

The Islamization of Pakistan's First Constitution: The Role of Jamaat-e-Islami

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Abstract

This paper examines Jamaat-e-Islami's struggle for the Islamization of the first constitution of Pakistan. Islamization remains the dominant ideology of the state, for only the Islamists, led by the Jamaat-e-Islami, can provide the intellectual backdrop for Islamization of first constitution of Pakistan. It originated, in pre-partitioned India as representative of Islamic revivalist movement in the sub-continent. It wanted to unite the Muslims of the sub-continent. It wanted to practice, present and preach Islam with peaceful, logical and with modern approach in the dramatically changing international political order. The time was crucial for Muslims, and the resources were scarce but the organized and persistent efforts of the members of the movement, it had a considerable following in the sub-continent. With the creation of Pakistan, Muslim League realized the dream of Pakistan but after the departure of Quaid it remained unable to set new ideals and goals. It demonstrated resilience and emerged within an ideological vacant society.

Key Words: Islamization, Constitution, State, Society, Pakistan, Political Parties.

Introduction

Indian history is evident of the fact that Muslims demanded Islamic life in the society. It was this demand which led the Muslims of the sub-continent to demand a separate homeland for them. The creation of Pakistan gave more acceleration to this demand. The legislators at that time felt the gravity of the situation. At the very beginning, the body set for the constitution making (the first constituent assembly) started deliberation to make a new constitution for Pakistan to keep in view the country's religious, social and political conditions and proceed with it judiciously. After the creation of Pakistan, the question raised about the nature of the state. Was it an end or was it a means for achieving a greater end? This question consumed much of the time of the Constituent Assembly. The stand of Jamaat was that it was not an end rather a source for the achievement of a greater end. They further said that the creation did not solve the problem of Muslim identity as a separate nation. It was the beginning of a decade long quest and debate over what the Islamic character would be. For those who were modern in their thinking and lifestyle Pakistan was only a country for the Muslims of the sub-continent. While for the religious people of Pakistan it was an ideological Islamic state.¹

¹ Anita M. Weiss, ed, *Islamic Reassertion in Pakistan*, (Lahore: Vanguard Books (pvt) Ltd., 1987), p.ix

Sources of Islamic Constitution

There are four sources of the unwritten Islamic Constitution: -

“Written constitution” means documents wherein all the basic principles of state organization have been reduced to writing and which is accepted as the only authoritative document for this purpose. When a country does not possess a constitution written in the form of such a document, it is said to have an unwritten constitution even though all the constitutional laws and practices which go to constitute the unwritten constitution of that country may not be present in black and white.

1. **The Qur'an:** It is the first and the primary source, containing as it does, all the fundamental directives and instructions from God Himself. These directives and injunctions cover the entire gamut of man's existence. Herein are to be found not only directives related to individual conduct but also principles regulating all aspects of the social and cultural life of man. It has also been clearly shown therein as to why Muslims should endeavor to create and establish a state of their own.
2. **The Sunnah:** This is the second source. It shows the way in which the Holy Prophet (Peace be upon him) translated the ideology of Islam in the light of Quranic guidance into practical shape, developed it into a positive social order and finally elevated it to a full-fledged Islamic State. These things we can know from the Sunnah and Sunnah alone. It will also guide us how to ascertain the precise sense, purport and meaning of the Quranic directives. In other words, the Sunnah is the practical application of the Quranic principles to the various problems of life. Therefore, it contains invaluable precedents and very important material relating to the constitutional practices and conventions.
3. **The Conventions Khilafat-e-Rashidah:** These conventions constitute the third source of Islamic Constitution. How the right-guided Caliphs managed the Islamic State after the passing away of the Holy Prophet (peace is upon him) is preserved in the books of Hadith, history and biography which are replete with glittering precedents of that golden era. It has been accepted in Islam, from the very beginning, that interpretations of the Qur'an and the Sunnah having the unanimous approval of all the Companions (technically known as Ijma') and the decisions of the Caliphs relating to constitutional and judicial problems on any matter is tantamount to an authoritative exposition of the law. Where there has been a difference of opinion among the opinions, there is sufficient proof of the fact that two or even more interpretations are possible and any one of them can be preferred to the other based on sound reasoning. But where is a consensus among them that shows that one and only one interpretation or decision is the correct and authoritative one. The reason being that as the Companions were the direct disciples of the Holy Prophet (peace be upon him) and were trained by him personally, it is simply unthinkable that even all of them combined failed to grasp the real purport of the Prophet's teachings or could be unanimous in giving a decision against the real spirit of Islam.
4. **The Rulings of Great Jurists:** These rulings, which comprise the fourth source, are the decisions of top-ranking jurists regarding various constitutional problems of their times. They may not be conclusive on this subject, yet it cannot be gainsaid that they contain fundamentally the best guidance for a proper understanding of the spirit and principles of Islamic Constitution.

