



CONSTITUTIONAL CRISIS OF PAKISTAN: A HISTORICAL STUDY

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Abstract

After a long struggle of Muslims of All India, Pakistan came into being on 14th August 1947. Indian Independence Act 1947 gave power to the two states India and Pakistan to partially modify the Govt of India Act 1935. That's why Pakistan was ruled under Indian Independence Act which was an amended version of Govt. Of India Act 1935. Under this Act, Quaid-i-Azam Muhammad Ali Jinnah took oath as the first Governor General of Pakistan while Quaid-i-Millat Liaquat Ali Khan took oath as the first Prime Minister of Pakistan. Under this Act, the Governor General of Pakistan would have to be the representative of British Crown until Pakistan formulates its own Constitution. So, immediate formulation of its own constitution was a challenge for the new born country. According to Indian Independence Act, the first constitutional Assembly of Pakistan was formulated in 1947. Its responsibility was to work rapidly for the formulation of new constitution for Pakistan. First Constitutional Assembly further, framed a Basic Principles Committee to decide the lines on which the new constitution should be based. The findings of the Basic Principles Committee were contained in a document called the Objective Resolution, which was passed on 12 March 1949. Basic Principles Committee presented two reports which were thought controversial and no result could be reached. On 24 October 1954, Ghulam Muhammad the then Governor General of Pakistan dissolved the first Constitutional Assembly without reaching the objectives of constitution formation. A second Constitutional Assembly was formulated by Governor General Ghulam Muhammad. After the death of Ghulam Muhammad, Iskandar Mirza became new Governor General of Pakistan. He brought revolutionary changes in Pakistan's administration in order to reach the first constitution for Pakistan. Finally, on 29 February 1956 Pakistan's first constitution was adopted, which was enforced on 23 March 1956.

Key Words: Pakistan, Constitution, Assembly, Principles, Formulation, Objectives, Committee, Assembly, Independence, Partition.

Introduction

As a result of the partition of All India, Pakistan emerged on the map of the world on 14th August 1947. Unfortunately, Pakistan had no constitution at the time of partition. Therefore, according to



the Indian Independence Act 1947, the Government India Act of 1935 with partial modification was adopted as a temporary constitution of Pakistan until the framing of Pakistan's own constitution. The Govt. India Act of 1935 was not able to be adopted for a long time, for being difficult and complex in nature. Basically, this Act focused on three grounds. The first objective of the Act was to establish a Federal Government with the alliance of various provinces and Princely States. For this purpose, alliance of provinces with the Federation was mandatory while it was optional for the Princely States. The second purpose of the Act was to grant autonomous status to the Provinces under Parliamentary system of Government. The third purpose of the Act was separation of Burma from All India. Under the Govt. India Act of 1935, the provinces were granted autonomous status on 1 April 1937. As the Govt. India Act was not formulated for an independent state, therefore it was not possible for the Act (1935) to interpret the wishes of an independent state. Instead of all this, there was no option except to adopt the same Act (1935) as a constitution of Pakistan for an interim period. (Mahmood, 2000)

Before taking into account the constitutionalization process and constitutional development in Pakistan, it is mandatory to understand the "Indian Independence Act 1947" as this Act has backbone importance to run the affairs of the state before the promulgation of first constitution of Pakistan in 1956.

Indian Independence Act 1947

The British Government had decided to introduce a Federal form of government in All India with the alliance of provinces and Princely states by granting more political and autonomous powers to the provinces. (Hussain, *The History of Constitution Making in Pakistan*, 1990) On the other side, Independence Movements launched by Hindus and Muslims were gaining more vigour with the support of huge number of masses to liberate the country from the suppression of British. The Hindu Nation was not ready to accept Muslims an influential nation of the subcontinent, therefore they wanted to suppress Muslims after evacuating All India from the British Raj. Following the strategy of Congress, Hindus adopted the Govt. India Act of 1935 and started to do procedural work by establishing their ministries in the Hindus majority provinces. Under their ministries, they tried to suppress Muslims in all parts of India by introducing a series of measures, threatening Muslim culture and identity. (Kelly, 2004)

