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### **TOPIC**

## **Efforts for Islamization in Pakistan, An Analysis of the 1973 Constitution of Pakistan**

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## Efforts for Islamization in Pakistan, An Analysis of the 1973 Constitution of Pakistan

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### ABSTRACT:

The process of Islamization in the constitutional history of Pakistan always remained a crucial issue for democratic process in Pakistan. The introduction of objective resolution and Islamic provisions in the constitutions (1956, 1962, and 1973) have been considered remarkable development. The regime of General Zia ul Haq has continued the Islamization of the Pakistani legal system and amended various articles of the 1973 constitution. Efforts were also made during subsequent regime by implementing the enforcement of Sharia Act and of the sharia Bill. The 1973 constitution remained a legal document not only for running the state affairs but also enabling the Muslim of Pakistan to order their individual and collective lives in accordance with the teaching of the Holy Quran and Sunnah still the questions of the place of Islam in the constitutions of Pakistan have been issues for decades and particularly the Islamization of the 1973 constitution of Pakistan remained a deadlock in Pakistani politics and religious circles. This research study attempts to examine the influence of Islam on the 1973 Constitution of Pakistan.

**Keywords:** Constitution, Islamization, Islamic provisions, Bhutto's efforts, Zia's sharia Bill.

### Research Questions

1. What efforts had been made for Islamization in Pakistan by the Government?
2. How Islamic initiatives of Govt. of Pakistan were politically encouraged?

### Research Methodology

Pakistan was created in the name of Islam and one of the objectives of the new state was to preserve the cultural heritage of the Muslims provide the conditions in which they mold their lives in accordance with the teaching of Islam. Different books and articles analyzed to get question answered. All three constitutions of Pakistan have been made the source of reference. Report from different organizations has considered as important source of information.

### Literature Review

Hussain, Rizwan. The demand that Pakistan be declared an Islamic State was put forward by Maulana Abdul Ala Maududi (1910-1979) The founder of the Jamā'at-e-Islāmī. He addressed the meeting all over the Pakistan and asserted that the future constitution should be embody the following principles" "The sovereignty over the entire universe belongs to Allah Almighty alone and the authority which He has delegated to the State of Pakistan through its people for being exercised within the limits prescribed by Him is a sacred trust," that "the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam shall be fully observed," and that "the Muslims shall be enabled to order their lives in the individual and collective spheres in accord with the teaching and requirements of Islam as set out in the Holy

Qura'an and Sunna." The basic law of Pakistan is the Shariah of Islam. The most outstanding and novel feature of the Objectives Resolution was that it sought the fundamental principles of the new public ideology, character and form. Islam was adopted as its ideological foundation. Federalism was adopted as it was recognized as its very basis of the Lahore Resolution of March 1940. The form of the government was to be based on the British parliamentary model with a Prime Minister and a responsible Cabinet. Fundamental rights were to be guaranteed, the rights of minorities were to be safeguarded, and the independence of judiciary was to be secured. So Objective Resolution has been reproduced as a preamble to the constitutions of 1956, 1962, and 1973.

### **Introduction**

The first contentious issue was the role that religion was to play in the polity of Pakistan. Since protagonists of the both secular or a religious state quote the Quaid-e-Azam, his statements are "Let us lay down the foundation of our democracy on the study of truly Islamic ideas and principles."

"You are free to go to your Temples, you are free to go to your Mosques or to any other place of worship in this state of Pakistan. You may belong to any religion, caste or creed, that has nothing to do with business of the state. We are starting with this fundamental principle that we are all citizens and equal citizens on one State."

"The Constitution of Pakistan has yet to be framed by the Pakistan Constituent Assembly. I do not know what the ultimate shape of this constitution is going to be but I am sure that it will be a democratic type, embodied the essential principles of Islam... in any case."

The demand for Pakistan therefor meant to establishment of a society which was sovereign with coercive authority and sanctions to implements of the laws of Islam. It also aimed to providing a social structure based on Islamic values to the Muslims to organize and conduct their lives according to the principles of Islam.

