

FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Justice AAMER FAROOQ
Justice ALI BAQAR NAJAFI
Justice ROZI KHAN BARRECH

C.P.L.A No.1505 & 1506 of 2024

(Against judgment of the Lahore High Court, Lahore, dated 26.01.2024, 05.12.2023 passed in W.P. No.34660/2020 & W.P. No.35962/2021)

Ministry of Commerce, through Secretary, Islamabad

...Petitioners

Versus

Kashif Law Book House, through
its Partner and others

in CPLA No.1505/2024

Universal Law House (Pakistan) through
its Proprietor and another

in CPLA No.1506/2024

...Respondents

For Petitioners: Ch. Amir Rehman, Additional Attorney
General for Pakistan
Mr. Irtaza Ali, Section Officer, Ministry of
Commerce

For Respondent: Mr. Waqqas Ahmad Mir, ASC

For FBR: Hafiz Ahsan Ahmad Khokhar, ASC
Ch. Muhammad Nawaz, Legal Advisor

Assisted by: Barrister Zarrar Haider Bhatti, Law Clerk

Date of Hearing: 21.01.2026

JUDGMENT OF THE COURT

JUSTICE AAMER FAROOQ:

1. The question presented to us in this case is whether the Constitution, 1973 recognizes a right to read¹. We hold, that it

¹ The right to read referred herein, concerns itself with the freedom to access and read books, articles, journals, and all other related written or recorded materials. It goes beyond the simple act of reading and includes the ability to seek knowledge, ideas, and information from diverse sources without unnecessary restrictions.

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does. However, this right, is not unqualified and may be subject to restrictions as imposed by law, including those justified on grounds of foreign policy.

2. This is a petition for leave to appeal against the judgment of the Lahore High Court, Lahore, wherein the *vires* of SRO No. 927(I)/2019, dated 09.08.2019, were challenged on the ground that it is contrary to the Fundamental Rights enshrined in Chapter I, Part II of the Constitution of Islamic Republic of Pakistan, 1973 (**“the Constitution”**), particularly Articles 9, 18, and 19, with specific emphasis on Article 9 relating to the security of person. The Lahore High Court held the impugned SRO to be *intra vires* the Constitution; however, in the exercise of its constitutional jurisdiction, it issued various directions, *inter alia*, directing the Federal Government to consider the grievances of the petitioners and to appoint, within two months, an officer through the Commerce Division of the Ministry of Commerce and Textile, Government of Pakistan, for the purpose of hearing those grievances.
3. On 09.08.2019, the Government of Pakistan, in exercise of the powers conferred upon it under section 3 of the Imports and Exports (Control) Act, 1950 (XXXIX of 1950), amended paragraph 5 of the Import Policy Order, 2016, whereby goods of Indian or Israeli origin, or goods imported from India or Israel, were placed on the “prohibition list”. This amendment was challenged before the Lahore High Court in Writ Petition No. 34660 of 2020. Subsequently, the Import Policy Order, 2020 repealed the Import Policy Order, 2016; however, paragraph 5 of the Import Policy

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Order, 2020 remains *pari materia* with paragraph 5 of the repealed Order, subject to a slight variation, as set out below:

5. Prohibitions. – (1) Goods specified in Appendix-A are banned for import. This ban, however, shall not be applicable on –

...

(2) Import of the followings are banned, namely: -

(a) goods of Indian or Israeli origin or imported from India or Israel:

Provided that the provisions of this clause to the extent of India shall not apply to therapeutic products regulated by the Drug Regulatory Authority of Pakistan.

The aforementioned paragraph 5 of the Import Policy Order, 2020 was challenged through Writ Petition No. 35962 of 2021. Both writ petitions were heard together as connected matters by the Lahore High Court and were decided and disposed of through a common judgment dated 26.01.2024. Petitioners assailed the impugned judgment to the Supreme Court of Pakistan, and the same stood transferred to this Court for adjudication under Article 175F(2) of the Constitution.

4. Mr. Amir Rehman, learned Additional Attorney General for Pakistan, while seeking leave to appeal, contended that the Lahore High Court exceeded its jurisdiction by granting relief *suo motu* which had not been sought. He argued that the challenge before the High Court was confined solely to the *vires* of the impugned SRO and paragraph 5 of the Import Policy Order, 2020, and that the Lahore High Court itself categorically held both to be *intra vires* the Constitution. Conversely, Mr. Waqqas Mir, learned ASC appearing on behalf of the Respondents, submitted that the impugned legal instruments infringe a fundamental right, namely, the right to read, which emanates from the right to life

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guaranteed under Article 9 of the Constitution. He further maintained that the directions issued by the Lahore High Court were not *suo sponte* in nature but were well within the ambit of the relief sought in the writ petitions. We have heard the learned counsel for the parties and perused the record.

