

“The Constitution Making in Pakistan – 1956”

Constitution is the collection of those basic principles and laws which explain the rights of the citizens, power of different departments and their mutual relations. The whole process of constitution making started with the passing of the objective resolution. The objective resolution which was passed in March 1949 outlined the basic principles and foundations of the constitution. The principles that had to be kept in mind by the constituent assembly of Pakistan while framing the constitution. Chaudhury Muhammad Ali who assumed charge as Prime Minister, his efforts led to the first constitution that was enforced in the country on March 23, 1956. The constitution of 1956 is consisted of 234 articles which are divided into 13 parts and 6 schedules. Islamic character was one of the main features of the constitution. It was provided for the parliamentary form of government, with a unicameral legislature.

The constitution of 1956 recognized the concept of one unit, and the seats were equally divided between the two wings of the country. The only house of Parliament, the National Assembly consists of 300 members. The constitution was offered direct elections under adult franchise. The citizens of Pakistan, who were with minimum age of 21, were allowed to vote in the elections. Judiciary was to remain independence and Urdu and Bengali both were accepted as a state language while English was to remain the official Language for the First 25 years. The constitution of 1956 was a written and flexible constitution which advocated the fundamental rights of the individual such as freedom of speech and expression of assembly and association of movement and of professions.

Origins of the Constitution:

In 1947, Pakistan gained independence from the United Kingdom or Britain. Under Section 8 of the Indian Independence Act of 1947, the Government of India Act 1935, with some modifications, was adopted as the working constitution of Pakistan. But now, since Pakistan had become a sovereign state with free citizens, the necessity arose for the framing of a Constitution by the elected representatives of the citizens of the state. As a result, the first Constituent Assembly was brought into existence under the Independence Act and two separate functions were entrusted to it:

- ❖ To produce an actual and complete Constitution for the country, and
- ❖ Until that Constitution came into effect, to function as a Federal Legislative Assembly or Parliament.

The first substantial step towards the framing of a Constitution for Pakistan was put into effect by the Constituent Assembly on 12th of March, 1949, when it passed a resolution on the “Aims and Objectives of the Constitution”, which was popularly referred to as the Objectives Resolution. It provided a blueprint for the foundation of the Constitution and explained the broad outline of its core structure. A debate took place on this resolution for five days. The leading members of the Government and many non-Muslim members, especially hailing from the East Bengal region, participated as prominent speakers.

After nine long years of efforts, Pakistan was finally successful in framing a proper Constitution. It was adopted by the Constituent Assembly on 29th February, 1956, and it was enforced upon the state 23rd March, 1956, proclaiming Pakistan to be an Islamic republic.

Constitutional history of Pakistan:

History bears the evidence that, The British government accepted the principle of partition of British India on 3rd June, 1947 in order to create two independent states i.e. Pakistan and India. The British Parliament passed the Indian independence Act on July 18, 1947, and the new sovereign state of Pakistan came into being on the 14th of August 1947. Every newly established sovereign state must first frame a constitution of a body of fundamental laws to run the government and to ensure the enforcement of law. However, in case of Pakistan the new constitution took more than eight years due to inevitable and unpredictable political situations.

a) Early governments and leaders in Pakistan:

After achieving independence in 1947 Pakistan had the chance to form their first governmental head. The first government of Pakistan was headed by Prime Minister Liaquat Ali Khan and the seaport of Karachi was declared as its capital. Muhammad Ali Jinnah was considered the founder of Pakistan and hailed as the Quaid-i-Azam (Great Leader) became head of state as governor-general.

b) Challenges and troubles:

There raised a great challenge to reform and to organize the economic, political and judicial structures, bureaucracy and armed forces of the country. The newly formed governments had to resettle the Mohajirs (Muslim refugees from India) and faced various riots, criticism and complexities to enact the distribution in balancing of power in provincial and central governments. Before the government could surmount these difficulties, Jinnah died in September 1948 shockingly.

c) Rejecting the non-aligned foreign policy:

Pakistan's non-aligned early foreign policy indicated no formal commitment to either the United States or the Union of Soviet Socialist Republics (USSR) in the Cold War. However, Liaquat established formal friendly relations with the United States and in 1953 Pakistan aligned itself with the US block which ensured its military and economic assistance.

d) Political unrest:

After the assassination of Liaquat in 1951, Khwaja Nazimuddin, an East Pakistani became prime minister. Ghulam Muhammad became governor-general. Nazimuddin attempted to limit the powers of the governor-general through amendments to the Government of India Act of 1935, under which Pakistan was governed pending the adoption of a constitution. Ghulam Muhammad dismissed Nazimuddin and replaced him with Muhammad Ali Bogra, Pakistan's ambassador to the United States, who subsequently was elected president of the Muslim League.

e) Provincial election of 1954:

In the 1954 provincial elections in East Pakistan, the Muslim League was routed by the United Front coalition. The Awami League dominated the coalition. However, Ghulam Muhammad prevented the United Front from taking power in the provincial legislature by imposing governor's rule. In such critical condition Ghulam Muhammad intentionally declared a state of emergency and dissolved the assembly to avoid the threat of curbing governor-general's power.