At this stage, Muhammad Ali Jinnah came forward with a logical vision and convinced Hindus and British that Muslims of the subcontinent have their own identification and it was not possible to suppress them or forced them to follow Hindus ideology. Jinnah's point of view, turned the thinking of British and they accepted that the partition of All India was an essential task for them. A Cabinet Mission Plan consisting of three British Parliament members was sent to All India to give an independence formula or plan which was to be accepted or rejected totally. There was no provision for partially accepting or rejecting the plan. The plan consisted of Union kind of government by granting more powers to the province. There was also a suggestion to separate the Muslim and



Hindu majority Provinces. It was also mentioned in the plan that foreign affairs, defence and communication departments would be looked after by the Union (British Government). Both political parties, Congress and Muslim League could not agree with the Cabinet Mission Plan. The Cabinet Mission plan faced humiliation and failure. (Sayeed, 1969)

In 1947, British Prime Minister while addressing House of Commons said that the British Government has always adopted a policy to develop democratic principles in All India but unfortunately the two major nations Hindus and Muslims have not accepted each other. He added from the floor that all powers will be handed over to Indians till June 1948. Lord Wavell was replaced by Lord Mount Batten, who reached India in 1947 and met with the leadership of two parties. He came to know that All India already had been divided ideologically, and now it was not possible to keep the two nations united. He visited London in order to discuss the partition plan with British Government. On his return he presented the partition plan to the two major parties of India and announced the partition scheme on 3rd June 1947. The British Parliament passed Indian Independence Act in July, 1947. Under this Act, All India was partitioned and Pakistan emerged as an ideological state on the map of the world. As at the time of partition Pakistan did not have its own constitution, therefore, the Indian Independence Act of 1947 was adopted as an interim constitution till the preparation of their own constitution. (Ziring, 1997)

First Constituent Assembly

Under the Indian Independence Act 1947, the first constitutional assembly of Pakistan was framed. The members of provincial assemblies elected the members of first constitutional assembly of Pakistan. The major task of the assembly was to frame the constitution for Pakistan. As there was no parliament existing in the country, this assembly was given extra powers of Federal Legislature to formulate laws for the interim period in order to regulate the government Machinery. (First Constitutional Assembly of Pakistan (1947 - 1954), 2013)

It was really a difficult task for the assembly to formulate a new constitution for the newly born country, as there lived people of opponent beliefs. The main responsibility of the assembly was to formulate such a constitution that should be acceptable for all groups of people. The assembly was to mainly focus on how to avoid the conflict of beliefs and interests of various groups of people.

It was very compulsory for the constituent Assembly to define those lines on which constitution of Pakistan was to be mapped. Therefore, Quaid-i-Millat Liaqat Ali Khan presented a resolution to the Assembly on March 12, 1949. This resolution consisted of those principles according to which constitution of Pakistan was drawn. This Resolution is famously known as Objective Resolution and had a mile stone importance in the constitutional development history of Pakistan. The Constituent Assembly deliberately looked into the Resolution and discussed all its aspects and then sanctioned it unanimously. In this Resolution all basic principles on the base of which constitution was to be framed were explained clearly. (Usman, 2023)



After sanctioning Objective Resolution 1949, the process of formulation of constitution started by establishing various committees. Among these committees, the Basic Principles committee was of key importance because it was included in its responsibilities to prepare a report after drafting basic principles of constitution. This committee further framed three sub-committees in order to take into account the key issues in the way of constitution formulation. Basic Principles Committee submitted its interim report before the Constituent Assembly on 28th of September 1950. This report suggested a bicameral Federal parliamentary form of government with equal powers for both the houses. A unicameral form of government was suggested for the provinces. (Pak.Com, 2013)

The report presented by the Basic Principles Committee was criticised at a large scale. Several objections were raised on the report. The report became a cause of conflict between East and West Pakistan. Protests and riots started at a large in the Eastern part of Pakistan. They showed their grief that an attempt has been made in the report to convert the majority of Eastern Pakistan into minority. A conflict produced between the Central and Provincial government. In order to snub the situation, Liaqat Ali Khan played his political role by convincing the people that all essential amendments would be made in the report before its final sanction. He also insisted the people to send suitable suggestions for the amendments in the report. (Hussain, 1990)