5. In the present case, we are to see whether our Constitution guarantees a right to read and if so, then whether this right can be abridged/regulated by the Government on account of foreign or any other policy consideration. We are also to see that the Lahore High Court, in passing the directions to Federal Government acted on its own motion or not despite there no such relief being sought.

A.

**RIGHT TO READ AND ITS EMANATION FROM RIGHT TO
LIFE**

6. The Constitution, 1973 provides for Fundamental Rights which are to be enforced and protected by the Courts. The catalogue of Fundamental Rights contained in the Constitution is exhaustive, as the rights are enumerated numerically and categorically. Unlike the Constitution of the United States, which contains a sweeping residual clause under the Tenth Amendment, reserving undelegated powers to the State or the people, the Constitution, 1973 admits of no such provision. Consequently, the Fundamental Rights expressly guaranteed by the Constitution constitute the complete and final framework of enforceable rights. No right beyond those so enumerated may be claimed as a

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fundamental right, save by and through the will of the People, as expressed through their elected representatives in the Parliament.

7. The rights guaranteed by the Constitution are fundamental in the truest sense of the word. They are not mere aspirational claims of human rights, but core liberties and protections consciously conferred upon the people by the framers themselves. Yet, if the catalogue of fundamental rights is regarded as exhaustive, does it follow that no new fundamental rights may ever be recognized? The answer is both clear and careful. Courts cannot “invent” rights. But they may certainly “derive” rights that, though not expressly articulated, are inherent within the Constitution’s text, structure, and values. In doing so, the judiciary does not create rights anew; it merely gives expression to what already lies embedded within the constitutional framework. The Supreme Court of Pakistan, in the past, has described the Constitution as a “living tree”, and others have called it an “organic document”, See *Khurshid Soap v. Federation of Pakistan*, 2020 PLD SC 641 (per FAISAL ARAB, J.) at p.83. We consider it as a “developing constitutional order”, one designed to endure, adapt, and remain relevant through the changing tests of time.

8. Mr. Justice (R) Fazal Karim, in his treatise, has stated the idea of Penumbra of Human Rights. Certain rights, Mr. Karim says, are “expressly granted like right to life and liberty” but there are also certain rights which are not granted expressly, but are “closely associated” to the basic express right, See Fazal Karim, *Access to Justice in Pakistan* (2nd edn, Pakistan Law House 2020). In U.S.,

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the due process clause serves one such purpose. The Court in *Dobbs v. Jackson*, 597 U.S. 215 (Per ALITO, J.), formed the opinion that, “[due process clause] has been held to guarantee some rights that are not mentioned in the Constitution, but any such right must be “deeply rooted in this Nation’s history and tradition” and “implicit in the concept of ordered liberty”. So, it’s not novel for our courts as well, to recognize a fundamental right(s) not expressly worded in our Constitution, but inherent in it.

9. Against this backdrop, while we have maintained that the catalogue of rights guaranteed by the Constitution is exhaustive, we have also recognized, almost in the same breath, that the Constitution is a ‘developing constitutional order’, capable of providing rights implicit within its framework. The question, then, is, but how? The answer lies in this: any right not expressly protected on a plain reading of the Constitution may nonetheless receive protection where it can be derived from the broader meaning and underlying purpose of a constitutional provision. In the present case, we are concerned with Article 9, which declares that “no person shall be deprived of life or liberty except in accordance with law”. In recognizing that the right to read finds shelter within our Constitution, 1973, we have turned to the broader understanding of the right to life. However, the fact that Article 9 is amongst the most expansive provisions of the Constitution does not render it a sweeping clause. Any right sought to be extrapolated from Article 9 must bear an intrinsic

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nexus with life, remain anchored to our constitutional principles, and be necessary for the preservation of our societal values.

10. Having reached the understanding that any right not expressly enumerated in the Constitution, yet sought to be derived from Article 9, must bear an intrinsic nexus to life, remain anchored in our constitutional principles, and be necessary for the preservation of societal values, it becomes evident that Article 9 unfolds in two distinct facets. The first is its plain and literal facet. In its most elementary sense, Article 9 stands as an uncompromising sentinel against the unlawful deprivation of life. In this dimension, Article 9 restrains every individual and every authority from depriving another of life in its most immediate and physical sense. Yet Article 9 does not speak merely of existence. It employs the word “life”, a word far too profound to be reduced to bare survival, to a fragile body of flesh and bones capable only of breathing. “The word 'life' has not been defined in the Constitution but it does not mean nor can it be restricted only to the vegetative or animal life or mere existence from conception to death”, See *Shehla Zia v. WAPDA*, PLD 1994 SC 693 (per SALEEM AKHTAR, J.) at p.12. To confine life to such a narrow compass would be to depart from the vision of the Constitution. When the Constitution, 1973 was adopted, it was full with aspirations far richer and far deeper than mere existence. Our courts, faithful to that vision, have brought meaning into Article 9 through their judicial pronouncements, recognizing within it a constellation of rights not

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expressly mentioned in the constitutional text, yet inherent in its promise of a life lived with dignity, purpose, and worth².

