

Constitutional Development and Political Struggle in Pakistan



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OBJECTIVES RESOLUTION

Introduction

Pakistan is the first nation in the world, whose creation was based on the religious motives. It was because of this reason that the popular and famous slogan of Pakistan ka Matlab Kiya? La Illaha Illallah was the main basis of the demand of Pakistan. But at the very outset of its establishment, it had no Islamic constitution of its own, so according to the independence act of 1947, the **government of India Act 1935**, with certain amendments was adopted by Pakistan. However, a new constitution was to be framed for the country since the old act of 1935 did not contain everything required for an independent Islamic State.

First Constituent Assembly

In order to establish a society based on Islamic principles, a constituent assembly was formed in 1947 with Quaid-e-Azam as its leader. The responsibility of making a constitution of Pakistan rested on Constituent Assembly.

However, with the death of Quaid-e-Azam on 11th September 1948, the responsibility of framing the constitution fell onto the shoulders of the first Prime Minister, Liaquat Ali Khan.

Objective Resolution

This resolution was passed by the First Constituent Assembly in March 1949 under the leadership of Liaquat Ali Khan. It contained those objectives on which **the future** constitution was to be based as stated by the founder of the nation, Quaid-e-Azam in February 1948, said:

The constitution of Pakistan will be democratic and based on the fundamental laws of Islam.... Islam and its ideology have taught us the lesson of **democracy**.

Salient Features of Objective Resolution

The salient features of the Objective Resolution are as follows:

1. Sovereignty Belongs to Allah

The resolution clearly laid down that sovereignty over the entire Universe belongs to Almighty Allah alone and the authorities to be exercised by the people of Pakistan are a sacred trust.

2. Federal System

Federal System of Government will be introduced in Pakistan.

3. Golden Principles of Islam

Principles of democracy, equality, freedom and social justice as laid down by Islam shall be fully observed.

4. Supreme Authority of the People

The sovereignty of the state will be established through the elected representative of the people.

5. Life According to the Teachings of Islam

The Muslims shall be provided with opportunity to order their in accordance with the teachings and requirements of Islam.

6. Protection of the Rights of Minorities

The rights and interests of the minorities to freely profess and practice their religion will be protected.

7. Equal Rights to Citizens

All citizens will enjoy their rights on the principles of equality.

8. Development of Under Developed Areas

All efforts will be made for the development and progress of the under developed areas.

9. Independence Judiciary

Judiciary will be independent.

Objective Resolution and Liaquat Ali Khan

While introducing the resolution in the constituent Assembly, Liaquat Ali Khan said:

The ideals that promised the demand for Pakistan should form the corner stone of the state. When we use the word "Democracy" in the Islamic sense it pervades all aspects of life. It relates to the system of government and to our society with equal validity because one of the greatest contributions of Islam has been the equality of all men.

Importance of Objective Resolution

This resolution is of fundamental importance in the history of constitutions making in Pakistan because from the first constitution of 1956 till the constitution of 1973 (present constitution) whatever constitution was framed it was based on this objective resolution. At the time it was passed, Mr. Liaquat Ali Khan called it

The most important occasion in the life of this country, next in importance only to be achievement of independence.

It contains those steps and principles which were to be taken for the fulfillment of the basic aim of the freedom struggle that is the establishment of an Islamic Society in Pakistan. Hence, it is a significant document in the constitutional history of Pakistan. When Liaquat Ali Khan visited America in the course of his speech at New Orleans, he said

We believe in God and his Supreme Sovereignty because we believe that civic life must have an ethical content and a higher purpose. But democracy, social justice, equality of opportunity and equality before the law of all citizens irrespective of their race and creed are also aspects of faith with us.

Conclusion

All the above mentioned principles were presented in the Objective Resolution that is why this resolution is considered an important event in the constitutional history of the country. It was accepted by all classes of people. It provided a guide line of the future constitutions of Pakistan which were passed in 1956, 1962 and 1973. It consisted of such principles which revealed that character of constitution shall be Islamic

CONSTITUTION OF 1956

The Constitution of 1956 was a lengthy document. It consisted of 234 articles divided into thirteen parts and six **schedules**. Some salient features of the constitution are as under:

1. Islamic Republic of Pakistan

The name of the country was adopted as the Islamic Republic of Pakistan. The Objectives Resolution was included as Preamble in the constitution.

2. Federal System

The constitution provide for a federal system in the country. The powers were divided among the centre and the provinces. The subjects were divided into three lists; the Federal List, the Provincial list, and the concurrent list.

3. Unicameral Legislature

The Legislature was to consist of only one house. Both the wings of the country were given representation in the National Assembly. The National Assembly consisted of 300 members. 150 members were drawn from each wing. Thus the principle of parity was adopted.

4. Parliamentary System

Parliamentary system was adopted. According to it President was the Head of the State and the Prime Minister headed the government.

5. Independent Judiciary

The constitution provided for an independent judiciary in the country. A Supreme Court was constituted. It was headed by a Chief Justice. The Supreme Court, interpreted the constitution, advised the state whenever required and decided the issues arising among the governments.