Before the report has to be moved in front of the constituent Assembly, Liaqat Ali Khan was killed on 16 October 1951 while addressing in Liaqat Bagh Rawalpindi. Immediately after this incident Khawja Nazim-Ul-Din took the oath of Prime Minister and took the responsibility of completion of remaining work of the constitution. In order to proceed the matter of constitutionalisation a second report of Basic Principles Committee was prepared. The most important things of the report were that the Head of the state and provincial governor will jointly establish a board consisting of religious scholars (Ulema) expert in Islamic Law. The main duty of the Ulema Board was to check a law whether it was religious or non religious. The second report too faced criticism and in this way the process of constitutionalisation delayed. (Ahmad, 2016)

Governor General Ghulam Muhammad dismissed Khawja Nazim-Ul-Din from his office and appointed Muhammad Ali Bogra as the new Prime Minister of Pakistan, with his appointment he presented his formula before the constituent Assembly on October 1953, the formula is commonly known as Muhammad Ali Formula. The main feature of the formula was imposing of responsibility to Supreme Court instead of Ulema Board to judge a law whether it was Islamic or contrary to it. The suggestion moved by Muhammad Ali Bogra was appreciated almost in all circles. (Wikipedia, 2015)

The two documents, second report of Basic Principles Committee and Bogra Formula were remained under discussion in the constituent Assembly for 13 days in October 1953, but unfortunately it could not reach any result. Though, Constituent Assembly has played its vital role in law making for the country but the main objective of Constitution formulation remained undone,



in this regard the efficiency of the Assembly was very disappointing. First Constituent Assembly started functioning from 14th of August 1947 but could pass only Objective Resolution till the death of Liaquat Ali Khan.

The crisis took place when Governor General Ghulam Muhammad was at abroad and the Constituent Assembly annulled those articles of Govt India Act 1935 which were concerned with the powers of Governor General to dissolve the Cabinet. In fact, this action was Carried out to keep the Governor General away from dissolving the Cabinet of Muhammad Ali Bogra. When Governor General came to know the conspiracy against him, he immediately returned Karachi the then capital of Pakistan. He declared emergency in the country and dissolved the First Constituent Assembly on 24 October 1954. This action of the Governor General gave birth to constitutional crises in the country, producing large scale disappointment among the masses of Pakistan. (Mahmood, 2000)

Second Constituent Assembly

Elections were held on 21 June 1955 for a second Constituent Assembly. It met for the first time on 7 July 1955. Second Constituent Assembly consisted of eight members four from each wing. Muhammad Ali Bogra was reappointed as a Prime Minister, he was invited to form a new cabinet. The new Cabinet consisted of some new ministers like General Muhammad Ayub Khan, Major General Iskandar Mirza, Dr Khan Sahib and Hussain Shaheed Suharwady which were not answerable to anybody except Governor General Ghulam Muhammad. This was for the first time in the history of Pakistan that the Commander-in-Chief of the army (Ayub Khan) was included in the Cabinet, paving the way for the military involvement in Pakistan's politics. (Mahmood, 2000) Ghulam Muhammad had to retire from the post of Governor General due to his ill health and Iskandar Mirza became the acting Governor General. Iskandar Mirza dismissed Muhammad Ali Bogra from Prime Minister ship and appointed Chaudhary Muhammad Ali as a new Prime Minister. Iskandar Mirza insisted hard to Chaudhary Muhammad Ali to have a Constitution drawn up immediately. (Kelly, 2004)

The second Constituent Assembly, under the headship of Chaudhary Muhammad Ali prepared the draft for the new constitution and presented it in front of the Constituent Assembly on 8th January 1956. This draft was discussed in the Assembly till 29 Feb 1956 and then it was passed and enforced in the country on 23rd March 1956. From this day, the British rule was completely eliminated from Pakistan. This Constitution was hardly prepared after the continuous struggle of consecutive 9 years.