11. The right to read is intrinsically linked to the meaningful enjoyment of life. It enables the human mind to engage with reality, understand history, and stimulate thought, thereby paving the way for intellectual and societal progress. The books in question are law books, the import of whom has been banned. To deprive the people of Pakistan of access to legal knowledge, or to render such access difficult, has consequences. A society unaware of its laws is vulnerable, and easily misled. Law itself evolves with time, and if access to legal texts or indeed any books, for that matter, is obstructed human intellect and national growth is imperiled. Denial of the ability to read hampers education. Reading allows critical thinking, informed citizenship, and respect for the rule of law and through books, individuals draw upon the wisdom and experience of capable minds, enrich their understanding, and thereby enhance both the happiness and the quality of their lives.
12. Our constitutional history reveals that as early as the Constitution of 1956, the importance of education was expressly acknowledged. In Part III, under the Principles of Policy, Article 28 for the first time mandated that the State shall “promote, with special care, the educational and economic interests of the people

² See, *The Employees of Pakistan Law Commission Islamabad v. Ministry of Works*, 1994 SCMR 1548 (recognized right to accommodation), *Metropolitan Corporation v. Imtiaz Hussain*, PLD 1996 Lahore 499 (recognized right to livelihood), *Shehla Zia v. WAPDA*, PLD 1994 SC 693 (recognized right to healthy environment and right to health), *Sajida Bibi v. Incharge Chouki*, PLD 1997 SC 666 (recognized right of a married couple not to be forcibly separated), *Nizar Ali Fazwani v. Federation of Pakistan*, 2025 CLC 1607 (recognized right to travel)

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of the Special Areas, the backward classes and the Scheduled Castes” and that “the State shall enable the people of different areas, through education, training and industrial development, to participate fully in all forms of national activities, including employment in the service of Pakistan”. The clear objective of the Constitution of 1956 was to ensure that the State actively promotes the educational interests of the people of special and backward areas. It was recognized that education is the primary means through which such individuals could be brought into the mainstream of national life. The framers of the first Constitution were conscious of the fact that geographical remoteness or social disadvantage should not become a barrier to education, and that through education, people from different regions and classes could participate fully and equally in all spheres of national activity. The 1956 Constitution thus unequivocally affirmed that it is through education that meaningful and inclusive participation in the affairs of the State becomes possible.

13. Pakistan thereafter adopted the Constitution of 1962, which once again, under the Principles of Policy, Chapter 2, reaffirmed the central importance of education. Principle of Policy No. 4 envisioned that “special care should be taken to promote the educational and economic interests of people of backward areas.” This was followed by Principle of Policy No.6, which declared that “The people of different areas and classes, through education, training, industrial development and other methods, should be enabled to participate fully in all forms of national activities, including employment in the service of Pakistan”. Both clauses

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closely mirrored the vision and scope articulated in the Constitution of 1956. Thus, despite the profound political and structural changes the State underwent between 1956 and 1962, the constitutional commitment to education remained the same. What emerges clearly is that the people of this country consistently held fast to the objective of education and consciously linked it to full participation in the affairs and service of Pakistan.

14. We then arrive at the Constitution 1973, the present and most sovereign constitutional order, once again adopted by the people of Pakistan through their duly elected representatives. The Constitution of 1973, under the Principles of Policy, reiterates this commitment in Article 37, which, for the promotion of “social justice and eradication of social evils,” mandates that the State shall “promote, with special care, the educational and economic interests of backward classes or areas” and “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”. Article 37 thus reflects an unbroken constitutional continuity, echoing the approach earlier adopted in the Constitutions of 1956 and 1962. Despite the adoption of successive constitutional frameworks and the stark transformations in the political and social order, the people of this country have remained steadfast in their commitment to education as a constitutional priority. Time and again, this commitment has been reaffirmed as a foundational constitutional

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goal, inseparably linked to meaningful participation in national life.