### **The Islamic provisions of the successive constitutions**

The definition of religious jurisdiction is not unique to Pakistan. In Britain, the mother of parliaments, the constitutions of Clarendon (1641), set the limits of civil and ecclesiastical (church) jurisdictions. The king or queen is designated Defender of the Faith. Originally, Defender meant the Defender of the Roman Catholic Church and after King Henry VIII, the British sovereign became the Defender of the Church of England.

This example has been given to show that the original intent of the founder is capable of being altered. Taking the statements of Jinnah together, we can reach the conclusion that he expected secular principles to devolve from Islamic values. Such a concept needs adjustment. However, as much as we deplore the induction of religion as a coercive force, we must acknowledge that the demographic composition kept the door open for Islamization.

The Objectives Resolution was passed by the constituent assembly on march, 1949. It served as a preamble to the constitutions of 1956, 1962, and 1973 and has proved to

be the most resilient document in the constitutional history of Pakistan.

### **Objectives Resolution 1949**

1. The sovereignty over the entire universe belongs to Allah Almighty alone and the authority which He has delegated to the State of Pakistan through its people for being exercised within the limits prescribed by Him is a sacred trust,"
2. The principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam shall be fully observed.
3. Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teaching and requirements of Islam as set out in the Holy Qur'an and Sunna."
4. The basic law of Pakistan is the Shariah of Islam.
5. The most outstanding and novel feature of the Objectives Resolution was that it sought the fundamental principles of the new public ideology, character and form. Islam was adopted as its ideological foundation.
6. Federalism was adopted as it was recognized as its very basis of the Lahore Resolution of March 1940. The form of the government was to be based on the British parliamentary model with a Prime Minister and a responsible Cabinet.
7. Fundamental rights shall to be guaranteed, the rights of minorities were to be safeguarded.
8. Wherein the independence of judiciary shall to be fully secured.

### **Islamic Provisions of the 1956 Constitution**

1. The name **Islamic Republic of Pakistan** was selected for the state of Pakistan.
2. The objective resolution 1949 was adopted as a preamble indicating State policy.
3. According to the directive principles, steps were to be taken to enable the Muslims of Pakistan individually and collectively to order their lives in accordance with the Holy Quran and Sunnah.
4. Teaching of Holy Quran was to be made compulsory for Muslims.
5. Article 24 of the constitution obliged Pakistan to maintain friendly relations with Muslim countries.
6. No law repugnant to Islam was to be passed. Existing laws (inherited from the British) would also be examined with a view to make them conform to Islamic laws.
7. The government was required, under Article 197 to set up an Islamic Research Institute to examine laws. During the period the 1956 constitution remained in force, such an institute was not set up.
8. Only a Muslim could be qualified for election as president.
9. The President should set up an organization for Islamic research and instruction in advance studies to assist in the reconstruction of Muslims society on a truly Islamic basis.
10. Slavery and the forced labor were prohibited.
11. The State should endeavor to strengthen the bonds of unity among Muslim countries.

### **Islamic Provision of the Constitution 1962**

1. The preamble of the constitution 1962 was also based on the Objective Resolution.

2. The new constitution laid down simply that the state of Pakistan shall be a republic under the name of the “Republic of Pakistan”. The word Islamic was added after the first amendment in the constitution was made in 1963.
3. According to the directive principles, steps were to be taken to enable the Muslims of Pakistan individually and collectively to order their lives in accordance with the fundamental principles and basic concept of Islam. (Holy Quran and Sunnah).
4. Proper organization of Zakat, O’akaf and mosques was ensured.
5. Practical steps were taken to eradicate social evils such as the use of alcohol, narcotic drugs, gambling etc.
6. Under the amendment in the 1956 provision of bringing existing laws in conformity with Islam was restored.
7. And Islamic Advisory council was to be set up consisting of no less than five and more than twelve members. It was not binding.
8. Only a Muslim could be qualified for election as president.
9. The State should endeavor to strengthen the bonds of unity among Muslim countries.