Precise History of Constitution Making

Muslim League a political party of the Muslims of All India was established in 1906 at Dhaka. The major objective of the Muslim League was to protect the Rights of the Muslims of All India



and to have a continuous contact with British Government in India. Establishing of Muslim League was not less than any blessing for the Muslims of India because League was a proper Channel through which the needs and the demands of the Muslims of the Sub Continent could be placed before the government. Separate electorates for the Muslims of India, representation in the legislature, Separation of Sindh from Mumbai are the few examples of Muslims needs which were filled through the platform of Muslim League. From 1906 to Partition of India, Muslim league fought for the rights of the Muslims of India at all levels. A continuous struggle for the years, eventually made Muslim League a prominent political party of the India. There occurred many political developments in India between 1906 and 1947, in which the status of the Muslim League gradually increased in an ascending order. The Indian politics entered into a phenomenal era in 1940s after the breakout of second World War. Muhammad Ali Jinnah and his other companions played a key role from the platform of Muslim League. It became very clear now for the British and the Hindus particularly after Lahore Resolution that the Muslims demand of a separate homeland cannot be rejected and ignored. Finally, the continuous hard work of the Muslims of the Subcontinent brought them the fruit of the Independence on 14th August 1947.

As earlier discussed that the Pakistan got Independence under the Indian Independence Act 1947 which was introduced by the British Government by modifying the Government of India Act 1935. The Indian Independence Act 1947 gave authority to the newly emerged Pakistan to formulate its own Constitution.

As Pakistan was a heterogeneous society, it was not easy to construct a constitution acceptable by all groups of people. In order to tackle this difficult task, first Constituent Assembly was formed even before the creation of Pakistan, which started working on 14 August 1947. The First Constituent Assembly further made Basic Principles Committee, which gave two of its reports to the Constituent Assembly which were badly criticised. Muhammad Ali Bogra Formula was presented which did not work a lot. Finally, the new Cabinet under the headship of Chaudhary Muhammad Ali succeeded to give Pakistan its First Constitution, which was implemented in Pakistan on 23rd March 1956.

Causes of Delayed Constitution in Pakistan

As the objective of this study was to sort out the causes of delayed Constitution. In the following lines an attempt would be made to search out the genuine causes of Constitutional crisis in Pakistan, which took a long period of 9 years to give the newly born country its first ever Constitution in 1956.

1. After Second World War, the political circumstances of All India showed upon all that the partition of India was the need of the time and would be made soon or later. Knowing about the partition, Muhammad Ali Jinnah and his colleagues did not give attention towards the important task of Constitution making. It was only because, Muhammad Ali Jinnah was



all the time busy in handling British and Hindus leadership for paving the way for Pakistan. No spare time was available to him to pay his attention towards this task.

2. Pakistan was got in the name of Islam, it was difficult task to define Islam in the Constitution because there lived people belonging to various sects and it was not easy job to unite all the people to the same Islamic ideology. (Raja, 2022)
3. The Geographical division of the country was another issue in producing the Constitution because it was difficult thing to decide the percentage of presentation of each province in the in Federal Parliament.
4. There lived Qadyanis who did not believe Prophet Muhammad (SAW) as the last Prophet of Almighty Allah, such religious conflicts created hurdle in the way of creation of Constitution.
5. The Constituent Assembly worked against the expectations of the people, as the people believed that the Assembly would do the Constitution Making job on top priority base, but after the death of Founder Of Pakistan Muhammad Ali Jinnah, Assembly preyed to laziness and the members of the Assembly paid a least attention towards the task. In the period of first seven years, only 116 Assembly meetings were held and the presentation of the members in the Assembly meetings were from 37 to 56 while the total number of members were 76. This prove the least interest of the members towards Constitution making.
6. The 50% of the members of the Assembly were assigned important seats in the Central or Provincial Governments. It was difficult for those appointed as Governors or Ministers at Central or Provincial levels to spare a time for the Constitution making process.
7. This assembly was given a dual Charge, passing laws in order to run the affairs of the state along with creation of Constitution for the country. Due to dual responsibility, Assembly could only fix salaries and allowances for Governor General and other Ministers one and half years after the death of Jinnah. The total performance of the Assembly was to pass PRODA ACT and Objective Resolution.
8. The transfer of powers between the Central and the Provincial Governments was also an issue in the way of Constitution making. The issue of transfer of powers was this that whether strong Central Government be established by limiting the powers of Provincial Governments or Provinces be given more autonomous powers. The members of the Constituent Assembly could not get agreed with a single proposal and a controversy generated among the members, delaying the Constitution making Process in Pakistan.
9. Linguistic Issue was another obstacle in the way of Constitution making in Pakistan. there was a conflict among the members about the language, there were a significant number of members who wanted Bengali an official language of Pakistan along with Urdu while another class wished Urdu to be the only official language of Pakistan. This matter was not only limited in Constitution making but also created troubles in political and financial affairs. Many Bengalis believed that Centre was making un-justification with Eastern People of Pakistan and this act of the Central Government gave birth to hatred in the people of Eastern Pakistan against the Centre.