15. We now turn back to the Objectives Resolution, adopted by the First Constituent Assembly of Pakistan in 1949. This Resolution has since been incorporated into the Constitution, 1973 and constitutes a substantive and guiding part of our constitutional framework, See Article 2A. It declared that “This Constituent Assembly representing the people of Pakistan resolves to frame a constitution for the sovereign independent State of Pakistan” wherein “the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam shall be fully observed”. The Objectives Resolution of 1949 thus reflects the foundational understanding of the founders of this country and the constitutional values upon which they intended the State to be established. Among these values, particular emphasis was placed upon the observance of “social justice”. The Constitution, 1973, through Article 37, subsequently gave the means and objectives through which the State is to “promote social justice and eradicate social evils” which included education, See para 14 above. The Resolution also envisioned a State in which “freedom of thought” is assured. This freedom occupies a distinct place within our constitutional scheme, as it relates to the inner realm of reflection and understanding. Such freedom can only be enhanced in an environment where individuals have access to books, are permitted to read freely, and are able to acquire knowledge. In this manner, the right to read emerges as a natural and necessary

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companion to the aspiration of freedom of thought, as intended by our Founders.

16. In 1994, the Supreme Court of Pakistan in *Shehla Zia, supra* n.1, recognized that exposure to electromagnetic fields from grid stations may pose environmental and health risks, thereby infringing the right to life under Article 9 of residents in the affected area. Although this observation was made in *obiter dictum*, the Court held that Article 9 includes ‘the acquisition of knowledge, the establishment of a home, the freedoms contemplated by the Constitution, and the enjoyment of personal rights,’ all of which form part of life. This was a broad judicial interpretation of Article 9 and it left no doubt that acquiring knowledge was limited in any sense by the Court back then. What the Court meant by “acquiring knowledge” includes reading books and all other sources from which information and education are obtained. This understanding was subsequently followed and given effect by the High Courts of all four provinces³.
17. Here, we pause for a moment, to reflect on the concept of education in the context of the aforementioned provisions and Article 25A of the Constitution, 1973. Education is, indeed, a relative term, and attempting to confine it within strict definitions would be futile. What is clear, however, is that reading, whether books, journals, articles, treatises, or opinions, broadens one’s

³ For Province of Punjab See, *e.g.*, Lahore High Court in *Headmaster v. Chairman*, 1996 CLC 1785 (per MUHAMMAD AQIL MIRZA, J.) & *Ahmad Abdullah v. Government of the Punjab*, PLD 2003 Lahore 752 (per TASSADUQ HUSSAIN JILLANI, J.). For Province of KPK, See *e.g.*, *Dr. Laiba Khan v. Government of KPK*, W.P. No. 1300/A of 2021 (Per MUDASSAR AMER, J.). For Province of Sindh, See *e.g.*, *Imdad Hussain v. Province of Sindh*, PLD 2007 Karachi 116 (Judgment of the Court by ALI SAIN DINO METLO, J. & SABIHUDDIN AHMED, J. concurring). For Province of Balochistan, See *e.g.*, *Mehboob Ali Rind v. Secretary Education Balochistan*, 2023 PLC (C.S.) 1526 (per ABDULLAH BALOCH, J.)

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perspective. Such engagement exposes an individual to diverse viewpoints, often different from one's own, and allows the mind to transcend ordinary, confined thinking. In this sense, an individual is being educated. If this understanding is accepted, one might ask why this general right to read cannot be derived from Article 25A, which clearly states: "The State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law." Now, Education has been classed as "formal education" and "informal education", the former concerns "education [that] is imparted through the medium of educational institution e.g., School, Colleges, etc. set up in the public and the private sector", and the latter concerns "education outside of standard school setup", See *Mehboob Ali Rind, supra* n.2 at p.9. Our view, is that the Article 25A concerns itself with "formal education" and its scope cannot be equated with the broad affirmation of the "right to life" under Article 9. Article 25A specifically concerns the dissemination of education in schools, colleges, and universities within the age limits prescribed. Had the Constitution confined itself simply to the words "all children," the situation might have been different. Instead, it goes further to specify the age group and obligates the State to "provide free and compulsory education". By no stretch of imagination can one extrapolate from Article 25A, a generalized right to read, or challenge laws restricting the import of goods, including law books, from India or Israel. In essence, Article 25A ensures the provision of free and compulsory education to

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children within a defined age range, but it does not encompass a general right to read⁴.

18. Right to read is embedded not only in our Constitutional principles but forms a basic part of our societal values. Constitution provides Islam as its State religion and Quranic injunctions form part of our legal structure undoubtedly. With over 240 million Muslims in Pakistan, the Quran's first revelation Surah Al-Alq started with the word "*Iqra*" which translates into meaning "read". So, Almighty Allah, upon whom the Constitution bows down and say "all sovereignty of the Universe" is to belong, commanded the Prophet Muhammad (P.B.U.H) to "read". This shows, that Allah ordained upon his Prophet (P.B.U.H) the ability to read and required him to read. Islam is undoubtedly, a religion that encourages knowledge and wisdom, and the same cannot be gained without "reading".
19. An evaluation of societal values necessarily involves examining provincial attitudes toward the right to read and the mechanisms through which this right is recognized and implemented. In Khyber Pakhtunkhwa, the Directorate of Archives and Libraries functions as an attached department of the Higher Education, Archives and Libraries Department, Government of KPK. The Directorate is responsible for the management and maintenance