In Pakistan Jamaat-e-Islami played central part in raising the issue of an Islamic constitution for Pakistan. An Islamic constitution became the central goal of Jamaat soon after the emergence of Pakistan. Maulana Maudoodi. He says,

“The real objective behind the creation of Pakistan was the establishment of a country wherein the Islamic ideology could be implemented in its entirety. The support and the sacrifice of the people were meant for this objective and for nothing else.”²

First Constitutional Assembly and Constitution Making Process

In the contemporary political system, constitution making is the major priority of a state. It specifies not only the mechanism and structure of a government; it is also the function of providing rules and principles of a state. The constituent assembly which was supposed to serve as constituent assembly was elected in 1945-46, with the purpose for the formation of constitution. Its inaugural session of Constituent Assembly was summoned at Karachi, which lasted from 10 August 10 to 14 August, 1947. The assembly was assigned two main functions, firstly to act as central legislature and secondly to design a constitution for the newborn country.³ The major political party of Pakistan's parliament was Muslim league. At this stage, there was no organized opposition in parliament but there existed critics inside the party. The foremost among them was Maulana Shabir Ahmad Uthmani who died at the end of 1949.⁴ There was a tug of war between the modernist and traditionalists to mold the country according to their mental condition. The statements of the founding father of the nation were varyingly interpreted by modernists and Ulama according to their own views and understanding. Those with modern mind urged that that Quaid wished it to be a state of Muslims. On December 25, 1956, at event of the celebration of birthday of the founding father of the nation, Hussain Shaheed Suhrawardy, the then Prime Minister of Pakistan, stated that the former never supported Two Nation Theory. It was used only for the actualization of Pakistan but after independence, he supported the concept of one nation for the people of Pakistan.⁵ But the thorough study of Quaid's life reveals that he was a devoted Muslim and sincere with his principles. His clear vision about everything involved in the creation of Pakistan did not support this idea. He was a man of principles so much that he never used anything for achieving any objective, which according to him was not right. There are many examples in his life that he even did not exploit opportunity or sensitivity of anything for his personal goals. Suhrawardi said that he could not find even a single example from Quaid's life. While traditionalists interpreted that he wanted an Islamic state. In a letter to Pir of Manki Sharif in 1945, he writes, “it is needless to emphasize that the constituent assembly which would be predominantly Muslim in its composition would be able to enact laws for the Muslims, not inconsistent with the Shariat law and Muslims will no longer be obliged by un-Islamic laws.”⁶ After the creation of Pakistan, he assured the people of Pakistan about the Islamic constitution “will be democratic type embodying the essential principles of Islam.”⁷ Liaquat Ali Khan also expressed the same views while speaking on Objective Resolution in the Constituent Assembly. According to him, the purpose of the creation of Pakistan was to

² Sayyed Abul Ala Maudoodi, *Islamic Law and Constitution* 7th ed. (Lahore: Islamic Publication Ltd 1980), pp. 11,16

³ G.W. Choudhry, *Constitutional Development in Pakistan* 2nd ed, (London: Longman. 1969), p.19

⁴ . Ibid, p. 20

⁵ Khalid B. Sayeed, *The Jama' at-i-Islami Movement in Pakistan*, Pacific Affairs, Vol. 30, No. 1 (Mar. 1957), pp. 59-68 Published by: Pacific Affairs, University of British Columbia

⁶ . Mahfuzul Haq, *Some Reflections on Islam and Constitution-Making in Pakistan: 1947-56*, Islamic Studies, Vol. 5, No. 2 (JUNE 1966), pp. 209-220 Published by: Islamic Research Institute, International Islamic University, Islamabad