A new constituent assembly was indirectly elected in mid-1955 by the various provincial legislatures.

f) West Pakistan Established as One Unit [1955]:

In order to abolish the differences between the two unequal east and West Pakistan regions, the Government of Pakistan decided that all the four provinces and states of West Pakistan should be merged into one unit. To this end, Prime Minister Muhammad Ali made the first official announcement on November 22, 1954. The result of the new bill was to unify these various units into one province to be known as West Pakistan. Dr. Khan Sahib was appointed as the first Chief Minister of the One Unit, while Mushtaq Ahmad Gurmani was appointed as the first Governor of West Pakistan, however, the establishment of one unit policy was not free from criticism. The bill was likely to reduce the administrative expenditure but it was claimed that one unit of West Pakistan would eliminate the curse of provincial prejudices. It also emerged as a threat to the phase of the Pakistan constitution to some extent.

g) The new constituent assembly:

The new constituent assembly enacted a bill, which became effective in October 1955, integrating the four West Pakistani provinces into one political and administrative unit, known as the One Unit. This change was designed to give West Pakistan parity with the more populous East Pakistan in the national legislature. The assembly also produced Pakistan's first constitution, which was adopted on March 2, 1956. The constitution contained-

- 1) A unicameral (single-chamber) National Assembly with 300 seats, evenly divided between East and West Pakistan.
- 2) It officially designated Pakistan an Islamic republic.
- 3) Again, according to its provisions, the title governor-general was converted into president.

Provisions and Salient Features:

The Constitution of 1956 was very lengthy and detailed; it contained 234 articles in total, divided into thirteen sections and six schedules. The Constitution provided for a federal system, keeping the principle of parity between East and West Pakistan. The performance of the Federal Legislature was to be similar to that of the British Parliament. The Constitution called for a parliamentary form of government, where real executive authority was vested in a cabinet, which would be collectively responsible to the legislature. A declaration was made by the Constitution which stated that there will be only one house of parliament known as the National Assembly and equality between the two wings of Pakistan was upheld in it. Some key salient features of the Constitution are:

- Written Constitution - This is a written and lengthy document.
- Rigid Constitution - The constitution could only be amended through a process requiring the amendment to be passed by at least a two-thirds majority of the parliament and authentication by the President.
- Islamic Republic of Pakistan - The name of the country was adopted as the Islamic Republic of Pakistan.
- Objectives Resolution - The objective resolution was included as permeable by the constitution.
- Federal System - The constitution provides for a federal system in the country. Powers was divided between the centre and the provinces. The subjects were divided into three lists; The Federal List, The Provincial List, and the Concurrent List.
- Unicameral Legislature - The legislature would consist of a single 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.
- Parliamentary System - a parliamentary system was adopted, according to it the president was the head of state and the Prime Minister the head of government.
- The President - required to be a Muslim of at least forty years of age. The tenure of his office was five years. In case of internal or external danger he could declare a 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.

- The Prime Minister - He was to be the leader of the Parliamentary group and was thus indirectly elected by the people. He could choose his cabinet from the members of the National Assembly; the cabinet was answerable to the Assembly.
- Provincial Autonomy - Curtailed in the constitution to a great extent.
- Islamic Law - no law would be passed against the teachings of the Quran and Sunnah.
- Free Judiciary - An independent judiciary in the country. A Supreme Court interpreted the constitution, advised the state whenever required, and decided the issues whenever required.
- Fundamental Rights - included freedom of movement, freedom of speech and expression, freedom to choose profession and freedom to profess religion. Right to life, liberty, and property.
- Language - Urdu & Bengali were made national languages.

THE AFTERMATH OF THE CONSTITUTION:

After 9 years of crisis Pakistan's first constitution was adopted on March 2, 1956. Pakistan appeared officially as an Islamic Republic. It could be said that the unicameral (single-chamber) National Assembly was done to cripple down the power of East Pakistan. However, consequently, **H. S. Suhrawardy became prime minister and Iskander Mirza became president.**

Iskander Mirza replaced Governor General Ghulam Muhammad and forced him out of power. Though he was a despot same as Ghulam Muhammad, he appeared as the fourth Governor General and then the first President of Pakistan under the 1956 Constitution. He knitted together to form One Unit of the West Pakistan Province under new constitution.

Soon after the adoption of the 1956 Constitution, Huseyn Shaheed Suhrawardy became Chaudhry Prime Minister replacing Muhammad Ali on September 12, 1956. On the other hand Aatur Rahman Khan structured a coalition cabinet in the East. Suhrawardy then forged an alliance with the Republican Party. The controversy over One Unit and the appropriate electoral system for Pakistan, whether joint or separate, revived as soon as Suhrawardy became Prime Minister. In West Pakistan, there was strong opposition to the joint electorate by the Muslim League and the religious parties. Suhrawardy and his party in East Pakistan supported the joint

electorate. These differences over One Unit and the appropriate electorate caused problems for his government. Suhrawardy tried to remove the economic disparity between the Eastern and Western wings of the country but to no avail. He also tried unsuccessfully to alleviate the food shortage in the country.

By early 1957, the movement for the division of the One Unit had started. Suhrawardy was a strong supporter to the One Unit for the betterment of Pakistan. But big business groups in Karachi were lobbying against Suhrawardy's decision. Supported by these lobbyists, President Mirza demanded the Prime Minister's resignation. Suhrawardy requested to seek a vote of confidence in the National Assembly, but this request was turned down. Suhrawardy resigned under threat of dismissal on October 10, 1957. That created a very big threat against the success of the new constitution.

CONCLUSION:

Finally on on October 7, 1958 Iskander Mirza abrogated the Constitution and declared Martial Law in collusion with the Commander-in-Chief, Ayub Khan. Although the two were responsible for bringing about the change, they had different views on dealing with the new situation. Share of power soon led to a struggle between the two, which ended with Iskander Mirza being arrested and exiled to Britain where he later died. Thus despite of having a constitution after 9 years of struggle, this new constitution failed to bring peace on Pakistan. Therefore, the previous and the latter mentality and actions of the policymakers and big guns could be blamed for this pathetic phenomena. And about the constitution of 1956; in 1962 a new constitution was adopted. This was eventually succeeded by the Constitution of 1973, current as of 2011.