⁴ Here we take the analysis of the major statutes enacted at Provincial level in pursuance of Article 25A. Punjab enacted "The Punjab Free and Compulsory Education Act, 2014 (XXVI of 2014), Sindh enacted "The Sindh Right of Children to Free and Compulsory Education Act, 2013 (XIV of 2013), KPK enacted "The Khyber Pakhtunkhuwa Free Compulsory Primary and Secondary Education Act, 2017 (XII of 2017)", Balochistan enacted "Balochistan Compulsory Education Act, 2014 (V of 2014). A perusal of these statutes shows that the provinces enacted these statutes in consonance with their duty under Article 25A. The statutory scheme of these major statutes indicate that it is done for dissemination of formal education and not informal education, under which the general right to read exists.

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of public libraries across the province and has established several public libraries, including facilities in remote and underserved areas like Abbotabad, Bannu, Buner, Swabi, Lakki Marwat etc. Similarly, the Province of Punjab operates a Directorate of Public Libraries, established in 1981, under the Education Department. In Sindh, the Directorate of Libraries works under the Culture, Tourism, Antiquities and Archives Department and oversees a network of libraries located in major cities such as Karachi, Mirpur Khas, Dadu, Hyderabad, Larkana, Jacobabad, and Matiari. In the same vein, Balochistan maintains public libraries in cities including Quetta, Jaffarabad, Loralai, and Kalat. This provincial landscape reflects a positive and evolving attitude toward the promotion of public libraries as essential institutions for learning, literacy, and social development. “The public libraries form an essential category of the public institutions that can provide communities with fair and free access to information, knowledge, and educational opportunities⁵”. By establishing and sustaining public libraries, provincial governments demonstrate their commitment to facilitating the right to read, promoting informed citizenship, and fostering intellectual growth within society.

20. In the present case, the prohibition concerns the import of goods from, or originating in, India and Israel. Our foregoing analysis proceeds on a broader understanding of the right to read, encompassing all forms of readable material that contribute to

⁵ Muhammad Naseer and Dr Ata-ur-Rehman, 'Contribution of Public Libraries towards Community Development and Knowledge Sharing in Islamabad and Rawalpindi' [2025] 4(4) Academia International Journal for Social Sciences

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knowledge and education. However, the instant case is confined to a challenge relating specifically to law books. Undoubtedly, law books are frequently read and referred to by members of the Bar and the Bench. When imported from India, they are available at comparatively lower prices, but become substantially more expensive when imported from other countries. This price escalation places a financial burden on individuals interested in the study of law. It is emphasized that law books are not read only by members of the Bar and the Bench; rather, they are accessed by persons across all sections of society. Such readers often consult law books to understand legal positions, particularly when they are contemplating litigation or are already involved in legal proceedings. Making the access of books difficult in any way constitutes breach of fundamental right to read.

21. So, right to read, we hold, is embedded within our Constitution. For the meaningful fulfillment of the right to life guaranteed under Article 9, it is essential that individuals are enabled to read; and by “read,” to be educated. This right bears an intrinsic nexus with life itself, remains anchored in our constitutional principles, and is necessary for the preservation of our societal values.

B.

RELATION OF RIGHT TO READ WITH FOREIGN POLICY

22. The executive authority of the Federation vests in the Federal Government and is exercised by the Prime Minister and the Cabinet in the name of the President of the Islamic Republic of Pakistan. Under Article 97 of the Constitution, the Federation is empowered to exercise executive authority in respect of matters

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falling within the legislative competence of the Parliament. To determine the extent of the Federation's executive power, it is therefore necessary to examine the scope of Parliament's law-making powers. At this stage, we take note of the ground relied upon by the Petitioners for imposing the impugned ban, namely considerations of national security and foreign policy. We refrain from examining the nature of Pakistan's relations with the said countries or the policy reasons underlying the adoption of such measures.

23. A reference to Article 142 shows that the subject-matter of federal legislation is confined to matters enumerated in the Federal Legislative List. Entries 1 and 3 of the Federal Legislative List, contained in the Fourth Schedule to the Constitution, relate to national security and foreign policy respectively⁶. Courts have consistently held, over the years, that it ought not to interfere in matters pertaining to national security and foreign policy⁷. It is the exclusive prerogative of the Government to determine with which countries it shall establish trade relations. The judiciary is not suited to make such determinations. If this Court is to direct that trade be conducted with one country and not another, it

⁶ *Entry 1* reads "The defence of the Federation or any part thereof in peace or war; the military, naval and air forces of the Federation and any other armed forces raised or maintained by the Federation ; any armed forces which are not forces of the Federation but are attached to or operating with any of the Armed Forces of the Federation including civil armed forces; Federal Intelligence Bureau; preventive detention for reasons of State connected with defence, external affairs, or the security of Pakistan or any part thereof ; persons subjected to such detention; industries declared by Federal law to be necessary for the purpose of defence or for the prosecution of war". *Entry 3* reads "External affairs; the implementing of treaties and agreements, including educational and cultural pacts and agreements, with other countries; extradition, including the surrender of criminals and accused persons to Governments outside Pakistan".