10. After the deaths of Muhammad Ali Jinnah and Liaquat Ali Khan, Provincialism took birth. Many people started to love their provinces and hate other provinces. This issue got strengthened with the time and became a problem in Constitution making.
11. The existence of the minorities in the country and the way to protect their rights was another problem. What representation should be given to the minorities in legislature and what should be the way for them to participate in the electoral politics.
12. It was decided among both the provinces that the Federal form of Government would be made in Pakistan but still it was undecided that what would be the structure of that Federal form of Government, upon this a conflict generated between the stakeholders.
13. What should be the presentation of each province in the Federal legislature was also a major problem. Eastern Province claimed participation in the Federal Legislature on the basis of Population while Western Province was of the view of equal participation. This difference of opinion prolonged the process of Constitution making in Pakistan.
14. Another benchmark which could not be reached was form of Government, whether Presidential form of Government be adopted or Parliamentary form of Government. It was a complex issue of its own form which needed to be solved along with the other issues. It also added a trouble for the Constituent Assembly to reach its destination of Constitution Making.
15. Political crisis waved un-optimism environment, under which it was not possible to work for the formulation of new Constitution for the country. Politicians, bureaucracy and establishment showed attitude of an arrogant and fought for the their personal egos without taking care of the mode that what would happened with the Constitution making process and what would be its impact on the masses of Pakistan. Such sort of issues not only became a trouble to reach a Constitution but also caused hatred among the people of various regions.

The causes discussed above were the major causes which became a reason for Constitutional delay in the country. Facing so many problems, eventually Pakistan reached its first Constitution after 9 year's continuous struggle. This Constitution was finally implemented in the country on 23rd March 1956. But misfortune for the country started when Martial Law was imposed in the country in 1958 and the Constitution of 1956 which was gained for a long struggle got abrogated by Ayub Khan, declaring emergency in the country. In this situation, disappointment at a large scale spread among the masses but who cares masses in Pakistan.

Conclusion

In this part of the study, a conclusion of the study would be produced on the basis of the solid reasons that the various causes discussed above were the main tools for the delayed Constitution making in Pakistan. The Reason for the delayed Constitution making in Pakistan, lies in a fact that there was no single reason which had to be addressed by the Constituent Assembly. In fact there were several reasons which put forth the process of Constitution making in Pakistan. The issue



which had to be addressed for paving the way for the Constitution were not same everywhere in Pakistan. A thing which was cause of concern for the people of a particular area, was not for the people of other areas. This waved Constitutional crises in Pakistan and Consensus could not be produced among the members of the Constituent Assembly. They remained divided on number of matters while addressing these matters to reach a solution. There was also a pressure on the members of the Constituent Assembly from the masses of their areas.

