

FUNDAMENTAL HUMAN RIGHTS, IN THE CONTEXT OF THE CONSTITUTION

Ghulam Ishaq
University of Peshawar

Abstract

Undoubtedly, every human being in the world longs for peace, love and prosperity. No one likes injustice, insecurity, hatred and poverty. That is why the government has been formed everywhere in the world. The most important and paramount importance is given to the protection of basic human rights. Because in the collective life there are people with different thoughts and ideas living a life of good, trained, sincere and loyal people. There will also be beasts, lions, leopards and human-killing snakes and scorpions in human form. There are poor, weak, poor and destitute classes in the society and there are also powerful, rich classes. Left reason. If there is no legislation for basic human rights in a country, then human-like beasts will tear apart the weaker sections.

عزیز When the beloved homeland came into existence in 1947, an attempt was made to make a consensus constitution, but mutual squabbling remained an obstacle in making a unanimous constitution, but it came too late, it came true, and finally in 1973, a unanimous constitution was drafted. Guarantees the fundamental rights of the citizens. The details of fundamental rights are given in Articles 8 to 28 of the Constitution of Pakistan. This provision of the Constitution not only underscores the importance of basic human rights but also clarifies the direction of the state. Every citizen has the right to be aware of the fundamental rights guaranteed in the constitution. It is important to mention these articles of the constitution under which every person living in Pakistan has fundamental rights. Protecting the life, property and dignity of citizens is the primary responsibility of the government, which is why Article 9 of our Constitution guarantees that, except where the law requires it, any person shall have the right to life or liberty. Under Article 10 of the Constitution, the accused is also given the necessary protection. The right to defense is guaranteed. Similarly, Article 11 of the Constitution guarantees that slavery, all forms of forced labor and the sale and purchase of human beings in any form are prohibited. I cannot be kept in the house. Under Article 14 of the Constitution, the privacy of the home will be prohibited. I have the right to freedom of movement and residence in any part of the country. They are entitled to legal protection. But sadly, despite the fundamental human rights enshrined in the Constitution, when we look at the current situation in Pakistan, it is not difficult for any rational person to decide that the beloved homeland. In practice, the law of fundamental rights enshrined in the constitution does not apply equally to all people. They are leaving and the people are forced to live in poverty. The country's prime minister has been disqualified for corruption and money laundering, and is facing a number of lawsuits in the accountability court. The worst horse-trading in recent Senate elections There is also a question mark. The country is divided into two classes, one class has occupied the resources of the country, their wealth is not counted while the other class is in need of two meals a day.

However, not only our constitution, our religion is also a champion of basic human rights. The last sermon of the Holy Prophet on the occasion of the Covenant of Medina and Hujjat-ul-Wada is a wonderful example of promotion, tolerance and tolerance of human rights. No virtue was given, except for piety. The establishment of Pakistan was also implemented under the Manifesto of complete freedom of expression of every person. This is a moment of reflection for the government. Therefore, it is the duty of those in power and those in power to work for the removal of obstacles to the protection of human rights and the prevention of their violations.

References:

The phrase “age of balancing” is that of T. Alexander Aleinkoff, *Constitutional Law in the Age of Balancing*, 96 YALE L.J. 943 (1987).

See DAVID M. BEATTY, *THE ULTIMATE RULE OF LAW* (Oxford Univ. Press 2004); ROBERT ALEXY, *A THEORY OF CONSTITUTIONAL RIGHTS* (Oxford Univ. Press 2002).

The metaphor goes at least as far back as the ancient Greeks, who used to depict the goddess of divine law and order, Themis, as a blindfolded woman holding a pair of scales and a cornucopia. The correlation of the scale with justice has an obvious ideological message.

Dennis v. United States, 341 U.S. 494, 524–525 (1951).

Barenblatt v. United States, 360 U.S. 109, 126 (1959).