⁷ In relation to foreign policy and judicial restraint, See *e.g., Muhammad Shoaib Razzaq v. Federation of Pakistan*, PLD 2019 Islamabad 339, per ATHAR MINALLAH, J.

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would breach the bounds of judicial authority and encroach upon the domain of the executive, in violation of Article 90 of the Constitution.

24. While we have recognized the right to read as flowing from the right to life under Article 9 of the Constitution, this right is not absolute but qualified. Article 9 itself expressly provides that no person shall be deprived of life or liberty “save in accordance with law”. In the present case, the law has taken its course. The Federal Government has acted within its domain of executive authority by regulating trade.
25. We are thus confronted with a situation where a fundamental right comes into tension with the lawful exercise of executive power. A similar situation arose in *Shehla Zia, supra*, where this Court acknowledged the right to a healthy environment under Article 9, which came into conflict with the industrial and economic progress of the country i.e., *via* establishment of a grid station. Instead of striking down the project outright, the Supreme Court constituted a commission through NESPAK to assess the extent of potential harm. Such a course in present case would not be possible as foreign policy of the government is involved and can only be examined by it. Private Respondents, however, if so desire can approach the Federal Government for review of the same, but it is reiterated that foreign policy of the Federal Government cannot be examined in judicial review by any court and its review or reconsideration is the sole prerogative of the Executive.

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C.

High Court and its Suo Moto Exercise of Power

26. We now advert to paragraphs (c)-(e) of the impugned judgment, which are reproduced hereinbelow:

“In conclusion, it is held that:

a) The impugned SRO and Para are not per se, unconstitutional and have been issued validly;

4) Right to read is a fundamental right and is enshrined in the Constitution;

c) *Federal Government is directed to appoint an officer to hear review / revision of the impugned Para generally and of the petitioners particularly in respect of law books and journals. The recommendations of the Officer so appointed shall then be considered and decided upon by the Federal Government.*

d) *The Officer shall be appointed within the next two months by the Commerce Division of Ministry of Commerce and Textile, Government of Pakistan and posted on its website. The petitioners may, if so advised, file a review thereafter.*

e) *The Federal Government shall also issue instructions regarding the filing of review petitions by private persons.”*

27. The observations contained in paragraphs (c) to (e) do not commend themselves to us. The primary reason is that the relief sought by the Petitioners in both writ petitions was a declaration that the impugned measure was “unconstitutional”, “void ab initio” and “ultra vires”⁸. Such a prayer, in essence, invited the High Court to strike down the law by exercising jurisdiction akin to a writ of certiorari, See *Khalid Mehmood v. Federation of Pakistan through Secretary Finance*, PLD 2026 FCC 1 (per AAMER FAROOQ, J.), and not to issue a writ of mandamus. By converting

⁸ The term ‘unconstitutional’ to Mr. Brohi means something that is ‘no law at all’ (emphasis in original). The reason he gives for this, is that the term ‘unconstitutional’ means that legislature has gone beyond its constitutional powers then such a command couched as ‘law’ confers no rights, imposes no obligations, creates no liability- it is of no legal force or effect whatsoever, See *AK Brohi, Fundamental Law of Pakistan (Din Muhammadi Press 1958)* 42. For Mr. Karim the term ‘void’ is a ‘nullity’ and “it is not only bad, but incurably bad. There is no need for an order of the court to set it aside. It is automatically null and void without more ado, though it is sometimes convenient to have the court declare it to be so”, See *Fazal Karim, Jurisdiction and Judicial Review* (PLD Publishers, 2nd Edition, 1990) 27. So, for, both distinguished scholars, if an act in question is either unconstitutional or void then it is nothing but just a mere puff. So, for the High Court when such reliefs were sought, the High Court was only to say whether the impugned laws have to go or are they here to stay, and nothing more.

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a prayer for certiorari into one of mandamus, despite the same not having been sought, the High Court effectively acted *suo motu*. This course was impermissible. The Supreme Court has consistently held that High Courts possess no authority to act on their own motion, and that their jurisdiction must be exercised strictly in accordance with law⁹.

