

## PARLIAMENTARY HISTORY OF PAKISTAN

The Muslims of India had, since the middle of the nineteenth century, begun the struggle for a separate homeland on the basis of the Two Nations Theory. Despite their long association and interactions at various levels, the Hindus and Muslims of India remained two separate and distinct socio-cultural entities. Their social segregation persisted due to their fundamentally divergent beliefs and practices, resulting in the demand for a separate homeland. Keeping in view the situation, the British, who ruled India at that time, were left with no option but to eventually accept the demand of the Muslims of India.

On 3<sup>rd</sup> June 1947, Lord Louis Mountbatten, the last Viceroy of India, called a conference of all the leaders of the Sub-continent and communicated to them His Majesty's Government's Plan for the transfer of power. At that time, a notification was issued in the Gazette of India, published on 26<sup>th</sup> July 1947, in which the Constituent Assembly of Pakistan was given shape with sixty nine (69) Members (later on, the membership was increased to 79), including one female Member.

The State of Pakistan was created under the Independence Act of 1947. The Act made the existing Constituent Assemblies the Dominion Legislatures. These assemblies were to exercise all the powers which were formerly exercised by the Central Legislature in addition to the powers regarding the framing of a new Constitution. Until then all the territories were to be governed in accordance with the Government of India Act, 1935.

The first session of the first Constituent Assembly of Pakistan was held on 10<sup>th</sup> August 1947 at Sindh Assembly Building in Karachi. On 10<sup>th</sup> & 11<sup>th</sup> August, 58 Members took oath (54 Members on the 10<sup>th</sup>, while 4 Members on the 11<sup>th</sup>). On 11<sup>th</sup> August 1947, Quaid-I-Azam Muhammad Ali Jinnah was unanimously elected as the President of the Constituent Assembly of Pakistan and the National Flag was formally approved by the Assembly.

On 12<sup>th</sup> August 1947, a Resolution was approved regarding officially addressing Mr. Muhammad Ali Jinnah as "Quaid-e-Azam Muhammad Ali Jinnah". On the same day, a Special Committee called the "Committee on Fundamental Rights of Citizens and Minorities of Pakistan", was appointed to look into and advise the Assembly on matters relating to fundamental rights of the citizens, particularly the minorities, with the aim to legislate on these issues appropriately. On 14<sup>th</sup> August 1947, the Transfer of Power took place. Lord Mountbatten, Governor General of India, addressed the Constituent Assembly of Pakistan. The Quaid gave a reply to the address in the House, on which the principles of the State of Pakistan are laid. On 15<sup>th</sup> August 1947, Quaid-e-Azam was sworn in as the first Governor General of Pakistan. Mian Sir Abdur Rashid, Chief Justice of Pakistan, administered the oath of office to him. The Quaid remained in this position till his death i.e. 11<sup>th</sup> September, 1948.

Given the foremost task before the first Constituent Assembly of framing a constitution for the nation, work on it started from the very beginning. On 7<sup>th</sup> March 1949, the

Objectives Resolution, which now serves as the *grund norm* of Pakistan, was introduced by the first Prime Minister of Pakistan, Nawabzada Liaquat Ali Khan. It was adopted by the Constituent Assembly on 12<sup>th</sup> March 1949. On the same day, a Basic Principles Committee comprising 24 Members was formed to prepare a draft Constitution on the basis of the Objectives Resolution. On 16<sup>th</sup> October 1951, the Prime Minister Nawabzada Liaquat Ali Khan, mover of the Objectives Resolution, was assassinated and Khawaja Nazimuddin took over as the Prime Minister on 17<sup>th</sup> October 1951.

The final draft of the Constitution was prepared in 1954. By that time, Muhammad Ali Bogra had taken over as the Prime Minister. However, just before the draft could be placed in the House for approval, the Assembly was dissolved by the then Governor General Ghulam Muhammad on 24<sup>th</sup> October 1954. The Prime Minister was, however, not dismissed and was asked to run the administration, with a reconstituted Cabinet, until such time as elections were held. Maulvi Tamizuddin, President of the Assembly, challenged the dissolution in the Sindh Chief Court, and won the case. The Government in turn went to the Federal Court, where a judgment was given by the then Chief Justice Muhammad Munir, according to which Maulvi Tamizuddin lost the case.

The second Constituent Assembly of Pakistan was created on 28<sup>th</sup> May 1955 under Governor General's Order No.12 of 1955. The Electoral College for this Assembly were the Provincial Assemblies of the respective Provinces. The strength of this Assembly was 80 Members, half each from East Pakistan and West Pakistan. It first gave legal cover to all the laws passed by the first Constituent Assembly and declared by the court as null and void. Then it passed the Act of One Unit merging all the provinces of West Pakistan into one Unit, with the aim to create parity between the two wings (East and West Pakistan). The major achievement of this Assembly was that it gave the first Constitution to the nation i.e. the Constitution of Pakistan, 1956. Choudhary Muhammad Ali was the Prime Minister at that time. The draft of this Constitution was introduced in the Assembly on 9<sup>th</sup> January 1956 and was passed by the Assembly on 29<sup>th</sup> February 1956. The assent was given to it by the Governor General on 2<sup>nd</sup> March, 1956. This Constitution was enforced with effect from 23<sup>rd</sup> March, 1956. Under this Constitution, Pakistan became an Islamic Republic, hence 23<sup>rd</sup> March became our Republic Day. It was the same day in 1940 that the historic Pakistan Resolution was adopted at Minto Park (now named as Iqbal Park) in Lahore.