⁷ Ibid,

enable the Muslims of India to live their lives according to the teachings of Islam.⁸ Ulama remained very active and deliberate to mold the country into an Islamic state. From the eve of independence, they demanded Shariah as the major law of the land. It was due to this reason that all the three constitutions of the land were injected with Islamic provisions to prevent the system to become repugnant to Islam.⁹

Objectives Resolution

The place of Islam in constitution caused delay in the process of constitution making in the country. Till 1949, the constitution making body of the country remained unable to produce a unanimous bill of constitution. It was On March 12, 1949, that Objective Resolution was unanimously approved by the assembly with the aim and objective of the constitution. It provided an outline and foundation for constitution making in the country. The day objective resolution was considered as a milestone in building of a new Muslim nation and state of Pakistan the next step was the creation of Pakistan, which added to the construction of nation with reference to Islam.¹⁰ The approval of the resolution proved that government had yielded to the demands made by Ulama. It is considered as a great achievement of the contemporary Ulama of Pakistan. The most dominating attribute was its setting the ideal of Islam as the main and the foremost ideal for the existence of the state. The resolution made it clear that the only sovereign authority is that of God and declared unambiguous the authority of Allah on the entire universe.¹¹ According to Maulana Maududi's democratic thoughts, these are the four sources of our constitution. Whenever we have to reduce the Constitution of an Islamic State into writing we shall have to collect relevant material from all of them, in the same way as the people of England, were inclined to reduce their constitution into writing, had to refer to their Common Law, their constitutional conventions, various statutory provisions and infer a number of points from the judgments of their courts relating to constitutional problems. The constitutional assembly set to frame a new constitution for Pakistan based on socio-political and religious purposes. The religious and political thoughts of Maulana Maududi was one of the main ideological contending for supremacy in Modern Pakistan.¹² In February 1949 Jamaat-e-Islami launched a campaign in favor of a four-point agenda. With the help of this vast public movement, the Jamaat-e-Islami compelled the government to fulfill this four-point demand. As a result, on March 16, 1949, the government passed that objective resolution in which the sovereignty of ALLAH has been clearly announced, representing the national and public aspirations of the peoples of Pakistan, in such a way that it has been considered as an integral part of the constitution. Despite of various making and breaking attempts of constitution, every constitution has included this objective resolution as a startup as it is.

Regarding the struggle and role of Syed Modudi and Jamaat-e-Islami in passing the objective resolution Leonard Binder wrote: The religious scholars came to know that the sovereignty belongs to God and HIS will is the law. To Maududi must go the credit for first demonstrating an understanding of the possibilities of this unhappy bit of western terminology? It was Maududi's fourth demand that specified the limitations limitations of the vaguest sort, were for the ulama the

⁸ G. W. Choudhury, Constitution-Making Dilemmas in Pakistan, The Western Political Quarterly, Vol. 8, No. 4 (Dec.1955), pp. 589-600 Published by: University of Utah on behalf of the Western Political Science Association Stable

⁹ Rubya Mehdi, The Islmization of the Law in Pakistan, (Richmond: Cruzon Press Ltd., 1994), p.25 11

¹⁰ G.W. Choudhry, *Constitutional Development in Pakistan* 2nd ed, (London: Longman. 1969), p.35

¹¹ Ibid,

¹² <http://www.szic.pk/journal/DEC2013/6.pdf> (Accessed on 11 January 2016)

explicit duties to rule in accordance with the elaborate system of law built up about the Qur'an and Sunnah of the Prophet. Maulana Shabir Ahmad Usmani also proposed basic principles for an Islamic state of Pakistan in which the Maududi's thinking was reflected. Jamaat-e-Islami held an intellectual and academic impression, and it played an important role in the discussion of Islamic constitution. It had influenced the Ulama and modern sects like secular politicians by its working and propaganda and convinced them to accept its demands. The approval of objectives resolution was a great victory of jamaat-e-Islami, and it had long term effects on the national politics and Islamic movement. That's why Syed Maududi said that it is a revolutionary point for Islamic movement:

"Now this Islamic state has become very different legal (religious) status as compared to the previous no Muslim state. The mission of Muslim nation and Pakistani state has been clearly specified, and it has taken a solemn constitutional form. The estate of Pakistan has been legally converted to Islamic state, and its job is legal now and its laws are temporarily acceptable. It is legal to consult its court and participation in the parliamentary and assembly elections, in any status, is legal now. After this constitutional variation Jamaat has decided to make a change in its policy that in future Jamaat will take part in the country's elections to make this country a complete Dar-us-Salam by constitutional ways. It was an important revolutionary point in history of our movement that has opened another path as compared to the previously adopted path."¹³

