

CAUSES OF DELAY IN CONSTITUTION MAKING OF PAKISTAN

INTRODUCTION

On August 14th, 1947, Pakistan was carved out on the map of the world for the Muslims of India in order so that they could live in peace and harmony, according to the principles of Islam, free to pursue all spiritual and worldly endeavors in a homeland of their own. Though full of hope and nationalistic fervor; the people of Pakistan were unable to fully realize the dream of their own personalized utopian state because of a variety of devastating crises plaguing the newly born state. From the problems of the refugees to the crippling water and food shortage to the failing health of the father of the nation and serious lack of capable political leaders at the helm of the state, the resultant is the ominous delay in constitution-making caused serious issues that were to plague Pakistan for the year to come. The lack of consensus between the two wings of the state in all matters ranging from the relationship between Islam and the state to the issue of selecting the national language causes Pakistan to be without constitution for nearly nine years and in a state of perpetual political chaos and instability. Two constitutions and numerous heads of state later, in 1973 a constitution was formulated that had been the product of a democratically elected legislature. However, it failed to create balance of power between the various branches of government and especially the balance between the powers of the army and the government.

ISSUES IN CONSTITUTION MAKING

The Government of India Act (1935) was modified and promulgated in the newly state of Pakistan. The Constituent Assembly (CA) was given the task of framing the Constitution. The elected members in the 1946 elections made the first Constituent Assembly that faced grievous circumstances. The first meeting of the CA was held on August 11, 1947 at Karachi. The process began with the passing of the Objectives Resolution in which the Islamic and democratic values were adopted as grounds for the future constitution. The Basic Principles Committee (BPC) consisting of 24 members was made to work for the constitutional powers. The various sub-committees on Federal and provincial powers, Franchise, Judiciary, and Fundamental Rights started working.

The major issues, the first constituent assembly faced, were about:

1. Lack of consensus between east and West Pakistan
 - i. Representation
 - ii. The National Language Issue
2. Political vacuum
3. The Islamic or Secular State

1. Lack Of Consensus Between East And West Pakistan

There were numerous disputes between East and West Pakistan such as issues for constitution making, representation of members in assembly, selection of prime minister and governor general from East Pakistan or West Pakistan.

i. Representation

Representation at the federal level was another conflicting issue because East Pakistan and West Pakistan. Both were different in population and size. On the other hand there was diversity in Western part of Pakistan. The provinces of West Pakistan were also different in population and size. All of them were sensitive to their representation and provincial autonomy. To have a Standard Formula for the representation of units and population the Constituent Assembly (CA) formed a Basic Principle Committee (BPC) on March 12, 1949. The primary task of this committee was to frame a set of basic principles for the future constitution of Pakistan.

a. First BPC Report:

This committee presented its first report on 28th September 1950. According to this report two houses of the parliament were proposed. The lower house was to be elected on the basis of POPULATION and the upper house was to be elected on the basis of equal representation for all the provinces of Pakistan namely East Bengal, West Punjab, Sindh, NWFP and Baluchistan. Equal powers were proposed for the both Houses. East Bengal opposed this report and Liaquat Ali Khan withdrew it.

b. Second BPC Report:

BPC presented its final report on 22nd December 1952. According to this report two Houses of the Parliament will enjoy the equal status and powers. It proposed equal representation to East and West wing. This report also faced reaction in both the wings of Pakistan. The principle of parity was not appreciated in both East Pakistan and Punjab.

c. Muhammad Ali Bogra Formula:

Muhammad Ali Bogra immediately after assuming the office of the Prime Minister presented a formula to resolve the deadlock in constitution making. According to this formula Pakistan would have a

bicameral legislature. In upper house there would be EQUAL representation to each of five units. In lower house population will be represented. In this way more representation was given to East Pakistan. Both wings would have equal strength in joint sessions of the two houses.

Reaction to Bogra Formula

It was welcomed in both parts of the country. The principle of parity and representation of the was appreciated. It also solved the problem of national language by suggesting Urdu and Bengali both as national language.

d. One Unit of West Pakistan October 1955

One Unit of West Pakistan was established on 14th October 1955. The provinces of Punjab, Sindh, NWFP and Baluchistan would be amalgamated in one unit to establish parity between the two parts of the country.

ii. The National Language Issue

After independence Urdu was adopted as national language of Pakistan. This attitude discontended East Pakistan. This became more pronounced after the death of Jinnah as controversies erupted on constitution making. Language Movement started in East Pakistan February, 1952.

2. Political Vacuum

There was an un-organized political system in the country in its initial stages, resulting in the lack of leadership and immature policies. The incessant changing of political leader further made the constitution making vulnerable. Ultimately the abrogation of PARODA act in 1954 resulted in law and order chaos in the country.

3. The Islamic or Secular State

From the very beginning of Pakistan Movement there was an agreement that the state will seek constitution to encourage Islamic ideology. There was pressure from the righteous parties over government. The Constituent Assembly took time to define the precise relationship between the state and Islam.