Since the British period, the political evolvement among the Muslims of the Sub-Continent remained choked. After the creation of Pakistan, the political maturity was lacking in the country which gave birth to Constitutional crisis in the country and politicians failed to reach conclusive findings on the basis of which Constitution had to be formulated. It took a long period of 9 years to create the First Constitution for the country. During this enormous period, the country had seen several crest and trough in the various grounds and particularly in the field of immature politics. The things worked in an apple pie order till the death of Muhammad Ali Jinnah, after that there was no single politician which could be relied on. The political instability took birth. That's why it has been seen that the several changes were made on political seats within a period of 9 years. For instance, a table is being given below to see that how many Prime Ministers were changed till the formulation of first Constitution of Pakistan.

TABLE: PRIME MINISTERS OF PAKISTAN TILL 23RD MARCH 1956.

S/NO	NAME OF MINISTER	TENURE
1	Liaqat Ali Khan	15.08.1947 to 16.10.1951
2	Khawaja Nazimuddin	17.10.1951 to 17.04.1953
3	Mohammad Ali Bogra	17.04.1953 to 11.08.1955
4	Ch. Muhammad Ali	11.08.1955 to 12.09.1956

It is notable from the table that after the death of Liaqat Ali Khan in 1951, three Prime Ministers were seated turn wise for a short period from 1951 to 1956, which is hardly a period of 5 years. It is very interesting that Khawaja Nazimuddin became Governor General of Pakistan after the death of Muhammad Ali Jinnah and when Liaqat Ali Khan was assassinated, he was seated as Prime Minister and later he was dismissed from the seat of Prime Minister even having support of the Assembly. Similarly, Mohammad Ali Bogra was doing the job of ambassador in USA, he was called back and appointed as a Prime Minister of Pakistan. Later, he was also dismissed and sent back to USA as an ambassador. After him, Chaudhary Mohammad Ali a bureaucrat and working as Finance Minister was appointed the new Prime Minister of Pakistan. Another twist in the story was reached when Liaqat Ali Khan was Murdered, Khawaja Nazimuddin replaced him and Ghulam Muhammad (civil servant) who was a Finance Minister in the Cabinet was seated as the third Governor General of Pakistan. Who later dismissed Khawaja Nazimuddin from his office. This is really very interesting, which confuses the readers about the calibre of politicians. It is easy



to conclude that Pakistan faced a political instability in the first decade after its creation which caused the Constitution making delayed in Pakistan. India, on the other hand the counterpart of Pakistan was created a day after Pakistan, was enormously large in size and had several issues after its creation but they worked wilfully to give India its own Constitution. The grave and serious attitude of the Indian Politicians and other stakeholders made it easy for India to have its own Constitution. Indian Constituent Assembly adopted its Constitution on 26th November, 1949 and implemented it on 26th January 1950.

The early deaths of Muhammad Ali Jinnah and Liaqat Ali Khan created a political gap, which needed to be filled but unfortunately there was a lack of competency among the remaining politician from all regions of Pakistan, no politicians of their calibre could be produced. Both of them were very grave to work for all parts of Pakistan equally to make the country a progressive one in the world but unfortunately after them all politicians always fought for the rights of their own provinces. This act of the politicians gave birth to the provincialism and the bonds of brotherhood among them gradually started weaken, which parted away the masses of various regions into provincial biasness.

Another issue which caused Constitution making process delayed in Pakistan was linguistic problem because the people in the East Pakistan were in majority and wanted Bengali an official language of Pakistan while the people in the West Pakistan comprised of various regional languages and wanted their languages to be given a significant importance. Still there was another elite class who wanted Urdu to be the official language of Pakistan. Lack of consensus among the members of the Constituent Assembly and other stakeholders divided them on the issue of language. Riots and protests started in favour of protection of languages in various regions and largely in East Pakistan. This act also gave birth to biasness among the province and masses of Pakistan.

This study indicates that there was no single reason which caused the Constitution making in Pakistan delayed. There were several reason which were not addressed properly and sincerely which eventually caused the Constitution making delayed in Pakistan. The promulgation of an immediate Constitution was much needed for the country in which the way of progress had to be decided and the affairs of the state had to be run accordingly. But unfortunately such could not be done immediately and it took a long period of 9 years time after facing many controversies. The controversies created during the time of Constitution making, still exist among the various regions and masses of Pakistan.



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