On 5<sup>th</sup> March 1956, Major General Sikandar Mirza became the first elected President of Pakistan. The 1956 Constitution provided for Parliamentary form of government with all the executive powers in the hands of the Prime Minister. The President was the head of the State and was to be elected by all members of the National and Provincial Assemblies. He was to hold office for 5 years. The President was to act on the advice of the Prime Minister, except where he was empowered to act in his discretion, which was limited to a few cases.

Under the 1956 Constitution, the Parliament was unicameral. Legislative powers vested in the Parliament, which consisted of the President and the National Assembly. The Constitution envisaged that future Assembly would consist of 300 Members divided half

and half between East and West Pakistan. In addition to these 300 seats, five seats were to be reserved for women from each of the two wings, for a period of ten years, thus bringing the total membership of the House to 310.

However, in the absence of any law to control the Political Parties and the problem of floor crossing, political instability perpetually ensued. Although the first general elections were scheduled for early 1959, President Sikandar Mirza abrogated the Constitution, dissolved the National and Provincial Assemblies and declared Martial Law on 7<sup>th</sup> October 1958. He appointed General Muhammad Ayub Khan, Commander-in-Chief of the Army, as the Chief Martial Law Administrator.

On 27<sup>th</sup> October 1958, General Muhammad Ayub Khan took-over as the second President of Pakistan. One of the major steps taken by him was the appointment of a Constitution Commission on 17<sup>th</sup> February 1960 under Muhammad Shahabuddin. The objective of this Commission was to submit proposals as to how best democracy can be strengthened and molded according to the country's socio-political environment and Islamic principles of justice. The Commission submitted its report to the Government on 29<sup>th</sup> April 1961. On the basis of this report, a new Constitution was framed and given to the nation on 1<sup>st</sup> March, 1962.

Elections under the new Constitution were held on 28<sup>th</sup> March 1962 and elections to the special seats reserved for women were held on 29<sup>th</sup> March 1962. The first session of the third National Assembly was held on 8<sup>th</sup> June 1962 at Ayub Hall, Rawalpindi.

The 1962 Constitution envisaged a Federal State with Presidential form of government, with National Assembly at the center and the Provincial Assemblies in the Provinces. The Legislatures, both at the center and in the provinces, were unicameral. The Federal system had been curtailed by allowing the Provincial Governors to be appointed directly by the President. All executive authority of the Republic of Pakistan, under the Constitution, vested in the office of the President. He appointed his Cabinet members who were directly responsible to him.

The electoral system was made indirect, and 'Basic Democrats', were declared as the Electoral College for the purpose of electing the assemblies and the President. Basic democrats were 80,000 in number (40,000 from each East & West Pakistan). The total membership of the National Assembly was 156, one half of whom were to be elected from East Pakistan and the other half from West Pakistan. Of these, three seats for each province were reserved for women. Besides, women also had the right to contest from any general seat. The term of this Assembly was three years. The norm was established that if the President was from West Pakistan, the Speaker was to be from East Pakistan and vice versa. One of the major achievements of this Assembly was passage of the Political Parties Act, 1962.

On 25<sup>th</sup> March 1969, the second Martial law was imposed and General Agha Muhammad Yahya Khan took over as the President of Pakistan and Chief Martial Law Administrator (CMLA). He later issued a Legal Framework Order, under which the first ever general

elections were held on 7<sup>th</sup> December 1970. This was the first Assembly elected on adult franchise and population basis. It consisted of 313 members, 169 from East Pakistan and 144 from West Pakistan. Among the 13 reserved seats for women, 6 were from West Pakistan and 7 from East Pakistan. This Assembly could not meet due to grave political differences. Subsequently, the Province of East Pakistan seceded from West Pakistan and became Bangladesh. On 20<sup>th</sup> December 1971, Mr. Zulfikar Ali Bhutto took over as the President of Pakistan as well as the first civilian Martial Law Administrator.

The first session of the National Assembly, due to the delay caused by the separation of East Pakistan, was held on 14<sup>th</sup> April 1972 at the State Bank Building, Islamabad, in which all the 144 Members from West Pakistan and two from former East Pakistan (Mr. Noor-ul-Amin and Raja Tridev Roy who had chosen to join Pakistan) participated. On 17<sup>th</sup> April 1972, an Interim Constitution was adopted by the National Assembly which provided for a Presidential form of Government. Under this Constitution, the National Assembly was not to be dissolved earlier than 14<sup>th</sup> August 1973. The Interim Constitution dealt in detail with the distribution of powers between the Centre and the Provinces.