Four Points of Maulana Maududi

As most people in Pakistan strongly believe in Islam and the struggle for Pakistan was focused on the realization of an Islamic life in the society. It was an organized effort with sacrifices and sufferings which aimed to make Islam identity of the people of the sub-continent. The founder of Jamaat-e-Islami demanded four points to be included in the constitutional foundations of the country:

1. Sovereignty belongs to God, and the government of the country shall be an agent for the implementation of God's will.
2. Shariah of Islam will be final source of all the law-making process.
3. The contemporary and legislation for the future should not be repugnant to the principles of Islam.
4. The government of the country will exercise its power within the limits prescribed by the Shariah.¹⁴

Muslim league government reluctantly swallowed the bitter pill of passing the Objectives Resolution, but it was reluctant to develop a constitution in accordance with that resolution. Government was delaying the development of the constitution by making some layman excuses. When they came up with some the constitutional recommendations those were very disappointing with respect to Islamic and democratic aspects. Nation rejected these recommendations and threw them in the trash; hence the constitutional matter was delayed again. The intellectuals of the country pressurized the government to make the constitution based on national aspirations, but government paid no attention to these demands. In response to this negligence from the government Syed Maududi wrote the editorial in his monthly digest Tarjuman-ul-Qur'an and said:

"The government was continuously chanting Islam and Islam, but they selected the hypocrites

¹³ Ch. Abdur Rahman Abd, *Mufakkar-e-Islam: Sayyed Abul A'la Maududi* (Lahore: Islamic Publications Ltd., 1988) p.p. 239-241

¹⁴ Sayyed Abul A'la Maududi, *The Islamic Law and Constitution*, ed. Khurshid Ahmed. (Lahore: Islamic Publication Ltd., 1975) p.p. 24-25

throughout the country to create confusions about Islam, its constitution and Islamic laws. Government paid these people to write and publish the articles against the Islamic government in favor of a secular government. The government has fully supported every person who can bring out the religious difference of different sects of Islam and snooker the establishment of Islamic state. Even the government has not hesitated to use the old and notorious communists against Islam. If anyone wanted to grab a privilege in the government, he stood up and started challenging the Islamic constitution and after that in very few days we got to hear that he has been awarded a very big salary or a very high position in the government business." One of the advocates in Sindh started fighting with Ulama by publishing a poster in the newspaper with the text "if a person proves that the Qur'an has an Islamic constitution then he will be awarded 5000 rupees". After that the league's government exalted A. K. Barohi and made him Minister of Law in the central government. Syed Maududi wrote the book "Basis of Islamic Constitution" اسلامی دستور کی بنیادیں in which he mentioned that Islamic constitution is non-written constitution and non-written constitution is not an astonishing thing. Till the 18th century all the governments in the world were working under the non-written constitutions. Even the constitution of Britain is still in the non-written form and is based on norms and values of Britain, laws and decisions of Britain assembly and decisions of its courts. Similarly, the Islamic constitution does not exist in an arranged, documented and written form. To bring it into a written form we must consult Qur'an, Sunnah, Khilafat-e-Rahidah, its actions and the decisions of Islamic Mujtahideen. On November 24, 1952, Syed Maududi addressed the Bar Association Karachi and delivered a detailed speech on the topic of "Development of Islamic Constitution" (اسلامی دستور کی تدوین) and thus completely and clearly responded to the challenge of A. K. Barohi. As a result of this reply to A. K. Barohi presented the Islamic articles of constitution in the constituent assembly in 1954, and the assembly passed them. Syed Maududi not only won the heart and mind of A. K. Barohi but also Barohi hailed Syed Maududi, his action and his movement. On November 28, 1964, in Shah Bagh hotel Dhaka he expressed about the revolution brought by Syed Maududi and said:

"I am not the worker of Jamaat-e-Islami but still I am one of the devotees of Maulana Maududi. What he did has never been done by any other party in this country. He prepared a team of such workers that works only for the principles. They are unselfish and strictly follow moral values and principles. This team does not believe in apparel victory or loss, rather they give importance to following principles. This is the work for which the nation should be thankful to Maulana Maududi. In my opinion this is the biggest ever achievement and magnificent victory of Maulana Maududi." Syed Maududi defeated the opponents of Islamic constitution not only at the intellectual level but also in the practical field as well. He started a public movement for Islamic constitution to build a public opinion for Islamic constitution. He started to address in public gatherings throughout Pakistan started from Aram Bagh Karachi on May 5, 1952. He summed up the 22 principles presented by Ulama and prepared an eight-point demand and used this demand as a center of this movement. This eight-point demand was presented by thousands of JI workers to millions of people in each city and village of the country. They got signatures of people of Pakistan and then stitched them up as a scroll and sent it to the constituent assembly with a demand that the country demands an Islamic constitution that should be based upon these principles. Thousands of people sent telegrams to constituent assembly that we would only accept the Islamic constitutions. This movement gave the public an understanding of Islamic constitution and made them stand up for it

at one side and shook the rulers at the other side. It was difficult for the rulers to ignore the public pressure.¹⁵

Twenty-Two Points of Ulama

Though the Ulama had differences on the interpretation of Islamic Laws but were unanimous on the resolution, despite their differences on the interpretation of Islamic laws, were clear and united about religious orientation of the constitution. It was to the credit of Ulama that the assembly was able to produce a unanimous Islamic constitution. The so-called liberals tried for the creation of differences among the various schools of thoughts but remained unable to disunite them on the demand of an Islamic constitution. Jamaat-e-Islami further explained and interpreted the constitution in their publications from different angles. Maulana Ashraf Ali Thanvi and Sayyed Suliman Nadvi spoke to masses in multitude to make them aware and conscious about the objective of the state and its existence. Their opponents had no choice other than to yield to the demands of Ulama and accept their viewpoint. However, they tried their best to devalue the role of religion in the politics of Pakistan and make it a secular one.¹⁶ The proposals of Ulama and Jamaat-e-Islami made the liberals remain defensive. However, throughout the constitution making process the two remained hesitant to come to a unanimous conclusion regarding state structure and its nature. The secular wanted a west minister democracy while the religious for the establishment the restoration of the Caliphate.¹⁷

Eight Points Of Maulana Maududi

The unending delay in constitution making process made public suspicious and impatient about the design and intentions of political leaders. It was due to this unending delay in the process that made, Maulana Maududi, started his struggle, in May 1952, to articulate the sentiments of the Muslims of Pakistan. He demanded that the constitution should be finalized by the constitutionmakers up to end of 1952. It will be guided by the eight points:

1. Shariah shall be the governing law of the land.
2. Any kind of legislation shall not be repugnant to the basic principles of the Islamic code of conduct.
3. All laws which shall be deemed repugnant to Islam must be annulled.
4. It shall be imperative upon the State to root out the evil which Islam prohibits and encourage the good deeds which Islam want to implement.
5. The fundamental rights that are rights to freedom of association, right to property and rights to life should be secured. Except in the case of crime.
6. The masses will have the right to go to court if they are misbehaved by the legislature or the executive body of the state.
7. The executive will have no right to interfere in the power and functions of the judiciary.
8. It shall be the responsibility of the state to provide the necessities of life like education, health, shelter, food and cloth.¹⁸

¹⁵ Ch. Abdur Rahman Abd, *Mufakkar-e-Islam: Sayyed Abul A'la Maududi* (Lahore: Islamic Publications Ltd., 1988) p.p. 253-256

¹⁶ Muhammad Iqbal, *The Role of Ulama in Constitution Making Process of Pakistan*, (M.A thesis Pakistan Study Centre University of Peshawar, 2009), p.45

¹⁷ Mahfuzul Haq, *Some Reflections on Islam and Constitution-Making in Pakistan: 1947-56*, Islamic Studies, Vol. 5, No. 2 (JUNE 1966), p. 209

¹⁸ Sayyed Abul A'la Maududi, *The Islamic Law and Constitution*, ed. Khurshid Ahmed. (Lahore: Islamic Publication Ltd., 1975) p. 27

