of the press and to browbeat journalists into keeping the truth from the public.

Q 3: Role of UN in implementation of human rights in Kashmir.

Ans: The year 2018 marks the 70th anniversary of the First Indo-Pakistani War over Jammu and Kashmir (simplified as Kashmir from hereon in) and United Nations (UN) Security Council Resolution 47. This resolution stipulated that both India and Pakistan should withdraw their military forces and arrange for a plebiscite to be held in order to provide the people of Kashmir the choice of which state to join (S / RES / 47) Ostensibly this resolution was an effort by the UN Security Council to put the right to self-determination into practice. Yet I argue that a closer inspection reveals that the Security Council, by limiting the choice for the people of Kashmir to accession into either India or Pakistan, and its lackadaisical efforts to implement the plebiscite the resolution called for, was in fact privileging another norm: the existing sovereign state's rights. The basis for this decision is at the heart of the UN Charter itself. Although the UN Charter famously calls for the 'equal rights and self-determination of peoples' in Article 1, Article 2 also clearly states ' nothing contained in the present [UN] Charter shall authorize the UN to intervene in matters that are essentially within the jurisdiction of any state '(1945, 3). As the peoples seeking self-determination are inherently within a state, the norm of self-determination typically finds itself in conflict with the norm of state territorial integrity. The situation becomes further confused when the people in question occupy a territory that is contested between two sovereign states, as is the case in Kashmir.

The Kashmir situation is far from unique. Though few other self-determination movements exist within territory actively disputed between two states, the UN has been consistently reluctant to recognize any self-determination movements seeking to break from already recognized states. This remains the case whether the movements have already established a de facto state, such as Somaliland and Transnistria, or are aspirant independence movements, such as those undertaken by the Tibetans, Kurds or West Papuans. This chapter is dedicated to illuminating the tension that exists between the principle of self-determination and the rights of state sovereignty that is inherent within the UN. In using the case of Jammu and Kashmir, one of the earliest incidences where this normative clash occurred, this chapter demonstrates that while the UN formerly advocates for self-determination, it in practice upholds the principle of territorial sovereignty.

Q:-4 describe origins of human rights in detail.

Ans. The origin of human rights can be traced back to the last sermon of the Holy Prophet (peace be upon him) delivered on the ninth day of Zul Hijjah (10 AH) in the Uranah Valley of Mount Arafat, where he emphasized on all kinds of rights for all, including women's rights and a person's right to life and property, etc.

“O people, just as you regard this month, this day, this city as sacred, so regard the life and property of every Muslim as a sacred trust. Return the goods entrusted to you to their rightful owners. Hurt no one so that no one may hurt you. ”

A later milestone in the history of human rights was the Charter of Liberties, known as the Magna Carta 1215, which was an agreement between England's King John and rebellion barons. Initially, the said agreement had not been very successful but later on, with certain amendments, it served as the foundation for the English common law system. The Magna Carta is celebrated by the British as a sign of freedom and liberty from the oppression of the then King.

The Magna Carta, written in Latin, consists of 63 clauses and established certain rights for the first time in European history, such as the right to own property, etc. The writ of habeas corpus was also established, according to which no one was to be imprisoned without lawful authority.

Another evolution in the system of individual human rights was the Bill of Rights, introduced into the US Constitution through an Amendment in 1789. The rights included the liberty and security of a person and no one being deprived of property without due process of law. In 1878, such rights were made inviolable by way of the 14th Amendment to the US Constitution. The era was basically known as the “constitutionalism of human rights” as it was for the first time that certain rights had been incorporated into the Constitution.

Q:-5 role of UN after world war 2 in implementation of human rights

Ans: World War II had raged from 1939 to 1945, and as the end drew near, cities throughout Europe and Asia lay in smoldering ruins. Millions of people were dead, millions more were homeless or starving. Russian forces were closing in on the remnants of German resistance in Germany's bombed-out capital of Berlin. In the Pacific, US Marines were still battling entrenched Japanese forces on such islands as Okinawa.

In April 1945, delegates from fifty countries met in San Francisco full of optimism and hope. The goal of the United Nations Conference on International Organization was to fashion an international body to promote peace and prevent future wars. The ideals of the organization were stated in the preamble to its proposed charter: “We the peoples of the United Nations are determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind.”

The Universal Declaration of Human Rights (1948)

By 1948, the United Nations' new Human Rights Commission had captured the world's attention. Under the dynamic chairmanship of Eleanor Roosevelt—President Franklin Roosevelt's widow, a human rights champion in her own right and the United States delegate to the UN—the Commission set out to draft the document that became the Universal Declaration of Human Rights. Roosevelt,

credited with its inspiration, referred to the Declaration as the international Magna Carta for all mankind. It was adopted by the United Nations on December 10, 1948.

In its preamble and in Article 1, the Declaration unequivocally proclaims the inherent rights of all human beings: “Disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people...All human beings are born free and equal in dignity and rights.”

The Member States of the United Nations pledged to work together to promote the thirty Articles of human rights that, for the first time in history, had been assembled and codified into a single document. In consequence, many of these rights, in various forms, are today part of the constitutional laws of democratic nations.