28. The High Court, yet issued a writ of mandamus in the absence of any law authorizing such direction. This approach is not in line with Article 199(1)(a)(i) of the Constitution, which strictly requires the existence of a legal duty before any person or authority may be mandated to act, see *Vice Chancellor Shaheed Mohtarma Benazir Bhutto Medical University v. Altaf Hussain Somroo*, FCPLA No. 14 of 2025 (per AAMER FAROOQ, J.). This conclusion is reached by a conjunctive reading of Article 199(1)(a)(i) and Article 4 of the Constitution. Article 199(1)(a)(i) empowers a High Court to direct a person performing functions in connection with the affairs of the Federation, a Province or a local authority to refrain from doing anything not permitted by law, or to do anything he is *required by law* to do. Article 4(2)(c) further provides that no person shall be compelled to do that which the law does not require him to do. Read together, these provisions make it abundantly clear that a writ of mandamus may be issued only where a legal obligation already exists. Article 4(2)(c) reinforces this limitation by prohibiting the imposition of duties not sanctioned by law. Consequently, no obligation, duty or power can be created by

⁹ See, e.g., *M/s Sadiq Poultry v. Government of KPK*, PLD 2023 SC 236 (Per IJAZ UL AHSAN, J.), *Akhtar Abbas v. Nayyar Hussain*, 1982 SCMR 549 (Per NASIM HASAN SHAH, J.),

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judicial ukase. The High Court, being itself a creature of the Constitution, may exercise only such jurisdiction as is conferred upon it by law or by the Constitution.

29. For the foregoing reasons, the Lahore High Court, in our view, erred in law in issuing directions to the Federal Government in terms as contained in paragraphs (c) to (e) of the impugned judgment. The same are accordingly set aside.

D.

Conclusion

30. In view of the above discussion, leave is granted, the petitions are converted into appeal, and are decided in terms of paragraphs 21, 25 and 29 of this judgment.

Judgment is hereby entered.

JUDGE

I concur with the findings but will give additional note.

JUDGE

JUDGE

Islamabad
21.01.2026
Misal Shah/
Approved for reporting

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1. I had privilege of reading the judgment and I concur with the findings recorded by my learned brother Mr. Justice Aamer Farooq, but I am giving an additional supporting note to affirm and elucidate further on the constitution plane by contributing to interpretation of the fundamental right “Right to Life” under Article 9 sub-clause (2) of the Constitution of Islamic Republic of Pakistan, 1973 (**“the Constitution”**) which includes and not limited to “Right to Read” but also is deeply interconnected to “Right to Write”, by declaring it as a “Right to Read & Write” as an organic whole.

Undoubtedly, “Right to Life” under Article 9 sub-clause (2) of the Constitution is a qualified fundamental right subjected to law and the Constitution itself, which mandates the formation of any policy, including foreign policy (a reflection of ideology, aspiration and history of the people of a country) within the domain of the State. I agree that both the “Right to Read” and for our purpose of discussion, “Right to Write” are neither expressly provided in the Constitution, nor articulated, expanded or newly created but are derived mutually interdependent rights.

2. It must be understood that “reading” and “writing” are not isolated faculties functioning independently of each another. They operate in harmony and work together to constitute the foundation of literacy. Reading enables the acquisition of knowledge, comprehension of rights and corresponding obligations, and an engagement with intellectual discourse. Writing, in turn, enables articulation of thought, assertion of legal claims, recording of transactions, and participation in civic, democratic and judicial processes. One without the other renders literacy incomplete.

3. Speaking historically, traditionally and religiously, right to “Read and Write” are deeply rooted and closely associated with the basic and

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fundamental “Right to Life” therefore, a broader, purposive, meaningful and dynamic interpretation is to be attached to Article 9 sub-clause (2) of the Constitution. An enjoyment of life by an individual through social justice and education has always been protected in the Constitution of 1956 (Article 28), the Constitution 1962 (Principles of policy number 4 & 6) and the Constitution of 1973 (Article 37). Our cultural heritage and rich traditional values fully protect and promote the “Right to Life”. A strong religious foundation mandates its protection.

4. The Holy Qur’an, which forms part of the normative background of our constitutional ethos, opens its earliest revelation with the command “Read” and makes reference to teaching “by the pen” (Surah Al-‘Alaq, 96:1–5):

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
اقْرَأْ بِاسْمِ رَبِّكَ الَّذِي خَلَقَ ﴿١﴾
خَلَقَ الْإِنْسَانَ مِنْ عَلَقٍ ﴿٢﴾
اقْرَأْ وَرَبُّكَ الْأَكْرَمُ ﴿٣﴾
الَّذِي عَلَّمَ بِالْقَلَمِ ﴿٤﴾
عَلَّمَ الْإِنْسَانَ مَا لَمْ يَعْلَمْ ﴿٥﴾

Translation:

Read, O Prophet, in the Name of your Lord Who created – created humans from a clinging clot. Read! And your Lord is the Most Generous, Who taught by the pen – taught humanity what they knew not.