6. The President

According to the 1956 Constitution the President was the head of the state. He was to be a Muslim of at least forty years ago. The tenure of his office was five years. In case of internal or external danger he could declare state of **emergency** in the country. He was authorized to appoint the Governors, **the Judges** of the Supreme Court, Auditor General and the Advocate General.

7. The Prime Minister

The Prime Minister was the head of the government. He was the leader of the Parliamentary group and was thus indirectly elected by the people. He was authorized to nominate his cabinet among the members of the National Assembly. The Cabinet was answerable to the Assembly.

8. Fundamental Rights

The Constitution of 1956 provided for the fundamental rights for the citizens of Pakistan.

9. Islamic Law

No law would be passed against the teachings of Quran and Sunnah and the existing laws would be made Islamic in character.

10. Language

Urdu and Bengali were made national languages.

Drawbacks of the Constitution of 1956

1. A far-reaching devolution of power already a political reality, was not given a constitutional recognition and accepted as the basis, of the state,
2. The federal list was substantially reduced and the provincial list greatly enlarged, transferring to the provinces among other subjects, control over mineral resources, recruitment of services, industries, internal communications and the tribal areas in the North-West Frontier. This was contrary to the practice of advanced countries where the federal principle has been used in building up a common nationhood through a strong Centre. The constitution in Pakistan instead of being an instrument for unity a country already divided by geography, sought to create two distinct political entities with maximum autonomy in the management of their affairs.
3. Regional loyalties were further consolidated by the introduction of parity of representation in the National Assembly. The Constitution was conceived in the belief that the political life of the country would always be tied to provincial moorings and will never rise to a higher plane of nationalism in which party affiliations would cut across the physical barriers. Parity was certain to foster parochial feeling equally in the region in whose favor it was to operate and in the region whose interests were adversely affected by it.

CONSTITUTION OF 1973

After taking control of the government in 1971, Z.A. Bhutto started work on a democratic constitution for the country. On 17th April 1972 the National Assembly constituted a committee to prepare a draft constitution. The Committee worked hard and prepared the draft of the constitution which was presented to the leaders of all parliamentary leaders on 20th October 1972. All the leaders signed the draft. After that it was discussed and debated in the National Assembly which gave its approval on 10th April 1973. The President gave his assent on 12th April 1973. Finally the Senate approved the constitution in August 1973. Consequently the constitution was enforced in the country on 14th August 1973. According to the Constitution of 1973 Mr. Z.A. Bhutto look over as the tenth Prime Minister and Mr. Fazl-e-Elahi was sworn in as the President of Pakistan.

Salient Features of 1973 Constitution

The Constitution of 1973 is strikingly different from the earlier Constitution of 1956 and 1962. It has the following salient features.

1. Written Constitution

Like the previous constitutions of 1956 and 1962 the Constitution of 1973 is a written document. It is very comprehensive and consists of twelve parts consisting of 280 articles.

2. Introductory and the Objectives Resolution

It commences with an introductory which states the Islam shall be state religion. The principles and provisions set out in the Objectives Resolution have been made substantive part of the constitution.

3. Islamic System

The inclusion of Islamic Provisions has given the 1973 Constitution an unprecedented Islamic character. It ensures an Islamic system in the country.

4. Rigid Constitution

It is a rigid constitution. No Government can change it at will. It is not easy to make amendments in it. Two-third majority of both the Houses is required for this purpose.

5. Federal System

The Constitution of 1973 has introduced a Federal system in the country. The federation of Pakistan consists of a Central Government and four Provincial Governments. The Federal Government is headed by a President elected by members of Majlis-e-Shoora (Parliament)

6. Parliamentary form of Government

The 1973 Constitution proposes a Parliamentary form of Government in the country. Prime minister is the head of the Parliamentary system. He is leader of the Majlis-e-Shoora (Parliamentary). He is elected on direct adult franchise basis. The Prime Minister selects a cabinet of central ministers from the members of Parliament which conducts the affairs of the country. According to 1973 Constitution the Prime Minister enjoys wide powers.

7. Bicameral Legislature

The Constitution provides for the establishment of a bicameral legislature in Pakistan. The Majlis-e-Shoora (Parliament) consists of two Houses named Senate and National Assembly. The Senate or the Upper House consists of 63 members (the 8th Amendment has raised this number to 87). The National Assembly consists of 200 members (Now this number has been raised to 207). The Majlis-e-Shoora enjoys wide powers of legislature.

8. Direct Method of Election

The Constitution of 1973 gives a direct method of election. The members of the National Assembly, the Provincial Assemblies are directly elected by the people.

9. Fundamental Rights

The 1973 Constitution ensures the following fundamental rights to the citizens of Pakistan.

- * Security of person
- * Safeguard against unlawful arrest and detention
- * Prohibition of slavery and forced labor
- * Freedom of movement
- * Freedom of assembly
- * Freedom of association
- * Freedom of business
- * Freedom of speech
- * Freedom of profess religion
- * Right to hold property
- * Equality before law

- * Right to preserve language, script and culture
- * Safeguard against discrimination in services.