Second Report of Basic Principles Committee

Liaqat Ali Khan died in 1951. He was replaced by Khwaja Nazimuddin. He tried to get the support of Ulama by showing his inclination towards them. In leadership the 2nd draft of the constitutional formation on 22 December 1952, but this draft was severely criticized by the religious scholars of the country. Ulama. The daily, Pakistan Times, writes in its editorial on January 11, 1953, that the draft was based on an ambiguous mixture of obscured constitutional ideas and concepts which seemed failed to provide an ideological framework suitable to the special conditions of Pakistan.¹⁹ Maulana Maududi headed the Ulama convention from January 11 to 18, 1953. He proposed amendments to the reports. The reaction of Ulama was that they showed their dissatisfaction. They aimed to make the constitution in the light of Islam and its principals that are Quran and Sunnah. Islam should not be minimized to a contributing factor only.²⁰ Then there came the 2nd draft of the constitution which included most of the recommendations of the eight points forwarded by Maududi. But all the demands were not incorporated in the draft. Ulama held a convention, which included religious scholars of all schools of thought, and decided to accept the report unanimously with certain amendments.²¹

According to the “Directive Principles of State Policy” they stressed on the compulsory teaching of Quran and Sunnah. The evils of prostitution, gambling, should be eradicated according to the principles of Islam and its social justice. The state will provide the necessities of life such as food, shelter, water, and education to all citizens of Pakistan regardless of caste, creed, or religious background.²² Regarding the formation of un-Islamic laws in the assembly the Ulama not only incorporated the clause that there should be no legislation repugnant to Holy Quran and Sunnah but also made it evident that Quran and the Sunnah will be the main sources to guide the law of the country.”²³ Regarding the qualification of the members of the assembly, the Ulama of the country asked that the member should be an observer of the Faraiz or the obligatory things and should avoid Fawahish or Sinful deeds in their daily life. The non-Muslim assembly members were not subject to these requirements of qualification. The judges of state were suggested to be appointed to the responsible offices on the basis Taqwa or piety and on the knowledge of Shariah.²⁴ Ulama were also of the view that the division of Pakistan should be only for administrative convenience it should not be based on tribal, linguistic and racial bases. All the narrow prejudicial discriminations should be discouraged to make it unanimous, integrated and brotherly with the universal spirit of Islam.²⁵ We can see 3 things in all this discussion, firstly, they were mild in their stance; secondly, they did not want to make the country Islamic only by name rather they wanted to make it Islamic in spirit and a model Islamic state. And finally, they did not only want to get the reign of the government or rule even they were ready to accept the government of the modernist if

¹⁹ Dr. Muhammad Shafique, *Islamic Concept of a Modern State* (Gujarat: The Center for Islamic Research 1987) p. 111

²⁰ Maududi, *The Islamic Law and Constitution*, p. 30

²¹ Shafique, *Islamic Concept of a Modern State*, p 124

²² Ibid,

²³ Ibid,

²⁴ Ibid,

²⁵ Ibid,

they were ready to follow the principles of Islam. The course of time dawned upon the Ulama that the modernist elite is not going to implement Islam in the country. Though they talked about Islam, but they have little regard for it to be implemented in their practical life. They were convinced that a state based on the Islamic principles can be actualized with the help of devoted workers to the cause of Islam. According to Maulana Maududi:

“You should not be unaware of the fact that a particular type of revaluation needs the same type of movement, leaders and workers, and the same type of social conscious and cultural and moral atmosphere.”²⁶ Maulana Maududi illustrated it in the example that the tree of an orange will give orange and not mangoes. If the people want an Islamic Pakistan, they should give their vote to the person who has the required knowledge. He explained further that to expect Islamic law making from the secular is like to have mangoes from orange tree.²⁷

Muhammad Ali Bogra Formula

Muhammad Ali Bogra was made the prime minister of Pakistan after the dismissal of Nazimuddin. The third draft of the constitution was presented, in September 1953, from the assembly. The draft was given the name of “Bogra Formula.” It was similar in flavor regarding its Islamic nature to the second draft. Islam was kept in the directive principles of Policy, and no steps were suggested to materialize this policy. Though the demands of Ulama were not fully filed yet they were given approval with satisfaction to the report. Jamiat-ul-Ulama Islam and Jamaat-e-Islami approved the draft and celebrated October 22, 1954, as the Constitution Day of Pakistan.²⁸ Islamic nature of the constitution was not altered in the formula in both wings of Pakistan. Therefore, the Islamic section of the society of Pakistan, called the amended BRC report as an Islamic one, on October 12, 1954. Jamaat-i-Islami termed “the proposed constitution of Pakistan was to a very great extent Islamic in character” and made demands for its implementation. Mufti Muhammad Shafi declared that the people of Pakistan should celebrate October 22, Islamic Constitution Day on October 22, and demanded implementation of the draft of the constitution.²⁹ The report was incorporated with the recommendations of the Board of Talimat-e-Islami.