In this backdrop, these references underscore the civilizational importance accorded to reading and writing as instruments of knowledge and human development. While constitutional adjudication must rest upon legal reasoning rather than theological exposition, this context reinforces the centrality of literacy to human dignity.

5. The philosophical foundation of this understanding finds eloquent expression in the poetry of Allama Muhammad Iqbal:

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خودی ہو علم سے محکم تو غیرت جبریل

اگر ہو عشق سے محکم تو صورتِ اسرافیل¹

The strengthening of the self through knowledge elevates the human person to a higher plane of dignity. The acquisition and expression of knowledge, which necessarily presuppose the faculties of reading and writing, are therefore not incidental but intrinsic to a life lived with dignity. Literacy, in this sense, transcends mere functionality and assumes a transformative role in shaping the human condition. It is through this dual capacity to receive and articulate knowledge, that an individual attains intellectual autonomy, moral agency, and meaningful participation in society. This understanding is not divorced from the broader constitutional and societal context in which our legal order operates.

6. One can easily understand that the right of a person to read, includes acquiring knowledge which is not possible without his right to impart knowledge through written inscriptions. A right to think being a basic human right includes right to express oneself. The inalienable right to agree or disagree is the basic characteristic of any living being. Thus critical appreciation encourages the reader to reflect on the view points of the author keeping in view his own specific background, experience, and approach toward the given subject. A well authored criticism influences the public opinion and also forms the source of history. Reading written material simpliciter is like receiving uncontrolled information may be flowing from anonymous sources which is to be understood by due application of mind. Such continuous practice can

¹ *Bal-e-Jibril* (1935) is one of Iqbal's major Urdu poetic works, composed after his return from Europe, and it contains many verses elaborating his philosophy of Khudi (selfhood), knowledge (*ilm*), and love (*ishq*). This couplet appears in that broader thematic context.

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help reach on an informed decision which ultimately leads to the right of association (Article 17); a hallmark of any democracy. Reading and analyzing the writing(s) of the prominent leaders of the society always keep on guiding nations generation after generation only if they pass the fitness test of their own times. If we are to cope with the intellectually changings world, we must be flexible and willing to relinquish opinions that no longer have any bearing on present. This is possible only when such knowledge is scrutinized through well recognized standards.

7. Our constitutional structure itself lends further support to this conclusion. Article 19 guarantees freedom of speech and expression, and written communication is among its most enduring and structured forms. Article 25-A guarantees free and compulsory education to children, the minimum core of which necessarily includes elementary literacy that is to say, the ability to read and write. These provisions, when read in juxtaposition with Article 9, demonstrate that literacy is not peripheral but foundational within the constructional scheme.

8. It must, however, be clarified that recognition of the right to “Read and Write” as a part of “Right to Life” under Article 9(2) does not render these rights absolute or immune from lawful regulation. Nor does it imply an unrestricted entitlement to publish or disseminate material contrary to constitutionally permissible limitations. What it signifies is that arbitrary or structural deprivation of the individual’s capacity to read and write, or unjustified impairment of the ability to receive and impart ideas in written form, would erode the fundamental dignity protected under “right to life”.

9. Another aspect to acknowledge and uphold the “Right to Read & Write” in this modern world of information technology is that we are constantly exposed to enormous data in the mainstream social media.

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This information needs to be carefully assimilated and critically analyzed to eliminate the possibility of exploitation and mental slavery. Certainly, knowledge breaks the shackles that are sometimes created in the immature and fragile minds may be enslaved by preconceived and outdated ideas. In this way our societal values are effectively tested and may become even stronger in our belief.

10. Coming to the subject of import of Indian law books or books of Indian origin into our country which may have a potential to influence the views of young readers, it is needless to observe that the available alternate sources of professional knowledge available online can easily be downloaded free of cost or on nominal online payment, thus making it difficult for the Government to pursue a policy which provides no intelligible basis for outright prohibiting the import of law books, which can easily be bypassed. Certainly, patriotism and national security are the concepts of highest legal and moral grounds which can easily be used to prohibit anything into our country, but it should be applied with due care and caution so as to prepare a strong and intellectually competent nation to face the modern challenges.

11. For what has been discussed above, the leave to appeal is granted and petitions are converted into appeals and are disposed of while observing that the “Right to Life” under Article 9 sub-clause (2) of the Constitution includes both “Right to Read & Write”. However, the private respondents may approach the Federal Government to review the foreign policy which, in the circumstances, cannot be examined in a judicial review since it is the sole prerogative of the Executive.

**[ALI BAQAR NAJAFI]
JUDGE**