#### **Islamic Provision in the Constitution 1973**

1. The first para of the preamble proclaims that the sovereignty over the entire universe belongs to Allah Almighty alone and the authority to be exercised by the people of Pakistan within the limits prescribed by Him is a sacred trust.
2. Like in the former Constitutions name ‘Islam Republic of Pakistan is selected for the state of Pakistan.
3. Islam is declared as the state religion of Pakistan.
4. Steps shall be taken to enable the Muslims of Pakistan, individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam.
5. Steps shall be taken to make the teaching of the Holy Quran and Islamiat compulsory, to encourage and facilitate the learning of Arabic language and to secure correct and exact printing and publishing of the Holy Quran.
6. Proper organization of Zakat, Wakfs and Mosque are ensured.
7. Only a Muslim could be qualified for the election as President.
8. The Prime Minister must be a Muslim.
9. Provision relating to the Holy Quran and Sunnah: All existing laws shall be brought in conformity with the injunctions of Islam as laid down in the Holy Quran and Sunnah and no law shall be enacted which is repugnant to such injunctions.
10. A council of Islamic Ideology shall be constituted referred to as the Islamic Council. The functions of the Islamic council shall be to make recommendations to Parliament and the Provincial Assemblies about the ways and means of enabling and encouraging the Muslims of Pakistan to order their lives in accordance with the principles of Islam.
11. The President or the Governor of a Province may, or if two-fifths of its total membership so requires, a House or a Provincial assembly shall, refer to the Islamic Council for advice on any question as to whether a proposed law is or is not repugnant to the injunctions of Islam.

12. For the first time, the Constitution of 1973 gave definition of a Muslim which states: ‘Muslim’ means a person who believes in the unity and oneness of Almighty Allah, in the absolute and unqualified finality of the prophet hood of Mohammad (peace be upon him) the last of the prophets, and does not believe in, or recognize as a prophet or religious performer, any person who claimed or claims to be a prophet, in any sense of the word or of any description whatsoever, after Mohammad (peace be upon him).
13. The second Amendment (w.e.f. 17 September 1974) of 1973 Constitution declared the Qadiani group or the Lahori Group (who call themselves ‘Ahmedis’ or by any other name) as non-Muslim minority.
14. The state shall endeavor strengthen the bonds of unity among Muslim countries. The framing of the existing constitution was reflective of a desire to Islamize the government and society. Islamization is called the destiny of Pakistan, and indeed it is a natural and noble goal. However, we must be vigilant against those versions which are not in accordance with the beneficial spirit of Islam.

#### **Efforts of Zia’s Islamization, policies and its consequences**

One of the primary impairments to the making of the constitution was the controversy over the role of Islam in the collective lives of its people. The 1973 Constitution had more Islamic provisions than the former constitutions; it was the first constitution to declare that Islam was the state religion, but this did not pacify the ulema. Instead, a movement for complete Islamization of the legal system was started. After taking suggestions from Ulema Pakistan National Alliance (PNA) campaign in 1977, Bhutto put ban drinking, gambling, closed down Night clubs for the first time in the history of Pakistan and from 1<sup>st</sup> July 1977, the weekly holiday was declared from Sunday to Friday He also formed Islamic ideology council in the process of Islamization. He assumed that under these conditions implementation of Islamic laws would not take longer than seven months. But PNA turned deaf ear to his measures and continued their movement which led the country to a disaster and Chief of the Army Staff General Zia-ul-Haq declared Martial Law, arrested all politicians and took further steps towards Islamization.

- i) The first measure was to introduce separate electorates for minorities. In British India, Muslims obtained separate electorates because of their demand. In Pakistan, minorities had consistently opposed separate electorates. It was finally rescinded by General Pervez Musharraf in the seventeenth amendment which was enacted on 29 December 2003.
- ii) Zakat and Usher were introduced on 21 June 1980, to help the needy people. The basic aim of this law was the introduction of Islamic economic system in the country
- iii) Interest-free banking and interest-free insurance on 1 January 1981, was introduced in Pakistan to Islamize the economic system. Interest had been eliminated and profit or loss sharing system was introduced. Accordingly, the account holder shares the profit or loss with the bank at the end of the year. This partnership technically called Mudarba which form the conceptual basis of interest-free banking. However, the old system of