The Assembly also formed a Constitution Committee on 17<sup>th</sup> April 1972 to prepare the first draft for framing a Constitution. The report of the Committee was presented with a draft Constitution on 31<sup>st</sup> December 1972. It was unanimously passed by the Assembly in its session on 10<sup>th</sup> April, 1973 and was authenticated by the President on 12<sup>th</sup> April 1973. This Constitution, called the Constitution of the Islamic Republic of Pakistan 1973, came into force on 14<sup>th</sup> August, 1973. On the same day, Mr. Zulfikar Ali Bhutto took oath as the Prime Minister while Mr. Fazal Illahi Choudhary took oath as the President of Pakistan.

The 1973 Constitution provided for a Parliamentary form of Government where the executive authority of the State vested in the Prime Minister. The President, according to the Constitution, was at the apex, representing the unity of the Republic.

From 1947 to 1973, the country had had a unicameral system of legislature. Under the 1973 Constitution, Pakistan adopted the bicameral system at the center, called "The Parliament", comprising the President, the National Assembly and the Senate. Originally, the general seats of the National Assembly were 200 with additional 10 seats reserved for women, bringing the total strength to 210. The newly created Upper House i.e. the Senate had 63 members. Later in 1985, through a Presidential Order, seven seats were reserved for minorities to be filled through separate electorate system. Thus the total strength of the lower house reached 237 members. Similarly, the strength of the Senate was increased from 63 to 87.

Under the 1973 Constitution, the National Assembly is elected for a five years term, unless sooner dissolved. The seats in National Assembly, unlike the Senate, are allocated to each province and other units of the Federation on the basis of population. The Constitutional provision of 20 special seats for women lapsed in 1990, thus decreasing the Assembly strength from 237 to 217.

Despite the tenure of the Assembly being five years, as prescribed in the Constitution, Mr. Z. A. Bhutto, on 7<sup>th</sup> January 1977 announced the holding of elections before time. Consequently, on 10<sup>th</sup> January 1977, he advised the President to dissolve the National Assembly. Elections were held on 7<sup>th</sup> March 1977. The Opposition charged the government with rigging the elections to the National Assembly and thereafter boycotted the Provincial Assemblies elections. Since the Opposition had not accepted the National Assembly elections result, they did not take oath. This resulted in a political crisis and Martial Law was imposed by the then Army Chief, General Muhammad Zia-ul-Haq, on 5<sup>th</sup> July, 1977.

On 24<sup>th</sup> December 1981, under a Presidential Order, a Federal Council (Majlis-e-Shoora) was constituted. Initially, the strength of this Council was 288 which, with the passage of time, rose to 330 members. They were nominated by the President. The first session of this Council was held on 11<sup>th</sup> January 1982. In this way, limited and controlled political activities were resumed, as a result of which general elections were later held for the National and Provincial Assemblies on 25<sup>th</sup> February 1985, on non-party basis.

On 2<sup>nd</sup> March 1985, the revival of Constitution Order was issued through which a large number of amendments were made in the Constitution. The first session of the National Assembly was held on 20<sup>th</sup> March 1985. Mr. Muhammad Khan Junejo was nominated as the Prime Minister of Pakistan by the President (General Muhammad Zia-ul-Haq). He received the vote of confidence on 24<sup>th</sup> March 1985.

In November 1985, the 8<sup>th</sup> Constitutional Amendment was adopted by the Parliament. Besides changes in other Articles of the Constitution, Article 58(2)(b) was added, according to which the President acquired discretionary powers to dissolve the National Assembly. The Article 58(2)(b) was later on omitted from the Constitution through the 13<sup>th</sup> Amendment. The Amendment became an Act after receiving the assent of the President on 3<sup>rd</sup> April 1997.

Chief of Army Staff General Pervaz Musharraf took over the Government from Prime Minister Nawaz Sharif and became the Chief Executive through a Proclamation of Emergency, on 12<sup>th</sup> October 1999. Through the Provisional Constitutional Order (PCO) issued on October 14<sup>th</sup>, 1999, he held the Constitution in abeyance, suspended the Senate, National and Provincial

Assemblies, Chairman and Deputy Chairman Senate, Speaker and Deputy Speaker and Provincial Assemblies and dismissed the Federal and Provincial Governments. The President, Mr. Muhammad Rafiq Tarar, was, however, allowed to continue in his office.

The Suspension Orders were challenged in the Supreme Court. The Court in its judgment on 12<sup>th</sup> May 2000 validated the military take-over and gave three years time to the government, starting from 12<sup>th</sup> October 1999, to complete its agenda and then hand over power to the elected government. The Court also allowed the military government to bring necessary Constitutional Amendments, provided that those should not change the

basic feature of Federal Parliamentary democracy, independence of judiciary and Islamic provisions of the Constitution.

On 20<sup>th</sup> June 2001, through a notification (C.E. Order No.1), the Chief Executive assumed the office of the President of Pakistan under President's Succession Order, 2001. On the same day, through another Order (C. E. Order No.2, 2001), the President converted the orders of suspension of the legislative bodies and their presiding officers, into dissolution, Constitutional/political reforms were also undertaken.