Laurent B. Frantz, *Is the First Amendment Law? —A Reply to Professor Mendelson*, 51 CAL. L. REV. 729 (1963); see also Laurent B. Frantz, *The First Amendment in the Balance*, 71 YALE L.J. 1424 (1962); Wallace Mendelson, *On the Meaning of the First Amendment: Absolutes in the Balance*, 50 CAL. L. REV. 821 (1962); Louis Henkin, *Infallibility Under Law: Constitutional Balancing*, 78 COLUM. L. REV. 1024 (1978).

Laurent B. Frantz, *The First Amendment in the Balance*, 71 YALE L.J. 1424, 1448 (1962).

“I think it is more than mere coincidence that in the overwhelming majority of the major free speech cases in which the ad hoc balancing approach has been applied, the weighing of interests has come out on the side which opposes freedom of speech.” Melville B. Nimmer, *The Right to Speak from Times to Time: First Amendment Theory Applied to Libel and Misapplied to Privacy*, 56 CAL. L. REV. 935, 939-940 (1968). Of course, this does not mean that balance always tends to favor the restriction of rights. See Kathleen Sullivan, *Post-Liberal Judging: The*

Roles of Categorization and Balancing, 63 U. COLO. L. REV. 293 (1992); and Robert Nagel, *Liberals and Balancing*, 63 U. COLO. L. REV. 319 (1992).

“The concept of ‘balancing’ is itself both a metaphor and an abstraction. The metaphor is ambiguous. It describes both a process of measuring competing interests to determine which is ‘weightier’ and a particular substantive outcome characterized as a ‘balance’ of competing interests. The abstract concept of balancing, furthermore, tells us nothing about which interests, rights, or principles are weighted or how the weights are assigned.” Paul W. Kahn, *The Court, The Community and the Judicial Balance: The Jurisprudence of Justice Powell*, 97 YALE L.J. 1 (1987).

Dennis v. United States, 341 U.S. 494, 539–40 (1951).

Frank N. Coffin urges us to remember the warning of Professor Shapiro: “Lawyers in general, and judges in particular, coin or adopt metaphors and then forget that they are only metaphors.” Frank N. Coffin, *Judicial Balancing: The Protean Scales of Justice*, 63 N.Y.U. L. REV. 4, 16 (1988).

Bendix Autolite Corp. v. Midwesco Enters., 486 U.S. 888, 897 (1988) (Scalia, J. concurring). See Frederick Schauer, *Commensurability and Its Constitutional Consequences*, 45 HASTINGS L.J. 785, 787 (1994): “no one contends that length and weight can be reduced to a single measure, any more than people contend that color and smell can be measured along a unitary metric.”

“In a case of weak incommensurability—and this is why I call it ‘weak’—the values *can* be brought into relation with one another.” Jeremy Waldron, *Fake Incommensurability: A Response to Professor Schauer*, 45 HASTINGS L.J. 813, 817 (1994).

Id. at 818–821. Waldron refers to RONALD DWORKIN, *TAKING RIGHTS SERIOUSLY* (Harvard Univ. Press 1977); ROBERT NOZICK, *ANARCHY, STATE AND UTOPIA* (Basic Books 1974); and JOHN RAWLS, *A THEORY OF JUSTICE* (Harvard Univ. Press 1971).

Waldron, *supra* note 14, at 819.

Id. at 821.

“[...] the conception of proportionality that predominates in continental European contexts is rooted in an assumption that rights and other interests are formally indistinguishable.” Julian Rivers, *Proportionality and Variable Intensity of Review*, 65 CAMBRIDGE L.J. 174, 180 (2006).

“The principle of proportionality consists of three sub-principles: the principle of suitability, of necessity, and of proportionality in the narrow sense.” Robert Alexis, *Constitutional Rights, Balancing, and Rationality*, 16 *RATIO JURIS* 135 (2003).

The same Waldron says “... ‘balance’ also has connotations of quantity and precision, as when we use it to describe the reconciliation of [a] set of accounts or the relative weight of two quantities of metal.” See Jeremy Waldron, *Security and Liberty: The Image of Balance*, 11 *J. POL. PHIL.* 191, 192 (2003).

Rolv Ryssdal, *Opinion: The Coming Age of the European Convention on Human Rights*, 1 *EUR. HUM. RTS. L. REV.* 18, 26 (1996).