- interest in banking system is also at work.
- iv) General Zia promulgated Hudood ordinance in the country in 1979. The Islamic punishments (Hudood in Arabic) technically known as Hudood were prescribed distinctly. For only four kinds of offences namely drinking, adultery (Zina), theft and false allegation of adultery (Qazf).
  - v) The Council of Islamic Ideology was re-established in June 1981 and it was entrusted with the task of examining all aspects of Islamization of laws and society. Its strength of the members was increased to 19. All school of thoughts were included in the council.
  - vi) In December 1977, a Federal Advisory Council (Majlis-e-shoora) was also established to help the Government in accelerating the pace of Islamization.
  - vii) A Federal and four provincial ombudsmen (Mohtasib) were appointed apart from probing charges of corruption; the ombudsmen could issue directives to government functionaries, if they felt that a decision was unwarranted. Usually, retired members of the higher judiciary were appointed to this post.
  - viii) A Shariah Appeal Bench was set up. Composed of both ulema and lawyers. Any decision of the Shariah Appeal Bench could not be challenged in the Supreme Court or High Courts.
  - ix) The Islamic Research Institute was rejuvenated, and its task of conduction research was enhanced.
  - x) A faculty of Shariah was introduced in Quaid-i-Azam University Islamabad also has a large faculty of Shariah.
  - xi) Under educational reforms of 1979, the teaching of Islamic studies and Pakistan Studies were made compulsory for all over the country till the graduation level, central superior services examinations and in the training courses of police establishment. Some constitutional aspects of Islamization are covered in this research paper on Human rights. It must be acknowledged that Islamization is a noble purpose. If it is carried out with honest intent, it would result in moral uplift of society.

### **Conclusion**

The creation of Pakistan is based on Islamic ideology which means Pakistan is to be a great citadel of Islam to provide guidance and leadership to the entire Islamic world. The main objective of Islam is rescuing the mankind from the yoke of slavery and bring it under the eternal subservience of God Almighty. This was the spirit which motivated the revival movements of Islam in India and also started the freedom movement demanding the establishment of Pakistan as a sovereign state.

Nevertheless after 1947 to 1960 there have been no significance and sincere endeavors by any of the subsequent regimes to put Pakistan on the path of Islam as was envisioned by the founder of Pakistan. The predecessor of the constitution 1962 contained only preamble references of Islam and it provided with the facilities whereby they may be enabling to understand the meaning of life according to Islamic principles and concepts. There was no provision making Islam the religion of Pakistan. Later on, by the amendment it was passed that all fundamental laws should

be brought into conservatism with the Holy Quran and Sunnah. The Islamic research institute provided in 1956 constitution was retained Pakistan was to be known as 'Republic of Pakistan' the adjective 'Islam' was at first omitted but later on reinstated by the National Assembly.

The 1973 Constitution declared Pakistan as an Islamic Republic and Islam as the state religion. Objective's resolution became the part of the constitution the sovereignty over the entire universe belongs to Allah Almighty alone. Constitution provided the ways for the Muslims to order their lives individually and collectively in all respects in accordance with the teachings of Islam. In order to settle future laws with Islamic laws, the council of Islamic ideology and for Islamizing the existing laws and its functioning Federal Shariah court were established. Several provisions of Shariah laws have also been incorporated into the criminal code. The Federal court of Shariah and the section of the Shariah of the Supreme Court serve as appeals courts for certain sentences in criminal courts, in accordance with the Hudood Ordinances. The Federal Court is authorized to give decision in order to declare any law of the country as nullified if the law is found and proved to be against the spirit of Islam. Federal Advisory Council was established to help the Government in accelerating the pace of the enforcement of Islam and to recommend measures, the implementation of which might help in fulfilling the expectations of the people about the introduction of Islamic policy. Even in Educational policy of Pakistan Arabic language and Arabic teaching was encouraged as it is very essential to understand our religion (Islam) better. General Zia effort for Islamization of Islamic laws did not bear fruit at all. He used the state power, state machinery and gave concessions in total contravention of laws of the land to mobilize a group of yes men could cheat the nation and could keep him propped up.

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- <sup>17</sup>Haqqānī, Husain (2005). *Pakistan: between mosque and military*. Washington: Carnegie Endowment for International Peace. p. 131. ISBN 978-0-87003-214-1. 23 May 2010. Zia ul-Haq is often identified as the person most responsible for turning Pakistan into a global center for political Islam. Undoubtedly, Zia went farthest in defining Pakistan as an Islamic state, and he nurtured the jihadist ideology.
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