10. Principles of Policy

The Constitution of 1973 has set the following principles of policy:

- * Local electoral bodies will be set up for solving local problems.
- * The parochial and other prejudices shall be discouraged.
- * The women shall be given full representation in all spheres of national life.
- * Social justice shall be promoted.
- * Bonds with Muslim world shall be strengthened.

11. Independence of Judiciary

The Constitution of 1973 stresses upon the establishment of an independent judiciary. Full job security has been provided. The judges are appointed by the President. They cannot be removed from service before the end of their term except on the recommendation of the Supreme Judicial Council. In addition the Judges are paid respectable salaries.

12. National Language

The 1973 Constitution has declared Urdu as the national language of Pakistan. However English has been retained as the official language for 15 years. Similarly regional languages have been provided full protection.

13. Single Citizenship

The Constitution of 1973 has established the principles of single citizenship. According to this principle the rights and duties of the citizens are determined by the Federal Constitution only. Thus the people throughout Pakistan are citizens of Pakistan.

14. Rule of Law

The 1973 Constitution establishes rule of law in Pakistan. According to rule of law no person can be deprived of his fundamental rights. All the citizens of Pakistan are equal before law.

15. High Treason

According to the Constitution of 1973 the act of unconstitutional abrogation of the Constitution has been declared as an act of High Treason.

16. Referendum

The Constitution of 1973 has authorized the President to hold Referendum on any national issue. Similarly the Prime Minister can ask the President to hold referendum on any important national issue.

STEPS TOWARDS ISLAMIZATION BY GOVERNMENTS

Pakistan is an ideological state which was founded so that the Muslims would lead their lives according to the principles of Islam. All the laws made and implemented in this country have been designed keeping in view the teachings of Holy Quran and Sunnah. Quaid said

It is my belief that our salvation lies in following the golden rules of conduct set for us by our great law given by the Prophet of Islam. Let us lay the foundation of our democracy on the basis of truly Islamic ideals and principles. Our Almighty Allah taught us that the decisions in the affairs shall be guided by discussing and consultation.

All the constitutions that have been implemented in our country (1956, 1965 and 1973) have all contained Islamic Provisions. To accomplish these provisions, the Government of Pakistan has taken the following steps to introduce Islamic Laws in the Country.

1. Hadood Ordinance

It was promulgated in the country in 1977. In the light of Hadood Ordinance different punishments were prescribed for various crimes. The word Hadood means the punishment which has been prescribed in the light of Holy Quran. According to the Hadood Ordinance, manufacture, export, import and use of alcohols was considered as a crime. Any person found guilty will be liable of the punishment of 30 lashes and 5 years imprisonment.

The second Hadood Law is concerned with the crime of theft.

The third Hadood law is meant for adultery and rape (Zina-bil-Jabr) whose punishment is stoning the adulter to death.

2. Zakat and Ushr Ordinance

Zakat and Ushr Ordinance was promulgated in the country of June 20, 1980.

According to this ordinance, a Zakat Fund will be established to collect all sorts of gifts and it will be compulsory for every Sahib-e-Nisab Muslim to pay Zakat by deducting it from his/her account in the bank.

Ushr is the tax levied on yield of agriculture land in cash or kind. According to this ordinance, every owner who ploughs and cultivates land is bound to deposit 10% of his earning in cash or kind as Ushr.

3. Establishment of Federal Shariat Courts

It is a highly important step undertaken by the Government. This courts decides various issues brought before it in the light of Holy Quran and Sunnah. Any citizen

can challenge any law of the country in the Shariat Court where he has to prove that a certain law is against the injunction of Islam and therefore be declared as unliable.

4. Interest-Free Banking

On January 1981, the interest-free banking system was introduced in Pakistan. According to this system, the account holder becomes the partner with the bank in its profit or loss and shares it according to his investment in the bank.

5. Teaching of Islamiat and Pakistan Studies

In the light of University Grants Commission all Universities of Pakistan and boards of Education have been given instructions to introduce Islamiat and Pakistan Studies as a compulsory subject in intermediate, degree and post graduate classes so that the system of Education should become compatible to the Ideology of Pakistan.

6. Establishment of Islamic University

Shariat faculties have been established in various universities for the promotion of Islamic teachings. The function of Jamia Islamia Bahawalpur has been streamlined and an Islamic University has been established in Islamabad.

7. New Education Policy

In April 1979, a new education policy was made on the basis of Islamic concepts and the Ideology of Pakistan. In the light of the new policy, women universities will be set up in Lahore and Karachi.

8. Unislamic Literature

A ban has been put on the printing, distribution and sale of all kinds of literature which is likely to propagate against the ideology of Pakistan or to give rise to provincial, lingual or sectorial prejudice.

9. Nizam-e-Salat and Arrangement of Azan

Nizam-e-Salat was promulgated by which it was intended to persuade the general people and the employee's of the Government offices to pray five times a day. Also, arrangements for Azan on radio and Television were made.

Conclusion

The above steps taken by the Government towards Islamization in the country will certainly lead the nation to progress and prosperity within the limits prescribed by the Holy Quran and Sunnah.