Second Constituent Assembly

The assembly aimed at constitution assembly was about to give final shape to the work of making the constitution. Bill was ready to become a law just the formal approval was needed. In the meantime on October 24, 1954, Ghulam Muhammad, the then Governor General of Pakistan, dismissed the constituent assembly with the argument that the constitution making body at the present has no confidence of the masses of the country and is unable to function any longer.³⁰ The Ulama and Maulana Maududi collectively utilized the sentiments of the public of Pakistan to incorporate provisions of Islamic character in the constitution. However, these efforts were suspended for the time being with the dissolution of the Constituent Assembly.³¹

²⁶ Ibid, p.125

²⁷ Ibid,

²⁸ Afzal Iqbal, *Islamisation of Pakistan*, (Lahore Vanguard Books Ltd 1986), p.61

²⁹ G.W. Choudhry, *Constitutional Development in Pakistan* 2nd ed, (London: Longman. 1969), p.82

³⁰ Shafique, *Islamic Concept of a Modern State*, p. 112.

³¹ Amanullah, Sayyed Maudoodi- A Profile, (M.A thesis Pakistan Study Centre University of Peshawar, 1983), p.5

According to Binder, “The Assembly was dissolved, and the draft constitution was discarded along with the agreed formula for safeguarding the Islamic law in Pakistan.”³² Installation of the second Constituent Assembly was made in January 1955, by the then Governor General. Its first meeting was called Murree, on July 7, 1955, which produced the 4th bill and forwarded it in January 1956. The bill was approved by the constitution making body with some Amendments and alterations as well as by the governor general. It became law on 23 March 1956. There was but a little difference between it and the previous draft.³³

The Bill of The Second Constituent Assembly

For nine long years after independence the government remained to produce a constitution for the country. Jamaat-e-Islami led by Maulana Maududi continued its demand for Islamic constitution. They also demanded that the Objective Resolution must be made active part of the constitution, according to which no law repugnant to Islam could be made. Finally, the government bent to its knees and included Objective Resolution in the preamble of the constitution.³⁴ He continued his struggle to compel the government to include the provisions in the main body of the constitution that no law, repugnant to the teaching of Islam, shall be passed by any legislature. He also demanded right for citizens to challenge any such law in the supreme court of Pakistan.³⁵ The Assembly presented its constitutional bill on January 9, 1956. The draft was warmly welcomed by all religious parties and channelized public opinion in its support. Maulana along with Mian Tufail, the then General Secretary and later the Amir of Jamaat, reached the eastern wing of the country to address masses and articulate their support in the favor of the bill. Maulana Maududi visited different parts of the country to convince the religious scholars to become one in this respect. For the purpose All Pakistan Islamic Constitution committee of Dhakka was organized in February 1958.

Conclusion

Jamaat-e-Islami, for all this time kept a vigilant eye on the constitutional proceedings of the assembly. It criticized and suggested amendments to it. It is important to mention that several suggestions put forward by Jamaat-e-Islami, were valued and accommodated in the draft of the constitution. The party leadership was contented on the Islamic provision in the drafts. In 1956, in the month of March Jamaat-i-Islami declared that the tug of war between the secular and Islamic forces of Pakistan ended with success of the Islamic forces. They further added that after the fourth Caliph, it is the first time that the reign of the state came into the hands of masses rather than the Royal Families. However, Jamaat-e-Islami alongside kept criticizing the aspects of the constitution which were against the spirit of Islam. The party criticized complete suspension of human rights during emergencies, preventive detention and similar other matters. However, it did not oppose the whole document of the constitution. They were of the view that at least a constitution incorporated with enough Islamic provision has been approved by the assembly. Now it is required that the constitution should be practically implemented according to the spirit of Islam as mentioned in the draft.

³² Leonard Binder, Religion and Politics in Pakistan, (Berkley and Los Angeles: University of California Press 1963), p.10

³³ Maududi, *The Islamic Law and Constitution*, p. 65

³⁴ Amanullah, Sayyed Maudoodi- A Profile, p.36

³⁵ Ibid,